

By Representative Kilmer

1                                   A bill to be entitled  
 2           An act relating to economic stimulus; amending  
 3           s. 220.191, F.S.; establishing for a temporary  
 4           period eligibility conditions for a new type of  
 5           qualifying project under the capital investment  
 6           tax credit program; providing deadlines for  
 7           certification of businesses and commencement of  
 8           project construction under such program;  
 9           revising requirements relating to minimum  
 10          capital investment; prescribing tax credit  
 11          limitations; amending s. 288.095, F.S.;  
 12          revising terminology relating to certain  
 13          incentive payment schedules; revising the due  
 14          date and content for an annual report on  
 15          incentives and reassigning responsibility for  
 16          such report to Enterprise Florida, Inc.;  
 17          amending s. 288.1045, F.S.; expanding the tax  
 18          refund program for qualified defense  
 19          contractors to include qualified  
 20          aviation-industry businesses; revising  
 21          definitions; defining "aviation-industry  
 22          business"; revising and conforming procedures  
 23          for applying for certification under the tax  
 24          refund program; prescribing information  
 25          required in applications by aviation-industry  
 26          businesses; prescribing criteria to be used by  
 27          the Office of Tourism, Trade, and Economic  
 28          Development in reviewing applications by  
 29          aviation-industry businesses; revising the  
 30          required elements of a tax refund agreement;  
 31          providing an exemption from mandatory loss of

1 tax refund eligibility and decertification  
2 resulting from agreement breach in cases of  
3 uncontrollable economic factors; prescribing a  
4 deadline for applying for tax refunds; revising  
5 conditions and procedures governing  
6 applications for tax refunds; revising  
7 provisions relating to the order authorizing a  
8 tax refund; authorizing the office to grant  
9 extensions to certain application and  
10 notification deadlines; revising conditions  
11 under which a prorated tax refund will be  
12 approved; providing for calculation of such  
13 prorated refund; specifying that the section  
14 does not create a presumption a claim will be  
15 approved and paid; revising the agencies with  
16 which the office may verify information and to  
17 which the office may provide information;  
18 expanding purposes for which the office may  
19 seek assistance from certain entities; amending  
20 s. 288.106, F.S., relating to the tax refund  
21 program for qualified target industry  
22 businesses; revising requirements for  
23 application for certification as such business  
24 with respect to the number of current and new  
25 jobs at the business and projections by the  
26 Office of Tourism, Trade, and Economic  
27 Development of refunds based thereon; revising  
28 requirements relating to the tax refund  
29 agreement with respect to job creation and the  
30 time for filing of claims for refund; providing  
31 for an exemption from mandatory loss of tax

1 refund eligibility and decertification  
2 resulting from agreement breach in cases of  
3 uncontrollable economic factors; revising  
4 provisions relating to annual claims for  
5 refund; authorizing an extension of time for  
6 signing the tax refund agreement; providing an  
7 application deadline; revising provisions  
8 relating to the order authorizing a tax refund;  
9 revising conditions under which a prorated tax  
10 refund will be approved; providing for  
11 calculation of such prorated tax refund;  
12 specifying that the section does not create a  
13 presumption that a claim will be approved and  
14 paid; revising the agencies with which the  
15 office may verify information and to which the  
16 office may provide information; expanding  
17 purposes for which the office may seek  
18 assistance from certain entities; specifying  
19 that certain appropriations may not be used for  
20 any purpose other than the payment of specified  
21 tax refunds; amending ss. 14.2015 and 213.053,  
22 F.S.; conforming terminology; providing an  
23 effective date.

24  
25 Be It Enacted by the Legislature of the State of Florida:

26  
27 Section 1. Section 220.191, Florida Statutes, is  
28 amended to read:

29 220.191 Capital investment tax credit.--

30 (1) DEFINITIONS.--For purposes of this section:

31

1           (a) "Commencement of operations" means the beginning  
2 of active operations by a qualifying business or qualifying  
3 economic stimulus business of the principal function for which  
4 a qualifying project was constructed.

5           (b) "Cumulative capital investment" means the total  
6 capital investment in land, buildings, and equipment made in  
7 connection with a qualifying project or qualifying economic  
8 stimulus project during the period from the beginning of  
9 construction of the project to the commencement of operations.

10           (c) "Eligible capital costs" means all expenses  
11 incurred by a qualifying business or qualifying economic  
12 stimulus business in connection with the acquisition,  
13 construction, installation, and equipping of a qualifying  
14 project or qualifying economic stimulus project during the  
15 period from the beginning of construction of the project to  
16 the commencement of operations, including, but not limited to:

17           1. The costs of acquiring, constructing, installing,  
18 equipping, and financing a qualifying project or qualifying  
19 economic stimulus project, including all obligations incurred  
20 for labor and obligations to contractors, subcontractors,  
21 builders, and materialmen.

22           2. The costs of acquiring land or rights to land and  
23 any cost incidental thereto, including recording fees.

24           3. The costs of architectural and engineering  
25 services, including test borings, surveys, estimates, plans  
26 and specifications, preliminary investigations, environmental  
27 mitigation, and supervision of construction, as well as the  
28 performance of all duties required by or consequent to the  
29 acquisition, construction, installation, and equipping of a  
30 qualifying project or qualifying economic stimulus project.

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1           4. The costs associated with the installation of  
2 fixtures and equipment; surveys, including archaeological and  
3 environmental surveys; site tests and inspections; subsurface  
4 site work and excavation; removal of structures, roadways, and  
5 other surface obstructions; filling, grading, paving, and  
6 provisions for drainage, storm water retention, and  
7 installation of utilities, including water, sewer, sewage  
8 treatment, gas, electricity, communications, and similar  
9 facilities; and offsite construction of utility extensions to  
10 the boundaries of the property.

11  
12 Eligible capital costs shall not include the cost of any  
13 property previously owned or leased by the qualifying business  
14 or qualifying economic stimulus business.

15           (d) "Income generated by or arising out of the  
16 qualifying project or qualifying economic stimulus project"  
17 means the qualifying project's or qualifying economic stimulus  
18 project's annual taxable income as determined by generally  
19 accepted accounting principles and under s. 220.13.

20           (e) "Jobs" means full-time equivalent positions, as  
21 such term is consistent with terms used by the Agency for  
22 Workforce Innovation ~~Department of Labor and Employment~~  
23 Security and the United States Department of Labor for  
24 purposes of unemployment tax administration and employment  
25 estimation, resulting directly from a qualifying project or  
26 qualifying economic stimulus project in this state. Such term  
27 does not include temporary construction jobs involved in the  
28 construction of the project facility.

29           (f) "Office" means the Office of Tourism, Trade, and  
30 Economic Development.

31

1           (g) "Qualifying business" means a business which  
2 establishes a qualifying project in this state and which is  
3 certified by the office to receive tax credits under ~~pursuant~~  
4 ~~to~~ this section.

5           (h) "Qualifying project" means a new or expanding  
6 facility in this state which creates at least 100 new jobs in  
7 this state and is in one of the high-impact sectors identified  
8 by Enterprise Florida, Inc., and certified by the office under  
9 ~~pursuant to~~ s. 288.108(6), including, but not limited to,  
10 aviation, aerospace, automotive, and silicon technology  
11 industries.

12           (i) "Qualifying economic stimulus business" means a  
13 business which establishes a qualifying economic stimulus  
14 project in this state and which is certified by the office, on  
15 or before April 1, 2002, to receive tax credits under this  
16 section.

17           (j) "Qualifying economic stimulus project" means a new  
18 or expanding facility in this state which creates at least 50  
19 new jobs in this state and is in one of the target industries  
20 identified under s. 288.106(1)(o). Construction on a  
21 qualifying economic stimulus project must begin on or before  
22 December 31, 2002.

23           (2) An annual credit against the tax imposed by this  
24 chapter shall be granted to any qualifying business or  
25 qualifying economic stimulus business in an amount equal to 5  
26 percent of the eligible capital costs generated by a  
27 qualifying project or qualifying economic stimulus project,  
28 for a period not to exceed 20 years beginning with the  
29 commencement of operations of the project. The tax credit  
30 shall be granted against only the corporate income tax  
31 liability or the premium tax liability generated by or arising

1 out of the qualifying project or qualifying economic stimulus  
2 project, and the sum of all tax credits provided under  
3 ~~pursuant to~~ this section shall not exceed 100 percent of the  
4 eligible capital costs of the project. In no event may any  
5 credit granted under this section be carried forward or  
6 backward by any qualifying business or qualifying economic  
7 stimulus business with respect to a subsequent or prior year.

8 (a) The annual tax credit granted under this section  
9 shall not exceed the following percentages of the annual  
10 corporate income tax liability or the premium tax liability  
11 generated by or arising out of a qualifying project:

12 1. ~~(a)~~ One hundred percent for a qualifying project  
13 which results in a cumulative capital investment of at least  
14 \$100 million.

15 2. ~~(b)~~ Seventy-five percent for a qualifying project  
16 which results in a cumulative capital investment of at least  
17 \$50 million but less than \$100 million.

18 3. ~~(c)~~ Fifty percent for a qualifying project which  
19 results in a cumulative capital investment of at least \$25  
20 million but less than \$50 million.

