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CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: FAV	.	
4/10/2008	.	
	.	
	.	

1 The Committee on Finance and Tax (Storms) recommended the  
 2 following **amendment**:

3  
 4 **Senate Amendment (with title amendment)**

5 Delete everything after the enacting clause  
 6 and insert:

7 Section 1. Section 288.1045, Florida Statutes, is amended  
 8 to read:

9 288.1045 Qualified defense contractor and space flight  
 10 business tax refund program.--

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

12 (a) "Consolidation of a Department of Defense contract"  
 13 means the consolidation of one or more of an applicant's  
 14 facilities under one or more Department of Defense contracts  
 15 either from outside this state or from inside and outside this  
 16 state, into one or more of the applicant's facilities inside this  
 17 state.



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

21 (c) "Applicant" means any business entity that holds a  
22 valid Department of Defense contract, space flight business  
23 contract, or any business entity that is a subcontractor under a  
24 valid Department of Defense contract, space flight business  
25 contract, or any business entity that holds a valid contract for  
26 the reuse of a defense-related facility, including all members of  
27 an affiliated group of corporations as defined in s.  
28 220.03(1)(b).

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

31 (e) "Department of Defense contract" means a competitively  
32 bid Department of Defense contract or subcontract or a  
33 competitively bid federal agency contract or subcontract issued  
34 on behalf of the Department of Defense for manufacturing,  
35 assembling, fabricating, research, development, or design with a  
36 duration of 2 or more years, but excluding any contract or  
37 subcontract to provide goods, improvements to real or tangible  
38 property, or services directly to or for any particular military  
39 base or installation in this state. The term includes contracts  
40 or subcontracts for products or services for military use or  
41 homeland security which contracts or subcontracts are approved by  
42 the United States Department of Defense, the United States  
43 Department of State, or the United States Department of Homeland  
44 Security.

45 (f) "New Department of Defense contract" means a Department  
46 of Defense contract entered into after the date application for



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47 certification as a qualified applicant is made and after January  
48 1, 1994.

49 (g) "Jobs" means full-time equivalent positions, consistent  
50 with the use of such terms by the Agency for Workforce Innovation  
51 for the purpose of unemployment compensation tax, created or  
52 retained as a direct result of a project in this state. This  
53 number does not include temporary construction jobs involved with  
54 the construction of facilities for the project.

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

58 (i) "Project" means any business undertaking in this state  
59 under a new Department of Defense contract, new space flight  
60 business contract, consolidation of a space flight business  
61 contract, consolidation of a Department of Defense contract, or  
62 conversion of defense production jobs over to nondefense  
63 production jobs or reuse of defense-related facilities.

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

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

69 (l) "Taxable year" means the same as in s. 220.03(1)(y).

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

71 (n) "Business unit" means an employing unit, as defined in  
72 s. 443.036, that is registered with the Agency for Workforce  
73 Innovation for unemployment compensation purposes or means a  
74 subcategory or division of an employing unit that is accepted by  
75 the Agency for Workforce Innovation as a reporting unit.



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76 (o) "Local financial support" means funding from local  
77 sources, public or private, which is paid to the Economic  
78 Development Trust Fund and which is equal to 20 percent of the  
79 annual tax refund for a qualified applicant. Local financial  
80 support may include excess payments made to a utility company  
81 under a designated program to allow decreases in service by the  
82 utility company under conditions, regardless of when application  
83 is made. A qualified applicant may not provide, directly or  
84 indirectly, more than 5 percent of such funding in any fiscal  
85 year. The sources of such funding may not include, directly or  
86 indirectly, state funds appropriated from the General Revenue  
87 Fund or any state trust fund, excluding tax revenues shared with  
88 local governments pursuant to law.

89 (p) "Contract for reuse of a defense-related facility"  
90 means a contract with a duration of 2 or more years for the use  
91 of a facility for manufacturing, assembling, fabricating,  
92 research, development, or design of tangible personal property,  
93 but excluding any contract to provide goods, improvements to real  
94 or tangible property, or services directly to or for any  
95 particular military base or installation in this state. Such  
96 facility must be located within a port, as defined in s. 313.21,  
97 and have been occupied by a business entity that held a valid  
98 Department of Defense contract or occupied by any branch of the  
99 Armed Forces of the United States, within 1 year of any contract  
100 being executed for the reuse of such facility. A contract for  
101 reuse of a defense-related facility may not include any contract  
102 for reuse of such facility for any Department of Defense contract  
103 for manufacturing, assembling, fabricating, research,  
104 development, or design.



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105 (q) "Local financial support exemption option" means the  
106 option to exercise an exemption from the local financial support  
107 requirement available to any applicant whose project is located  
108 in a county designated by the Rural Economic Development  
109 Initiative, if the county commissioners of the county in which  
110 the project will be located adopt a resolution requesting that  
111 the applicant's project be exempt from the local financial  
112 support requirement. Any applicant that exercises this option is  
113 not eligible for more than 80 percent of the total tax refunds  
114 allowed such applicant under this section.

115 (r) "Consolidation of a space flight business contract"  
116 means the consolidation of one or more of an applicant's  
117 facilities under one or more space flight business contracts,  
118 from outside this state or from inside and outside this state,  
119 into one or more of the applicant's facilities inside this state.

120 (s) "New space flight business contract" means a space  
121 flight business contract entered into after an application for  
122 certification as a qualified applicant is made after July 1,  
123 2008.

