

FOR CONSIDERATION By the Committee on Commerce

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1                                   A bill to be entitled  
2           An act relating to qualified target industry tax  
3           refund program; amending s. 288.106, F.S.; providing  
4           legislative findings and declarations for the tax  
5           refund program for qualified target industry  
6           businesses; revising the definitions of terms  
7           applicable to the program; revising the criteria for  
8           the Office of Tourism, Trade, and Economic Development  
9           and Enterprise Florida, Inc., to use in identifying  
10          target industry businesses; conforming cross-  
11          references to changes made by the act; deleting ad  
12          valorem taxes from the types of taxes that may be  
13          refunded under the program; requiring an application  
14          for certification as a qualified target industry  
15          business to include an estimate of the proportion of  
16          the machinery, equipment, and other resources that  
17          will be used in the applicant's proposed operation in  
18          Florida and purchased by the applicant outside the  
19          state; requiring the Office of Tourism, Trade, and  
20          Economic Development to consider the state's return on  
21          investment in evaluating applicants for the tax refund  
22          program; redesignating the economic-stimulus exemption  
23          as the "economic recovery extension"; extending the  
24          date by which a qualified target industry business may  
25          request an economic recovery extension; authorizing  
26          the Office of Tourism, Trade, and Economic Development  
27          to waive the requirement for a business to annually  
28          provide proof of taxes paid if the business provides  
29          proof that it has paid certain taxes in amounts at

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30 least equal to the total amount of refunds for which  
31 the business is eligible; requiring the Office of  
32 Tourism, Trade, and Economic Development to conduct a  
33 review of certain qualified target industry businesses  
34 that have received their final tax refund and provide  
35 a report of its findings and recommendations to the  
36 Governor, the President of the Senate, and the Speaker  
37 of the House of Representatives; extending the date by  
38 which businesses may apply to participate in the tax  
39 refund program for qualified target industry  
40 businesses; amending ss. 288.107 and 290.00677, F.S.;  
41 conforming cross-references to changes made by the  
42 act; providing an effective date.

43  
44 Be It Enacted by the Legislature of the State of Florida:

45  
46 Section 1. Section 288.106, Florida Statutes, is amended,  
47 and subsection (2) of that section is reordered, to read:

48 288.106 Tax refund program for qualified target industry  
49 businesses.-

50 (1) LEGISLATIVE FINDINGS AND DECLARATIONS.-The Legislature  
51 finds that retaining and expanding existing businesses in  
52 Florida, encouraging the creation of new businesses in Florida,  
53 attracting new businesses from out of state, and generally  
54 providing conditions favorable for the growth of target  
55 industries creates high-quality, high-wage employment  
56 opportunities for the residents of this state and strengthens  
57 Florida's economic foundation. The Legislature also finds that  
58 incentives that are narrowly focused in application and scope

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59 tend to be more effective at achieving the state's economic-  
60 development goals. Further, the Legislature finds that higher-  
61 wage jobs reduce the state's share of hidden costs such as  
62 public assistance and subsidized health care associated with  
63 low-wage jobs. Therefore, the Legislature declares that it is  
64 the policy of this state to encourage the growth of higher-wage  
65 jobs and a diverse economic base by providing state tax refunds  
66 to qualified target industry businesses that originate or expand  
67 in this state or that relocate to this state.

68 (2)-(1) DEFINITIONS.—As used in this section:

69 (a) "Account" means the Economic Development Incentives  
70 Account within the Economic Development Trust Fund established  
71 under s. 288.095.

72 (c)-(b) "Average private sector wage ~~in the area~~" means ~~the~~  
73 ~~statewide private sector average wage or~~ the average of all  
74 private sector wages and salaries in the county or in the  
75 standard metropolitan area in which the business is located.

76 (d)-(e) "Business" means an employing unit, as defined in s.  
77 443.036, which is registered for unemployment compensation  
78 purposes with the state agency providing unemployment tax  
79 collection services under contract with the Agency for Workforce  
80 Innovation through an interagency agreement pursuant to s.  
81 443.1316, or a subcategory or division of an employing unit  
82 which is accepted by the state agency providing unemployment tax  
83 collection services as a reporting unit.

84 (e)-(d) "Corporate headquarters business" means an  
85 international, national, or regional headquarters office of a  
86 multinational or multistate business enterprise or national  
87 trade association, whether separate from or connected with other

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88 facilities used by such business.

89 (n)~~(e)~~ "Office" means the Office of Tourism, Trade, and  
90 Economic Development.

91 (g)~~(f)~~ "Enterprise zone" means an area designated as an  
92 enterprise zone pursuant to s. 290.0065.

93 (h)~~(g)~~ "Expansion of an existing business" means the  
94 expansion of an existing Florida business by or through  
95 additions to real and personal property, resulting in a net  
96 increase in employment of not less than 10 percent at such  
97 business.

98 (i)~~(h)~~ "Fiscal year" means the fiscal year of the state.

99 (j)~~(i)~~ "Jobs" means full-time equivalent positions, as that  
100 term is consistent with terms used by the Agency for Workforce  
101 Innovation and the United States Department of Labor for  
102 purposes of unemployment compensation tax administration and  
103 employment estimation, resulting directly from a project in this  
104 state. The term does not include temporary construction jobs  
105 involved with the construction of facilities for the project or  
106 any jobs previously included in any application for tax refunds  
107 under s. 288.1045 or this section.

