

By the Committee on Transportation and Economic Development  
Appropriations; and Senators Posey and Haridopolos

606-08354-08

20082666c1

1                   A bill to be entitled  
2           An act relating to tax refunds for qualified space flight  
3           contractors; amending s. 288.1045, F.S.; including space  
4           flight contractors in the qualified defense contractor tax  
5           refund program; expanding the definition of "applicant"  
6           and "project" to include space flight business contracts;  
7           defining the terms "space flight business," "space flight  
8           business contract," "new space flight business contract,"  
9           and "consolidation of a space flight business contract";  
10          providing that qualified defense contractors are, upon  
11          approval, eligible for specified tax refunds under certain  
12          circumstances; authorizing a qualified applicant to  
13          receive refunds from the account for certain taxes after  
14          entering into certain tax refund agreements; excluding  
15          certain taxes from the list of eligible taxes on which a  
16          refund may be based; expanding the requirements for an  
17          application for certification as a qualified defense  
18          contractor or space flight contractor; providing that an  
19          applicant may not apply for certification after a proposal  
20          has been submitted for a new space flight business  
21          contract or after the applicant has made the decision to  
22          consolidate an existing space flight business contract;  
23          requiring that an applicant establish certain information  
24          to qualify for review by the Office of Tourism, Trade, and  
25          Economic Development; requiring that certain types of  
26          applications contain certain information; requiring that  
27          the office review and evaluate each application based on  
28          specified criteria; requiring that the office forward its  
29          written findings regarding each application meeting

606-08354-08

20082666c1

30 certain requirements to its director within a specified  
31 period; requiring that applications for certification  
32 based on the consolidation of a space flight business  
33 contract or a new space flight business contract be  
34 submitted to the office in the manner prescribed by the  
35 office; requiring that such contracts contain certain  
36 information; providing for the claiming of a tax refund by  
37 an applicant who has entered into a valid new space flight  
38 business contract or commenced the consolidation of a  
39 space flight business contract; prohibiting a tax refund  
40 for a qualified defense contractor from being paid unless  
41 local financial support has been paid to the Economic  
42 Development Trust Fund for that refund; providing eligible  
43 sources of such local financial support; providing for  
44 certain reductions in the amount of such tax refunds and  
45 applicable limitations; providing that an applicant may  
46 not be certified after a specified date; deleting  
47 provisions relating to the submission of an annual report  
48 of the payment of certain tax refunds by the Office of  
49 Tourism, Trade, and Economic Development to the Governor,  
50 the President of the Senate, and the Speaker of the House  
51 of Representatives; amending ss. 14.2015 and 213.053,  
52 F.S., relating to duties of the Office of Tourism, Trade,  
53 and Economic Development and the sharing of information by  
54 the Department of Revenue; conforming provisions to  
55 changes made by the act; providing an effective date.

56  
57 Be It Enacted by the Legislature of the State of Florida:  
58

606-08354-08

20082666c1

59 Section 1. Section 288.1045, Florida Statutes, is amended  
60 to read:

61 288.1045 Qualified defense contractor and space flight  
62 business tax refund program.--

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

64 (a) "Consolidation of a Department of Defense contract"  
65 means the consolidation of one or more of an applicant's  
66 facilities under one or more Department of Defense contracts  
67 either from outside this state or from inside and outside this  
68 state, into one or more of the applicant's facilities inside this  
69 state.

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

73 (c) "Applicant" means any business entity that holds a  
74 valid Department of Defense contract, space flight business  
75 contract, or any business entity that is a subcontractor under a  
76 valid Department of Defense contract, space flight business  
77 contract, or any business entity that holds a valid contract for  
78 the reuse of a defense-related facility, including all members of  
79 an affiliated group of corporations as defined in s.  
80 220.03(1)(b).

81 (d) "Office" means the Office of Tourism, Trade, and  
82 Economic Development.

83 (e) "Department of Defense contract" means a competitively  
84 bid Department of Defense contract or subcontract or a  
85 competitively bid federal agency contract or subcontract issued  
86 on behalf of the Department of Defense for manufacturing,  
87 assembling, fabricating, research, development, or design with a

606-08354-08

20082666c1

88 duration of 2 or more years, but excluding any contract or  
89 subcontract to provide goods, improvements to real or tangible  
90 property, or services directly to or for any particular military  
91 base or installation in this state. The term includes contracts  
92 or subcontracts for products or services for military use or  
93 homeland security which contracts or subcontracts are approved by  
94 the United States Department of Defense, the United States  
95 Department of State, or the United States Department of Homeland  
96 Security.

97 (f) "New Department of Defense contract" means a Department  
98 of Defense contract entered into after the date application for  
99 certification as a qualified applicant is made and after January  
100 1, 1994.

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

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

110 (i) "Project" means any business undertaking in this state  
111 under a new Department of Defense contract, new space flight  
112 business contract, consolidation of a space flight business  
113 contract, consolidation of a Department of Defense contract, or  
114 conversion of defense production jobs over to nondefense  
115 production jobs or reuse of defense-related facilities.