124 (t) "Space flight business" means the manufacturing,  
125 processing, or assembly of space flight technology products,  
126 space flight facilities, space flight propulsion systems, or  
127 space vehicles, satellites, or stations of any kind possessing  
128 the capability for space flight, as defined by s. 212.02(23), or  
129 components thereof, and includes, activities supporting space  
130 flight, vehicle launch activities, flight operations, ground  
131 control or ground support, and all administrative activities  
132 directly related to such activities. The term does not include  
133 products that are designed or manufactured for general commercial



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134 aviation or other uses even if those products may also serve an  
135 incidental use in space flight applications.

136 (u) "Space flight business contract" means a competitively  
137 bid federal agency contract, federal agency subcontract, an  
138 awarded commercial contract, or an awarded commercial subcontract  
139 for space flight business having a duration of 2 or more years.

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

141 (a) There shall be allowed, from the Economic Development  
142 Trust Fund, a refund to a qualified applicant for the amount of  
143 eligible taxes certified by the director which were paid by such  
144 qualified applicant. The total amount of refunds for all fiscal  
145 years for each qualified applicant shall be determined pursuant  
146 to subsection (3). The annual amount of a refund to a qualified  
147 applicant shall be determined pursuant to subsection (5).

148 (b) Upon approval by the director, a qualified applicant  
149 may receive tax refund payments equal to \$3,000 times the number  
150 of jobs specified in the tax refund agreement under subparagraph  
151 (4) (a) 1. or equal to \$6,000 times the number of jobs if the  
152 project is located in a rural county or an enterprise zone.  
153 Further, a qualified applicant is allowed additional tax refund  
154 payments equal to \$1,000 times the number of jobs specified in  
155 the tax refund agreement under subparagraph (4) (a) 1. if such jobs  
156 pay an annual average wage of at least 150 percent of the average  
157 private-sector wage in the area or equal to \$2,000 times the  
158 number of jobs if such jobs pay an annual average wage of at  
159 least 200 percent of the average private-sector wage in the area.  
160 ~~A qualified applicant may not be qualified for any project to~~  
161 ~~receive more than \$5,000 times the number of jobs provided in the~~  
162 ~~tax refund agreement pursuant to subparagraph (4) (a) 1. A~~  
163 qualified applicant may not receive refunds of more than 25



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164 percent of the total tax refunds provided in the tax refund  
165 agreement pursuant to subparagraph (4)(a)1. in any fiscal year,  
166 provided that no qualified applicant may receive more than \$2.5  
167 million in tax refunds pursuant to this section in any fiscal  
168 year.

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

172 (d) Contingent upon an annual appropriation by the  
173 Legislature, the director may approve not more in tax refunds  
174 than the amount appropriated to the Economic Development Trust  
175 Fund for tax refunds, for a fiscal year pursuant to subsection  
176 (5) and s. 288.095.

177 (e) For the first 6 months of each fiscal year, the  
178 director shall set aside 30 percent of the amount appropriated  
179 for refunds pursuant to this section by the Legislature to  
180 provide tax refunds only to qualified applicants who employ 500  
181 or fewer full-time employees in this state. Any unencumbered  
182 funds remaining undisbursed from this set-aside at the end of the  
183 6-month period may be used to provide tax refunds for any  
184 qualified applicants pursuant to this section.

185 (f) After entering into a tax refund agreement pursuant to  
186 subsection (4), a qualified applicant may:

187 1. Receive refunds from the account for corporate income  
188 taxes due and paid under chapter 220 by that business beginning  
189 with the first taxable year of the business which begins after  
190 entering into the agreement.

191 2. Receive refunds from the account ~~Economic Development~~  
192 ~~Trust Fund~~ for the following taxes due and paid by that business

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193 ~~the qualified applicant beginning with the applicant's first~~  
194 ~~taxable year that begins~~ after entering into the agreement:

195 ~~a.1.~~ Taxes on sales, use, and other transactions paid  
196 pursuant to chapter 212.

197 ~~2.~~ Corporate income taxes paid pursuant to chapter 220.

198 ~~b. 3.~~ Intangible personal property taxes paid pursuant to  
199 chapter 199.

200 ~~c.4.~~ Emergency excise taxes paid pursuant to chapter 221.

201 ~~d.5.~~ Excise taxes paid on documents pursuant to chapter  
202 201.

203 ~~e.6.~~ Ad valorem taxes paid, as defined in s. 220.03(1)(a)  
204 on June 1, 1996.

205 ~~f.7.~~ State communications services taxes administered under  
206 chapter 202. This provision does not apply to the gross receipts  
207 tax imposed under chapter 203 and administered under chapter 202  
208 or the local communications services tax authorized under s.  
209 202.19.

210  
211 However, a qualified applicant may not receive a tax refund  
212 pursuant to this section for any amount of credit, refund, or  
213 exemption granted such contractor for any of such taxes. If a  
214 refund for such taxes is provided by the office, which taxes are  
215 subsequently adjusted by the application of any credit, refund,  
216 or exemption granted to the qualified applicant other than that  
217 provided in this section, the qualified applicant shall reimburse  
218 the Economic Development Trust Fund for the amount of such  
219 credit, refund, or exemption. A qualified applicant must notify  
220 and tender payment to the office within 20 days after receiving a  
221 credit, refund, or exemption, other than that provided in this  
222 section. The addition of communications services taxes





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223 administered under chapter 202 is remedial in nature and  
224 retroactive to October 1, 2001. The office may make supplemental  
225 tax refund payments to allow for tax refunds for communications  
226 services taxes paid by an eligible qualified defense contractor  
227 after October 1, 2001.