108 (k)~~(j)~~ "Local financial support" means funding from local  
109 sources, public or private, which is paid to the Economic  
110 Development Trust Fund and which is equal to 20 percent of the  
111 annual tax refund for a qualified target industry business. A  
112 qualified target industry business may not provide, directly or  
113 indirectly, more than 5 percent of such funding in any fiscal  
114 year. The sources of such funding may not include, directly or  
115 indirectly, state funds appropriated from the General Revenue  
116 Fund or any state trust fund, excluding tax revenues shared with

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117 local governments pursuant to law.

118 (l)~~(k)~~ "Local financial support exemption option" means the  
119 option to exercise an exemption from the local financial support  
120 requirement available to any applicant whose project is located  
121 in a brownfield area or a rural community ~~county with a~~  
122 ~~population of 75,000 or fewer or a county with a population of~~  
123 ~~125,000 or fewer which is contiguous to a county with a~~  
124 ~~population of 75,000 or fewer.~~ Any applicant that exercises this  
125 option is ~~shall~~ not be eligible for more than 80 percent of the  
126 total tax refunds allowed such applicant under this section.

127 (m)~~(l)~~ "New business" means a business that applies for the  
128 qualified target industry refund program before beginning  
129 operations ~~which heretofore did not exist in this state, first~~  
130 ~~beginning operations on a site located in this state and is a~~  
131 ~~clearly~~ separate legal entity from any other commercial or  
132 industrial operations owned by the same business.

133 (o)~~(m)~~ "Project" means the creation of a new business or  
134 expansion of an existing business.

135 (f)~~(n)~~ "Director" means the Director of the Office of  
136 Tourism, Trade, and Economic Development.

137 (t)~~(e)~~ "Target industry business" means a corporate  
138 headquarters business or any business that is engaged in one of  
139 the target industries identified pursuant to the following  
140 criteria developed by the office in consultation with Enterprise  
141 Florida, Inc.:

142 1. Future growth.—Industry forecasts should indicate strong  
143 expectation for future growth in both employment and output,  
144 according to the most recent available data. Preference ~~Special~~  
145 ~~consideration~~ should be given to businesses that export goods or

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146 services ~~Florida's growing access~~ to international markets or to  
147 businesses that replace domestic and international ~~replacing~~  
148 imports of goods or services.

149 2. Stability.—The industry should not be subject to  
150 periodic layoffs, whether due to seasonality or sensitivity to  
151 volatile economic variables such as weather. The industry should  
152 also be relatively resistant to recession, so that the demand  
153 for products of this industry is not typically ~~necessarily~~  
154 subject to decline during an economic downturn.

155 3. High wage.—The industry should pay higher ~~relatively~~  
156 high wages compared to statewide or area averages.

157 4. Market and resource independent.—The location of  
158 industry businesses should not be dependent on Florida markets  
159 or resources as indicated by industry analysis, with the  
160 exception of businesses in the renewable-energy industry.  
161 ~~Special consideration should be given to the development of~~  
162 ~~strong industrial clusters which include defense and homeland~~  
163 ~~security businesses.~~

164 5. Industrial base diversification and strengthening.—The  
165 industry should contribute toward expanding or diversifying the  
166 state's or area's economic base, as indicated by analysis of  
167 employment and output shares compared to national and regional  
168 trends. Preference ~~Special consideration~~ should be given to  
169 industries that strengthen regional economies by adding value to  
170 basic products or building regional industrial clusters as  
171 indicated by industry analysis. Additionally, preference should  
172 be given to the development of strong industrial clusters that  
173 include defense and homeland security businesses.

174 6. Economic benefits.—The industry is expected to ~~should~~

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175 have strong positive impacts on or benefits to the state or ~~and~~  
176 regional economies.

177

178 The office, in consultation with Enterprise Florida, Inc., shall  
179 develop a list of such target industries annually and submit  
180 such list as part of the final agency legislative budget request  
181 submitted pursuant to s. 216.023(1). A target industry business  
182 may not include any industry engaged in retail activities; any  
183 electrical utility company; any phosphate or other solid  
184 minerals severance, mining, or processing operation; any oil or  
185 gas exploration or production operation; or any business ~~firm~~  
186 subject to regulation by the Division of Hotels and Restaurants  
187 of the Department of Business and Professional Regulation.

188 (u) ~~(p)~~ "Taxable year" means taxable year as defined in s.  
189 220.03(1) (y).

190 (p) ~~(q)~~ "Qualified target industry business" means a target  
191 industry business that has been approved by the director to be  
192 eligible for tax refunds pursuant to this section.

193 (q) "Return on investment" means the gain in state revenues  
194 as a percentage of the state's investment. The state's  
195 investment includes state grants, tax exemptions, tax refunds,  
196 tax credits, and other state incentives. Return on investment is  
197 expressed mathematically as follows:

198

199 Return on investment = (gain in state revenues - state's  
200 investment)/state's investment

201

202 ~~(r) "Rural county" means a county with a population of~~  
203 ~~75,000 or fewer or a county with a population of 100,000 or~~

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204 ~~fewer which is contiguous to a county with a population of~~  
205 ~~75,000 or fewer.~~

206 (r)~~(s)~~ "Rural city" means a city having ~~with~~ a population  
207 of 10,000 or fewer ~~less~~, or a city having ~~with~~ a population of  
208 greater than 10,000 but fewer ~~less~~ than 20,000 which has been  
209 determined by the office ~~of Tourism, Trade, and Economic~~  
210 ~~Development~~ to have economic characteristics such as, but not  
211 limited to, a significant percentage of residents on public  
212 assistance, a significant percentage of residents with income  
213 below the poverty level, or a significant percentage of the  
214 city's employment base in agriculture-related industries.

