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

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29 Development to conduct a review of certain qualified
 30 target industry businesses that have received their final
 31 tax refund and provide a report of its findings and
 32 recommendations to the Governor, the President of the
 33 Senate, and the Speaker of the House of Representatives;
 34 extending the date by which businesses may apply to
 35 participate in the tax refund program for qualified target
 36 industry businesses; amending ss. 288.107 and 290.00677,
 37 F.S.; conforming cross-references to changes made by the
 38 act; providing an effective date.

39
 40 Be It Enacted by the Legislature of the State of Florida:

41
 42 Section 1. Section 288.106, Florida Statutes, is amended,
 43 and subsection (2) of that section is reordered, to read:

44 288.106 Tax refund program for qualified target industry
 45 businesses.—

46 (1) LEGISLATIVE FINDINGS AND DECLARATIONS.—The Legislature
 47 finds that retaining and expanding existing businesses in
 48 Florida, encouraging the creation of new businesses in Florida,
 49 attracting new businesses from out of state, and generally
 50 providing conditions favorable for the growth of target
 51 industries creates high-quality, high-wage employment
 52 opportunities for the residents of this state and strengthens
 53 Florida’s economic foundation. The Legislature also finds that
 54 incentives that are narrowly focused in application and scope
 55 tend to be more effective at achieving the state’s economic-
 56 development goals. Further, the Legislature finds that higher-

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57 wage jobs reduce the state's share of hidden costs such as
 58 public assistance and subsidized health care associated with
 59 low-wage jobs. Therefore, the Legislature declares that it is
 60 the policy of this state to encourage the growth of higher-wage
 61 jobs and a diverse economic base by providing state tax refunds
 62 to qualified target industry businesses that originate or expand
 63 in this state or that relocate to this state.

64 (24) DEFINITIONS.—As used in this section:

65 (a) "Account" means the Economic Development Incentives
 66 Account within the Economic Development Trust Fund established
 67 under s. 288.095.

68 ~~(c)(b)~~ "Average private sector wage ~~in the area~~" means ~~the~~
 69 ~~statewide private sector average wage or~~ the average of all
 70 private sector wages and salaries in the county or in the
 71 standard metropolitan area in which the business is located.

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

80 ~~(e)(d)~~ "Corporate headquarters business" means an
 81 international, national, or regional headquarters office of a
 82 multinational or multistate business enterprise or national
 83 trade association, whether separate from or connected with other
 84 facilities used by such business.

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

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

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

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

95 (j)~~(i)~~ "Jobs" means full-time equivalent positions, ~~as~~
 96 ~~that term is consistent with terms used by the Agency for~~
 97 ~~Workforce Innovation and the United States Department of Labor~~
 98 ~~for purposes of unemployment compensation tax administration and~~
 99 ~~employment estimation,~~ resulting directly from a project in this
 100 state. Jobs may also include full-time equivalent positions
 101 obtained from a temporary employee agency, employee leasing
 102 company, or through a union agreement or co-employed pursuant to
 103 a professional employer organization agreement. The term does
 104 not include temporary construction jobs involved with the
 105 construction of facilities for the project or any jobs
 106 previously included in any application for tax refunds under s.
 107 288.1045 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

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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
 117 local governments pursuant to law.

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

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

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

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

138 (t)~~(e)~~ "Target industry business" means a corporate
 139 headquarters business or any business that is engaged in one of
 140 the target industries identified pursuant to the following

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141 criteria developed by the office in consultation with Enterprise
 142 Florida, Inc.:

143 1. Future growth.—Industry forecasts should indicate
 144 strong expectation for future growth in both employment and
 145 output, according to the most recent available data. Special
 146 consideration should be given to businesses that export goods or
 147 services ~~Florida's growing access~~ to international markets or to
 148 businesses that replace domestic and international ~~replacing~~
 149 imports of goods or services.

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

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

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

165 5. Industrial base diversification and strengthening.—The
 166 industry should contribute toward expanding or diversifying the
 167 state's or area's economic base, as indicated by analysis of
 168 employment and output shares compared to national and regional

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169 trends. Special consideration should be given to industries that
 170 strengthen regional economies by adding value to basic products
 171 or building regional industrial clusters as indicated by
 172 industry analysis. Additionally, special consideration should be
 173 given to the development of strong industrial clusters that
 174 include defense and homeland security businesses

175 6. Economic benefits.—The industry is expected to ~~should~~
 176 have strong positive impacts on or benefits to the state or ~~and~~
 177 regional economies.