228 (g) Any qualified applicant who fraudulently claims this  
229 refund is liable for repayment of the refund to the Economic  
230 Development Trust Fund plus a mandatory penalty of 200 percent of  
231 the tax refund which shall be deposited into the General Revenue  
232 Fund. Any qualified applicant who fraudulently claims this refund  
233 commits a felony of the third degree, punishable as provided in  
234 s. 775.082, s. 775.083, or s. 775.084.

235 (h) Funds made available pursuant to this section may not  
236 be expended in connection with the relocation of a business from  
237 one community to another community in this state unless the  
238 Office of Tourism, Trade, and Economic Development determines  
239 that without such relocation the business will move outside this  
240 state or determines that the business has a compelling economic  
241 rationale for the relocation which creates additional jobs.

242 (3) APPLICATION PROCESS; REQUIREMENTS; AGENCY  
243 DETERMINATION.--

244 (a) To apply for certification as a qualified applicant  
245 pursuant to this section, an applicant must file an application  
246 with the office which satisfies the requirements of paragraphs  
247 (b) and (e), paragraphs (c) and (e), ~~or~~ paragraphs (d) and (e),  
248 or paragraphs (e) and (k). An applicant may not apply for  
249 certification pursuant to this section after a proposal has been  
250 submitted for a new Department of Defense contract, after the  
251 applicant has made the decision to consolidate an existing  
252 Department of Defense contract in this state for which such



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253 applicant is seeking certification, after a proposal has been  
254 submitted for a new space flight business contract in this state,  
255 after the applicant has made the decision to consolidate an  
256 existing space flight business contract in this state for which  
257 such applicant is seeking certification, or after the applicant  
258 has made the decision to convert defense production jobs to  
259 nondefense production jobs for which such applicant is seeking  
260 certification.

261 (b) Applications for certification based on the  
262 consolidation of a Department of Defense contract or a new  
263 Department of Defense contract must be submitted to the office as  
264 prescribed by the office and must include, but are not limited  
265 to, the following information:

266 1. The applicant's federal employer identification number,  
267 the applicant's Florida sales tax registration number, and a  
268 ~~notarized~~ signature of an officer of the applicant.

269 2. The permanent location of the manufacturing, assembling,  
270 fabricating, research, development, or design facility in this  
271 state at which the project is or is to be located.

272 3. The Department of Defense contract numbers of the  
273 contract to be consolidated, the new Department of Defense  
274 contract number, or the "RFP" number of a proposed Department of  
275 Defense contract.

276 4. The date the contract was executed or is expected to be  
277 executed, and the date the contract is due to expire or is  
278 expected to expire.

279 5. The commencement date for project operations under the  
280 contract in this state.



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281           6. The number of net new full-time equivalent Florida jobs  
282 included in the project as of December 31 of each year and the  
283 average wage of such jobs.

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

286           8. The percentage of the applicant's gross receipts derived  
287 from Department of Defense contracts during the 5 taxable years  
288 immediately preceding the date the application is submitted.

289           9. The number of full-time equivalent jobs in this state to  
290 be retained by the project.

291           ~~10. The estimated amount of tax refunds to be claimed for~~  
292 ~~each fiscal year.~~

293           10.11. A brief statement concerning the applicant's need  
294 for tax refunds, and the proposed uses of such refunds by the  
295 applicant.

296           11.12. A resolution adopted by the governing board ~~county~~  
297 ~~commissioners~~ of the county or municipality in which the project  
298 will be located, which recommends the applicant be approved as a  
299 qualified applicant, and which indicates that the necessary  
300 commitments of local financial support for the applicant exist.  
301 Prior to the adoption of the resolution, the county commission  
302 may review the proposed public or private sources of such support  
303 and determine whether the proposed sources of local financial  
304 support can be provided or, for any applicant whose project is  
305 located in a county designated by the Rural Economic Development  
306 Initiative, a resolution adopted by the county commissioners of  
307 such county requesting that the applicant's project be exempt  
308 from the local financial support requirement.

309           12.13. Any additional information requested by the office.



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310 (c) Applications for certification based on the conversion  
311 of defense production jobs to nondefense production jobs must be  
312 submitted to the office as prescribed by the office and must  
313 include, but are not limited to, the following information:

314 1. The applicant's federal employer identification number,  
315 the applicant's Florida sales tax registration number, and a  
316 ~~notarized~~ signature of an officer of the applicant.

317 2. The permanent location of the manufacturing, assembling,  
318 fabricating, research, development, or design facility in this  
319 state at which the project is or is to be located.

320 3. The Department of Defense contract numbers of the  
321 contract under which the defense production jobs will be  
322 converted to nondefense production jobs.

323 4. The date the contract was executed, and the date the  
324 contract is due to expire or is expected to expire, or was  
325 canceled.

326 5. The commencement date for the nondefense production  
327 operations in this state.

328 6. The number of net new full-time equivalent Florida jobs  
329 included in the nondefense production project as of December 31  
330 of each year and the average wage of such jobs.

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

333 8. The percentage of the applicant's gross receipts derived  
334 from Department of Defense contracts during the 5 taxable years  
335 immediately preceding the date the application is submitted.

336 9. The number of full-time equivalent jobs in this state to  
337 be retained by the project.

338 ~~10. The estimated amount of tax refunds to be claimed for~~  
339 ~~each fiscal year.~~



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340       ~~10.11.~~ A brief statement concerning the applicant's need  
341 for tax refunds, and the proposed uses of such refunds by the  
342 applicant.

