

By the Committee on Economic Development & International Trade and Representatives Kilmer, Carassas, Mahon, Atwater, Prieguez, Harper, Meadows, Betancourt and Arza

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 s. 14.2015, F.S.;  
22 conforming terminology; amending s. 213.053,  
23 F.S.; authorizing the Department of Revenue to  
24 provide certain information to the office;  
25 providing an effective date.

26  
27 Be It Enacted by the Legislature of the State of Florida:

28  
29 Section 1. Section 220.191, Florida Statutes, is  
30 amended to read:  
31 220.191 Capital investment tax credit.--

1           (1) DEFINITIONS.--For purposes of this section:  
2           (a) "Commencement of operations" means the beginning  
3 of active operations by a qualifying business or qualifying  
4 economic stimulus business of the principal function for which  
5 a qualifying project was constructed.  
6           (b) "Cumulative capital investment" means the total  
7 capital investment in land, buildings, and equipment made in  
8 connection with a qualifying project or qualifying economic  
9 stimulus project during the period from the beginning of  
10 construction of the project to the commencement of operations.  
11           (c) "Eligible capital costs" means all expenses  
12 incurred by a qualifying business or qualifying economic  
13 stimulus business in connection with the acquisition,  
14 construction, installation, and equipping of a qualifying  
15 project or qualifying economic stimulus project during the  
16 period from the beginning of construction of the project to  
17 the commencement of operations, including, but not limited to:  
18           1. The costs of acquiring, constructing, installing,  
19 equipping, and financing a qualifying project or qualifying  
20 economic stimulus project, including all obligations incurred  
21 for labor and obligations to contractors, subcontractors,  
22 builders, and materialmen.  
23           2. The costs of acquiring land or rights to land and  
24 any cost incidental thereto, including recording fees.  
25           3. The costs of architectural and engineering  
26 services, including test borings, surveys, estimates, plans  
27 and specifications, preliminary investigations, environmental  
28 mitigation, and supervision of construction, as well as the  
29 performance of all duties required by or consequent to the  
30 acquisition, construction, installation, and equipping of a  
31 qualifying project or qualifying economic stimulus project.

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 December 31, 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 after January  
22 1, 2002, but on or before July 31, 2003.

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 after January 1, 2002, but on or before  
23 July 31, 2003, and which results in a cumulative capital  
24 investment of at least \$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.

31



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. The term includes contracts for  
24 products for military use which contracts are approved by the  
25 United States Department of Defense or the United States  
26 Department of State.

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

31

1           (g) "Jobs" means full-time equivalent positions,  
2 consistent with the use of such terms by the Agency for  
3 Workforce Innovation ~~Department of Labor and Employment~~  
4 ~~Security~~ for the purpose of unemployment compensation tax,  
5 resulting directly from a project in this state. This number  
6 does not include temporary construction jobs involved with the  
7 construction of facilities for the project.

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

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

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

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

30           (l) "Taxable year" means the same as in s.  
31 220.03(1)(z).

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

2 (n) "Business unit" means an employing unit, as  
3 defined in s. 443.036, that is registered with the Agency for  
4 Workforce Innovation ~~Department of Labor and Employment~~  
5 ~~Security~~ for unemployment compensation purposes or means a  
6 subcategory or division of an employing unit that is accepted  
7 by the Agency for Workforce Innovation ~~Department of Labor and~~  
8 ~~Employment Security~~ as a reporting unit.

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

22 (p) "Contract for reuse of a defense-related facility"  
23 means a contract with a duration of 2 or more years for the  
24 use of a facility for manufacturing, assembling, fabricating,  
25 research, development, or design of tangible personal  
26 property, but excluding any contract to provide goods,  
27 improvements to real or tangible property, or services  
28 directly to or for any particular military base or  
29 installation in this state. Such facility must be located  
30 within a port, as defined in s. 313.21, and have been occupied  
31 by a business entity that held a valid Department of Defense

1 contract or occupied by any branch of the Armed Forces of the  
2 United States, within 1 year of any contract being executed  
3 for the reuse of such facility. A contract for reuse of a  
4 defense-related facility may not include any contract for  
5 reuse of such facility for any Department of Defense contract  
6 for manufacturing, assembling, fabricating, research,  
7 development, or design.