116 (j) "Qualified applicant" means an applicant that has been

606-08354-08

20082666c1

117 approved by the director to be eligible for tax refunds pursuant  
118 to this section.

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

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

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

123 (n) "Business unit" means an employing unit, as defined in  
124 s. 443.036, that is registered with the Agency for Workforce  
125 Innovation for unemployment compensation purposes or means a  
126 subcategory or division of an employing unit that is accepted by  
127 the Agency for Workforce Innovation as a reporting unit.

128 (o) "Local financial support" means funding from local  
129 sources, public or private, which is paid to the Economic  
130 Development Trust Fund and which is equal to 20 percent of the  
131 annual tax refund for a qualified applicant. Local financial  
132 support may include excess payments made to a utility company  
133 under a designated program to allow decreases in service by the  
134 utility company under conditions, regardless of when application  
135 is made. A qualified applicant may not provide, directly or  
136 indirectly, more than 5 percent of such funding in any fiscal  
137 year. The sources of such funding may not include, directly or  
138 indirectly, state funds appropriated from the General Revenue  
139 Fund or any state trust fund, excluding tax revenues shared with  
140 local governments pursuant to law.

141 (p) "Contract for reuse of a defense-related facility"  
142 means a contract with a duration of 2 or more years for the use  
143 of a facility for manufacturing, assembling, fabricating,  
144 research, development, or design of tangible personal property,  
145 but excluding any contract to provide goods, improvements to real

606-08354-08

20082666c1

146 or tangible property, or services directly to or for any  
147 particular military base or installation in this state. Such  
148 facility must be located within a port, as defined in s. 313.21,  
149 and have been occupied by a business entity that held a valid  
150 Department of Defense contract or occupied by any branch of the  
151 Armed Forces of the United States, within 1 year of any contract  
152 being executed for the reuse of such facility. A contract for  
153 reuse of a defense-related facility may not include any contract  
154 for reuse of such facility for any Department of Defense contract  
155 for manufacturing, assembling, fabricating, research,  
156 development, or design.

157 (q) "Local financial support exemption option" means the  
158 option to exercise an exemption from the local financial support  
159 requirement available to any applicant whose project is located  
160 in a county designated by the Rural Economic Development  
161 Initiative, if the county commissioners of the county in which  
162 the project will be located adopt a resolution requesting that  
163 the applicant's project be exempt from the local financial  
164 support requirement. Any applicant that exercises this option is  
165 not eligible for more than 80 percent of the total tax refunds  
166 allowed such applicant under this section.

167 (r) "Consolidation of a space flight business contract"  
168 means the consolidation of one or more of an applicant's  
169 facilities under one or more space flight business contracts,  
170 from outside this state or from inside and outside this state,  
171 into one or more of the applicant's facilities inside this state.

172 (s) "New space flight business contract" means a space  
173 flight business contract entered into after an application for  
174 certification as a qualified applicant is made after July 1,

606-08354-08

20082666c1

175 | 2008.

176 |       (t) "Space flight business" means the manufacturing,  
177 | processing, or assembly of space flight technology products,  
178 | space flight facilities, space flight propulsion systems, or  
179 | space vehicles, satellites, or stations of any kind possessing  
180 | the capability for space flight, as defined by s. 212.02(23), or  
181 | components thereof, and includes, activities supporting space  
182 | flight, vehicle launch activities, flight operations, ground  
183 | control or ground support, and all administrative activities  
184 | directly related to such activities. The term does not include  
185 | products that are designed or manufactured for general commercial  
186 | aviation or other uses even if those products may also serve an  
187 | incidental use in space flight applications.

188 |       (u) "Space flight business contract" means a competitively  
189 | bid federal agency contract, federal agency subcontract, an  
190 | awarded commercial contract, or an awarded commercial subcontract  
191 | for space flight business having a duration of 2 or more years.

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

193 |       (a) There shall be allowed, from the Economic Development  
194 | Trust Fund, a refund to a qualified applicant for the amount of  
195 | eligible taxes certified by the director which were paid by such  
196 | qualified applicant. The total amount of refunds for all fiscal  
197 | years for each qualified applicant shall be determined pursuant  
198 | to subsection (3). The annual amount of a refund to a qualified  
199 | applicant shall be determined pursuant to subsection (5).

200 |       (b) Upon approval by the director, a qualified applicant  
201 | may receive tax refund payments equal to \$3,000 times the number  
202 | of jobs specified in the tax refund agreement under subparagraph  
203 | (4) (a) 1. or equal to \$6,000 times the number of jobs if the

606-08354-08

20082666c1

204 project is located in a rural county or an enterprise zone.  
205 Further, a qualified applicant is allowed additional tax refund  
206 payments equal to \$1,000 times the number of jobs specified in  
207 the tax refund agreement under subparagraph (4)(a)1. if such jobs  
208 pay an annual average wage of at least 150 percent of the average  
209 private-sector wage in the area or equal to \$2,000 times the  
210 number of jobs if such jobs pay an annual average wage of at  
211 least 200 percent of the average private-sector wage in the area.  
212 ~~A qualified applicant may not be qualified for any project to~~  
213 ~~receive more than \$5,000 times the number of jobs provided in the~~  
214 ~~tax refund agreement pursuant to subparagraph (4)(a)1. A~~  
215 qualified applicant may not receive refunds of more than 25  
216 percent of the total tax refunds provided in the tax refund  
217 agreement pursuant to subparagraph (4)(a)1. in any fiscal year,  
218 provided that no qualified applicant may receive more than \$2.5  
219 million in tax refunds pursuant to this section in any fiscal  
220 year.