343       ~~11.12.~~ A resolution adopted by the governing board ~~county~~  
344 ~~commissioners~~ of the county or municipality in which the project  
345 will be located, which recommends the applicant be approved as a  
346 qualified applicant, and which indicates that the necessary  
347 commitments of local financial support for the applicant exist.  
348 Prior to the adoption of the resolution, the county commission  
349 may review the proposed public or private sources of such support  
350 and determine whether the proposed sources of local financial  
351 support can be provided or, for any applicant whose project is  
352 located in a county designated by the Rural Economic Development  
353 Initiative, a resolution adopted by the county commissioners of  
354 such county requesting that the applicant's project be exempt  
355 from the local financial support requirement.

356       ~~12.13.~~ Any additional information requested by the office.

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

361           1. The applicant's Florida sales tax registration number  
362 and a ~~notarized~~ signature of an officer of the applicant.

363           2. The permanent location of the manufacturing, assembling,  
364 fabricating, research, development, or design facility in this  
365 state at which the project is or is to be located.

366           3. The business entity holding a valid Department of  
367 Defense contract or branch of the Armed Forces of the United  
368 States that previously occupied the facility, and the date such  
369 entity last occupied the facility.



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370 4. A copy of the contract to reuse the facility, or such  
371 alternative proof as may be prescribed by the office that the  
372 applicant is seeking to contract for the reuse of such facility.

373 5. The date the contract to reuse the facility was executed  
374 or is expected to be executed, and the date the contract is due  
375 to expire or is expected to expire.

376 6. The commencement date for project operations under the  
377 contract in this state.

378 7. The number of net new full-time equivalent Florida jobs  
379 included in the project as of December 31 of each year and the  
380 average wage of such jobs.

381 8. The total number of full-time equivalent employees  
382 employed by the applicant in this state.

383 9. The number of full-time equivalent jobs in this state to  
384 be retained by the project.

385 ~~10. The estimated amount of tax refunds to be claimed for~~  
386 ~~each fiscal year.~~

387 ~~10.11.~~ A brief statement concerning the applicant's need  
388 for tax refunds, and the proposed uses of such refunds by the  
389 applicant.

390 ~~11.12.~~ A resolution adopted by the governing board ~~county~~  
391 ~~commissioners~~ of the county or municipality in which the project  
392 will be located, which recommends the applicant be approved as a  
393 qualified applicant, and which indicates that the necessary  
394 commitments of local financial support for the applicant exist.  
395 Prior to the adoption of the resolution, the county commission  
396 may review the proposed public or private sources of such support  
397 and determine whether the proposed sources of local financial  
398 support can be provided or, for any applicant whose project is  
399 located in a county designated by the Rural Economic Development



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400 Initiative, a resolution adopted by the county commissioners of  
401 such county requesting that the applicant's project be exempt  
402 from the local financial support requirement.

403 ~~12.13.~~ Any additional information requested by the office.

404 (e) To qualify for review by the office, the application of  
405 an applicant must, at a minimum, establish the following to the  
406 satisfaction of the office:

407 1. The jobs proposed to be provided under the application,  
408 pursuant to subparagraph (b)6. ~~or~~ subparagraph (c)6., or  
409 subparagraph (k)6., must pay an estimated annual average wage  
410 equaling at least 115 percent of the average wage in the area  
411 where the project is to be located.

412 2. The consolidation of a Department of Defense contract  
413 must result in a net increase of at least 25 percent in the  
414 number of jobs at the applicant's facilities in this state or the  
415 addition of at least 80 jobs at the applicant's facilities in  
416 this state.

417 3. The conversion of defense production jobs to nondefense  
418 production jobs must result in net increases in nondefense  
419 employment at the applicant's facilities in this state.

420 4. The Department of Defense contract or the space flight  
421 business contract cannot allow the business to include the costs  
422 of relocation or retooling in its base as allowable costs under a  
423 cost-plus, or similar, contract.

424 5. A business unit of the applicant must have derived not  
425 less than 60 percent of its gross receipts in this state from  
426 Department of Defense contracts or the space flight business  
427 contract over the applicant's last fiscal year, and must have  
428 derived not less than an average of 60 percent of its gross  
429 receipts in this state from Department of Defense contracts over



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430 the 5 years preceding the date an application is submitted  
431 pursuant to this section. This subparagraph does not apply to any  
432 application for certification based on a contract for reuse of a  
433 defense-related facility.

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

436 7. A new space flight business contract or the  
437 consolidation of a space flight business contract must result in  
438 net increases in space flight business employment at the  
439 applicant's facilities in this state.

440 (f) Each application meeting the requirements of paragraphs  
441 (b) and (e), paragraphs (c) and (e), ~~or~~ paragraphs (d) and (e),  
442 or paragraphs (e) and (k) must be submitted to the office for a  
443 determination of eligibility. The office shall review and  
444 ~~evaluate, and score~~ each application based on, but not limited  
445 to, the following criteria:

446 1. Expected contributions to the state strategic economic  
447 development plan adopted by Enterprise Florida, Inc., taking into  
448 account the extent to which the project contributes to the  
449 state's high-technology base, and the long-term impact of the  
450 project and the applicant on the state's economy.

451 2. The economic benefit of the jobs created or retained by  
452 the project in this state, taking into account the cost and  
453 average wage of each job created or retained, and the potential  
454 risk to existing jobs.

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

457 4. The local commitment and support for the project and  
458 applicant.





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459 |           5. The impact of the project on the local community, taking  
460 | into account the unemployment rate for the county where the  
461 | project will be located.

462 |           6. The dependence of the local community on the defense  
463 | industry or space flight business.

464 |           7. The impact of any tax refunds granted pursuant to this  
465 | section on the viability of the project and the probability that  
466 | the project will occur in this state if such tax refunds are  
467 | granted to the applicant, taking into account the expected long-  
468 | term commitment of the applicant to economic growth and  
469 | employment in this state.