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

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

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

27 (a) There shall be allowed, from the Economic  
28 Development Trust Fund, a refund to a qualified applicant for  
29 the amount of eligible taxes certified by the director which  
30 were paid by such qualified applicant. The total amount of  
31 refunds for all fiscal years for each qualified applicant

1 shall be determined pursuant to subsection (3). The annual  
2 amount of a refund to a qualified applicant shall be  
3 determined pursuant to subsection (5).

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

13 (c) A qualified applicant may not receive more than  
14 \$7.5 million in tax refunds pursuant to this section in all  
15 fiscal years.

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

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

29 (f) After entering into a tax refund agreement  
30 pursuant to subsection (4), a qualified applicant may receive  
31 refunds from the Economic Development Trust Fund for the



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

1 Economic Development Trust Fund plus a mandatory penalty of  
2 200 percent of the tax refund which shall be deposited into  
3 the General Revenue Fund. Any qualified applicant who  
4 fraudulently claims this refund commits a felony of the third  
5 degree, punishable as provided in s. 775.082, s. 775.083, or  
6 s. 775.084.

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

15 (3) APPLICATION PROCESS; REQUIREMENTS; AGENCY  
16 DETERMINATION.--

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

1 proposal or bid for a multistate competitive aviation-industry  
2 contract, made the decision to consolidate multistate  
3 operations in this state, made the decision to convert jobs in  
4 aviation-industry operations to nonaviation-industry  
5 operations, or made the decision to expand aviation-industry  
6 operations in this state.

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

12 1. The applicant's federal employer identification  
13 number, the applicant's Florida sales tax registration number,  
14 and a notarized signature of an officer of the applicant.

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

19 3. The Department of Defense contract numbers of the  
20 contract to be consolidated, the new Department of Defense  
21 contract number, or the "RFP" number of a proposed Department  
22 of Defense contract.

23 4. The date the contract was executed or is expected  
24 to be executed, and the date the contract is due to expire or  
25 is expected to expire.

26 5. The commencement date for project operations under  
27 the contract in this state.

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

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

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

12           13. Any additional information requested by the  
13 office.

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

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

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

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

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

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

- 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 60 ~~70~~ percent of its gross receipts in this  
19 state from Department of Defense contracts over the  
20 applicant's last fiscal year, and must have derived not less  
21 than an average of 60 ~~80~~ percent of its gross receipts in this  
22 state from Department of Defense contracts over the 5 years  
23 preceding the date an application is submitted pursuant to  
24 this section. This subparagraph does not apply to any  
25 application for certification based on a contract for reuse of  
26 a defense-related facility.

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

29 (f) Each application meeting the requirements of  
30 paragraphs (b) and (e), paragraphs (c) and (e), ~~or~~ paragraphs  
31 (d) and (e), or paragraphs (j) and (k) must be submitted to

1 the office for a determination of eligibility. The office  
2 shall review, evaluate, and score each application based on,  
3 but not limited to, the following criteria:

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

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

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

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

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

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

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

29       8. The length of the project, or the expected  
30 long-term commitment to this state resulting from the project.  
31

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

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

28           (i) The director may not enter any final order that  
29 certifies any applicant as a qualified applicant when the  
30 value of tax refunds to be included in that final order  
31 exceeds the available amount of authority to enter final

1 orders as determined in s. 288.095(3). A final order that  
2 approves an application must specify the maximum amount of a  
3 tax refund that is to be available to the contractor or  
4 aviation-industry business for in each fiscal year and the  
5 total amount of tax refunds for all fiscal years.

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

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

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

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

27 4. The number of net new or net retained full-time  
28 equivalent Florida jobs included in the project as of December  
29 31 of each year and the average wage of such jobs.