21 4. Forty percent for a qualifying project on which  
22 construction has begun on or before December 31, 2002, and  
23 which results in a cumulative capital investment of at least  
24 \$15 million but less than \$25 million.

25 (b) The annual tax credit granted under this section  
26 shall not exceed the following percentages of the annual  
27 corporate income tax liability or the premium tax liability  
28 generated by or arising out of a qualifying economic stimulus  
29 project:

30  
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1           1. Ninety percent if the qualifying economic stimulus  
2 project results in a cumulative capital investment of at least  
3 \$100 million.

4           2. Sixty-five percent if the qualifying economic  
5 stimulus project results in a cumulative capital investment of  
6 at least \$50 million but less than \$100 million.

7           3. Forty percent if the qualifying economic stimulus  
8 project results in a cumulative capital investment of at least  
9 \$25 million but less than \$50 million.

10           4. Thirty percent if the qualifying economic stimulus  
11 project results in a cumulative capital investment of at least  
12 \$15 million but less than \$25 million.

13  
14 A qualifying project or qualifying economic stimulus project  
15 which results in a cumulative capital investment of less than  
16 ~~\$15~~\$25 million is not eligible for the capital investment tax  
17 credit. An insurance company claiming a credit against premium  
18 tax liability under this program shall not be required to pay  
19 any additional retaliatory tax levied under ~~pursuant to~~ s.  
20 624.5091 as a result of claiming such credit. Because credits  
21 under this section are available to an insurance company, s.  
22 624.5091 does not limit such credit in any manner.

23           (3) Before ~~Prior to~~ receiving tax credits under  
24 ~~pursuant to~~ this section, a qualifying business or qualifying  
25 economic stimulus business must achieve and maintain the  
26 minimum employment goals beginning with the commencement of  
27 operations at a qualifying project or qualifying economic  
28 stimulus project and continuing each year thereafter during  
29 which tax credits are available under ~~pursuant to~~ this  
30 section.

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1           (4) The office, upon a recommendation by Enterprise  
2 Florida, Inc., shall first certify a qualifying business or  
3 qualifying economic stimulus business as eligible to receive  
4 tax credits under ~~pursuant to~~ this section before ~~prior to~~ the  
5 commencement of operations of a qualifying project or  
6 qualifying economic stimulus project, and such certification  
7 shall be transmitted to the Department of Revenue. Upon  
8 receipt of the certification, the Department of Revenue shall  
9 enter into a written agreement with the qualifying business or  
10 qualifying economic stimulus business specifying, at a  
11 minimum, the method by which income generated by or arising  
12 out of the qualifying project or qualifying economic stimulus  
13 project will be determined.

14           (5) The office, in consultation with Enterprise  
15 Florida, Inc., is authorized to develop the necessary  
16 guidelines and application materials for the certification  
17 process described in subsection (4).

18           (6) It shall be the responsibility of the qualifying  
19 business or qualifying economic stimulus business to  
20 affirmatively demonstrate to the satisfaction of the  
21 Department of Revenue that such business meets the job  
22 creation and capital investment requirements of this section.

23           (7) The Department of Revenue may specify by rule the  
24 methods by which a qualifying project's or qualifying economic  
25 stimulus project's pro forma annual taxable income is  
26 determined.

27           Section 2. Paragraphs (b) and (c) of subsection (3) of  
28 section 288.095, Florida Statutes, are amended to read:

29           288.095 Economic Development Trust Fund.--

30           (3)

31

1           (b) The total amount of tax refund claims approved for  
2 payment by the Office of Tourism, Trade, and Economic  
3 Development based on actual project performance may not exceed  
4 the amount appropriated to the Economic Development Incentives  
5 Account for such purposes for the fiscal year. In the event  
6 the Legislature does not appropriate an amount sufficient to  
7 satisfy estimates ~~projections~~ by the office for tax refunds  
8 under ss. 288.1045 and 288.106 in a fiscal year, the Office of  
9 Tourism, Trade, and Economic Development shall, not later than  
10 July 15 of such year, determine the proportion of each refund  
11 claim which shall be paid by dividing the amount appropriated  
12 for tax refunds for the fiscal year by the estimated ~~projected~~  
13 total of refund claims for the fiscal year. The amount of each  
14 claim for a tax refund shall be multiplied by the resulting  
15 quotient. If, after the payment of all such refund claims,  
16 funds remain in the Economic Development Incentives Account  
17 for tax refunds, the office shall recalculate the proportion  
18 for each refund claim and adjust the amount of each claim  
19 accordingly.

20           (c) By December 31 ~~September 30~~ of each year,  
21 Enterprise Florida, Inc., ~~the Office of Tourism, Trade, and~~  
22 ~~Economic Development~~ shall submit a complete and detailed  
23 report to the Governor, the President of the Senate, the  
24 Speaker of the House of Representatives, and the director of  
25 the Office of Tourism, Trade, and Economic Development ~~board~~  
26 ~~of directors of Enterprise Florida, Inc., created under part~~  
27 ~~VII of this chapter,~~ of all applications received,  
28 recommendations made to the Office of Tourism, Trade, and  
29 Economic Development, final decisions issued, tax refund  
30 agreements executed, and tax refunds paid or other payments  
31 made under all programs funded out of the Economic Development

1 Incentives Account, including analyses of benefits and costs,  
2 types of projects supported, and employment and investment  
3 created. Enterprise Florida, Inc.,~~The Office of Tourism,~~  
4 ~~Trade, and Economic Development~~ shall also include a separate  
5 analysis of the impact of such tax refunds on state enterprise  
6 zones designated pursuant to s. 290.0065, rural communities,  
7 brownfield areas, and distressed urban communities. ~~By~~  
8 ~~December 1 of each year, the board of directors of Enterprise~~  
9 ~~Florida, Inc., shall review and comment on the report, and the~~  
10 ~~board shall submit the report, together with the comments of~~  
11 ~~the board, to the Governor, the President of the Senate, and~~  
12 ~~the Speaker of the House of Representatives.~~The report must  
13 discuss whether the authority and moneys appropriated by the  
14 Legislature to the Economic Development Incentives Account  
15 were managed and expended in a prudent, fiducially sound  
16 manner. The Office of Tourism, Trade, and Economic Development  
17 shall assist Enterprise Florida, Inc., in the collection of  
18 data related to business performance and incentive payments.

19 Section 3. Section 288.1045, Florida Statutes, is  
20 amended to read:

21 288.1045 ~~Qualified defense contractor~~ Tax refund  
22 program for qualified defense contractors and  
23 aviation-industry businesses.--

24 (1) DEFINITIONS.--As used in this section:

25 (a) "Consolidation of a Department of Defense  
26 contract" means the consolidation of one or more of an  
27 applicant's facilities under one or more Department of Defense  
28 contracts either from outside this state or from inside and  
29 outside this state, into one or more of the applicant's  
30 facilities inside this state.

31

1           (b) "Average wage in the area" means the average of  
2 all wages and salaries in the state, the county, or in the  
3 standard metropolitan area in which the business unit is  
4 located.

5           (c) "Applicant" means any business entity that holds a  
6 valid Department of Defense contract, or any business entity  
7 that is a subcontractor under a valid Department of Defense  
8 contract, or any business entity that holds a valid contract  
9 for the reuse of a defense-related facility, or any  
10 aviation-industry business as defined in paragraph (r),  
11 including all members of an affiliated group of corporations  
12 as defined in s. 220.03(1)(b).

13           (d) "Office" means the Office of Tourism, Trade, and  
14 Economic Development.

15           (e) "Department of Defense contract" means a  
16 competitively bid Department of Defense contract or a  
17 competitively bid federal agency contract issued on behalf of  
18 the Department of Defense for manufacturing, assembling,  
19 fabricating, research, development, or design with a duration  
20 of 2 or more years, but excluding any contract to provide  
21 goods, improvements to real or tangible property, or services  
22 directly to or for any particular military base or  
23 installation in this state.

24           (f) "New Department of Defense contract" means a  
25 Department of Defense contract entered into after the date  
26 application for certification as a qualified applicant is made  
27 and after January 1, 1994.

28           (g) "Jobs" means full-time equivalent positions,  
29 consistent with the use of such terms by the Agency for  
30 Workforce Innovation ~~Department of Labor and Employment~~  
31 ~~Security~~ for the purpose of unemployment compensation tax,

1 resulting directly from a project in this state. This number  
2 does not include temporary construction jobs involved with the  
3 construction of facilities for the project.

4 (h) "Nondefense production jobs" means employment  
5 exclusively for activities that, directly or indirectly, are  
6 unrelated to the Department of Defense.

7 (i) "Project" means any business undertaking in this  
8 state under a new Department of Defense contract,  
9 consolidation of a Department of Defense contract, or  
10 conversion of defense production jobs over to nondefense  
11 production jobs or reuse of defense-related facilities. The  
12 term also means any business undertaking in this state by an  
13 aviation-industry business which results in the retention or  
14 creation of jobs in this state and which occurs through a new  
15 multistate competitive aviation-industry contract;  
16 consolidation of multistate operations; conversion of jobs in  
17 aviation-industry operations to nonaviation-industry  
18 operations; or expansion of aviation-industry operations,  
19 which expansion results in an increase of at least 10 percent  
20 in the number of jobs in this state at the business unit.