215 (s)~~(t)~~ "Rural community" means:

216 1. A county having ~~with~~ a population of 75,000 or fewer.

217 2. A county having ~~with~~ a population of 125,000 or fewer  
218 which is contiguous to a county having ~~with~~ a population of  
219 75,000 or fewer.

220 3. A municipality within a county described in subparagraph  
221 1. or subparagraph 2.

222  
223 For purposes of this paragraph, population shall be determined  
224 in accordance with the most recent official estimate pursuant to  
225 s. 186.901.

226 (b)~~(a)~~ "Authorized local economic development agency" means  
227 a ~~any~~ public or private entity, including those defined in s.  
228 288.075, authorized by a county or municipality to promote the  
229 general business or industrial interests of that county or  
230 municipality.

231 (3)~~(2)~~ TAX REFUND; ELIGIBLE AMOUNTS.—

232 (a) There shall be allowed, from the account, a refund to a



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233 qualified target industry business for the amount of eligible  
234 taxes certified by the director which were paid by the such  
235 business. The total amount of refunds for all fiscal years for  
236 each qualified target industry business must be determined  
237 pursuant to subsection (4) ~~(3)~~. The annual amount of a refund to  
238 a qualified target industry business must be determined pursuant  
239 to subsection (6) ~~(5)~~.

240 (b)1. Upon approval by the director, a qualified target  
241 industry business shall be allowed tax refund payments equal to  
242 \$3,000 times the number of jobs specified in the tax refund  
243 agreement under subparagraph (5) (a)1. ~~(4) (a)1.~~, or equal to  
244 \$6,000 times the number of jobs if the project is located in a  
245 rural county or an enterprise zone.

246 2. ~~Further,~~ A qualified target industry business shall be  
247 allowed additional tax refund payments equal to \$1,000 times the  
248 number of jobs specified in the tax refund agreement under  
249 subparagraph (5) (a)1. ~~(4) (a)1.~~, if such jobs pay an annual  
250 average wage of at least 150 percent of the average area private  
251 sector wage ~~in the area~~, or equal to \$2,000 times the number of  
252 jobs if such jobs pay an annual average area wage of at least  
253 200 percent of the average area private sector wage ~~in the area~~.

254 (c) A qualified target industry business may not receive  
255 refund payments of more than 25 percent of the total tax refunds  
256 specified in the tax refund agreement under subparagraph  
257 (5) (a)1. ~~(4) (a)1.~~ in any fiscal year. Further, a qualified  
258 target industry business may not receive more than \$1.5 million  
259 in refunds under this section in any single fiscal year, or more  
260 than \$2.5 million in any single fiscal year if the project is  
261 located in an enterprise zone. A qualified target industry

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262 business may not receive more than \$5 million in refund payments  
263 under this section in all fiscal years, or more than \$7.5  
264 million if the project is located in an enterprise zone. ~~Funds~~  
265 ~~made available pursuant to this section may not be expended in~~  
266 ~~connection with the relocation of a business from one community~~  
267 ~~to another community in this state unless the Office of Tourism,~~  
268 ~~Trade, and Economic Development determines that without such~~  
269 ~~relocation the business will move outside this state or~~  
270 ~~determines that the business has a compelling economic rationale~~  
271 ~~for the relocation and that the relocation will create~~  
272 ~~additional jobs.~~

273 (d) ~~(e)~~ After entering into a tax refund agreement under  
274 subsection (5) ~~(4)~~, a qualified target industry business may:

275 1. Receive refunds from the account for the following taxes  
276 due and paid by that business beginning with the first taxable  
277 year of the business which begins after entering into the  
278 agreement:

279 a. Corporate income taxes under chapter 220.

280 b. Insurance premium tax under s. 624.509.

281 2. Receive refunds from the account for the following taxes  
282 due and paid by that business after entering into the agreement:

283 a. Taxes on sales, use, and other transactions under  
284 chapter 212.

285 b. Intangible personal property taxes under chapter 199.

286 c. Emergency excise taxes under chapter 221.

287 d. Excise taxes on documents under chapter 201.

288 ~~e. Ad valorem taxes paid, as defined in s. 220.03(1).~~

289 e.f. State communications services taxes administered under  
290 chapter 202. This provision does not apply to the gross receipts

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291 tax imposed under chapter 203 and administered under chapter 202  
292 or the local communications services tax authorized under s.  
293 202.19.

294  
295 ~~The addition of state communications services taxes administered~~  
296 ~~under chapter 202 is remedial in nature and retroactive to~~  
297 ~~October 1, 2001. The office may make supplemental tax refund~~  
298 ~~payments to allow for tax refunds for communications services~~  
299 ~~taxes paid by an eligible qualified target industry business~~  
300 ~~after October 1, 2001.~~

301 (e) ~~(d)~~ However, a qualified target industry business may  
302 not receive a refund under this section for any amount of  
303 credit, refund, or exemption granted to that business for any of  
304 the such taxes listed in paragraph (d). If a refund for such  
305 taxes is provided by the office, which taxes are subsequently  
306 adjusted by the application of any credit, refund, or exemption  
307 granted to the qualified target industry business other than as  
308 provided in this section, the business shall reimburse the  
309 account for the amount of that credit, refund, or exemption. A  
310 qualified target industry business shall notify and tender  
311 payment to the office within 20 days after receiving any credit,  
312 refund, or exemption other than one provided in this section.