30  
31

- 1           5. The total number of full-time equivalent employees  
2 employed by the applicant in this state as of the date of  
3 application.
- 4           6. The anticipated commencement date of the project.
- 5           7. A brief statement concerning the applicant's need  
6 for tax refunds and concerning the role that the tax refunds  
7 will play in the decision of the applicant to secure a new  
8 contract, consolidate operations, convert to  
9 nonaviation-industry operations, or expand aviation-industry  
10 operations, as provided in paragraph (a).
- 11           8. An estimate of the proportion of the sales  
12 resulting from the project that will be made outside the  
13 state.
- 14           9. A resolution adopted by the governing body of the  
15 county or municipality in which the project will be located,  
16 which resolution recommends that certain types of businesses  
17 be approved as qualified aviation-industry businesses and  
18 states that the commitments of local financial support  
19 necessary for the aviation-industry business exist. Before  
20 passage of the resolution, the office may also accept an  
21 official letter from an authorized local economic development  
22 agency that endorses the proposed aviation-industry project  
23 and pledges that sources of local financial support for such  
24 project exist. For the purposes of making pledges of local  
25 financial support under this subsection, the authorized local  
26 economic development agency shall be officially designated by  
27 the passage of a one-time resolution by the local governing  
28 body.
- 29           10. Any additional information requested by the  
30 office.
- 31

1           (k) To qualify for review by the office, the  
2 application of an aviation-industry business must, at a  
3 minimum, establish the following to the satisfaction of the  
4 office:

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

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

1 defined in s. 288.106(1), or an enterprise zone as the  
2 expansion of a business resulting in a net increase in  
3 employment of less than 10 percent at such business if the  
4 merits of the individual project or the specific circumstances  
5 in the community in relationship to the project warrant such  
6 action. If the local governing body and Enterprise Florida,  
7 Inc., make such a request, they must transmit it in writing  
8 and explain the specific justification for the request. If the  
9 director elects to grant such request, the director must state  
10 such election in writing and must explain the reason for  
11 granting the request.

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

20 (1)(j) This section does not create a presumption that  
21 an applicant should receive any tax refunds under this  
22 section.

23 (4) ~~QUALIFIED DEFENSE CONTRACTOR TAX REFUND~~  
24 ~~AGREEMENT.--~~

25 (a) A qualified applicant shall enter into a written  
26 agreement with the office containing, but not limited to, the  
27 following:

28 1. The total number of full-time equivalent jobs in  
29 this state that are or will be dedicated to the qualified  
30 applicant's project, the average wage of such jobs, the  
31 definitions that will apply for measuring the achievement of



1 these terms during the pendency of the agreement, and a time  
2 schedule or plan for when such jobs will be in place and  
3 active in this state. ~~This information must be the same as the~~  
4 ~~information contained in the application submitted by the~~  
5 ~~contractor pursuant to subsection (3).~~

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

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

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

18 5. That local financial support shall be annually  
19 available and will be paid to the Economic Development Trust  
20 Fund.

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

31

1           1. A qualified applicant may submit, in writing, a  
2 request to the office for an economic-stimulus exemption. The  
3 request must provide quantitative evidence demonstrating how  
4 negative economic conditions in the applicant's industry  
5 prevented the applicant from complying with the terms and  
6 conditions of its tax refund agreement.

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

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

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

1           5. A qualified applicant that receives an  
2 economic-stimulus exemption may not receive a tax refund for  
3 the period covered by the exemption.

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

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

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

18  
19           (5) ANNUAL CLAIM FOR REFUND ~~FROM A QUALIFIED DEFENSE~~  
20 ~~CONTRACTOR.--~~

21           (a) To be eligible to claim any scheduled tax refund,  
22 qualified applicants who have entered into a written agreement  
23 with the office pursuant to subsection (4) and who have  
24 entered into a valid new Department of Defense contract,  
25 commenced the consolidation of a Department of Defense  
26 contract, commenced the conversion of defense production jobs  
27 to nondefense production jobs, ~~or who have~~ entered into a  
28 valid contract for reuse of a defense-related facility, or  
29 commenced a qualified aviation-industry project must ~~may~~ apply  
30 by January 31 of ~~once~~ each fiscal year to the office for tax  
31 refunds scheduled to be paid from the appropriation for the

1 fiscal year that begins on July 1 following the January 31  
2 claims-submission date. The office may, upon written request,  
3 grant a 30-day extension of the filing date. The application  
4 ~~must be made on or after the date contained in the agreement~~  
5 ~~entered into pursuant to subsection (4) and~~ must include a  
6 notarized signature of an officer of the applicant.