21 (j) "Qualified applicant" means an applicant that has  
22 been approved by the director to be eligible for tax refunds  
23 pursuant to this section.

24 (k) "Director" means the director of the Office of  
25 Tourism, Trade, and Economic Development.

26 (l) "Taxable year" means the same as in s.  
27 220.03(1)(z).

28 (m) "Fiscal year" means the fiscal year of the state.

29 (n) "Business unit" means an employing unit, as  
30 defined in s. 443.036, that is registered with the Agency for  
31 Workforce Innovation ~~Department of Labor and Employment~~

1 ~~Security~~ for unemployment compensation purposes or means a  
2 subcategory or division of an employing unit that is accepted  
3 by the Agency for Workforce Innovation ~~Department of Labor and~~  
4 ~~Employment Security~~ as a reporting unit.

5 (o) "Local financial support" means funding from local  
6 sources, public or private, which is paid to the Economic  
7 Development Trust Fund and which is equal to 20 percent of the  
8 annual tax refund for a qualified applicant. Local financial  
9 support may include excess payments made to a utility company  
10 under a designated program to allow decreases in service by  
11 the utility company under conditions, regardless of when  
12 application is made. A qualified applicant may not provide,  
13 directly or indirectly, more than 5 percent of such funding in  
14 any fiscal year. The sources of such funding may not include,  
15 directly or indirectly, state funds appropriated from the  
16 General Revenue Fund or any state trust fund, excluding tax  
17 revenues shared with local governments pursuant to law.

18 (p) "Contract for reuse of a defense-related facility"  
19 means a contract with a duration of 2 or more years for the  
20 use of a facility for manufacturing, assembling, fabricating,  
21 research, development, or design of tangible personal  
22 property, but excluding any contract to provide goods,  
23 improvements to real or tangible property, or services  
24 directly to or for any particular military base or  
25 installation in this state. Such facility must be located  
26 within a port, as defined in s. 313.21, and have been occupied  
27 by a business entity that held a valid Department of Defense  
28 contract or occupied by any branch of the Armed Forces of the  
29 United States, within 1 year of any contract being executed  
30 for the reuse of such facility. A contract for reuse of a  
31 defense-related facility may not include any contract for

1 reuse of such facility for any Department of Defense contract  
2 for manufacturing, assembling, fabricating, research,  
3 development, or design.

4 (q) "Local financial support exemption option" means  
5 the option to exercise an exemption from the local financial  
6 support requirement available to any applicant whose project  
7 is located in a county designated by the Rural Economic  
8 Development Initiative, if the county commissioners of the  
9 county in which the project will be located adopt a resolution  
10 requesting that the applicant's project be exempt from the  
11 local financial support requirement. Any applicant that  
12 exercises this option is not eligible for more than 80 percent  
13 of the total tax refunds allowed such applicant under this  
14 section.

15 (r) "Aviation-industry business" means a business  
16 engaged in activities that support general or commercial  
17 aviation, including the construction, repair, or maintenance  
18 of aircraft, aircraft power plants, aircraft parts, or  
19 aircraft accessories. The term does not include a business  
20 engaged in the provision of instruction in flying and related  
21 ground subjects.

22 (2) GRANTING OF A TAX REFUND; ELIGIBLE AMOUNTS.--

23 (a) There shall be allowed, from the Economic  
24 Development Trust Fund, a refund to a qualified applicant for  
25 the amount of eligible taxes certified by the director which  
26 were paid by such qualified applicant. The total amount of  
27 refunds for all fiscal years for each qualified applicant  
28 shall be determined pursuant to subsection (3). The annual  
29 amount of a refund to a qualified applicant shall be  
30 determined pursuant to subsection (5).

31

1           (b) A qualified applicant may not be qualified for any  
2 project to receive more than \$5,000 times the number of jobs  
3 provided in the tax refund agreement pursuant to subparagraph  
4 (4)(a)1. A qualified applicant may not receive refunds of more  
5 than 25 percent of the total tax refunds provided in the tax  
6 refund agreement pursuant to subparagraph (4)(a)1. in any  
7 fiscal year, provided that no qualified applicant may receive  
8 more than \$2.5 million in tax refunds pursuant to this section  
9 in any fiscal year.

10           (c) A qualified applicant may not receive more than  
11 \$7.5 million in tax refunds pursuant to this section in all  
12 fiscal years.

13           (d) Contingent upon an annual appropriation by the  
14 Legislature, the director may approve not more in tax refunds  
15 than the amount appropriated to the Economic Development Trust  
16 Fund for tax refunds, for a fiscal year pursuant to subsection  
17 (5) and s. 288.095.

18           (e) For the first 6 months of each fiscal year, the  
19 director shall set aside 30 percent of the amount appropriated  
20 for refunds pursuant to this section by the Legislature to  
21 provide tax refunds only to qualified applicants who employ  
22 500 or fewer full-time employees in this state. Any  
23 unencumbered funds remaining undisbursed from this set-aside  
24 at the end of the 6-month period may be used to provide tax  
25 refunds for any qualified applicants pursuant to this section.

26           (f) After entering into a tax refund agreement  
27 pursuant to subsection (4), a qualified applicant may receive  
28 refunds from the Economic Development Trust Fund for the  
29 following taxes due and paid by the qualified applicant  
30 beginning with the applicant's first taxable year that begins  
31 after entering into the agreement:



- 1           1. Taxes on sales, use, and other transactions paid  
2 pursuant to chapter 212.
- 3           2. Corporate income taxes paid pursuant to chapter  
4 220.
- 5           3. Intangible personal property taxes paid pursuant to  
6 chapter 199.
- 7           4. Emergency excise taxes paid pursuant to chapter  
8 221.
- 9           5. Excise taxes paid on documents pursuant to chapter  
10 201.
- 11          6. Ad valorem taxes paid, as defined in s.  
12 220.03(1)(a) on June 1, 1996.
- 13
- 14 However, a qualified applicant may not receive a tax refund  
15 pursuant to this section for any amount of credit, refund, or  
16 exemption granted such contractor or aviation-industry  
17 business for any of such taxes. If a refund for such taxes is  
18 provided by the office, which taxes are subsequently adjusted  
19 by the application of any credit, refund, or exemption granted  
20 to the qualified applicant other than that provided in this  
21 section, the qualified applicant shall reimburse the Economic  
22 Development Trust Fund for the amount of such credit, refund,  
23 or exemption. A qualified applicant must notify and tender  
24 payment to the office within 20 days after receiving a credit,  
25 refund, or exemption, other than that provided in this  
26 section.
- 27          (g) Any qualified applicant who fraudulently claims  
28 this refund is liable for repayment of the refund to the  
29 Economic Development Trust Fund plus a mandatory penalty of  
30 200 percent of the tax refund which shall be deposited into  
31 the General Revenue Fund. Any qualified applicant who

1 fraudulently claims this refund commits a felony of the third  
2 degree, punishable as provided in s. 775.082, s. 775.083, or  
3 s. 775.084.

4 (h) Funds made available pursuant to this section may  
5 not be expended in connection with the relocation of a  
6 business from one community to another community in this state  
7 unless the Office of Tourism, Trade, and Economic Development  
8 determines that without such relocation the business will move  
9 outside this state or determines that the business has a  
10 compelling economic rationale for the relocation which creates  
11 additional jobs.

12 (3) APPLICATION PROCESS; REQUIREMENTS; AGENCY  
13 DETERMINATION.--

14 (a) To apply for certification as a qualified  
15 applicant pursuant to this section, an applicant must file an  
16 application with the office which satisfies the requirements  
17 of paragraphs (b) and (e), paragraphs (c) and (e), ~~or~~  
18 paragraphs (d) and (e), or paragraphs (j) and (k). An  
19 applicant may not apply for certification pursuant to this  
20 section after a proposal has been submitted for a new  
21 Department of Defense contract, after the applicant has made  
22 the decision to consolidate an existing Department of Defense  
23 contract in this state for which such applicant is seeking  
24 certification, or after the applicant has made the decision to  
25 convert defense production jobs to nondefense production jobs  
26 for which such applicant is seeking certification. In the case  
27 of an aviation-industry business, an applicant may not apply  
28 for certification after the business has submitted a final  
29 proposal or bid for a multistate competitive aviation-industry  
30 contract, made the decision to consolidate multistate  
31 operations in this state, made the decision to convert jobs in

1 aviation-industry operations to nonaviation-industry  
2 operations, or made the decision to expand aviation-industry  
3 operations in this state.

4 (b) Applications for certification based on the  
5 consolidation of a Department of Defense contract or a new  
6 Department of Defense contract must be submitted to the office  
7 as prescribed by the office and must include, but are not  
8 limited to, the following information:

9 1. The applicant's federal employer identification  
10 number, the applicant's Florida sales tax registration number,  
11 and a notarized signature of an officer of the applicant.

12 2. The permanent location of the manufacturing,  
13 assembling, fabricating, research, development, or design  
14 facility in this state at which the project is or is to be  
15 located.

16 3. The Department of Defense contract numbers of the  
17 contract to be consolidated, the new Department of Defense  
18 contract number, or the "RFP" number of a proposed Department  
19 of Defense contract.