178
 179 Beginning January 1, 2011, every three years the office, in
 180 consultation with Enterprise Florida, Inc., economic development
 181 organizations, the state university system, local governments,
 182 employee and employer organizations, market analysts, and
 183 economists, shall review and revise, as appropriate, the develop
 184 a list of such target industries annually and submit such list
 185 to the Governor, President of the Senate, and Speaker of the
 186 House of Representatives as part of the final agency legislative
 187 budget request submitted pursuant to s. 216.023(1). A target
 188 industry business may not include any industry engaged in retail
 189 activities; any electrical utility company; any phosphate or
 190 other solid minerals severance, mining, or processing operation;
 191 any oil or gas exploration or production operation; or any
 192 business firm subject to regulation by the Division of Hotels
 193 and Restaurants of the Department of Business and Professional
 194 Regulation.

195 (u) ~~(p)~~ "Taxable year" means taxable year as defined in s.
 196 220.03(1)(y).

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

200 (q) "Return on investment" means the gain in state
 201 revenues as a percentage of the state's investment. The state's
 202 investment includes state grants, tax exemptions, tax refunds,
 203 tax credits, and other state incentives. The legislative Office
 204 of Economic and Demographic Research shall review and evaluate
 205 the methodology and model used to calculate the return on
 206 investment and report its findings by September 1, 2010, and
 207 every three years thereafter, to the President of the Senate and
 208 Speaker of the House of Representatives.

209 ~~(r)~~ "Rural county" means a county with a population of
 210 ~~75,000 or fewer or a county with a population of 100,000 or~~
 211 ~~fewer which is contiguous to a county with a population of~~
 212 ~~75,000 or fewer.~~

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

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

- 223 1. A county having ~~with~~ a population of 75,000 or fewer.
- 224 2. A county having ~~with~~ a population of 125,000 or fewer

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225 | which is contiguous to a county having ~~with~~ a population of
 226 | 75,000 or fewer.

227 | 3. A municipality within a county described in
 228 | subparagraph 1. or subparagraph 2.

229 |
 230 | For purposes of this paragraph, population shall be determined
 231 | in accordance with the most recent official estimate pursuant to
 232 | s. 186.901.

233 | **(b)** ~~(a)~~ "Authorized local economic development agency"
 234 | means a ~~any~~ public or private entity, including those defined in
 235 | s. 288.075, authorized by a county or municipality to promote
 236 | the general business or industrial interests of that county or
 237 | municipality.

238 | **(3)** ~~(2)~~ TAX REFUND; ELIGIBLE AMOUNTS.—

239 | (a) There shall be allowed, from the account, a refund to
 240 | a qualified target industry business for the amount of eligible
 241 | taxes certified by the office director ~~which~~ were paid by the
 242 | ~~such~~ business. The total amount of refunds for all fiscal years
 243 | for each qualified target industry business must be determined
 244 | pursuant to subsection (4) ~~(3)~~. The annual amount of a refund to
 245 | a qualified target industry business must be determined pursuant
 246 | to subsection (6) ~~(5)~~.

247 | **(b)1.** Upon approval by the office director, a qualified
 248 | target industry business shall be allowed tax refund payments
 249 | equal to \$3,000 times the number of jobs specified in the tax
 250 | refund agreement under subparagraph (5)(a)1. ~~(4)(a)1.~~, or equal
 251 | to \$6,000 times the number of jobs if the project is located in
 252 | a rural county or an enterprise zone.

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253 ~~Further,~~ A qualified target industry business shall be
 254 allowed additional tax refund payments equal to \$1,000 times the
 255 number of jobs specified in the tax refund agreement under
 256 subparagraph (5) (a) 1. ~~(4) (a) 1.~~, if such jobs pay an annual
 257 average wage of at least 150 percent of the average area private
 258 sector wage ~~in the area~~, or equal to \$2,000 times the number of
 259 jobs if such jobs pay an annual average area wage of at least
 260 200 percent of the average area private sector wage ~~in the area~~.