7 (b) The claim for refund by the qualified applicant  
8 must include a copy of all receipts pertaining to the payment  
9 of taxes for which a refund is sought, and data related to  
10 achieving each performance item contained in the tax refund  
11 agreement pursuant to subsection (4). The amount requested as  
12 a tax refund may not exceed the amount for the relevant fiscal  
13 year in the written agreement entered pursuant to subsection  
14 (4).

15 (c) A tax refund may not be approved for any qualified  
16 applicant unless local financial support has been paid to the  
17 Economic Development Trust Fund for ~~in~~ that refund ~~fiscal~~  
18 ~~year~~. If the local financial support is less than 20 percent  
19 of the approved tax refund, the tax refund shall be reduced.  
20 The tax refund paid may not exceed 5 times the local financial  
21 support received. Funding from local sources includes tax  
22 abatement under s. 196.1995 provided to a qualified applicant.  
23 The amount of any tax refund for an applicant approved under  
24 this section shall be reduced by the amount of any such tax  
25 abatement, and the limitations in subsection (2) and paragraph  
26 (3)(h) shall be reduced by the amount of any such tax  
27 abatement. A report listing all sources of the local financial  
28 support shall be provided to the office when such support is  
29 paid to the Economic Development Trust Fund.

30 (d) The director, with assistance from the office, the  
31 Department of Revenue, and the Agency for Workforce Innovation

1 ~~Department of Labor and Employment Security~~, shall, by June 30  
2 following the scheduled date for submitting the tax refund  
3 claim, specify by written order the approval or disapproval of  
4 the tax refund claim and, if approved, ~~determine~~ the amount of  
5 the tax refund that is authorized to be paid to for the  
6 qualified applicant for the fiscal year in a written final  
7 order within 30 days after the date the claim for the annual  
8 tax refund is received by the office. The office may grant an  
9 extension of this date upon the request of the qualified  
10 applicant for the purpose of filing additional information in  
11 support of the claim.

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

28 (f) Upon approval of the tax refund pursuant to  
29 paragraphs (c) and (d), the Comptroller shall issue a warrant  
30 for the amount included in the final order. In the event of  
31 any appeal of the final order, the Comptroller may not issue a

1 warrant for a refund to the qualified applicant until the  
2 conclusion of all appeals of the final order.

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

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

23 (6) ADMINISTRATION.--

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

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

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

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

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

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

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

31

1           288.106 Tax refund program for qualified target  
2 industry businesses.--  
3           (3) APPLICATION AND APPROVAL PROCESS.--  
4           (a) To apply for certification as a qualified target  
5 industry business under this section, the business must file  
6 an application with the office before the business has made  
7 the decision to locate a new business in this state or before  
8 the business had made the decision to expand an existing  
9 business in this state. The application shall include, but is  
10 not limited to, the following information:  
11           1. The applicant's federal employer identification  
12 number and the applicant's state sales tax registration  
13 number.  
14           2. The permanent location of the applicant's facility  
15 in this state at which the project is or is to be located.  
16           3. A description of the type of business activity or  
17 product covered by the project, including four-digit SIC codes  
18 for all activities included in the project.  
19           4. The number of net new full-time equivalent Florida  
20 jobs at the qualified target industry business as of December  
21 31 of each year included in this state that are or will be  
22 ~~dedicated to~~ the project and the average wage of those jobs.  
23 If more than one type of business activity or product is  
24 included in the project, the number of jobs and average wage  
25 for those jobs must be separately stated for each type of  
26 business activity or product.  
27           5. The total number of full-time equivalent employees  
28 employed by the applicant in this state.  
29           6. The anticipated commencement date of the project.  
30  
31



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

4           8. An estimate of the proportion of the sales  
5 resulting from the project that will be made outside this  
6 state.

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

22           10. Any additional information requested by the  
23 office.

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

1 specified in paragraph (c) and shall make a specific  
2 assessment with respect to the minimum requirements  
3 established in paragraph (b). The office shall include in its  
4 report projections of the tax refunds the business would be  
5 eligible to receive ~~refund claim that will be sought by the~~  
6 ~~target industry business~~ in each fiscal year based on the  
7 creation and maintenance of the net new Florida jobs specified  
8 in subparagraph (a)4. as of December 31 of the preceding state  
9 fiscal year information submitted in the application.