20 4. The date the contract was executed or is expected  
21 to be executed, and the date the contract is due to expire or  
22 is expected to expire.

23 5. The commencement date for project operations under  
24 the contract in this state.

25 6. The number of net new full-time equivalent Florida  
26 jobs included in this state which are or will be dedicated to  
27 the project as of December 31 of each ~~during the~~ year and the  
28 average wage of such jobs.

29 7. The total number of full-time equivalent employees  
30 employed by the applicant in this state.

31

1           8. The percentage of the applicant's gross receipts  
2 derived from Department of Defense contracts during the 5  
3 taxable years immediately preceding the date the application  
4 is submitted.

5           9. The amount of:

6           a. Taxes on sales, use, and other transactions paid  
7 pursuant to chapter 212;

8           b. Corporate income taxes paid pursuant to chapter  
9 220;

10          c. Intangible personal property taxes paid pursuant to  
11 chapter 199;

12          d. Emergency excise taxes paid pursuant to chapter  
13 221;

14          e. Excise taxes paid on documents pursuant to chapter  
15 201; and

16          f. Ad valorem taxes paid  
17

18 during the 5 fiscal years immediately preceding the date of  
19 the application, and the projected amounts of such taxes to be  
20 due in the 3 fiscal years immediately following the date of  
21 the application.

22          10. The estimated amount of tax refunds to be claimed  
23 for ~~in~~ each fiscal year.

24          11. A brief statement concerning the applicant's need  
25 for tax refunds, and the proposed uses of such refunds by the  
26 applicant.

27          12. A resolution adopted by the county commissioners  
28 of the county in which the project will be located, which  
29 recommends the applicant be approved as a qualified applicant,  
30 and which indicates that the necessary commitments of local  
31 financial support for the applicant exist. Prior to the

1 adoption of the resolution, the county commission may review  
2 the proposed public or private sources of such support and  
3 determine whether the proposed sources of local financial  
4 support can be provided or, for any applicant whose project is  
5 located in a county designated by the Rural Economic  
6 Development Initiative, a resolution adopted by the county  
7 commissioners of such county requesting that the applicant's  
8 project be exempt from the local financial support  
9 requirement.

10           13. Any additional information requested by the  
11 office.

12           (c) Applications for certification based on the  
13 conversion of defense production jobs to nondefense production  
14 jobs must be submitted to the office as prescribed by the  
15 office and must include, but are not limited to, the following  
16 information:

17           1. The applicant's federal employer identification  
18 number, the applicant's Florida sales tax registration number,  
19 and a notarized signature of an officer of the applicant.

20           2. The permanent location of the manufacturing,  
21 assembling, fabricating, research, development, or design  
22 facility in this state at which the project is or is to be  
23 located.

24           3. The Department of Defense contract numbers of the  
25 contract under which the defense production jobs will be  
26 converted to nondefense production jobs.

27           4. The date the contract was executed, and the date  
28 the contract is due to expire or is expected to expire, or was  
29 canceled.

30           5. The commencement date for the nondefense production  
31 operations in this state.

- 1           6. The number of net new full-time equivalent Florida  
2 jobs included in ~~this state which are or will be dedicated to~~  
3 the nondefense production project as of December 31 of each  
4 ~~during the~~ year and the average wage of such jobs.
- 5           7. The total number of full-time equivalent employees  
6 employed by the applicant in this state.
- 7           8. The percentage of the applicant's gross receipts  
8 derived from Department of Defense contracts during the 5  
9 taxable years immediately preceding the date the application  
10 is submitted.
- 11           9. The amount of:
- 12           a. Taxes on sales, use, and other transactions paid  
13 pursuant to chapter 212;
- 14           b. Corporate income taxes paid pursuant to chapter  
15 220;
- 16           c. Intangible personal property taxes paid pursuant to  
17 chapter 199;
- 18           d. Emergency excise taxes paid pursuant to chapter  
19 221;
- 20           e. Excise taxes paid on documents pursuant to chapter  
21 201; and
- 22           f. Ad valorem taxes paid  
23
- 24 during the 5 fiscal years immediately preceding the date of  
25 the application, and the projected amounts of such taxes to be  
26 due in the 3 fiscal years immediately following the date of  
27 the application.
- 28           10. The estimated amount of tax refunds to be claimed  
29 for ~~in~~ each fiscal year.  
30  
31

1           11. A brief statement concerning the applicant's need  
2 for tax refunds, and the proposed uses of such refunds by the  
3 applicant.

4           12. A resolution adopted by the county commissioners  
5 of the county in which the project will be located, which  
6 recommends the applicant be approved as a qualified applicant,  
7 and which indicates that the necessary commitments of local  
8 financial support for the applicant exist. Prior to the  
9 adoption of the resolution, the county commission may review  
10 the proposed public or private sources of such support and  
11 determine whether the proposed sources of local financial  
12 support can be provided or, for any applicant whose project is  
13 located in a county designated by the Rural Economic  
14 Development Initiative, a resolution adopted by the county  
15 commissioners of such county requesting that the applicant's  
16 project be exempt from the local financial support  
17 requirement.

18           13. Any additional information requested by the  
19 office.

20           (d) Applications for certification based on a contract  
21 for reuse of a defense-related facility must be submitted to  
22 the office as prescribed by the office and must include, but  
23 are not limited to, the following information:

24           1. The applicant's Florida sales tax registration  
25 number and a notarized signature of an officer of the  
26 applicant.

27           2. The permanent location of the manufacturing,  
28 assembling, fabricating, research, development, or design  
29 facility in this state at which the project is or is to be  
30 located.

31

- 1           3. The business entity holding a valid Department of  
2 Defense contract or branch of the Armed Forces of the United  
3 States that previously occupied the facility, and the date  
4 such entity last occupied the facility.
- 5           4. A copy of the contract to reuse the facility, or  
6 such alternative proof as may be prescribed by the office that  
7 the applicant is seeking to contract for the reuse of such  
8 facility.
- 9           5. The date the contract to reuse the facility was  
10 executed or is expected to be executed, and the date the  
11 contract is due to expire or is expected to expire.
- 12           6. The commencement date for project operations under  
13 the contract in this state.
- 14           7. The number of net new full-time equivalent Florida  
15 jobs included in ~~this state which are or will be dedicated to~~  
16 the project as of December 31 of each ~~during the~~ year and the  
17 average wage of such jobs.
- 18           8. The total number of full-time equivalent employees  
19 employed by the applicant in this state.
- 20           9. The amount of:
- 21           a. Taxes on sales, use, and other transactions paid  
22 pursuant to chapter 212.
- 23           b. Corporate income taxes paid pursuant to chapter  
24 220.
- 25           c. Intangible personal property taxes paid pursuant to  
26 chapter 199.
- 27           d. Emergency excise taxes paid pursuant to chapter  
28 221.
- 29           e. Excise taxes paid on documents pursuant to chapter  
30 201.
- 31



1           f. Ad valorem taxes paid during the 5 fiscal years  
2 immediately preceding the date of the application, and the  
3 projected amounts of such taxes to be due in the 3 fiscal  
4 years immediately following the date of the application.

5           10. The estimated amount of tax refunds to be claimed  
6 for ~~in~~ each fiscal year.

7           11. A brief statement concerning the applicant's need  
8 for tax refunds, and the proposed uses of such refunds by the  
9 applicant.

10           12. A resolution adopted by the county commissioners  
11 of the county in which the project will be located, which  
12 recommends the applicant be approved as a qualified applicant,  
13 and which indicates that the necessary commitments of local  
14 financial support for the applicant exist. Prior to the  
15 adoption of the resolution, the county commission may review  
16 the proposed public or private sources of such support and  
17 determine whether the proposed sources of local financial  
18 support can be provided or, for any applicant whose project is  
19 located in a county designated by the Rural Economic  
20 Development Initiative, a resolution adopted by the county  
21 commissioners of such county requesting that the applicant's  
22 project be exempt from the local financial support  
23 requirement.

24           13. Any additional information requested by the  
25 office.

26           (e) To qualify for review by the office, the  
27 application of an applicant under paragraph (b), paragraph  
28 (c), or paragraph (d) must, at a minimum, establish the  
29 following to the satisfaction of the office:

30           1. The jobs proposed to be provided under the  
31 application, pursuant to subparagraph (b)6. or subparagraph

1 (c)6., must pay an estimated annual average wage equaling at  
2 least 115 percent of the average wage in the area where the  
3 project is to be located.

4 2. The consolidation of a Department of Defense  
5 contract must result in a net increase of at least 25 percent  
6 in the number of jobs at the applicant's facilities in this  
7 state or the addition of at least 80 jobs at the applicant's  
8 facilities in this state.

9 3. The conversion of defense production jobs to  
10 nondefense production jobs must result in net increases in  
11 nondefense employment at the applicant's facilities in this  
12 state.

13 4. The Department of Defense contract cannot allow the  
14 business to include the costs of relocation or retooling in  
15 its base as allowable costs under a cost-plus, or similar,  
16 contract.