470 |           8. The length of the project, or the expected long-term  
471 | commitment to this state resulting from the project.

472 |           (g) The office shall forward its written findings and  
473 | evaluation on each application meeting the requirements of  
474 | paragraphs (b) and (e), paragraphs (c) and (e), ~~or~~ paragraphs (d)  
475 | and (e), or paragraphs (e) and (k) to the director within 60  
476 | calendar days after receipt of a complete application. The office  
477 | shall notify each applicant when its application is complete, and  
478 | when the 60-day period begins. In its written report to the  
479 | director, the office shall specifically address each of the  
480 | factors specified in paragraph (f), and shall make a specific  
481 | assessment with respect to the minimum requirements established  
482 | in paragraph (e). The office shall include in its report  
483 | projections of the tax refunds the applicant would be eligible to  
484 | receive in each fiscal year based on the creation and maintenance  
485 | of the net new Florida jobs specified in subparagraph (b)6.,  
486 | subparagraph (c)6., ~~or~~ subparagraph (d)7., or paragraphs (e) and  
487 | (k) as of December 31 of the preceding state fiscal year.



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488           (h) Within 30 days after receipt of the office's findings  
489 and evaluation, the director shall issue a letter of  
490 certification which either approves or disapproves an  
491 application. The decision must be in writing and provide the  
492 justifications for either approval or disapproval. If  
493 appropriate, the director shall enter into a written agreement  
494 with the qualified applicant pursuant to subsection (4).

495           (i) The director may not certify any applicant as a  
496 qualified applicant when the value of tax refunds to be included  
497 in that letter of certification exceeds the available amount of  
498 authority to certify new businesses as determined in s.  
499 288.095(3). A letter of certification that approves an  
500 application must specify the maximum amount of a tax refund that  
501 is to be available to the contractor for each fiscal year and the  
502 total amount of tax refunds for all fiscal years.

503           (j) This section does not create a presumption that an  
504 applicant should receive any tax refunds under this section.

505           (k) Applications for certification based upon a new space  
506 flight business contract or the consolidation of a space flight  
507 business contract must be submitted to the office as prescribed  
508 by the office and must include, but need not be limited to, the  
509 following:

510           1. The applicant's federal employer identification number,  
511 the applicant's Florida sales tax registration number, and a  
512 signature of an officer of the applicant.

513           2. The permanent location of the space flight business  
514 facility in this state where the project is or will be located.

515           3. The new space flight business contract number, the space  
516 flight business contract numbers of the contract to be



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517 consolidated, or the request-for-proposal number of a proposed  
518 space flight business contract.

519 4. The date the contract was executed and the date the  
520 contract is due to expire, is expected to expire, or was  
521 canceled.

522 5. The commencement date for project operations under the  
523 contract in this state.

524 6. The number of net new full-time equivalent Florida jobs  
525 included in the project as of December 31 of each year and the  
526 average wage of such jobs.

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

529 8. The percentage of the applicant's gross receipts derived  
530 from space flight business contracts during the 5 taxable years  
531 immediately preceding the date the application is submitted.

532 9. The number of full-time equivalent jobs in this state to  
533 be retained by the project.

534 10. A brief statement concerning the applicant's need for  
535 tax refunds and the proposed uses of such refunds by the  
536 applicant.

537 11. A resolution adopted by the governing board of the  
538 county or municipality in which the project will be located which  
539 recommends the applicant be approved as a qualified applicant and  
540 indicates that the necessary commitments of local financial  
541 support for the applicant exist. Prior to the adoption of the  
542 resolution, the county commission may review the proposed public  
543 or private sources of such support and determine whether the  
544 proposed sources of local financial support can be provided or,  
545 for any applicant whose project is located in a county designated  
546 by the Rural Economic Development Initiative, a resolution



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547 adopted by the county commissioners of such county requesting  
548 that the applicant's project be exempt from the local financial  
549 support requirement.

550 12. Any additional information requested by the office.

551 (4) QUALIFIED APPLICANT ~~DEFENSE CONTRACTOR~~ TAX REFUND  
552 AGREEMENT.--

553 (a) A qualified applicant shall enter into a written  
554 agreement with the office containing, but not limited to, the  
555 following:

556 1. The total number of full-time equivalent jobs in this  
557 state that are or will be dedicated to the qualified applicant's  
558 project, the average wage of such jobs, the definitions that will  
559 apply for measuring the achievement of these terms during the  
560 pendency of the agreement, and a time schedule or plan for when  
561 such jobs will be in place and active in this state.

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

566 3. An agreement with the office allowing the office to  
567 review and verify the financial and personnel records of the  
568 qualified applicant to ascertain whether the qualified applicant  
569 is complying with the requirements of this section.

570 4. The date by which, in each fiscal year, the qualified  
571 applicant may file a claim pursuant to subsection (5) to be  
572 considered to receive a tax refund in the following fiscal year.

573 5. That local financial support shall be annually available  
574 and will be paid to the Economic Development Trust Fund.

575 (b) Compliance with the terms and conditions of the  
576 agreement is a condition precedent for receipt of tax refunds



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577 each year. The failure to comply with the terms and conditions of  
578 the agreement shall result in the loss of eligibility for receipt  
579 of all tax refunds previously authorized pursuant to this  
580 section, and the revocation of the certification as a qualified  
581 applicant by the director, unless the qualified applicant is  
582 eligible to receive and elects to accept a prorated refund under  
583 paragraph (5)(g) or the office grants the qualified applicant an  
584 economic-stimulus exemption.