313 (f) Refunds made available pursuant to this section may not  
314 be expended in connection with the relocation of a business from  
315 one community to another community in this state unless the  
316 office determines that without such relocation the business will  
317 move outside this state, or determines that the business has a  
318 compelling economic rationale for the relocation and that the  
319 relocation will create additional jobs.

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320 (g)~~(e)~~ A qualified target industry business that  
321 fraudulently claims a refund under this section:

322 1. Is liable for repayment of the amount of the refund to  
323 the account, plus a mandatory penalty in the amount of 200  
324 percent of the tax refund which shall be deposited into the  
325 General Revenue Fund.

326 2. Commits ~~is guilty of~~ a felony of the third degree,  
327 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

328 (4)~~(3)~~ APPLICATION AND APPROVAL PROCESS.—

329 (a) To apply for certification as a qualified target  
330 industry business under this section, the business must file an  
331 application with the office before the business decides ~~has made~~  
332 ~~the decision~~ to locate a ~~new business~~ in this state or before  
333 the business decides ~~had made the decision~~ to expand its ~~an~~  
334 existing operations ~~business~~ in this state. The application must  
335 ~~shall~~ include, but need ~~is~~ not be limited to, ~~the following~~  
336 information:

337 1. The applicant's federal employer identification number  
338 and, if applicable, ~~the applicant's~~ state sales tax registration  
339 number.

340 2. The proposed permanent location of the applicant's  
341 facility in this state at which the project is or is to be  
342 located.

343 3. A description of the type of business activity or  
344 product covered by the project, including a minimum of a five-  
345 digit NAICS code for all activities included in the project. As  
346 used in this paragraph, "NAICS" means those classifications  
347 contained in the North American Industry Classification System,  
348 as published in 2007 by the Office of Management and Budget,

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349 Executive Office of the President, and updated periodically.

350 4. The proposed number of net new full-time equivalent  
351 Florida jobs at the qualified target industry business as of  
352 December 31 of each year included in the project and the average  
353 wage of those jobs. If more than one type of business activity  
354 or product is included in the project, the number of jobs and  
355 average wage for those jobs must be separately stated for each  
356 type of business activity or product.

357 5. The total number of full-time equivalent employees  
358 employed by the applicant in this state, if applicable.

359 6. The anticipated commencement date of the project.

360 7. A brief statement explaining ~~concerning~~ the role that  
361 the estimated tax refunds to be requested will play in the  
362 decision of the applicant to locate or expand in this state.

363 8. An estimate of the proportion of the sales resulting  
364 from the project that will be made outside this state.

365 9. An estimate of the proportion of the cost of the  
366 machinery and equipment, and any other resources necessary in  
367 the development of its product or service, which is to be used  
368 by the business in its Florida operations and which will be  
369 purchased outside this state.

370 10.9. A resolution adopted by the governing board of the  
371 county or municipality in which the project will be located,  
372 which ~~resolution~~ recommends that the project ~~certain types of~~  
373 ~~businesses~~ be approved as a qualified target industry business  
374 and specifies ~~states~~ that ~~the~~ commitments of local financial  
375 support necessary for the target industry business exist. In  
376 advance of the passage of such resolution, the office may also  
377 accept an official letter from an authorized local economic

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378 development agency that endorses the proposed target industry  
379 project and pledges that sources of local financial support for  
380 such project exist. For the purposes of making pledges of local  
381 financial support under this subsection, the authorized local  
382 economic development agency shall be officially designated by  
383 the passage of a one-time resolution by the local governing  
384 authority.

385 ~~11.10.~~ Any additional information requested by the office.

386 (b) To qualify for review by the office, the application of  
387 a target industry business must, at a minimum, establish the  
388 following to the satisfaction of the office:

389 1.a. The jobs proposed to be created ~~provided~~ under the  
390 application, pursuant to subparagraph (a)4., must pay an  
391 estimated annual average wage equaling at least 115 percent of  
392 the average area private sector wage ~~in the area~~ where the  
393 business is to be located or the statewide private sector  
394 average wage, whichever is greater. In determining the average  
395 annual wage, the office shall include only new proposed jobs,  
396 and wages for existing jobs shall be excluded from this  
397 calculation.

398 b. The office may waive the average wage requirement at the  
399 request of the local governing body recommending the project and  
400 Enterprise Florida, Inc. The director may waive the wage  
401 requirement ~~may only be waived~~ for a project located in a  
402 brownfield area designated under s. 376.80 or in a rural city,  
403 rural community, or county, or ~~in an~~ enterprise zone ~~and~~ only if  
404 ~~when~~ the merits of the individual project or the specific  
405 circumstances in the community in relationship to the project  
406 warrant such action. If the local governing body and Enterprise

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407 Florida, Inc., make such a recommendation, it must be  
408 transmitted in writing and the specific justification for the  
409 waiver recommendation must be explained. If the director elects  
410 to waive the wage requirement, the waiver must be stated in  
411 writing and the reasons for granting the waiver must be  
412 explained.