17 5. A business unit of the applicant must have derived  
18 not less than 70 percent of its gross receipts in this state  
19 from Department of Defense contracts over the applicant's last  
20 fiscal year, and must have derived not less than 80 percent of  
21 its gross receipts in this state from Department of Defense  
22 contracts over the 5 years preceding the date an application  
23 is submitted pursuant to this section. This subparagraph does  
24 not apply to any application for certification based on a  
25 contract for reuse of a defense-related facility.

26 6. The reuse of a defense-related facility must result  
27 in the creation of at least 100 jobs at such facility.

28 (f) Each application meeting the requirements of  
29 paragraphs (b) and (e), paragraphs (c) and (e), ~~or~~ paragraphs  
30 (d) and (e), or paragraphs (j) and (k) must be submitted to  
31 the office for a determination of eligibility. The office

1 shall review, evaluate, and score each application based on,  
2 but not limited to, the following criteria:

3 1. Expected contributions to the state strategic  
4 economic development plan adopted by Enterprise Florida, Inc.,  
5 taking into account the extent to which the project  
6 contributes to the state's high-technology base, and the  
7 long-term impact of the project and the applicant on the  
8 state's economy.

9 2. The economic benefit of the jobs created or  
10 retained by the project in this state, taking into account the  
11 cost and average wage of each job created or retained, and the  
12 potential risk to existing jobs.

13 3. The amount of capital investment to be made by the  
14 applicant in this state.

15 4. The local commitment and support for the project  
16 and applicant.

17 5. The impact of the project on the local community,  
18 taking into account the unemployment rate for the county where  
19 the project will be located.

20 6. The dependence of the local community on the  
21 defense industry.

22 7. The impact of any tax refunds granted pursuant to  
23 this section on the viability of the project and the  
24 probability that the project will occur in this state if such  
25 tax refunds are granted to the applicant, taking into account  
26 the expected long-term commitment of the applicant to economic  
27 growth and employment in this state.

28 8. The length of the project, or the expected  
29 long-term commitment to this state resulting from the project.

30 (g) The office shall forward its written findings and  
31 evaluation on each application meeting the requirements of

1 paragraphs (b) and (e), paragraphs (c) and (e), ~~or~~ paragraphs  
2 (d) and (e), or paragraphs (j) and (k) to the director within  
3 60 calendar days after ~~of~~ receipt of a complete application.  
4 The office shall notify each applicant when its application is  
5 complete, and when the 60-day period begins. In its written  
6 report to the director, the office shall specifically address  
7 each of the factors specified in paragraph (f), and shall make  
8 a specific assessment with respect to the minimum requirements  
9 established in paragraph (e) or paragraph (k). The office  
10 shall include in its report projections of the tax refunds the  
11 applicant would be eligible to receive ~~refund claims that will~~  
12 ~~be sought by the applicant~~ in each fiscal year based on the  
13 creation and maintenance of the net new Florida jobs specified  
14 in subparagraphs (b)6., (c)6., (d)7., or (j)4. or the  
15 retention and maintenance of the net retained Florida jobs  
16 specified in subparagraph (j)4., as of December 31 of the  
17 preceding state fiscal year ~~information submitted in the~~  
18 ~~application.~~

19 (h) Within 30 days after receipt of the office's  
20 findings and evaluation, the director shall enter a final  
21 order that either approves or disapproves an application. The  
22 decision must be in writing and provide the justifications for  
23 either approval or disapproval. If appropriate, the director  
24 shall enter into a written agreement with the qualified  
25 applicant pursuant to subsection (4).

26 (i) The director may not enter any final order that  
27 certifies any applicant as a qualified applicant when the  
28 value of tax refunds to be included in that final order  
29 exceeds the available amount of authority to enter final  
30 orders as determined in s. 288.095(3). A final order that  
31 approves an application must specify the maximum amount of a

1 tax refund that is to be available to the contractor or  
2 aviation-industry business for ~~in~~ each fiscal year and the  
3 total amount of tax refunds for all fiscal years.

4 (j) Applications for certification from  
5 aviation-industry businesses must be submitted to the office  
6 no later than June 30, 2003, as prescribed by the office and  
7 under the conditions contained in paragraph (a), and must  
8 include, but are not limited to, the following information:

9 1. The applicant's federal employer identification  
10 number, the applicant's Florida sales tax registration number,  
11 the applicant's unemployment compensation account number, and  
12 a notarized signature of an officer of the applicant.

13 2. The permanent location of the applicant's facility  
14 in this state at which the project is or is to be located.

15 3. A description of the type of business activity or  
16 product covered by this project. In addition, an  
17 aviation-industry business must submit, in a manner prescribed  
18 by the office, detailed information on the contract,  
19 consolidation, conversion, or expansion activity that will  
20 provide the basis for tax refunds, as provided in paragraphs  
21 (a) and (1)(i). The office, using criteria developed by the  
22 office in conjunction with Enterprise Florida, Inc., must  
23 determine whether the activity satisfies the requirements of  
24 paragraphs (a) and (1)(i).

25 4. The number of net new or net retained full-time  
26 equivalent Florida jobs included in the project as of December  
27 31 of each year and the average wage of such jobs.

28 5. The total number of full-time equivalent employees  
29 employed by the applicant in this state as of the date of  
30 application.

31 6. The anticipated commencement date of the project.

1           7. A brief statement concerning the applicant's need  
2 for tax refunds and concerning the role that the tax refunds  
3 will play in the decision of the applicant to secure a new  
4 contract, consolidate operations, convert to  
5 nonaviation-industry operations, or expand aviation-industry  
6 operations, as provided in paragraph (a).

7           8. An estimate of the proportion of the sales  
8 resulting from the project that will be made outside the  
9 state.

10           9. A resolution adopted by the governing body of the  
11 county or municipality in which the project will be located,  
12 which resolution recommends that certain types of businesses  
13 be approved as qualified aviation-industry businesses and  
14 states that the commitments of local financial support  
15 necessary for the aviation-industry business exist. Before  
16 passage of the resolution, the office may also accept an  
17 official letter from an authorized local economic development  
18 agency that endorses the proposed aviation-industry project  
19 and pledges that sources of local financial support for such  
20 project exist. For the purposes of making pledges of local  
21 financial support under this subsection, the authorized local  
22 economic development agency shall be officially designated by  
23 the passage of a one-time resolution by the local governing  
24 body.

25           10. Any additional information requested by the  
26 office.

27           (k) To qualify for review by the office, the  
28 application of an aviation-industry business must, at a  
29 minimum, establish the following to the satisfaction of the  
30 office:

31

1           1. The jobs proposed to be provided under the  
2 application, pursuant to subparagraph (j)4., must pay an  
3 estimated annual average wage equaling at least 100 percent of  
4 the average private-sector wage in the area where the business  
5 is to be located or the statewide private-sector average wage.  
6 The office may waive this average wage requirement at the  
7 request of the local governing body recommending the project  
8 and Enterprise Florida, Inc. The wage requirement may only be  
9 waived for a project located in a brownfield area designated  
10 under s. 376.80, in a rural city or county as defined in s.  
11 288.106(1), or in an enterprise zone designated under s.  
12 290.0065 and only when the merits of the individual project or  
13 the specific circumstances in the community in relationship to  
14 the project warrant such action. If the local governing body  
15 and Enterprise Florida, Inc., make such a request, they must  
16 transmit it in writing and explain the specific justification  
17 for the waiver request. If the director elects to waive the  
18 wage requirements, the director must state the waiver in  
19 writing and must explain the reasons for granting the waiver.

20           2. The aviation-industry business's project must  
21 result in the retention or creation of at least 5 jobs at such  
22 project and, if an expansion of an existing business, must  
23 result in a net increase in employment of not less than 10  
24 percent at such business. At the request of the local  
25 governing body recommending the project and Enterprise  
26 Florida, Inc., the office may define an "expansion of an  
27 existing business" for purposes of a rural community, as  
28 defined in s. 288.106(1), or an enterprise zone as the  
29 expansion of a business resulting in a net increase in  
30 employment of less than 10 percent at such business if the  
31 merits of the individual project or the specific circumstances

1 in the community in relationship to the project warrant such  
2 action. If the local governing body and Enterprise Florida,  
3 Inc., make such a request, they must transmit it in writing  
4 and explain the specific justification for the request. If the  
5 director elects to grant such request, the director must state  
6 such election in writing and must explain the reason for  
7 granting the request.

8 3. In the case of an application based on the  
9 retention of jobs in this state, the aviation-industry  
10 business must demonstrate, and the office must determine, that  
11 the jobs that are to provide a basis for tax refunds are at  
12 imminent risk of being lost to the state and that  
13 certification as a qualified aviation-industry business under  
14 this section is a significant factor in the retention of those  
15 jobs.

16 (1)(j) This section does not create a presumption that  
17 an applicant should receive any tax refunds under this  
18 section.

19 (4) ~~QUALIFIED DEFENSE CONTRACTOR TAX REFUND~~  
20 ~~AGREEMENT.--~~

21 (a) A qualified applicant shall enter into a written  
22 agreement with the office containing, but not limited to, the  
23 following:

24 1. The total number of full-time equivalent jobs in  
25 this state that are or will be dedicated to the qualified  
26 applicant's project, the average wage of such jobs, the  
27 definitions that will apply for measuring the achievement of  
28 these terms during the pendency of the agreement, and a time  
29 schedule or plan for when such jobs will be in place and  
30 active in this state. ~~This information must be the same as the~~  
31



1 ~~information contained in the application submitted by the~~  
2 ~~contractor pursuant to subsection (3).~~

3           2. The maximum amount of a refund that the qualified  
4 applicant is eligible to receive for ~~in~~ each fiscal year,  
5 based on the job creation or retention and maintenance  
6 schedule specified in subparagraph 1.