10 (4) TAX REFUND AGREEMENT.--

11 (a) Each qualified target industry business must enter  
12 into a written agreement with the office which specifies, at a  
13 minimum:

14 1. The total number of full-time equivalent jobs in  
15 this state that will be dedicated to the project, the average  
16 wage of those jobs, the definitions that will apply for  
17 measuring the achievement of these terms during the pendency  
18 of the agreement, and a time schedule or plan for when such  
19 jobs will be in place and active in this state. ~~This~~  
20 ~~information must be the same as the information contained in~~  
21 ~~the application submitted by the business under subsection~~  
22 ~~(3).~~

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

29 3. That the office may review and verify the financial  
30 and personnel records of the qualified target industry

31

1 business to ascertain whether that business is in compliance  
2 with this section.

3 4. The date by ~~after~~ which, in each fiscal year, the  
4 qualified target industry business may file a an annual claim  
5 under subsection (5) to be considered to receive a tax refund  
6 in the following fiscal year.

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

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

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

31

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

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

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

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

29           (c) The agreement must be signed by the director and  
30 by an authorized officer of the qualified target industry  
31 business within 120 days after the issuance of the letter of

1 certification under subsection (3), but not before passage and  
2 receipt of the resolution of local financial support. The  
3 office may grant an extension of this period at the written  
4 request of the qualified target industry business.

5 (5) ANNUAL CLAIM FOR REFUND.--

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

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

23 (c) A tax refund may not be approved for a qualified  
24 target industry business unless the required local financial  
25 support has been paid into the account for ~~in~~ that refund  
26 ~~fiscal year~~. If the local financial support provided is less  
27 than 20 percent of the approved tax refund, the tax refund  
28 must be reduced. In no event may the tax refund exceed an  
29 amount that is equal to 5 times the amount of the local  
30 financial support received. Further, funding from local  
31 sources includes any tax abatement granted to that business

1 under s. 196.1995 or the appraised market value of municipal  
2 or county land conveyed or provided at a discount to that  
3 business. The amount of any tax refund for such business  
4 approved under this section must be reduced by the amount of  
5 any such tax abatement granted or the value of the land  
6 granted; and the limitations in subsection (2) and paragraph  
7 (3)(f) must be reduced by the amount of any such tax abatement  
8 or the value of the land granted. A report listing all sources  
9 of the local financial support shall be provided to the office  
10 when such support is paid to the account.

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

31

1           (e) The director, with such assistance as may be  
2 required from the office, the Department of Revenue, or the  
3 Agency for Workforce Innovation ~~Department of Labor and~~  
4 ~~Employment Security~~, shall, by June 30 following the scheduled  
5 date for submission of the tax-refund claim, specify by  
6 written ~~final~~ order the approval or disapproval of the tax  
7 refund claim and, if approved, the amount of the tax refund  
8 that is authorized to be paid to ~~for~~ the qualified target  
9 industry business for the ~~fiscal year within 30 days after the~~  
10 ~~date that the claim for the annual tax refund is received by~~  
11 ~~the office~~. The office may grant an extension of this date  
12 upon the request of the qualified target industry business for  
13 the purpose of filing additional information in support of the  
14 claim.

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

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

20           (h)~~(g)~~ Upon approval of the tax refund under  
21 paragraphs (c), (d), and (e), the Comptroller shall issue a  
22 warrant for the amount specified in the ~~final~~ order. If the  
23 ~~final~~ order is appealed, the Comptroller may not issue a  
24 warrant for a refund to the qualified target industry business  
25 until the conclusion of all appeals of that order.

26           (6) ADMINISTRATION.--

27           (a) The office is authorized to verify information  
28 provided in any claim submitted for tax credits under this  
29 section with regard to employment and wage levels or the  
30 payment of the taxes to the appropriate agency or authority,  
31 including the Department of Revenue, the Agency for Workforce

1 ~~Innovation Department of Labor and Employment Security~~, or any  
2 local government or authority.

3 (b) To facilitate the process of monitoring and  
4 auditing applications made under this program, the office may  
5 provide a list of qualified target industry businesses to the  
6 Department of Revenue, to the Agency for Workforce Innovation  
7 ~~Department of Labor and Employment Security~~, or to any local  
8 government or authority. The office may request the assistance  
9 of those entities with respect to monitoring jobs, wages, and  
10 the payment of the taxes listed in subsection (2).