413 2. The target industry business's project must result in  
414 the creation of at least 10 jobs at the ~~such~~ project and, if an  
415 expansion of an existing business, must result in an ~~a net~~  
416 increase in employment of at least 10 percent at the business.  
417 ~~Notwithstanding the definition of the term "expansion of an~~  
418 ~~existing business" in paragraph (1)(g),~~ At the request of the  
419 local governing body recommending the project and Enterprise  
420 Florida, Inc., the office may waive this requirement for a  
421 business in a rural community or enterprise zone ~~define an~~  
422 ~~"expansion of an existing business" in a rural community or an~~  
423 ~~enterprise zone as the expansion of a business resulting in a~~  
424 ~~net increase in employment of less than 10 percent at such~~  
425 ~~business~~ if the merits of the individual project or the specific  
426 circumstances in the community in relationship to the project  
427 warrant such action. If the local governing body and Enterprise  
428 Florida, Inc., make such a request, the request must be  
429 transmitted in writing and the specific justification for the  
430 request must be explained. If the director elects to grant the  
431 request, the grant must be stated in writing and the reason for  
432 granting the request must be explained.

433 3. The business activity or product for the applicant's  
434 project is within an industry ~~or industries that have been~~  
435 identified by the office as a target industry business ~~to be~~

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436 ~~high value added industries that~~ contributes ~~contribute to the~~  
437 ~~area and~~ to the economic growth of the state and the region in  
438 which it is located, that produces ~~produce~~ a higher standard of  
439 living for residents of this state in the new global economy, or  
440 that can be shown to make an equivalent contribution to the area  
441 and state's economic progress. ~~The director must approve~~  
442 ~~requests to waive the wage requirement for brownfield areas~~  
443 ~~designated under s. 376.80 unless it is demonstrated that such~~  
444 ~~action is not in the public interest.~~

445 (c) Each application meeting the requirements of paragraph  
446 (b) must be submitted to the office for determination of  
447 eligibility. The office shall review and evaluate each  
448 application based on, but not limited to, the following  
449 criteria:

450 1. Expected contributions to the state economy, consistent  
451 with the state strategic economic development plan adopted by  
452 Enterprise Florida, Inc., ~~taking into account the long term~~  
453 ~~effects of the project and of the applicant on the state~~  
454 ~~economy.~~

455 2. The return on investment of the proposed award under the  
456 qualified target industry incentive program and the return on  
457 investment for all state incentives proposed for the project  
458 ~~economic benefit of the jobs created by the project in this~~  
459 ~~state, taking into account the cost and average wage of each job~~  
460 ~~created.~~

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

463 4. The local financial commitment and support for the  
464 project.



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465           5. The effect of the project on the unemployment rate in  
466 ~~local community, taking into account the unemployment rate for~~  
467 the county where the project will be located.

468           6. The effect of the award ~~any tax refunds granted pursuant~~  
469 ~~to this section~~ on the viability of the project and the  
470 probability that the project would ~~will~~ be undertaken in this  
471 state if such tax refunds are granted to the applicant, ~~taking~~  
472 ~~into account the expected long-term commitment of the applicant~~  
473 ~~to economic growth and employment in this state.~~

474           7. The expected long-term commitment of the applicant to  
475 economic growth and employment to this state resulting from the  
476 project.

477           8. A review of the business's past activities in this state  
478 or other states, including whether such business has been  
479 subjected to criminal or civil fines and penalties. This  
480 subparagraph does not require the disclosure of confidential  
481 information.

482           (d) Applications shall be reviewed and certified pursuant  
483 to s. 288.061. The office shall include in its review  
484 projections of the tax refunds the business would be eligible to  
485 receive in each fiscal year based on the creation and  
486 maintenance of the net new Florida jobs specified in  
487 subparagraph (a)4. as of December 31 of the preceding state  
488 fiscal year. If appropriate, the director shall enter into a  
489 written agreement with the qualified target industry business  
490 pursuant to subsection (5) ~~(4)~~.

491           (e) The director may not certify any target industry  
492 business as a qualified target industry business if the value of  
493 tax refunds to be included in that letter of certification

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494 exceeds the available amount of authority to certify new  
495 businesses as determined in s. 288.095(3). However, if the  
496 commitments of local financial support represent less than 20  
497 percent of the eligible tax refund payments, or to otherwise  
498 preserve the viability and fiscal integrity of the program, the  
499 director may certify a qualified target industry business to  
500 receive tax refund payments of less than the allowable amounts  
501 specified in paragraph (3) (b) ~~(2) (b)~~. A letter of certification  
502 that approves an application must specify the maximum amount of  
503 tax refund that will be available to the qualified industry  
504 business in each fiscal year and the total amount of tax refunds  
505 that will be available to the business for all fiscal years.

506 (f) This section does not create a presumption that an  
507 applicant shall receive any tax refunds under this section.  
508 However, the office may issue nonbinding opinion letters, upon  
509 the request of prospective applicants, as to the applicants'  
510 eligibility and the potential amount of refunds.

511 (5)~~(4)~~ TAX REFUND AGREEMENT.—

512 (a) Each qualified target industry business must enter into  
513 a written agreement with the office which specifies, at a  
514 minimum:

515 1. The total number of full-time equivalent jobs in this  
516 state that will be dedicated to the project, the average wage of  
517 those jobs, the definitions that will apply for measuring the  
518 achievement of these terms during the pendency of the agreement,  
519 and a time schedule or plan for when such jobs will be in place  
520 and active in this state.

521 2. The maximum amount of tax refunds which the qualified  
522 target industry business is eligible to receive on the project

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523 and the maximum amount of a tax refund that the qualified target  
524 industry business is eligible to receive for each fiscal year,  
525 based on the job creation and maintenance schedule specified in  
526 subparagraph 1.

527 3. That the office may review and verify the financial and  
528 personnel records of the qualified target industry business to  
529 ascertain whether that business is in compliance with this  
530 section.