7           3. An agreement with the office allowing the office to  
8 review and verify the financial and personnel records of the  
9 qualified applicant to ascertain whether the qualified  
10 applicant is complying with the requirements of this section.

11           4. The date by ~~after~~ which, ~~in~~ each fiscal year, the  
12 qualified applicant may file a ~~an annual~~ claim pursuant to  
13 subsection (5) to be considered to receive a tax refund in the  
14 following fiscal year.

15           5. That local financial support shall be annually  
16 available and will be paid to the Economic Development Trust  
17 Fund.

18           (b) Compliance with the terms and conditions of the  
19 agreement is a condition precedent for receipt of tax refunds  
20 each year. The failure to comply with the terms and conditions  
21 of the agreement shall result in the loss of eligibility for  
22 receipt of all tax refunds previously authorized pursuant to  
23 this section, and the revocation of the certification as a  
24 qualified applicant by the director, unless the applicant is  
25 eligible to receive and elects to accept a prorated refund  
26 under paragraph (5)(g) or the office grants the applicant an  
27 economic-stimulus exemption.

28           1. A qualified applicant may submit, in writing, a  
29 request to the office for an economic-stimulus exemption. The  
30 request must provide quantitative evidence demonstrating how  
31 negative economic conditions in the applicant's industry

1 prevented the applicant from complying with the terms and  
2 conditions of its tax refund agreement.

3 2. Upon receipt of a request under subparagraph 1.,  
4 the director shall have 45 days to notify the requesting  
5 applicant, in writing, whether its exemption has been granted  
6 or denied. In determining whether an exemption should be  
7 granted, the director shall consider the extent to which  
8 negative economic conditions in the requesting applicant's  
9 industry prevented the applicant from complying with the terms  
10 and conditions of its tax refund agreement.

11 3. As a condition for receiving a prorated refund  
12 under paragraph (5)(g) or an economic-stimulus exemption under  
13 this paragraph, a qualified applicant must agree to  
14 renegotiate its tax refund agreement with the office to, at a  
15 minimum, ensure that the terms of the agreement comply with  
16 current law and office procedures governing application for  
17 and award of tax refunds. Upon approving the award of a  
18 prorated refund or granting an economic-stimulus exemption,  
19 the office shall renegotiate the tax refund agreement with the  
20 applicant as required by this subparagraph. When amending the  
21 agreement of an applicant receiving an economic-stimulus  
22 exemption, the office may extend the duration of the agreement  
23 for a period not to exceed 1 year.

24 4. A qualified applicant may submit a request for an  
25 economic-stimulus exemption to the office in lieu of any tax  
26 refund claim scheduled to be submitted after June 30, 2001,  
27 but before July 1, 2003.

28 5. A qualified applicant that receives an  
29 economic-stimulus exemption may not receive a tax refund for  
30 the period covered by the exemption.

31

1 (c) The agreement shall be signed by the director and  
2 the authorized officer of the qualified applicant.

3 (d) The agreement must contain the following legend,  
4 clearly printed on its face in bold type of not less than 10  
5 points:

6  
7 "This agreement is neither a general obligation  
8 of the State of Florida, nor is it backed by  
9 the full faith and credit of the State of  
10 Florida. Payment of tax refunds are conditioned  
11 on and subject to specific annual  
12 appropriations by the Florida Legislature of  
13 funds sufficient to pay amounts authorized in  
14 s. 288.1045, Florida Statutes."

15  
16 (5) ANNUAL CLAIM FOR REFUND ~~FROM A QUALIFIED DEFENSE~~  
17 ~~CONTRACTOR.~~--

18 (a) To be eligible to claim any scheduled tax refund,  
19 qualified applicants who have entered into a written agreement  
20 with the office pursuant to subsection (4) and who have  
21 entered into a valid new Department of Defense contract,  
22 commenced the consolidation of a Department of Defense  
23 contract, commenced the conversion of defense production jobs  
24 to nondefense production jobs, ~~or who have~~ entered into a  
25 valid contract for reuse of a defense-related facility, ~~or~~  
26 commenced a qualified aviation-industry project ~~must~~ ~~may~~ apply  
27 by January 31 of ~~once~~ each fiscal year to the office for tax  
28 refunds ~~scheduled to be paid from the appropriation for the~~  
29 fiscal year that begins on July 1 following the January 31  
30 claims-submission date. The office ~~may~~, upon written request,  
31 grant a 30-day extension of the filing date. The application

1 ~~must be made on or after the date contained in the agreement~~  
2 ~~entered into pursuant to subsection (4) and must include a~~  
3 ~~notarized signature of an officer of the applicant.~~  
4 (b) The claim for refund by the qualified applicant  
5 must include a copy of all receipts pertaining to the payment  
6 of taxes for which a refund is sought, and data related to  
7 achieving each performance item contained in the tax refund  
8 agreement pursuant to subsection (4). The amount requested as  
9 a tax refund may not exceed the amount for the relevant fiscal  
10 year in the written agreement entered pursuant to subsection  
11 (4).  
12 (c) A tax refund may not be approved for any qualified  
13 applicant unless local financial support has been paid to the  
14 Economic Development Trust Fund for ~~in~~ that refund ~~fiscal~~  
15 ~~year~~. If the local financial support is less than 20 percent  
16 of the approved tax refund, the tax refund shall be reduced.  
17 The tax refund paid may not exceed 5 times the local financial  
18 support received. Funding from local sources includes tax  
19 abatement under s. 196.1995 provided to a qualified applicant.  
20 The amount of any tax refund for an applicant approved under  
21 this section shall be reduced by the amount of any such tax  
22 abatement, and the limitations in subsection (2) and paragraph  
23 (3)(h) shall be reduced by the amount of any such tax  
24 abatement. A report listing all sources of the local financial  
25 support shall be provided to the office when such support is  
26 paid to the Economic Development Trust Fund.  
27 (d) The director, with assistance from the office, the  
28 Department of Revenue, and the Agency for Workforce Innovation  
29 ~~Department of Labor and Employment Security~~, shall, by June 30  
30 following the scheduled date for submitting the tax refund  
31 claim, specify by written order the approval or disapproval of

1 the tax refund claim and, if approved, determine the amount of  
2 the tax refund that is authorized to be paid to for the  
3 qualified applicant for the ~~fiscal year in a written final~~  
4 ~~order within 30 days after the date the claim for the annual~~  
5 ~~tax refund is received by the office.~~ The office may grant an  
6 extension of this date upon the request of the qualified  
7 applicant for the purpose of filing additional information in  
8 support of the claim.

9 (e) The total amount of tax refunds approved by the  
10 director under this section in any fiscal year may not exceed  
11 the amount appropriated to the Economic Development Trust Fund  
12 for such purposes for the fiscal year. If the Legislature does  
13 not appropriate an amount sufficient to satisfy projections by  
14 the office for tax refunds in a fiscal year, the director  
15 shall, not later than July 15 of such year, determine the  
16 proportion of each refund claim which shall be paid by  
17 dividing the amount appropriated for tax refunds for the  
18 fiscal year by the projected total amount of refund claims for  
19 the fiscal year. The amount of each claim for a tax refund  
20 shall be multiplied by the resulting quotient. If, after the  
21 payment of all such refund claims, funds remain in the  
22 Economic Development Trust Fund for tax refunds, the director  
23 shall recalculate the proportion for each refund claim and  
24 adjust the amount of each claim accordingly.

25 (f) Upon approval of the tax refund pursuant to  
26 paragraphs (c) and (d), the Comptroller shall issue a warrant  
27 for the amount included in the final order. In the event of  
28 any appeal of the final order, the Comptroller may not issue a  
29 warrant for a refund to the qualified applicant until the  
30 conclusion of all appeals of the final order.

31

1           (g) A prorated tax refund, less a 5 percent penalty,  
2 shall be approved for a qualified applicant provided all other  
3 applicable requirements have been satisfied and the applicant  
4 proves to the satisfaction of the director that it has  
5 achieved at least 80 percent of its projected employment and  
6 that the average wage paid by the applicant is at least 90  
7 percent of the average wage specified in the tax refund  
8 agreement, but in no case less than 115 percent, or 100  
9 percent in the case of a qualified aviation-industry business,  
10 of the average private-sector wage in the area available at  
11 the time of the claim. The prorated tax refund shall be  
12 calculated by multiplying the tax refund amount for which the  
13 qualified applicant would have been eligible, if all  
14 applicable requirements had been satisfied, by the percentage  
15 of the average employment specified in the tax refund  
16 agreement which was achieved, and by the percentage of the  
17 average wages specified in the tax refund agreement which was  
18 achieved.

19           (h) This section does not create a presumption that a  
20 tax refund claim will be approved and paid.

21           (6) ADMINISTRATION.--

22           (a) The office may adopt rules pursuant to chapter 120  
23 for the administration of this section.