261 (c) A qualified target industry business may not receive
 262 refund payments of more than 25 percent of the total tax refunds
 263 specified in the tax refund agreement under subparagraph
 264 (5) (a) 1. ~~(4) (a) 1.~~ in any fiscal year. Further, a qualified
 265 target industry business may not receive more than \$1.5 million
 266 in refunds under this section in any single fiscal year, or more
 267 than \$2.5 million in any single fiscal year if the project is
 268 located in an enterprise zone. A qualified target industry
 269 business may not receive more than \$5 million in refund payments
 270 under this section in all fiscal years, or more than \$7.5
 271 million if the project is located in an enterprise zone. ~~Funds~~
 272 ~~made available pursuant to this section may not be expended in~~
 273 ~~connection with the relocation of a business from one community~~
 274 ~~to another community in this state unless the Office of Tourism,~~
 275 ~~Trade, and Economic Development determines that without such~~
 276 ~~relocation the business will move outside this state or~~
 277 ~~determines that the business has a compelling economic rationale~~
 278 ~~for the relocation and that the relocation will create~~
 279 ~~additional jobs.~~

280 (d) ~~(e)~~ After entering into a tax refund agreement under

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281 subsection (5)~~(4)~~, a qualified target industry business may:
 282 1. Receive refunds from the account for the following
 283 taxes due and paid by that business beginning with the first
 284 taxable year of the business which begins after entering into
 285 the agreement:
 286 a. Corporate income taxes under chapter 220.
 287 b. Insurance premium tax under s. 624.509.
 288 2. Receive refunds from the account for the following
 289 taxes due and paid by that business after entering into the
 290 agreement:
 291 a. Taxes on sales, use, and other transactions under
 292 chapter 212.
 293 b. Intangible personal property taxes under chapter 199.
 294 c. Emergency excise taxes under chapter 221.
 295 d. Excise taxes on documents under chapter 201.
 296 e. Ad valorem taxes paid, as defined in s. 220.03(1).
 297 f. State communications services taxes administered under
 298 chapter 202. This provision does not apply to the gross receipts
 299 tax imposed under chapter 203 and administered under chapter 202
 300 or the local communications services tax authorized under s.
 301 202.19.
 302
 303 ~~The addition of state communications services taxes administered~~
 304 ~~under chapter 202 is remedial in nature and retroactive to~~
 305 ~~October 1, 2001. The office may make supplemental tax refund~~
 306 ~~payments to allow for tax refunds for communications services~~
 307 ~~taxes paid by an eligible qualified target industry business~~
 308 ~~after October 1, 2001.~~

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309 (e) ~~(d)~~ However, a qualified target industry business may
 310 not receive a refund under this section for any amount of
 311 credit, refund, or exemption previously granted to that business
 312 for any of the ~~such~~ taxes listed in paragraph (d). If a refund
 313 for such taxes is provided by the office, which taxes are
 314 subsequently adjusted by the application of any credit, refund,
 315 or exemption granted to the qualified target industry business
 316 other than as provided in this section, the business shall
 317 reimburse the account for the amount of that credit, refund, or
 318 exemption. A qualified target industry business shall notify and
 319 tender payment to the office within 20 days after receiving any
 320 credit, refund, or exemption other than one provided in this
 321 section.

322 (f) Refunds made available pursuant to this section may
 323 not be expended in connection with the relocation of a business
 324 from one community to another community in this state unless the
 325 office determines that without such relocation the business will
 326 move outside this state, or determines that the business has a
 327 compelling economic rationale for the relocation and that the
 328 relocation will create additional jobs.

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

331 1. Is liable for repayment of the amount of the refund to
 332 the account, plus a mandatory penalty in the amount of 200
 333 percent of the tax refund which shall be deposited into the
 334 General Revenue Fund.

335 2. Commits ~~Is guilty of~~ a felony of the third degree,
 336 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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337 | (4)~~(3)~~ APPLICATION AND APPROVAL PROCESS.—

338 | (a) To apply for certification as a qualified target
 339 | industry business under this section, the business must file an
 340 | application with the office before the business decides ~~has made~~
 341 | ~~the decision~~ to locate a ~~new business~~ in this state or before
 342 | the business decides ~~had made the decision~~ to expand its an
 343 | existing operations ~~business~~ in this state. The application must
 344 | ~~shall~~ include, but need is not be limited to, ~~the following~~
 345 | ~~information:~~

346 | 1. The applicant's federal employer identification number
 347 | and, if applicable, ~~the applicant's~~ state sales tax registration
 348 | number.

349 | 2. The proposed permanent location of the applicant's
 350 | facility in this state at which the project is or is to be
 351 | located.