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

224 (d) Contingent upon an annual appropriation by the  
225 Legislature, the director may approve not more in tax refunds  
226 than the amount appropriated to the Economic Development Trust  
227 Fund for tax refunds, for a fiscal year pursuant to subsection  
228 (5) and s. 288.095.

229 (e) For the first 6 months of each fiscal year, the  
230 director shall set aside 30 percent of the amount appropriated  
231 for refunds pursuant to this section by the Legislature to  
232 provide tax refunds only to qualified applicants who employ 500



606-08354-08

20082666c1

233 or fewer full-time employees in this state. Any unencumbered  
234 funds remaining undisbursed from this set-aside at the end of the  
235 6-month period may be used to provide tax refunds for any  
236 qualified applicants pursuant to this section.

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

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

243 2. Receive refunds from the account ~~Economic Development~~  
244 ~~Trust Fund~~ for the following taxes due and paid by that business  
245 ~~the qualified applicant beginning with the applicant's first~~  
246 ~~taxable year that begins~~ after entering into the agreement:

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

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

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

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

253 ~~d.5.~~ Excise taxes paid on documents pursuant to chapter  
254 201.

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

257 ~~f.7.~~ State communications services taxes administered under  
258 chapter 202. This provision does not apply to the gross receipts  
259 tax imposed under chapter 203 and administered under chapter 202  
260 or the local communications services tax authorized under s.  
261 202.19.

606-08354-08

20082666c1

262  
263 However, a qualified applicant may not receive a tax refund  
264 pursuant to this section for any amount of credit, refund, or  
265 exemption granted such contractor for any of such taxes. If a  
266 refund for such taxes is provided by the office, which taxes are  
267 subsequently adjusted by the application of any credit, refund,  
268 or exemption granted to the qualified applicant other than that  
269 provided in this section, the qualified applicant shall reimburse  
270 the Economic Development Trust Fund for the amount of such  
271 credit, refund, or exemption. A qualified applicant must notify  
272 and tender payment to the office within 20 days after receiving a  
273 credit, refund, or exemption, other than that provided in this  
274 section. The addition of communications services taxes  
275 administered under chapter 202 is remedial in nature and  
276 retroactive to October 1, 2001. The office may make supplemental  
277 tax refund payments to allow for tax refunds for communications  
278 services taxes paid by an eligible qualified defense contractor  
279 after October 1, 2001.

280 (g) Any qualified applicant who fraudulently claims this  
281 refund is liable for repayment of the refund to the Economic  
282 Development Trust Fund plus a mandatory penalty of 200 percent of  
283 the tax refund which shall be deposited into the General Revenue  
284 Fund. Any qualified applicant who fraudulently claims this refund  
285 commits a felony of the third degree, punishable as provided in  
286 s. 775.082, s. 775.083, or s. 775.084.

287 (h) Funds made available pursuant to this section may not  
288 be expended in connection with the relocation of a business from  
289 one community to another community in this state unless the  
290 Office of Tourism, Trade, and Economic Development determines

606-08354-08

20082666c1

291 | that without such relocation the business will move outside this  
292 | state or determines that the business has a compelling economic  
293 | rationale for the relocation which creates additional jobs.

294 | (3) APPLICATION PROCESS; REQUIREMENTS; AGENCY  
295 | DETERMINATION.--

296 | (a) To apply for certification as a qualified applicant  
297 | pursuant to this section, an applicant must file an application  
298 | with the office which satisfies the requirements of paragraphs  
299 | (b) and (e), paragraphs (c) and (e), ~~or~~ paragraphs (d) and (e),  
300 | or paragraphs (e) and (k). An applicant may not apply for  
301 | certification pursuant to this section after a proposal has been  
302 | submitted for a new Department of Defense contract, after the  
303 | applicant has made the decision to consolidate an existing  
304 | Department of Defense contract in this state for which such  
305 | applicant is seeking certification, after a proposal has been  
306 | submitted for a new space flight business contract in this state,  
307 | after the applicant has made the decision to consolidate an  
308 | existing space flight business contract in this state for which  
309 | such applicant is seeking certification, or after the applicant  
310 | has made the decision to convert defense production jobs to  
311 | nondefense production jobs for which such applicant is seeking  
312 | certification.