24           (b) The office may verify information provided in any  
25 claim submitted for tax credits under this section with regard  
26 to employment and wage levels or the payment of the taxes with  
27 the appropriate agency or authority including the Department  
28 of Revenue, the Department of Labor and Employment Security,  
29 or any local government or authority.

30           (c) To facilitate the process of monitoring and  
31 auditing applications made under this program, the office may

1 provide a list of qualified applicants to the Department of  
2 Revenue, to the Agency for Workforce Innovation ~~Department of~~  
3 ~~Labor and Employment Security~~, or to any local government or  
4 authority. The office may request the assistance of said  
5 entities with respect to monitoring jobs, wages, and the  
6 payment of the taxes listed in subsection (2).

7 (d) By December 1 of each year, the office shall  
8 submit a complete and detailed report to the Governor, the  
9 President of the Senate, and the Speaker of the House of  
10 Representatives of all tax refunds paid under this section,  
11 including analyses of benefits and costs, types of projects  
12 supported, employment and investment created, geographic  
13 distribution of tax refunds granted, and minority business  
14 participation. The report must indicate whether the moneys  
15 appropriated by the Legislature to the qualified applicant tax  
16 refund program were expended in a prudent, fiducially sound  
17 manner.

18 (e) Funds specifically appropriated for the tax refund  
19 program under this section may not be used for any purpose  
20 other than the payment of tax refunds authorized by this  
21 section.

22 (7) EXPIRATION.--An applicant may not be certified as  
23 qualified under this section after June 30, 2004.

24 Section 4. Paragraphs (a) and (d) of subsection (3),  
25 paragraphs (a), (b), and (c) of subsection (4), and  
26 subsections (5) and (6) of section 288.106, Florida Statutes,  
27 are amended, and subsection (7) of said section is reenacted,  
28 to read:

29 288.106 Tax refund program for qualified target  
30 industry businesses.--

31 (3) APPLICATION AND APPROVAL PROCESS.--

1           (a) To apply for certification as a qualified target  
2 industry business under this section, the business must file  
3 an application with the office before the business has made  
4 the decision to locate a new business in this state or before  
5 the business had made the decision to expand an existing  
6 business in this state. The application shall include, but is  
7 not limited to, the following information:

8           1. The applicant's federal employer identification  
9 number and the applicant's state sales tax registration  
10 number.

11           2. The permanent location of the applicant's facility  
12 in this state at which the project is or is to be located.

13           3. A description of the type of business activity or  
14 product covered by the project, including four-digit SIC codes  
15 for all activities included in the project.

16           4. The number of net new full-time equivalent Florida  
17 jobs at the qualified target industry business as of December  
18 31 of each year included ~~in this state that are or will be~~  
19 ~~dedicated to~~ the project and the average wage of those jobs.  
20 If more than one type of business activity or product is  
21 included in the project, the number of jobs and average wage  
22 for those jobs must be separately stated for each type of  
23 business activity or product.

24           5. The total number of full-time equivalent employees  
25 employed by the applicant in this state.

26           6. The anticipated commencement date of the project.

27           7. A brief statement concerning the role that the tax  
28 refunds requested will play in the decision of the applicant  
29 to locate or expand in this state.

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1           8. An estimate of the proportion of the sales  
2 resulting from the project that will be made outside this  
3 state.

4           9. A resolution adopted by the governing board of the  
5 county or municipality in which the project will be located,  
6 which resolution recommends that certain types of businesses  
7 be approved as a qualified target industry business and states  
8 that the commitments of local financial support necessary for  
9 the target industry business exist. In advance of the passage  
10 of such resolution, the office may also accept an official  
11 letter from an authorized local economic development agency  
12 that endorses the proposed target industry project and pledges  
13 that sources of local financial support for such project  
14 exist. For the purposes of making pledges of local financial  
15 support under this subsection, the authorized local economic  
16 development agency shall be officially designated by the  
17 passage of a one-time resolution by the local governing  
18 authority.

19           10. Any additional information requested by the  
20 office.

21           (d) The office shall forward its written findings and  
22 evaluation concerning each application meeting the  
23 requirements of paragraph (b) to the director within 45  
24 calendar days after receipt of a complete application. The  
25 office shall notify each target industry business when its  
26 application is complete, and of the time when the 45-day  
27 period begins. In its written report to the director, the  
28 office shall specifically address each of the factors  
29 specified in paragraph (c) and shall make a specific  
30 assessment with respect to the minimum requirements  
31 established in paragraph (b). The office shall include in its

1 report projections of the tax refunds the business would be  
2 eligible to receive refund claim that will be sought by the  
3 ~~target industry business~~ in each fiscal year based on the  
4 creation and maintenance of the net new Florida jobs specified  
5 in subparagraph (a)4. as of December 31 of the preceding state  
6 fiscal year information submitted in the application.

7 (4) TAX REFUND AGREEMENT.--

8 (a) Each qualified target industry business must enter  
9 into a written agreement with the office which specifies, at a  
10 minimum:

11 1. The total number of full-time equivalent jobs in  
12 this state that will be dedicated to the project, the average  
13 wage of those jobs, the definitions that will apply for  
14 measuring the achievement of these terms during the pendency  
15 of the agreement, and a time schedule or plan for when such  
16 jobs will be in place and active in this state. ~~This~~  
17 ~~information must be the same as the information contained in~~  
18 ~~the application submitted by the business under subsection~~  
19 ~~(3).~~

20 2. The maximum amount of tax refunds which the  
21 qualified target industry business is eligible to receive on  
22 the project and the maximum amount of a tax refund that the  
23 qualified target industry business is eligible to receive for  
24 in each fiscal year, based on the job creation and maintenance  
25 schedule specified in subparagraph 1.

26 3. That the office may review and verify the financial  
27 and personnel records of the qualified target industry  
28 business to ascertain whether that business is in compliance  
29 with this section.

30 4. The date by ~~after~~ which, in each fiscal year, the  
31 qualified target industry business may file a an annual claim

1 under subsection (5) to be considered to receive a tax refund  
2 in the following fiscal year.

3           5. That local financial support will be annually  
4 available and will be paid to the account. The director may  
5 not enter into a written agreement with a qualified target  
6 industry business if the local financial support resolution is  
7 not passed by the local governing authority within 90 days  
8 after he or she has issued the letter of certification under  
9 subsection (3).

10           (b) Compliance with the terms and conditions of the  
11 agreement is a condition precedent for the receipt of a tax  
12 refund each year. The failure to comply with the terms and  
13 conditions of the tax refund agreement results in the loss of  
14 eligibility for receipt of all tax refunds previously  
15 authorized under this section and the revocation by the  
16 director of the certification of the business entity as a  
17 qualified target industry business, unless the business is  
18 eligible to receive and elects to accept a prorated refund  
19 under paragraph (5)(d) or the office grants the business an  
20 economic-stimulus exemption.

21           1. A qualified target industry business may submit, in  
22 writing, a request to the office for an economic-stimulus  
23 exemption. The request must provide quantitative evidence  
24 demonstrating how negative economic conditions in the  
25 business's industry prevented the business from complying with  
26 the terms and conditions of its tax refund agreement.

27           2. Upon receipt of a request under subparagraph 1.,  
28 the director shall have 45 days to notify the requesting  
29 business, in writing, whether its exemption has been granted  
30 or denied. In determining whether an exemption should be  
31 granted, the director shall consider the extent to which

1 negative economic conditions in the requesting business's  
2 industry prevented the business from complying with the terms  
3 and conditions of its tax refund agreement.

4 3. As a condition for receiving a prorated refund  
5 under paragraph (5)(d) or an economic-stimulus exemption under  
6 this paragraph, a qualified target industry business must  
7 agree to renegotiate its tax refund agreement with the office  
8 to, at a minimum, ensure that the terms of the agreement  
9 comply with current law and office procedures governing  
10 application for and award of tax refunds. Upon approving the  
11 award of a prorated refund or granting an economic-stimulus  
12 exemption, the office shall renegotiate the tax refund  
13 agreement with the business as required by this subparagraph.  
14 When amending the agreement of a business receiving an  
15 economic-stimulus exemption, the office may extend the  
16 duration of the agreement for a period not to exceed 1 year.

17 4. A qualified target industry business may submit a  
18 request for an economic-stimulus exemption to the office in  
19 lieu of any tax refund claim scheduled to be submitted after  
20 June 30, 2001, but before July 1, 2003.

21 5. A qualified target industry business that receives  
22 an economic-stimulus exemption may not receive a tax refund  
23 for the period covered by the exemption.

24 (c) The agreement must be signed by the director and  
25 by an authorized officer of the qualified target industry  
26 business within 120 days after the issuance of the letter of  
27 certification under subsection (3), but not before passage and  
28 receipt of the resolution of local financial support. The  
29 office may grant an extension of this period at the written  
30 request of the qualified target industry business.

31 (5) ANNUAL CLAIM FOR REFUND.--

1           (a) To be eligible to claim any scheduled tax refund,  
2 a qualified target industry business that has entered into a  
3 tax refund agreement with the office under subsection (4) must  
4 ~~may~~ apply by January 31 of ~~once~~ each fiscal year to the office  
5 for the a tax refund scheduled to be paid from the  
6 appropriation for the fiscal year that begins on July 1  
7 following the January 31 claims-submission date. The office  
8 may, upon written request, grant a 30-day extension of the  
9 filing date. ~~The application must be made on or after the date~~  
10 specified in that agreement.