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

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

541 (b) Compliance with the terms and conditions of the  
542 agreement is a condition precedent for the receipt of a tax  
543 refund each year. The failure to comply with the terms and  
544 conditions of the tax refund agreement results in the loss of  
545 eligibility for receipt of all tax refunds previously authorized  
546 under this section and the revocation by the director of the  
547 certification of the business entity as a qualified target  
548 industry business, unless the business is eligible to receive  
549 and elects to accept a prorated refund under paragraph (6) (e)  
550 ~~(5) (d)~~ or the office grants the business an economic recovery  
551 extension ~~economic stimulus exemption~~.

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552 1. A qualified target industry business may submit, ~~in~~  
553 ~~writing,~~ a request to the office for an economic recovery  
554 extension ~~economic-stimulus exemption~~. The request must provide  
555 quantitative evidence demonstrating how negative economic  
556 conditions in the business's industry, the effects of the impact  
557 of a named hurricane or tropical storm, or specific acts of  
558 terrorism affecting the qualified target industry business have  
559 prevented the business from complying with the terms and  
560 conditions of its tax refund agreement.

561 2. Upon receipt of a request under subparagraph 1., the  
562 director has ~~shall have~~ 45 days to notify the requesting  
563 business, in writing, if its extension ~~exemption~~ has been  
564 granted or denied. In determining if an extension ~~exemption~~  
565 should be granted, the director shall consider the extent to  
566 which negative economic conditions in the requesting business's  
567 industry have occurred in the state or the effects of the impact  
568 of a named hurricane or tropical storm or specific acts of  
569 terrorism affecting the qualified target industry business have  
570 prevented the business from complying with the terms and  
571 conditions of its tax refund agreement. The office shall  
572 consider current employment statistics for this state by  
573 industry, including whether the business's industry had  
574 substantial job loss during the prior year, when determining  
575 whether an extension ~~exemption~~ shall be granted.

576 3. As a condition for receiving a prorated refund under  
577 paragraph (6) (e) ~~(5) (d)~~ or an economic-stimulus exemption under  
578 this paragraph, a qualified target industry business must agree  
579 to renegotiate its tax refund agreement with the office to, at a  
580 minimum, ensure that the terms of the agreement comply with

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581 current law and office procedures governing application for and  
582 award of tax refunds. Upon approving the award of a prorated  
583 refund or granting an economic recovery extension ~~economic-~~  
584 ~~stimulus exemption~~, the office shall renegotiate the tax refund  
585 agreement with the business as required by this subparagraph.  
586 When amending the agreement of a business receiving an economic  
587 recovery extension ~~economic-stimulus exemption~~, the office may  
588 extend the duration of the agreement for a period not to exceed  
589 2 years.

590 4. A qualified target industry business may submit a  
591 request for an economic recovery extension ~~economic-stimulus~~  
592 ~~exemption~~ to the office in lieu of any tax refund claim  
593 scheduled to be submitted after January 1, 2009, but before July  
594 1, 2012 ~~2011~~.

595 5. A qualified target industry business that receives an  
596 economic recovery extension ~~economic-stimulus exemption~~ may not  
597 receive a tax refund for the period covered by the exemption.

598 (c) The agreement must be signed by the director and by an  
599 authorized officer of the qualified target industry business  
600 within 120 days after the issuance of the letter of  
601 certification under subsection (4) ~~(3)~~, but not before passage  
602 and receipt of the resolution of local financial support. The  
603 office may grant an extension of this period at the written  
604 request of the qualified target industry business.

605 (d) The agreement must contain the following legend,  
606 clearly printed on its face in bold type of not less than 10  
607 points in size: "This agreement is neither a general obligation  
608 of the State of Florida, nor is it backed by the full faith and  
609 credit of the State of Florida. Payment of tax refunds is ~~are~~

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610 conditioned on and subject to specific annual appropriations by  
611 the Florida Legislature ~~of moneys~~ sufficient to pay amounts  
612 authorized in section 288.106, Florida Statutes."

613 (6) ~~(5)~~ ANNUAL CLAIM FOR REFUND.—

614 (a) To be eligible to claim any scheduled tax refund, a  
615 qualified target industry business that has entered into a tax  
616 refund agreement with the office under subsection (5) ~~(4)~~ must  
617 apply by January 31 of each fiscal year to the office for the  
618 tax refund scheduled to be paid from the appropriation for the  
619 fiscal year that begins on July 1 following the January 31  
620 claims-submission date. The office may, upon written request,  
621 grant a 30-day extension of the filing date.

622 (b) The claim for refund by the qualified target industry  
623 business must include a copy of all receipts pertaining to the  
624 payment of taxes for which the refund is sought and data related  
625 to achievement of each performance item specified in the tax  
626 refund agreement. The amount requested as a tax refund may not  
627 exceed the amount specified for the relevant fiscal year in that  
628 agreement.

629 (c) If the qualified target industry business provides the  
630 office with proof that in a single year it has paid an amount of  
631 state taxes, from the categories in paragraph (3)(d), which is  
632 at least equal to the total amount of tax refunds it may receive  
633 through successful completion of its qualified target industry  
634 agreement, the office may waive the requirement for proof of  
635 taxes paid in future years.