313 | (b) Applications for certification based on the  
314 | consolidation of a Department of Defense contract or a new  
315 | Department of Defense contract must be submitted to the office as  
316 | prescribed by the office and must include, but are not limited  
317 | to, the following information:

318 | 1. The applicant's federal employer identification number,  
319 | the applicant's Florida sales tax registration number, and a

606-08354-08

20082666c1

320 ~~notarized~~ signature of an officer of the applicant.

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

324 3. The Department of Defense contract numbers of the  
325 contract to be consolidated, the new Department of Defense  
326 contract number, or the "RFP" number of a proposed Department of  
327 Defense contract.

328 4. The date the contract was executed or is expected to be  
329 executed, and the date the contract is due to expire or is  
330 expected to expire.

331 5. The commencement date for project operations under the  
332 contract in this state.

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

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

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

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

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

345 10.11. A brief statement concerning the applicant's need  
346 for tax refunds, and the proposed uses of such refunds by the  
347 applicant.

348 11.12. A resolution adopted by the governing board ~~county~~

606-08354-08

20082666c1

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

361 ~~12.13.~~ Any additional information requested by the office.

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

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

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

372 3. The Department of Defense contract numbers of the  
373 contract under which the defense production jobs will be  
374 converted to nondefense production jobs.

375 4. The date the contract was executed, and the date the  
376 contract is due to expire or is expected to expire, or was  
377 canceled.

606-08354-08

20082666c1

378 5. The commencement date for the nondefense production  
379 operations in this state.

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

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

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

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

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

392 10.11. A brief statement concerning the applicant's need  
393 for tax refunds, and the proposed uses of such refunds by the  
394 applicant.

395 11.12. A resolution adopted by the governing board ~~county~~  
396 ~~commissioners~~ of the county or municipality in which the project  
397 will be located, which recommends the applicant be approved as a  
398 qualified applicant, and which indicates that the necessary  
399 commitments of local financial support for the applicant exist.  
400 Prior to the adoption of the resolution, the county commission  
401 may review the proposed public or private sources of such support  
402 and determine whether the proposed sources of local financial  
403 support can be provided or, for any applicant whose project is  
404 located in a county designated by the Rural Economic Development  
405 Initiative, a resolution adopted by the county commissioners of  
406 such county requesting that the applicant's project be exempt

606-08354-08

20082666c1

407 | from the local financial support requirement.

408 |       12.13. Any additional information requested by the office.

409 |       (d) Applications for certification based on a contract for  
410 | reuse of a defense-related facility must be submitted to the  
411 | office as prescribed by the office and must include, but are not  
412 | limited to, the following information:

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

415 |           2. The permanent location of the manufacturing, assembling,  
416 | fabricating, research, development, or design facility in this  
417 | state at which the project is or is to be located.

418 |           3. The business entity holding a valid Department of  
419 | Defense contract or branch of the Armed Forces of the United  
420 | States that previously occupied the facility, and the date such  
421 | entity last occupied the facility.

422 |           4. A copy of the contract to reuse the facility, or such  
423 | alternative proof as may be prescribed by the office that the  
424 | applicant is seeking to contract for the reuse of such facility.

425 |           5. The date the contract to reuse the facility was executed  
426 | or is expected to be executed, and the date the contract is due  
427 | to expire or is expected to expire.

428 |           6. The commencement date for project operations under the  
429 | contract in this state.

430 |           7. The number of net new full-time equivalent Florida jobs  
431 | included in the project as of December 31 of each year and the  
432 | average wage of such jobs.

433 |           8. The total number of full-time equivalent employees  
434 | employed by the applicant in this state.

435 |           9. The number of full-time equivalent jobs in this state to

606-08354-08

20082666c1

436 be retained by the project.

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

439 10.11. A brief statement concerning the applicant's need  
440 for tax refunds, and the proposed uses of such refunds by the  
441 applicant.

442 11.12. A resolution adopted by the governing board ~~county~~  
443 ~~commissioners~~ of the county or municipality in which the project  
444 will be located, which recommends the applicant be approved as a  
445 qualified applicant, and which indicates that the necessary  
446 commitments of local financial support for the applicant exist.  
447 Prior to the adoption of the resolution, the county commission  
448 may review the proposed public or private sources of such support  
449 and determine whether the proposed sources of local financial  
450 support can be provided or, for any applicant whose project is  
451 located in a county designated by the Rural Economic Development  
452 Initiative, a resolution adopted by the county commissioners of  
453 such county requesting that the applicant's project be exempt  
454 from the local financial support requirement.

455 12.13. Any additional information requested by the office.

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

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

464 2. The consolidation of a Department of Defense contract



606-08354-08

20082666c1

465 must result in a net increase of at least 25 percent in the  
466 number of jobs at the applicant's facilities in this state or the  
467 addition of at least 80 jobs at the applicant's facilities in  
468 this state.

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

472 4. The Department of Defense contract or the space flight  
473 business contract cannot allow the business to include the costs  
474 of relocation or retooling in its base as allowable costs under a  
475 cost-plus, or similar, contract.