11           (b) The claim for refund by the qualified target  
12 industry business must include a copy of all receipts  
13 pertaining to the payment of taxes for which the refund is  
14 sought and data related to achievement of each performance  
15 item specified in the tax refund agreement. The amount  
16 requested as a tax refund may not exceed the amount specified  
17 for the relevant ~~that~~ fiscal year in that agreement.

18           (c) A tax refund may not be approved for a qualified  
19 target industry business unless the required local financial  
20 support has been paid into the account for in that refund  
21 ~~fiscal year~~. If the local financial support provided is less  
22 than 20 percent of the approved tax refund, the tax refund  
23 must be reduced. In no event may the tax refund exceed an  
24 amount that is equal to 5 times the amount of the local  
25 financial support received. Further, funding from local  
26 sources includes any tax abatement granted to that business  
27 under s. 196.1995 or the appraised market value of municipal  
28 or county land conveyed or provided at a discount to that  
29 business. The amount of any tax refund for such business  
30 approved under this section must be reduced by the amount of  
31 any such tax abatement granted or the value of the land

1 granted; and the limitations in subsection (2) and paragraph  
2 (3)(f) must be reduced by the amount of any such tax abatement  
3 or the value of the land granted. A report listing all sources  
4 of the local financial support shall be provided to the office  
5 when such support is paid to the account.

6 (d) A prorated tax refund, less a 5-percent penalty,  
7 shall be approved for a qualified target industry business  
8 provided all other applicable requirements have been satisfied  
9 and the business proves to the satisfaction of the director  
10 that it has achieved at least 80 percent of its projected  
11 employment and that the average wage paid by the business is  
12 at least 90 percent of the average wage specified in the tax  
13 refund agreement, but in no case less than 115 percent of the  
14 average private-sector wage in the area available at the time  
15 of the claim, or 150 percent or 200 percent of the average  
16 private-sector wage if the business requested the additional  
17 per-job tax refund authorized in paragraph (2)(b) for wages  
18 above those levels. The prorated tax refund shall be  
19 calculated by multiplying the tax refund amount for which the  
20 qualified target industry business would have been eligible,  
21 if all applicable requirements had been satisfied, by the  
22 percentage of the average employment specified in the tax  
23 refund agreement which was achieved, and by the percentage of  
24 the average wages specified in the tax refund agreement which  
25 was achieved.

26 (e) The director, with such assistance as may be  
27 required from the office, the Department of Revenue, or the  
28 Agency for Workforce Innovation ~~Department of Labor and~~  
29 ~~Employment Security~~, shall, by June 30 following the scheduled  
30 date for submission of the tax-refund claim, specify by  
31 written ~~final~~ order the approval or disapproval of the tax

1 refund claim and, if approved, the amount of the tax refund  
2 that is authorized to be paid to for the qualified target  
3 industry business for the ~~fiscal year within 30 days after the~~  
4 ~~date that the claim for the annual tax refund is received by~~  
5 ~~the office.~~ The office may grant an extension of this date  
6 upon the request of the qualified target industry business for  
7 the purpose of filing additional information in support of the  
8 claim.

9 (f) The total amount of tax refund claims approved by  
10 the director under this section in any fiscal year must not  
11 exceed the amount authorized under s. 288.095(3).

12 (g) This section does not create a presumption that a  
13 tax refund claim will be approved and paid.

14 (h)~~(g)~~ Upon approval of the tax refund under  
15 paragraphs (c), (d), and (e), the Comptroller shall issue a  
16 warrant for the amount specified in the ~~final~~ order. If the  
17 ~~final~~ order is appealed, the Comptroller may not issue a  
18 warrant for a refund to the qualified target industry business  
19 until the conclusion of all appeals of that order.

20 (6) ADMINISTRATION.--

21 (a) The office is authorized to verify information  
22 provided in any claim submitted for tax credits under this  
23 section with regard to employment and wage levels or the  
24 payment of the taxes to the appropriate agency or authority,  
25 including the Department of Revenue, the Agency for Workforce  
26 Innovation ~~Department of Labor and Employment Security~~, or any  
27 local government or authority.

28 (b) To facilitate the process of monitoring and  
29 auditing applications made under this program, the office may  
30 provide a list of qualified target industry businesses to the  
31 Department of Revenue, to the Agency for Workforce Innovation

1 ~~Department of Labor and Employment Security~~, or to any local  
2 government or authority. The office may request the assistance  
3 of those entities with respect to monitoring jobs, wages, and  
4 the payment of the taxes listed in subsection (2).

5 (c) Funds specifically appropriated for the tax refund  
6 program for qualified target industry businesses may not be  
7 used for any purpose other than the payment of tax refunds  
8 authorized by this section.

9 (7) EXPIRATION.--This section expires June 30, 2004.

10 Section 5. Paragraph (f) of subsection (2) of section  
11 14.2015, Florida Statutes, is amended to read:

12 14.2015 Office of Tourism, Trade, and Economic  
13 Development; creation; powers and duties.--

14 (2) The purpose of the Office of Tourism, Trade, and  
15 Economic Development is to assist the Governor in working with  
16 the Legislature, state agencies, business leaders, and  
17 economic development professionals to formulate and implement  
18 coherent and consistent policies and strategies designed to  
19 provide economic opportunities for all Floridians. To  
20 accomplish such purposes, the Office of Tourism, Trade, and  
21 Economic Development shall:

22 (f)1. Administer the Florida Enterprise Zone Act under  
23 ss. 290.001-290.016, the community contribution tax credit  
24 program under ss. 220.183 and 624.5105, the tax refund program  
25 for qualified target industry businesses under s. 288.106, the  
26 tax-refund program for qualified defense contractors and  
27 aviation-industry businesses under s. 288.1045, contracts for  
28 transportation projects under s. 288.063, the sports franchise  
29 facility program under s. 288.1162, the professional golf hall  
30 of fame facility program under s. 288.1168, the expedited  
31 permitting process under s. 403.973, the Rural Community



1 Development Revolving Loan Fund under s. 288.065, the Regional  
2 Rural Development Grants Program under s. 288.018, the  
3 Certified Capital Company Act under s. 288.99, the Florida  
4 State Rural Development Council, the Rural Economic  
5 Development Initiative, and other programs that are  
6 specifically assigned to the office by law, by the  
7 appropriations process, or by the Governor. Notwithstanding  
8 any other provisions of law, the office may expend interest  
9 earned from the investment of program funds deposited in the  
10 Economic Development Trust Fund, the Grants and Donations  
11 Trust Fund, the Brownfield Property Ownership Clearance  
12 Assistance Revolving Loan Trust Fund, and the Economic  
13 Development Transportation Trust Fund to contract for the  
14 administration of the programs, or portions of the programs,  
15 enumerated in this paragraph or assigned to the office by law,  
16 by the appropriations process, or by the Governor. Such  
17 expenditures shall be subject to review under chapter 216.

18         2. The office may enter into contracts in connection  
19 with the fulfillment of its duties concerning the Florida  
20 First Business Bond Pool under chapter 159, tax incentives  
21 under chapters 212 and 220, tax incentives under the Certified  
22 Capital Company Act in chapter 288, foreign offices under  
23 chapter 288, the Enterprise Zone program under chapter 290,  
24 the Seaport Employment Training program under chapter 311, the  
25 Florida Professional Sports Team License Plates under chapter  
26 320, Spaceport Florida under chapter 331, Expedited Permitting  
27 under chapter 403, and in carrying out other functions that  
28 are specifically assigned to the office by law, by the  
29 appropriations process, or by the Governor.

30         Section 6. Paragraph (k) of subsection (7) of section  
31 213.053, Florida Statutes, is amended to read:

1           213.053 Confidentiality and information sharing.--  
2           (7) Notwithstanding any other provision of this  
3 section, the department may provide:  
4           (k) Payment information relative to chapters 199, 201,  
5 212, 220, and 221 to the Office of Tourism, Trade, and  
6 Economic Development in its administration of the tax refund  
7 program for qualified defense contractors and  
8 aviation-industry businesses authorized by s. 288.1045 and the  
9 tax refund program for qualified target industry businesses  
10 authorized by s. 288.106.

11  
12 Disclosure of information under this subsection shall be  
13 pursuant to a written agreement between the executive director  
14 and the agency. Such agencies, governmental or  
15 nongovernmental, shall be bound by the same requirements of  
16 confidentiality as the Department of Revenue. Breach of  
17 confidentiality is a misdemeanor of the first degree,  
18 punishable as provided by s. 775.082 or s. 775.083.

19           Section 7. This act shall take effect upon becoming a  
20 law.

21  
22           \*\*\*\*\*

23           HOUSE SUMMARY

24           Provides for a new type of qualifying project under the  
25 capital investment tax credit program. Expands the tax  
26 refund program for qualified defense contractors to  
27 include qualified aviation-industry businesses. Revises  
28 provisions relating to the tax refund program for  
29 qualified target industry businesses. Limits  
30 appropriations used for payment of specified tax refunds.  
31 See bill for details.