352 | 3. A description of the type of business activity or
 353 | product covered by the project, including a minimum of a five-
 354 | digit NAICS code for all activities included in the project. As
 355 | used in this paragraph, "NAICS" means those classifications
 356 | contained in the North American Industry Classification System,
 357 | as published in 2007 by the Office of Management and Budget,
 358 | Executive Office of the President, and updated periodically.

359 | 4. The proposed number of net new full-time equivalent
 360 | Florida jobs at the qualified target industry business as of
 361 | December 31 of each year included in the project and the average
 362 | wage of those jobs. If more than one type of business activity
 363 | or product is included in the project, the number of jobs and
 364 | average wage for those jobs must be separately stated for each

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365 type of business activity or product.
 366 5. The total number of full-time equivalent employees
 367 employed by the applicant in this state, if applicable.
 368 6. The anticipated commencement date of the project.
 369 7. A brief statement explaining ~~concerning~~ the role that
 370 the estimated tax refunds to be requested will play in the
 371 decision of the applicant to locate or expand in this state.
 372 8. An estimate of the proportion of the sales resulting
 373 from the project that will be made outside this state.
 374 9. An estimate of the proportion of the cost of the
 375 machinery and equipment, and any other resources necessary in
 376 the development of its product or service, which is to be used
 377 by the business in its Florida operations and which will be
 378 purchased outside this state.
 379 ~~10.9.~~ A resolution adopted by the governing board of the
 380 county or municipality in which the project will be located,
 381 which ~~resolution~~ recommends that the project ~~certain types of~~
 382 ~~businesses~~ be approved as a qualified target industry business
 383 and specifies ~~states~~ that the commitments of local financial
 384 support necessary for the target industry business exist. In
 385 advance of the passage of such resolution, the office may also
 386 accept an official letter from an authorized local economic
 387 development agency that endorses the proposed target industry
 388 project and pledges that sources of local financial support for
 389 such project exist. For the purposes of making pledges of local
 390 financial support under this subsection, the authorized local
 391 economic development agency shall be officially designated by
 392 the passage of a one-time resolution by the local governing

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393 authority.

394 ~~11.10.~~ Any additional information requested by the office.

395 (b) To qualify for review by the office, the application

396 of a target industry business must, at a minimum, establish the

397 following to the satisfaction of the office:

398 1.a. The jobs proposed to be created ~~provided~~ under the

399 application, pursuant to subparagraph (a)4., must pay an

400 estimated annual average wage equaling at least 115 percent of

401 the average area private sector wage ~~in the area~~ where the

402 business is to be located ~~or the statewide private sector~~

403 ~~average wage~~. In determining the average annual wage, the office

404 shall include only new proposed jobs, and wages for existing

405 jobs shall be excluded from this calculation.

406 b. The office may waive the average wage requirement at

407 the request of the local governing body recommending the project

408 and Enterprise Florida, Inc. The office may waive the wage

409 requirement ~~may only be waived~~ for a project located in a

410 brownfield area designated under s. 376.80 or in a rural city,

411 rural community, ~~or county or in an enterprise zone~~ and only if

412 ~~when~~ the merits of the individual project or the specific

413 circumstances in the community in relationship to the project

414 warrant such action. If the local governing body and Enterprise

415 Florida, Inc., make such a recommendation, it must be

416 transmitted in writing and the specific justification for the

417 waiver recommendation must be explained. If the office director

418 elects to waive the wage requirement, the waiver must be stated

419 in writing and the reasons for granting the waiver must be

420 explained.

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

441 3. The business activity or product for the applicant's
 442 project is within an industry ~~or industries that have been~~
 443 identified by the office as a target industry business ~~to be~~
 444 ~~high-value-added industries~~ that contributes ~~contribute to the~~
 445 ~~area and~~ to the economic growth of the state and the region in
 446 which it is located, that produces ~~produce~~ a higher standard of
 447 living for residents of this state in the new global economy, or
 448 that can be shown to make an equivalent contribution to the area

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449 and state's economic progress. ~~The director must approve~~
 450 ~~requests to waive the wage requirement for brownfield areas~~
 451 ~~designated under s. 376.80 unless it is demonstrated that such~~
 452 ~~action is not in the public interest.~~

453 (c) Each application meeting the requirements of paragraph
 454 (b) must be submitted to the office for determination of
 455 eligibility. The office shall review and evaluate each
 456 application based on, but not limited to, the following
 457 criteria:

458 1. Expected contributions to the state economy, consistent
 459 with the state strategic economic development plan adopted by
 460 Enterprise Florida, Inc., ~~taking into account the long term~~
 461 ~~effects of the project and of the applicant on the state~~
 462 ~~economy.~~

463 2. The return on investment of the proposed award under
 464 the qualified target industry incentive program and the return
 465 on investment for all state incentives proposed for the project
 466 ~~economic benefit of the jobs created by the project in this~~
 467 ~~state, taking into account the cost and average wage of each job~~
 468 ~~created.~~

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

471 4. The local financial commitment and support for the
 472 project.