476 5. A business unit of the applicant must have derived not  
477 less than 60 percent of its gross receipts in this state from  
478 Department of Defense contracts or the space flight business  
479 contract over the applicant's last fiscal year, and must have  
480 derived not less than an average of 60 percent of its gross  
481 receipts in this state from Department of Defense contracts over  
482 the 5 years preceding the date an application is submitted  
483 pursuant to this section. This subparagraph does not apply to any  
484 application for certification based on a contract for reuse of a  
485 defense-related facility.

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

488 7. A new space flight business contract or the  
489 consolidation of a space flight business contract must result in  
490 net increases in space flight business employment at the  
491 applicant's facilities in this state.

492 (f) Each application meeting the requirements of paragraphs  
493 (b) and (e), paragraphs (c) and (e), ~~or~~ paragraphs (d) and (e), and

606-08354-08

20082666c1

494 or paragraphs (e) and (k) must be submitted to the office for a  
495 determination of eligibility. The office shall review and~~r~~  
496 evaluate, ~~and score~~ each application based on, but not limited  
497 to, the following criteria:

498 1. Expected contributions to the state strategic economic  
499 development plan adopted by Enterprise Florida, Inc., taking into  
500 account the extent to which the project contributes to the  
501 state's high-technology base, and the long-term impact of the  
502 project and the applicant on the state's economy.

503 2. The economic benefit of the jobs created or retained by  
504 the project in this state, taking into account the cost and  
505 average wage of each job created or retained, and the potential  
506 risk to existing jobs.

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

509 4. The local commitment and support for the project and  
510 applicant.

511 5. The impact of the project on the local community, taking  
512 into account the unemployment rate for the county where the  
513 project will be located.

514 6. The dependence of the local community on the defense  
515 industry or space flight business.

516 7. The impact of any tax refunds granted pursuant to this  
517 section on the viability of the project and the probability that  
518 the project will occur in this state if such tax refunds are  
519 granted to the applicant, taking into account the expected long-  
520 term commitment of the applicant to economic growth and  
521 employment in this state.

522 8. The length of the project, or the expected long-term

606-08354-08

20082666c1

523 | commitment to this state resulting from the project.

524 |       (g) The office shall forward its written findings and  
525 | evaluation on each application meeting the requirements of  
526 | paragraphs (b) and (e), paragraphs (c) and (e), ~~or~~ paragraphs (d)  
527 | and (e), or paragraphs (e) and (k) to the director within 60  
528 | calendar days after receipt of a complete application. The office  
529 | shall notify each applicant when its application is complete, and  
530 | when the 60-day period begins. In its written report to the  
531 | director, the office shall specifically address each of the  
532 | factors specified in paragraph (f), and shall make a specific  
533 | assessment with respect to the minimum requirements established  
534 | in paragraph (e). The office shall include in its report  
535 | projections of the tax refunds the applicant would be eligible to  
536 | receive in each fiscal year based on the creation and maintenance  
537 | of the net new Florida jobs specified in subparagraph (b)6.,  
538 | subparagraph (c)6., ~~or~~ subparagraph (d)7., or paragraphs (e) and  
539 | (k) as of December 31 of the preceding state fiscal year.

540 |       (h) Within 30 days after receipt of the office's findings  
541 | and evaluation, the director shall issue a letter of  
542 | certification which either approves or disapproves an  
543 | application. The decision must be in writing and provide the  
544 | justifications for either approval or disapproval. If  
545 | appropriate, the director shall enter into a written agreement  
546 | with the qualified applicant pursuant to subsection (4).

547 |       (i) The director may not certify any applicant as a  
548 | qualified applicant when the value of tax refunds to be included  
549 | in that letter of certification exceeds the available amount of  
550 | authority to certify new businesses as determined in s.  
551 | 288.095(3). A letter of certification that approves an

606-08354-08

20082666c1

552 application must specify the maximum amount of a tax refund that  
553 is to be available to the contractor for each fiscal year and the  
554 total amount of tax refunds for all fiscal years.

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

557 (k) Applications for certification based upon a new space  
558 flight business contract or the consolidation of a space flight  
559 business contract must be submitted to the office as prescribed  
560 by the office and must include, but need not be limited to, the  
561 following:

562 1. The applicant's federal employer identification number,  
563 the applicant's Florida sales tax registration number, and a  
564 signature of an officer of the applicant.

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

567 3. The new space flight business contract number, the space  
568 flight business contract numbers of the contract to be  
569 consolidated, or the request-for-proposal number of a proposed  
570 space flight business contract.

571 4. The date the contract was executed and the date the  
572 contract is due to expire, is expected to expire, or was  
573 canceled.

574 5. The commencement date for project operations under the  
575 contract in this state.

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

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

606-08354-08

20082666c1

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

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

586 10. A brief statement concerning the applicant's need for  
587 tax refunds and the proposed uses of such refunds by the  
588 applicant.