636 (d) ~~(e)~~ A tax refund may not be approved for a qualified  
637 target industry business unless the required local financial  
638 support has been paid into the account for that refund. If the

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639 local financial support provided is less than 20 percent of the  
640 approved tax refund, the tax refund must be reduced. In no event  
641 may the tax refund exceed an amount that is equal to 5 times the  
642 amount of the local financial support received. Further, funding  
643 from local sources includes any tax abatement granted to that  
644 business under s. 196.1995 or the appraised market value of  
645 municipal or county land conveyed or provided at a discount to  
646 that business. The amount of any tax refund for such business  
647 approved under this section must be reduced by the amount of any  
648 such tax abatement granted or the value of the land granted; and  
649 the limitations in subsection (3) ~~(2)~~ and paragraph (4) (e)  
650 ~~(3) (e)~~ must be reduced by the amount of any such tax abatement  
651 or the value of the land granted. A report listing all sources  
652 of the local financial support shall be provided to the office  
653 when such support is paid to the account.

654 (e) ~~(d)~~ A prorated tax refund, less a 5 percent ~~5-percent~~  
655 penalty, shall be approved for a qualified target industry  
656 business if provided all other applicable requirements have been  
657 satisfied and the business proves to the satisfaction of the  
658 director that:

659 1. It has achieved at least 80 percent of its projected  
660 employment; and ~~that~~

661 2. The average wage paid by the business is at least 90  
662 percent of the average wage specified in the tax refund  
663 agreement, but in no case less than 115 percent of the average  
664 private sector wage in the area available at the time of  
665 certification, or 150 percent or 200 percent of the average  
666 private sector wage if the business requested the additional  
667 per-job tax refund authorized in paragraph (3) (b) ~~(2) (b)~~ for

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668 wages above those levels.

669

670 The prorated tax refund shall be calculated by multiplying the  
671 tax refund amount for which the qualified target industry  
672 business would have been eligible, if all applicable  
673 requirements had been satisfied, by the percentage of the  
674 average employment specified in the tax refund agreement which  
675 was achieved, and by the percentage of the average wages  
676 specified in the tax refund agreement which was achieved.

677 (f)~~(e)~~ The director, with such assistance as may be  
678 required from the office, the Department of Revenue, or the  
679 Agency for Workforce Innovation, shall, by June 30 following the  
680 scheduled date for submission of the tax refund claim, specify  
681 by written order the approval or disapproval of the tax refund  
682 claim and, if approved, the amount of the tax refund that is  
683 authorized to be paid to the qualified target industry business  
684 for the annual tax refund. The office may grant an extension of  
685 this date on the request of the qualified target industry  
686 business for the purpose of filing additional information in  
687 support of the claim.

688 (g)~~(f)~~ The total amount of tax refund claims approved by  
689 the director under this section in any fiscal year must not  
690 exceed the amount authorized under s. 288.095(3).

691 (h)~~(g)~~ This section does not create a presumption that a  
692 tax refund claim will be approved and paid.

693 (i)~~(h)~~ Upon approval of the tax refund under paragraphs  
694 ~~(e)~~, (d), and (e), and (f), the Chief Financial Officer shall  
695 issue a warrant for the amount specified in the written order.  
696 If the written order is appealed, the Chief Financial Officer



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697 may not issue a warrant for a refund to the qualified target  
698 industry business until the conclusion of all appeals of that  
699 order.

700 (7)~~(6)~~ ADMINISTRATION.—

701 (a) The office may ~~is authorized to~~ verify information  
702 provided in any claim submitted for tax credits under this  
703 section with regard to employment and wage levels or the payment  
704 of the taxes to the appropriate agency or authority, including  
705 the Department of Revenue, the Agency for Workforce Innovation,  
706 or any local government or authority.

707 (b) To facilitate the process of monitoring and auditing  
708 applications made under this program, the office may provide a  
709 list of qualified target industry businesses to the Department  
710 of Revenue, to the Agency for Workforce Innovation, or to any  
711 local government or authority. The office may request the  
712 assistance of those entities with respect to monitoring jobs,  
713 wages, and the payment of the taxes listed in subsection (3)  
714 ~~(2)~~.

715 (c) Funds specifically appropriated for the tax refund  
716 program for qualified target industry businesses may not be used  
717 by the office for any purpose other than the payment of tax  
718 refunds authorized by this section.

719 (d) For all agreements signed after January 1, 2005, the  
720 office shall conduct a review of each qualified target industry  
721 business within 12 months after such business has submitted its  
722 final incentive refund request in order to evaluate whether the  
723 business is continuing to contribute to the regional or state  
724 economy. To complete the review, the office shall examine the  
725 size of each business's workforce, the annual average wage of

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726 its employees, whether the business has made additional  
727 investments in its operations since the completion of its  
728 agreement, and whether the business has expanded into additional  
729 locations. The office shall submit a report of its findings and  
730 recommendations from its review to the Governor, the President  
731 of the Senate, and the Speaker of the House of Representatives.  
732 The first report shall be submitted by December 1, 2011, and  
733 each December 1 thereafter.

734 ~~(7) Notwithstanding paragraphs (4) (a) and (5) (c), the~~  
735 ~~office may approve a waiver of the local financial support~~  
736 ~~requirement for a business located in any of the following~~  
737 ~~counties in which businesses received emergency loans~~  
738 ~~administered by the office in response to the named hurricanes~~  
739 ~~of 2004: Bay, Brevard, Charlotte, DeSoto, Escambia, Flagler,~~  
740 ~~Glades, Hardee, Hendry, Highlands, Indian River, Lake, Lee,~~  
741 ~~Martin, Okaloosa, Okeechobee, Orange, Osceola, Palm Beach, Polk,~~  
742 ~~Putnam, Santa Rosa, Seminole, St. Lucie, Volusia, and Walton. A~~  
743 ~~waiver may be granted only if the office determines that the~~  
744 ~~local financial support cannot be provided or that doing so~~  
745 ~~would effect a demonstrable hardship on the unit of local~~  
746 ~~government providing the local financial support. If the office~~  
747 ~~grants a waiver of the local financial support requirement, the~~  
748 ~~state shall pay 100 percent of the refund due to an eligible~~  
749 ~~business. The waiver shall apply for tax refund applications~~  
750 ~~made for fiscal years 2004-2005, 2005-2006, and 2006-2007.~~

751 (8) EXPIRATION.—An applicant may not be certified as  
752 qualified under this section after June 30, 2015 ~~2010~~. A tax  
753 refund agreement existing on that date shall continue in effect  
754 in accordance with its terms.