11 (c) Funds specifically appropriated for the tax refund  
12 program for qualified target industry businesses may not be  
13 used for any purpose other than the payment of tax refunds  
14 authorized by this section.

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

16 Section 5. Paragraph (f) of subsection (2) of section  
17 14.2015, Florida Statutes, is amended to read:

18 14.2015 Office of Tourism, Trade, and Economic  
19 Development; creation; powers and duties.--

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

28 (f)1. Administer the Florida Enterprise Zone Act under  
29 ss. 290.001-290.016, the community contribution tax credit  
30 program under ss. 220.183 and 624.5105, the tax refund program  
31 for qualified target industry businesses under s. 288.106, the



1 tax-refund program for qualified defense contractors and  
2 aviation-industry businesses under s. 288.1045, contracts for  
3 transportation projects under s. 288.063, the sports franchise  
4 facility program under s. 288.1162, the professional golf hall  
5 of fame facility program under s. 288.1168, the expedited  
6 permitting process under s. 403.973, the Rural Community  
7 Development Revolving Loan Fund under s. 288.065, the Regional  
8 Rural Development Grants Program under s. 288.018, the  
9 Certified Capital Company Act under s. 288.99, the Florida  
10 State Rural Development Council, the Rural Economic  
11 Development Initiative, and other programs that are  
12 specifically assigned to the office by law, by the  
13 appropriations process, or by the Governor. Notwithstanding  
14 any other provisions of law, the office may expend interest  
15 earned from the investment of program funds deposited in the  
16 Economic Development Trust Fund, the Grants and Donations  
17 Trust Fund, the Brownfield Property Ownership Clearance  
18 Assistance Revolving Loan Trust Fund, and the Economic  
19 Development Transportation Trust Fund to contract for the  
20 administration of the programs, or portions of the programs,  
21 enumerated in this paragraph or assigned to the office by law,  
22 by the appropriations process, or by the Governor. Such  
23 expenditures shall be subject to review under chapter 216.

24         2. The office may enter into contracts in connection  
25 with the fulfillment of its duties concerning the Florida  
26 First Business Bond Pool under chapter 159, tax incentives  
27 under chapters 212 and 220, tax incentives under the Certified  
28 Capital Company Act in chapter 288, foreign offices under  
29 chapter 288, the Enterprise Zone program under chapter 290,  
30 the Seaport Employment Training program under chapter 311, the  
31 Florida Professional Sports Team License Plates under chapter

1 320, Spaceport Florida under chapter 331, Expedited Permitting  
2 under chapter 403, and in carrying out other functions that  
3 are specifically assigned to the office by law, by the  
4 appropriations process, or by the Governor.

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

7 213.053 Confidentiality and information sharing.--

8 (7) Notwithstanding any other provision of this  
9 section, the department may provide:

10 (k)1. Payment information relative to chapters 199,  
11 201, 212, 220, and 221 to the Office of Tourism, Trade, and  
12 Economic Development, or agents of the office, in its  
13 administration of the tax refund program for qualified defense  
14 contractors and aviation-industry businesses authorized by s.  
15 288.1045.

16 2. Information relative to s. 624.509 and chapters  
17 199, 201, 220, and 221 to the Office of Tourism, Trade, and  
18 Economic Development, or agents of the office, in the  
19 administration of the tax refund program for qualified target  
20 industry businesses authorized by s. 288.106.

21 3. Information relative to credits taken by businesses  
22 under s. 220.191 and exemptions or refunds received by  
23 businesses under s. 212.08(5)(j) to the Office of Tourism,  
24 Trade, and Economic Development, or agents of the office, in  
25 its administration and evaluation of the capital investment  
26 tax credit program authorized in s. 220.191 and the  
27 semiconductor, defense, and space tax exemption program  
28 authorized in s. 212.08(5)(j).

29  
30 Disclosure of information under this subsection shall be  
31 pursuant to a written agreement between the executive director

1 and the agency. Such agencies, governmental or  
2 nongovernmental, shall be bound by the same requirements of  
3 confidentiality as the Department of Revenue. Breach of  
4 confidentiality is a misdemeanor of the first degree,  
5 punishable as provided by s. 775.082 or s. 775.083.

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

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