589 11. A resolution adopted by the governing board of the  
590 county or municipality in which the project will be located which  
591 recommends the applicant be approved as a qualified applicant and  
592 indicates that the necessary commitments of local financial  
593 support for the applicant exist. Prior to the adoption of the  
594 resolution, the county commission may review the proposed public  
595 or private sources of such support and determine whether the  
596 proposed sources of local financial support can be provided or,  
597 for any applicant whose project is located in a county designated  
598 by the Rural Economic Development Initiative, a resolution  
599 adopted by the county commissioners of such county requesting  
600 that the applicant's project be exempt from the local financial  
601 support requirement.

602 12. Any additional information requested by the office.

603 (4) QUALIFIED APPLICANT ~~DEFENSE CONTRACTOR TAX REFUND~~  
604 ~~AGREEMENT.--~~

605 (a) A qualified applicant shall enter into a written  
606 agreement with the office containing, but not limited to, the  
607 following:

608 1. The total number of full-time equivalent jobs in this  
609 state that are or will be dedicated to the qualified applicant's

606-08354-08

20082666c1

610 project, the average wage of such jobs, the definitions that will  
611 apply for measuring the achievement of these terms during the  
612 pendency of the agreement, and a time schedule or plan for when  
613 such jobs will be in place and active in this state.

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

618 3. An agreement with the office allowing the office to  
619 review and verify the financial and personnel records of the  
620 qualified applicant to ascertain whether the qualified applicant  
621 is complying with the requirements of this section.

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

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

627 (b) Compliance with the terms and conditions of the  
628 agreement is a condition precedent for receipt of tax refunds  
629 each year. The failure to comply with the terms and conditions of  
630 the agreement shall result in the loss of eligibility for receipt  
631 of all tax refunds previously authorized pursuant to this  
632 section, and the revocation of the certification as a qualified  
633 applicant by the director, unless the qualified applicant is  
634 eligible to receive and elects to accept a prorated refund under  
635 paragraph (5)(g) or the office grants the qualified applicant an  
636 economic-stimulus exemption.

637 1. A qualified applicant may submit, in writing, a request  
638 to the office for an economic-stimulus exemption. The request

606-08354-08

20082666c1

639 must provide quantitative evidence demonstrating how negative  
640 economic conditions in the qualified applicant's industry, the  
641 effects of the impact of a named hurricane or tropical storm, or  
642 specific acts of terrorism affecting the qualified applicant have  
643 prevented the qualified applicant from complying with the terms  
644 and conditions of its tax refund agreement.

645 2. Upon receipt of a request under subparagraph 1., the  
646 director shall have 45 days to notify the requesting qualified  
647 applicant, in writing, if its exemption has been granted or  
648 denied. In determining if an exemption should be granted, the  
649 director shall consider the extent to which negative economic  
650 conditions in the requesting qualified applicant's industry, the  
651 effects of the impact of a named hurricane or tropical storm, or  
652 specific acts of terrorism affecting the qualified applicant have  
653 prevented the qualified applicant from complying with the terms  
654 and conditions of its tax refund agreement.

655 3. As a condition for receiving a prorated refund under  
656 paragraph (5)(g) or an economic-stimulus exemption under this  
657 paragraph, a qualified applicant must agree to renegotiate its  
658 tax refund agreement with the office to, at a minimum, ensure  
659 that the terms of the agreement comply with current law and  
660 office procedures governing application for and award of tax  
661 refunds. Upon approving the award of a prorated refund or  
662 granting an economic-stimulus exemption, the office shall  
663 renegotiate the tax refund agreement with the qualified applicant  
664 as required by this subparagraph. When amending the agreement of  
665 a qualified applicant receiving an economic-stimulus exemption,  
666 the office may extend the duration of the agreement for a period  
667 not to exceed 2 years.

606-08354-08

20082666c1

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

672 5. A qualified applicant that receives an economic-stimulus  
673 exemption may not receive a tax refund for the period covered by  
674 the exemption.

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

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

680  
681 "This agreement is neither a general obligation of the State of  
682 Florida, nor is it backed by the full faith and credit of the  
683 State of Florida. Payment of tax refunds are conditioned on and  
684 subject to specific annual appropriations by the Florida  
685 Legislature of funds sufficient to pay amounts authorized in s.  
686 288.1045, Florida Statutes."

687 (5) ANNUAL CLAIM FOR REFUND ~~FROM A QUALIFIED DEFENSE~~  
688 ~~CONTRACTOR.~~--

689 (a) To be eligible to claim any scheduled tax refund,  
690 qualified applicants who have entered into a written agreement  
691 with the office pursuant to subsection (4) and who have entered  
692 into a valid new Department of Defense contract, entered into a  
693 valid new space flight business contract, commenced the  
694 consolidation of a space flight business contract, commenced the  
695 consolidation of a Department of Defense contract, commenced the  
696 conversion of defense production jobs to nondefense production



606-08354-08

20082666c1

697 jobs, or entered into a valid contract for reuse of a defense-  
698 related facility must apply by January 31 of each fiscal year to  
699 the office for tax refunds scheduled to be paid from the  
700 appropriation for the fiscal year that begins on July 1 following  
701 the January 31 claims-submission date. The office may, upon  
702 written request, grant a 30-day extension of the filing date. The  
703 application must include a notarized signature of an officer of  
704 the applicant.