585 1. A qualified applicant may submit, in writing, a request  
586 to the office for an economic-stimulus exemption. The request  
587 must provide quantitative evidence demonstrating how negative  
588 economic conditions in the qualified applicant's industry, the  
589 effects of the impact of a named hurricane or tropical storm, or  
590 specific acts of terrorism affecting the qualified applicant have  
591 prevented the qualified applicant from complying with the terms  
592 and conditions of its tax refund agreement.

593 2. Upon receipt of a request under subparagraph 1., the  
594 director shall have 45 days to notify the requesting qualified  
595 applicant, in writing, if its exemption has been granted or  
596 denied. In determining if an exemption should be granted, the  
597 director shall consider the extent to which negative economic  
598 conditions in the requesting qualified applicant's industry, the  
599 effects of the impact of a named hurricane or tropical storm, or  
600 specific acts of terrorism affecting the qualified applicant have  
601 prevented the qualified applicant from complying with the terms  
602 and conditions of its tax refund agreement.

603 3. As a condition for receiving a prorated refund under  
604 paragraph (5)(g) or an economic-stimulus exemption under this  
605 paragraph, a qualified applicant must agree to renegotiate its  
606 tax refund agreement with the office to, at a minimum, ensure

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607 that the terms of the agreement comply with current law and  
608 office procedures governing application for and award of tax  
609 refunds. Upon approving the award of a prorated refund or  
610 granting an economic-stimulus exemption, the office shall  
611 renegotiate the tax refund agreement with the qualified applicant  
612 as required by this subparagraph. When amending the agreement of  
613 a qualified applicant receiving an economic-stimulus exemption,  
614 the office may extend the duration of the agreement for a period  
615 not to exceed 2 years.

616 4. A qualified applicant may submit a request for an  
617 economic-stimulus exemption to the office in lieu of any tax  
618 refund claim scheduled to be submitted after January 1, 2005, but  
619 before July 1, 2006.

620 5. A qualified applicant that receives an economic-stimulus  
621 exemption may not receive a tax refund for the period covered by  
622 the exemption.

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

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

628  
629 "This agreement is neither a general obligation of the State of  
630 Florida, nor is it backed by the full faith and credit of the  
631 State of Florida. Payment of tax refunds are conditioned on and  
632 subject to specific annual appropriations by the Florida  
633 Legislature of funds sufficient to pay amounts authorized in s.  
634 288.1045, Florida Statutes."

635 (5) ANNUAL CLAIM FOR REFUND ~~FROM A QUALIFIED DEFENSE~~  
636 ~~CONTRACTOR.~~--



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637 (a) To be eligible to claim any scheduled tax refund,  
638 qualified applicants who have entered into a written agreement  
639 with the office pursuant to subsection (4) and who have entered  
640 into a valid new Department of Defense contract, entered into a  
641 valid new space flight business contract, commenced the  
642 consolidation of a space flight business contract, commenced the  
643 consolidation of a Department of Defense contract, commenced the  
644 conversion of defense production jobs to nondefense production  
645 jobs, or entered into a valid contract for reuse of a defense-  
646 related facility must apply by January 31 of each fiscal year to  
647 the office for tax refunds scheduled to be paid from the  
648 appropriation for the fiscal year that begins on July 1 following  
649 the January 31 claims-submission date. The office may, upon  
650 written request, grant a 30-day extension of the filing date. The  
651 application must include a notarized signature of an officer of  
652 the applicant.

653 (b) The claim for refund by the qualified applicant must  
654 include a copy of all receipts pertaining to the payment of taxes  
655 for which a refund is sought, and data related to achieving each  
656 performance item contained in the tax refund agreement pursuant  
657 to subsection (4). The amount requested as a tax refund may not  
658 exceed the amount for the relevant fiscal year in the written  
659 agreement entered pursuant to subsection (4).

660 (c) A tax refund may not be approved for any qualified  
661 applicant unless local financial support has been paid to the  
662 Economic Development Trust Fund for that refund. If the local  
663 financial support is less than 20 percent of the approved tax  
664 refund, the tax refund shall be reduced. The tax refund paid may  
665 not exceed 5 times the local financial support received. Funding  
666 from local sources includes tax abatement under s. 196.1995 or



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667 | the appraised market value of municipal or county land, including  
668 | any improvements or structures, conveyed or provided at a  
669 | discount through a sale or lease to that ~~provided to a qualified~~  
670 | applicant. The amount of any tax refund for an applicant approved  
671 | under this section shall be reduced by the amount of any such tax  
672 | abatement granted or the value of the land granted, including the  
673 | value of any improvements or structures, and the limitations in  
674 | subsection (2) and paragraph (3)(h) shall be reduced by the  
675 | amount of any such tax abatement or the value of the land  
676 | granted, including any improvements or structures. A report  
677 | listing all sources of the local financial support shall be  
678 | provided to the office when such support is paid to the Economic  
679 | Development Trust Fund.

680 | (d) The director, with assistance from the office, the  
681 | Department of Revenue, and the Agency for Workforce Innovation,  
682 | shall, by June 30 following the scheduled date for submitting the  
683 | tax refund claim, specify by written order the approval or  
684 | disapproval of the tax refund claim and, if approved, the amount  
685 | of the tax refund that is authorized to be paid to the qualified  
686 | applicant for the annual tax refund. The office may grant an  
687 | extension of this date upon the request of the qualified  
688 | applicant for the purpose of filing additional information in  
689 | support of the claim.

690 | (e) The total amount of tax refunds approved by the  
691 | director under this section in any fiscal year may not exceed the  
692 | amount authorized under s. 288.095(3).