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755 Section 2. Paragraph (e) of subsection (1), subsection (2),  
756 paragraphs (a) and (d) of subsection (4), and paragraph (b) of  
757 subsection (5) of section 288.107, Florida Statutes, are amended  
758 to read:

759 288.107 Brownfield redevelopment bonus refunds.—

760 (1) DEFINITIONS.—As used in this section:

761 (e) "Eligible business" means:

762 1. A qualified target industry business as defined in s.  
763 288.106(2) ~~s. 288.106(1)(e)~~; or

764 2. A business that can demonstrate a fixed capital  
765 investment of at least \$2 million in mixed-use business  
766 activities, including multiunit housing, commercial, retail, and  
767 industrial in brownfield areas, or at least \$500,000 in  
768 brownfield areas that do not require site cleanup, and which  
769 provides benefits to its employees.

770 (2) BROWNFIELD REDEVELOPMENT BONUS REFUND.—Bonus refunds  
771 shall be approved by the office as specified in the final order  
772 issued by the director and allowed from the account as follows:

773 (a) A bonus refund of \$2,500 shall be allowed to any  
774 qualified target industry business as defined by s. 288.106 for  
775 each new Florida job created in a brownfield area which is  
776 claimed on the qualified target industry business's annual  
777 refund claim authorized in s. 288.106(6) ~~s. 288.106(5)~~.

778 (b) A bonus refund of up to \$2,500 shall be allowed to any  
779 other eligible business as defined in subparagraph (1)(e)2. for  
780 each new Florida job created in a brownfield which is claimed  
781 under an annual claim procedure similar to the annual refund  
782 claim authorized in s. 288.106(6) ~~s. 288.106(5)~~. The amount of  
783 the refund shall be equal to 20 percent of the average annual

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784 wage for the jobs created.

785 (4) PAYMENT OF BROWNFIELD REDEVELOPMENT BONUS REFUNDS.—

786 (a) To be eligible to receive a bonus refund for new  
787 Florida jobs created in a brownfield, a business must have been  
788 certified as a qualified target industry business under s.  
789 288.106 or eligible business as defined in paragraph (1)(e) and  
790 must have indicated on the qualified target industry tax refund  
791 application form submitted in accordance with s. 288.106(4) ~~s.~~  
792 ~~288.106(3)~~ or other similar agreement for other eligible  
793 business as defined in paragraph (1)(e) that the project for  
794 which the application is submitted is or will be located in a  
795 brownfield and that the business is applying for certification  
796 as a qualified brownfield business under this section, and must  
797 have signed a qualified target industry tax refund agreement  
798 with the office which indicates that the business has been  
799 certified as a qualified target industry business located in a  
800 brownfield and specifies the schedule of brownfield  
801 redevelopment bonus refunds that the business may be eligible to  
802 receive in each fiscal year.

803 (d) After entering into a tax refund agreement as provided  
804 in s. 288.106 or other similar agreement for other eligible  
805 businesses as defined in paragraph (1)(e), an eligible business  
806 may receive brownfield redevelopment bonus refunds from the  
807 account pursuant to s. 288.106(3)(d) ~~s. 288.106(2)(e)~~.

808 (5) ADMINISTRATION.—

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

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813 Department of Environmental Protection, or to any local  
814 government authority. The office may request the assistance of  
815 those entities with respect to monitoring the payment of the  
816 taxes listed in s. 288.106(3) ~~s. 288.106(2)~~.

817 Section 3. Section 290.00677, Florida Statutes, is amended  
818 to read:

819 290.00677 Rural enterprise zones; special qualifications.—

820 (1) Notwithstanding the enterprise zone residency  
821 requirements set out in s. 212.096(1)(c), eligible businesses as  
822 defined by s. 212.096(1)(a), located in rural enterprise zones  
823 as defined by s. 290.004, may receive the basic minimum credit  
824 provided under s. 212.096 for creating a new job and hiring a  
825 person residing within the jurisdiction of a rural community  
826 ~~county~~, as defined by s. 288.106(2) ~~s. 288.106(1)(r)~~. All other  
827 provisions of s. 212.096, including, but not limited to, those  
828 relating to the award of enhanced credits, apply to such  
829 businesses.

830 (2) Notwithstanding the enterprise zone residency  
831 requirements set out in s. 220.03(1)(q), businesses as defined  
832 by s. 220.03(1)(c), located in rural enterprise zones as defined  
833 in s. 290.004, may receive the basic minimum credit provided  
834 under s. 220.181 for creating a new job and hiring a person  
835 residing within the jurisdiction of a rural community ~~county~~, as  
836 defined by s. 288.106(2) ~~s. 288.106(1)(r)~~. All other provisions  
837 of s. 220.181, including, but not limited to, those relating to  
838 the award of enhanced credits apply to such businesses.

839 Section 4. This act shall take effect July 1, 2010.