705 (b) The claim for refund by the qualified applicant must  
706 include a copy of all receipts pertaining to the payment of taxes  
707 for which a refund is sought, and data related to achieving each  
708 performance item contained in the tax refund agreement pursuant  
709 to subsection (4). The amount requested as a tax refund may not  
710 exceed the amount for the relevant fiscal year in the written  
711 agreement entered pursuant to subsection (4).

712 (c) A tax refund may not be approved for any qualified  
713 applicant unless local financial support has been paid to the  
714 Economic Development Trust Fund for that refund. If the local  
715 financial support is less than 20 percent of the approved tax  
716 refund, the tax refund shall be reduced. The tax refund paid may  
717 not exceed 5 times the local financial support received. Funding  
718 from local sources includes tax abatement under s. 196.1995 or  
719 the appraised market value of municipal or county land, including  
720 any improvements or structures, conveyed or provided at a  
721 discount through a sale or lease to that ~~provided to a qualified~~  
722 applicant. The amount of any tax refund for an applicant approved  
723 under this section shall be reduced by the amount of any such tax  
724 abatement granted or the value of the land granted, including the  
725 value of any improvements or structures, and the limitations in

606-08354-08

20082666c1

726 subsection (2) and paragraph (3)(h) shall be reduced by the  
727 amount of any such tax abatement or the value of the land  
728 granted, including any improvements or structures. A report  
729 listing all sources of the local financial support shall be  
730 provided to the office when such support is paid to the Economic  
731 Development Trust Fund.

732 (d) The director, with assistance from the office, the  
733 Department of Revenue, and the Agency for Workforce Innovation,  
734 shall, by June 30 following the scheduled date for submitting the  
735 tax refund claim, specify by written order the approval or  
736 disapproval of the tax refund claim and, if approved, the amount  
737 of the tax refund that is authorized to be paid to the qualified  
738 applicant for the annual tax refund. The office may grant an  
739 extension of this date upon the request of the qualified  
740 applicant for the purpose of filing additional information in  
741 support of the claim.

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

745 (f) Upon approval of the tax refund pursuant to paragraphs  
746 (c) and (d), the Chief Financial Officer shall issue a warrant  
747 for the amount included in the written order. In the event of any  
748 appeal of the written order, the Chief Financial Officer may not  
749 issue a warrant for a refund to the qualified applicant until the  
750 conclusion of all appeals of the written order.

751 (g) A prorated tax refund, less a 5 percent penalty, shall  
752 be approved for a qualified applicant provided all other  
753 applicable requirements have been satisfied and the applicant  
754 proves to the satisfaction of the director that it has achieved

606-08354-08

20082666c1

755 | at least 80 percent of its projected employment and that the  
756 | average wage paid by the qualified applicant is at least 90  
757 | percent of the average wage specified in the tax refund  
758 | agreement, but in no case less than 115 percent of the average  
759 | private sector wage in the area available at the time of  
760 | certification. The prorated tax refund shall be calculated by  
761 | multiplying the tax refund amount for which the qualified  
762 | applicant would have been eligible, if all applicable  
763 | requirements had been satisfied, by the percentage of the average  
764 | employment specified in the tax refund agreement which was  
765 | achieved, and by the percentage of the average wages specified in  
766 | the tax refund agreement which was achieved.

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

769 |       (6) ADMINISTRATION.--

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

772 |       (b) The office may verify information provided in any claim  
773 | submitted for tax credits under this section with regard to  
774 | employment and wage levels or the payment of the taxes with the  
775 | appropriate agency or authority including the Department of  
776 | Revenue, the Agency for Workforce Innovation, or any local  
777 | government or authority.

778 |       (c) To facilitate the process of monitoring and auditing  
779 | applications made under this program, the office may provide a  
780 | list of qualified applicants to the Department of Revenue, to the  
781 | Agency for Workforce Innovation, or to any local government or  
782 | authority. The office may request the assistance of said entities  
783 | with respect to monitoring jobs, wages, and the payment of the

606-08354-08

20082666c1

784 taxes listed in subsection (2).

785 ~~(d) By December 1 of each year, the office shall submit a~~  
786 ~~complete and detailed report to the Governor, the President of~~  
787 ~~the Senate, and the Speaker of the House of Representatives of~~  
788 ~~all tax refunds paid under this section, including analyses of~~  
789 ~~benefits and costs, types of projects supported, employment and~~  
790 ~~investment created, geographic distribution of tax refunds~~  
791 ~~granted, and minority business participation. The report must~~  
792 ~~indicate whether the moneys appropriated by the Legislature to~~  
793 ~~the qualified applicant tax refund program were expended in a~~  
794 ~~prudent, fiducially sound manner.~~

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

798 (7) Notwithstanding paragraphs (4) (a) and (5) (c), the  
799 office may approve a waiver of the local financial support  
800 requirement for a business located in any of the following  
801 counties in which businesses received emergency loans  
802 administered by the office in response to the named hurricanes of  
803 2004: Bay, Brevard, Charlotte, DeSoto, Escambia, Flagler, Glades,  
804 Hardee, Hendry, Highlands, Indian River, Lake, Lee, Martin,  
805 Okaloosa, Okeechobee, Orange, Osceola, Palm Beach, Polk, Putnam,  
806 Santa Rosa, Seminole, St. Lucie, Volusia, and Walton. A waiver  
807 may be granted only if the office determines that the local  
808 financial support cannot be provided or that doing so would  
809 effect a demonstrable hardship on the unit of local government  
810 providing the local financial support. If the office grants a  
811 waiver of the local financial support requirement, the state  
812 shall pay 100 percent of the refund due to an eligible business.