693 | (f) Upon approval of the tax refund pursuant to paragraphs  
694 | (c) and (d), the Chief Financial Officer shall issue a warrant  
695 | for the amount included in the written order. In the event of any  
696 | appeal of the written order, the Chief Financial Officer may not





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697 | issue a warrant for a refund to the qualified applicant until the  
698 | conclusion of all appeals of the written order.

699 |       (g) A prorated tax refund, less a 5 percent penalty, shall  
700 | be approved for a qualified applicant provided all other  
701 | applicable requirements have been satisfied and the applicant  
702 | proves to the satisfaction of the director that it has achieved  
703 | at least 80 percent of its projected employment and that the  
704 | average wage paid by the qualified applicant is at least 90  
705 | percent of the average wage specified in the tax refund  
706 | agreement, but in no case less than 115 percent of the average  
707 | private sector wage in the area available at the time of  
708 | certification. The prorated tax refund shall be calculated by  
709 | multiplying the tax refund amount for which the qualified  
710 | applicant would have been eligible, if all applicable  
711 | requirements had been satisfied, by the percentage of the average  
712 | employment specified in the tax refund agreement which was  
713 | achieved, and by the percentage of the average wages specified in  
714 | the tax refund agreement which was achieved.

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

717 |       (6) ADMINISTRATION.--

718 |       (a) The office may adopt rules pursuant to chapter 120 for  
719 | the administration of this section.

720 |       (b) The office may verify information provided in any claim  
721 | submitted for tax credits under this section with regard to  
722 | employment and wage levels or the payment of the taxes with the  
723 | appropriate agency or authority including the Department of  
724 | Revenue, the Agency for Workforce Innovation, or any local  
725 | government or authority.



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726 (c) To facilitate the process of monitoring and auditing  
727 applications made under this program, the office may provide a  
728 list of qualified applicants to the Department of Revenue, to the  
729 Agency for Workforce Innovation, or to any local government or  
730 authority. The office may request the assistance of said entities  
731 with respect to monitoring jobs, wages, and the payment of the  
732 taxes listed in subsection (2).

733 ~~(d) By December 1 of each year, the office shall submit a~~  
734 ~~complete and detailed report to the Governor, the President of~~  
735 ~~the Senate, and the Speaker of the House of Representatives of~~  
736 ~~all tax refunds paid under this section, including analyses of~~  
737 ~~benefits and costs, types of projects supported, employment and~~  
738 ~~investment created, geographic distribution of tax refunds~~  
739 ~~granted, and minority business participation. The report must~~  
740 ~~indicate whether the moneys appropriated by the Legislature to~~  
741 ~~the qualified applicant tax refund program were expended in a~~  
742 ~~prudent, fiducially sound manner.~~

743 (d) ~~(e)~~ Funds specifically appropriated for the tax refund  
744 program under this section may not be used for any purpose other  
745 than the payment of tax refunds authorized by this section.

746 (7) Notwithstanding paragraphs (4) (a) and (5) (c), the  
747 office may approve a waiver of the local financial support  
748 requirement for a business located in any of the following  
749 counties in which businesses received emergency loans  
750 administered by the office in response to the named hurricanes of  
751 2004: Bay, Brevard, Charlotte, DeSoto, Escambia, Flagler, Glades,  
752 Hardee, Hendry, Highlands, Indian River, Lake, Lee, Martin,  
753 Okaloosa, Okeechobee, Orange, Osceola, Palm Beach, Polk, Putnam,  
754 Santa Rosa, Seminole, St. Lucie, Volusia, and Walton. A waiver  
755 may be granted only if the office determines that the local



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756 financial support cannot be provided or that doing so would  
757 effect a demonstrable hardship on the unit of local government  
758 providing the local financial support. If the office grants a  
759 waiver of the local financial support requirement, the state  
760 shall pay 100 percent of the refund due to an eligible business.  
761 The waiver shall apply for tax refund applications made for  
762 fiscal years 2004-2005, 2005-2006, and 2006-2007.

763 (8) EXPIRATION.--An applicant may not be certified as  
764 qualified under this section after June 30, 2014 ~~June 30, 2010~~. A  
765 tax refund agreement existing on that date shall continue in  
766 effect in accordance with its terms.

767 Section 2. Paragraph (f) of subsection (2) of section  
768 14.2015, Florida Statutes, is amended to read:

769 14.2015 Office of Tourism, Trade, and Economic Development;  
770 creation; powers and duties.--

771 (2) The purpose of the Office of Tourism, Trade, and  
772 Economic Development is to assist the Governor in working with  
773 the Legislature, state agencies, business leaders, and economic  
774 development professionals to formulate and implement coherent and  
775 consistent policies and strategies designed to provide economic  
776 opportunities for all Floridians. To accomplish such purposes,  
777 the Office of Tourism, Trade, and Economic Development shall:

778 (f)1. Administer the Florida Enterprise Zone Act under ss.  
779 290.001-290.016, the community contribution tax credit program  
780 under ss. 220.183 and 624.5105, the tax refund program for  
781 qualified target industry businesses under s. 288.106, the tax-  
782 refund program for qualified defense contractors and space flight  
783 business contractors under s. 288.1045, contracts for  
784 transportation projects under s. 288.063, the sports franchise  
785 facility program under s. 288.1162, the professional golf hall of



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786 fame facility program under s. 288.1168, the expedited permitting  
787 process under s. 403.973, the Rural Community Development  
788 Revolving Loan Fund under s. 288.065, the Regional Rural  
789 Development Grants Program under s. 288.018, the Certified  
790 Capital Company Act under s. 288.99, the Florida State Rural  
791 Development Council, the Rural Economic Development Initiative,  
792 and other programs that are specifically assigned to the office  
793 by law, by the appropriations process, or by the Governor.  
794 Notwithstanding any other provisions of law, the office may  
795 expend interest earned from the investment of program funds  
796 deposited in the Grants and Donations Trust Fund to contract for  
797 the administration of the programs, or portions of the programs,  
798 enumerated in this paragraph or assigned to the office by law, by  
799 the appropriations process, or by the Governor. Such expenditures  
800 shall be subject to review under chapter 216.