606-08354-08

20082666c1

813 The waiver shall apply for tax refund applications made for  
814 fiscal years 2004-2005, 2005-2006, and 2006-2007.

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

819 Section 2. Paragraph (f) of subsection (2) of section  
820 14.2015, Florida Statutes, is amended to read:

821 14.2015 Office of Tourism, Trade, and Economic Development;  
822 creation; powers and duties.--

823 (2) The purpose of the Office of Tourism, Trade, and  
824 Economic Development is to assist the Governor in working with  
825 the Legislature, state agencies, business leaders, and economic  
826 development professionals to formulate and implement coherent and  
827 consistent policies and strategies designed to provide economic  
828 opportunities for all Floridians. To accomplish such purposes,  
829 the Office of Tourism, Trade, and Economic Development shall:

830 (f)1. Administer the Florida Enterprise Zone Act under ss.  
831 290.001-290.016, the community contribution tax credit program  
832 under ss. 220.183 and 624.5105, the tax refund program for  
833 qualified target industry businesses under s. 288.106, the tax-  
834 refund program for qualified defense contractors and space flight  
835 business contractors under s. 288.1045, contracts for  
836 transportation projects under s. 288.063, the sports franchise  
837 facility program under s. 288.1162, the professional golf hall of  
838 fame facility program under s. 288.1168, the expedited permitting  
839 process under s. 403.973, the Rural Community Development  
840 Revolving Loan Fund under s. 288.065, the Regional Rural  
841 Development Grants Program under s. 288.018, the Certified

606-08354-08

20082666c1

842 Capital Company Act under s. 288.99, the Florida State Rural  
843 Development Council, the Rural Economic Development Initiative,  
844 and other programs that are specifically assigned to the office  
845 by law, by the appropriations process, or by the Governor.  
846 Notwithstanding any other provisions of law, the office may  
847 expend interest earned from the investment of program funds  
848 deposited in the Grants and Donations Trust Fund to contract for  
849 the administration of the programs, or portions of the programs,  
850 enumerated in this paragraph or assigned to the office by law, by  
851 the appropriations process, or by the Governor. Such expenditures  
852 shall be subject to review under chapter 216.

853 2. The office may enter into contracts in connection with  
854 the fulfillment of its duties concerning the Florida First  
855 Business Bond Pool under chapter 159, tax incentives under  
856 chapters 212 and 220, tax incentives under the Certified Capital  
857 Company Act in chapter 288, foreign offices under chapter 288,  
858 the Enterprise Zone program under chapter 290, the Seaport  
859 Employment Training program under chapter 311, the Florida  
860 Professional Sports Team License Plates under chapter 320,  
861 Spaceport Florida under chapter 331, Expedited Permitting under  
862 chapter 403, and in carrying out other functions that are  
863 specifically assigned to the office by law, by the appropriations  
864 process, or by the Governor.

865 Section 3. Paragraph (k) of subsection (8) of section  
866 213.053, Florida Statutes, is amended to read:

867 213.053 Confidentiality and information sharing.--

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

870 (k)1. Payment information relative to chapters 199, 201,

606-08354-08

20082666c1

871 212, 220, 221, and 624 to the Office of Tourism, Trade, and  
872 Economic Development, or its employees or agents that are  
873 identified in writing by the office to the department, in the  
874 administration of the tax refund program for qualified defense  
875 contractors and space flight business contractors authorized by  
876 s. 288.1045 and the tax refund program for qualified target  
877 industry businesses authorized by s. 288.106.

878 2. Information relative to tax credits taken by a business  
879 under s. 220.191 and exemptions or tax refunds received by a  
880 business under s. 212.08(5)(j) to the Office of Tourism, Trade,  
881 and Economic Development, or its employees or agents that are  
882 identified in writing by the office to the department, in the  
883 administration and evaluation of the capital investment tax  
884 credit program authorized in s. 220.191 and the semiconductor,  
885 defense, and space tax exemption program authorized in s.  
886 212.08(5)(j).

887  
888 Disclosure of information under this subsection shall be pursuant  
889 to a written agreement between the executive director and the  
890 agency. Such agencies, governmental or nongovernmental, shall be  
891 bound by the same requirements of confidentiality as the  
892 Department of Revenue. Breach of confidentiality is a misdemeanor  
893 of the first degree, punishable as provided by s. 775.082 or s.  
894 775.083.

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