801 2. The office may enter into contracts in connection with  
802 the fulfillment of its duties concerning the Florida First  
803 Business Bond Pool under chapter 159, tax incentives under  
804 chapters 212 and 220, tax incentives under the Certified Capital  
805 Company Act in chapter 288, foreign offices under chapter 288,  
806 the Enterprise Zone program under chapter 290, the Seaport  
807 Employment Training program under chapter 311, the Florida  
808 Professional Sports Team License Plates under chapter 320,  
809 Spaceport Florida under chapter 331, Expedited Permitting under  
810 chapter 403, and in carrying out other functions that are  
811 specifically assigned to the office by law, by the appropriations  
812 process, or by the Governor.

813 Section 3. Paragraph (k) of subsection (8) of section  
814 213.053, Florida Statutes, is amended to read:

815 213.053 Confidentiality and information sharing.--



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

818 (k)1. Payment information relative to chapters 199, 201,  
819 212, 220, 221, and 624 to the Office of Tourism, Trade, and  
820 Economic Development, or its employees or agents that are  
821 identified in writing by the office to the department, in the  
822 administration of the tax refund program for qualified defense  
823 contractors and space flight business contractors authorized by  
824 s. 288.1045 and the tax refund program for qualified target  
825 industry businesses authorized by s. 288.106.

826 2. Information relative to tax credits taken by a business  
827 under s. 220.191 and exemptions or tax refunds received by a  
828 business under s. 212.08(5)(j) to the Office of Tourism, Trade,  
829 and Economic Development, or its employees or agents that are  
830 identified in writing by the office to the department, in the  
831 administration and evaluation of the capital investment tax  
832 credit program authorized in s. 220.191 and the semiconductor,  
833 defense, and space tax exemption program authorized in s.  
834 212.08(5)(j).

835  
836 Disclosure of information under this subsection shall be pursuant  
837 to a written agreement between the executive director and the  
838 agency. Such agencies, governmental or nongovernmental, shall be  
839 bound by the same requirements of confidentiality as the  
840 Department of Revenue. Breach of confidentiality is a misdemeanor  
841 of the first degree, punishable as provided by s. 775.082 or s.  
842 775.083.

843 Section 4. This act shall take effect July 1, 2008.

844  
845 ===== T I T L E A M E N D M E N T =====

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846 And the title is amended as follows:

847 Delete everything before the enacting clause  
848 and insert:

849 A bill to be entitled  
850 An act relating to tax refunds for qualified space flight  
851 contractors; amending s. 288.1045, F.S.; including space  
852 flight contractors in the qualified defense contractor tax  
853 refund program; expanding the definition of "applicant"  
854 and "project" to include space flight business contracts;  
855 defining the terms "space flight business," "space flight  
856 business contract," "new space flight business contract,"  
857 and "consolidation of a space flight business contract";  
858 providing that qualified defense contractors are, upon  
859 approval, eligible for specified tax refunds under certain  
860 circumstances; authorizing a qualified applicant to  
861 receive refunds from the account for certain taxes after  
862 entering into certain tax refund agreements; excluding  
863 certain taxes from the list of eligible taxes on which a  
864 refund may be based; expanding the requirements for an  
865 application for certification as a qualified defense  
866 contractor or space flight contractor; providing that an  
867 applicant may not apply for certification after a proposal  
868 has been submitted for a new space flight business  
869 contract or after the applicant has made the decision to  
870 consolidate an existing space flight business contract;  
871 requiring that an applicant establish certain information  
872 to qualify for review by the Office of Tourism, Trade, and  
873 Economic Development; requiring that certain types of  
874 applications contain certain information; requiring that  
875 the office review and evaluate each application based on



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876 specified criteria; requiring that the office forward its  
877 written findings regarding each application meeting  
878 certain requirements to its director within a specified  
879 period; requiring that applications for certification  
880 based on the consolidation of a space flight business  
881 contract or a new space flight business contract be  
882 submitted to the office in the manner prescribed by the  
883 office; requiring that such contracts contain certain  
884 information; providing for the claiming of a tax refund by  
885 an applicant who has entered into a valid new space flight  
886 business contract or commenced the consolidation of a  
887 space flight business contract; prohibiting a tax refund  
888 for a qualified defense contractor from being paid unless  
889 local financial support has been paid to the Economic  
890 Development Trust Fund for that refund; providing eligible  
891 sources of such local financial support; providing for  
892 certain reductions in the amount of such tax refunds and  
893 applicable limitations; providing that an applicant may  
894 not be certified after a specified date; deleting  
895 provisions relating to the submission of an annual report  
896 of the payment of certain tax refunds by the Office of  
897 Tourism, Trade, and Economic Development to the Governor,  
898 the President of the Senate, and the Speaker of the House  
899 of Representatives; amending ss. 14.2015 and 213.053,  
900 F.S., relating to duties of the Office of Tourism, Trade,  
901 and Economic Development and the sharing of information by  
902 the Department of Revenue; conforming provisions to  
903 changes made by the act; providing an effective date.