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

476 6. The effect of the award ~~any tax refunds granted~~

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477 ~~pursuant to this section~~ on the viability of the project and the
 478 probability that the project would ~~will~~ be undertaken in this
 479 state if such tax refunds are granted to the applicant, ~~taking~~
 480 ~~into account the expected long-term commitment of the applicant~~
 481 ~~to economic growth and employment in this state.~~

482 7. The expected long-term commitment of the applicant to
 483 economic growth and employment to this state resulting from the
 484 project.

485 8. A review of the business's past activities in this
 486 state or other states, including whether such business has been
 487 subjected to criminal or civil fines and penalties. This
 488 subparagraph does not require the disclosure of confidential
 489 information.

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

499 (e) The office ~~director~~ may not certify any target
 500 industry business as a qualified target industry business if the
 501 value of tax refunds to be included in that letter of
 502 certification exceeds the available amount of authority to
 503 certify new businesses as determined in s. 288.095(3). However,
 504 if the commitments of local financial support represent less

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505 than 20 percent of the eligible tax refund payments, or to
 506 otherwise preserve the viability and fiscal integrity of the
 507 program, the office ~~director~~ may certify a qualified target
 508 industry business to receive tax refund payments of less than
 509 the allowable amounts specified in paragraph (3)(b) ~~(2)(b)~~. A
 510 letter of certification that approves an application must
 511 specify the maximum amount of tax refund that will be available
 512 to the qualified industry business in each fiscal year and the
 513 total amount of tax refunds that will be available to the
 514 business for all fiscal years.

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

520 (5)(4) TAX REFUND AGREEMENT.—

521 (a) Each qualified target industry business must enter
 522 into a written agreement with the office which specifies, at a
 523 minimum:

524 1. The total number of full-time equivalent jobs in this
 525 state that will be dedicated to the project, the average wage of
 526 those jobs, the definitions that will apply for measuring the
 527 achievement of these terms during the pendency of the agreement,
 528 and a time schedule or plan for when such jobs will be in place
 529 and active in this state.

530 2. The maximum amount of tax refunds which the qualified
 531 target industry business is eligible to receive on the project
 532 and the maximum amount of a tax refund that the qualified target

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533 industry business is eligible to receive for each fiscal year,
 534 based on the job creation and maintenance schedule specified in
 535 subparagraph 1.

536 3. That the office may review and verify the financial and
 537 personnel records of the qualified target industry business to
 538 ascertain whether that business is in compliance with this
 539 section.

540 4. The date by which, in each fiscal year, the qualified
 541 target industry business may file a claim under subsection
 542 (6)~~(5)~~ to be considered to receive a tax refund in the following
 543 fiscal year.

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

550 6. That the office may conduct a review of the business to
 551 evaluate whether the business is continuing to contribute to the
 552 regional or state economy.

553 7. That in the event the business does not complete the
 554 agreement, the business will provide to the office the reasons
 555 as to why the business was unable to complete the agreement.

556 (b) Compliance with the terms and conditions of the
 557 agreement is a condition precedent for the receipt of a tax
 558 refund each year. The failure to comply with the terms and
 559 conditions of the tax refund agreement results in the loss of
 560 eligibility for receipt of all tax refunds previously authorized

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561 under this section and the revocation by the office director of
 562 the certification of the business entity as a qualified target
 563 industry business, unless the business is eligible to receive
 564 and elects to accept a prorated refund under paragraph
 565 (6) (e) ~~(5) (d)~~ or the office grants the business an economic
 566 recovery extension ~~economic stimulus exemption~~.

567 1. A qualified target industry business may submit, ~~in~~
 568 ~~writing,~~ a request to the office for an economic recovery
 569 extension ~~economic stimulus exemption~~. The request must provide
 570 quantitative evidence demonstrating how negative economic
 571 conditions in the business's industry, the effects of the impact
 572 of a named hurricane or tropical storm, or specific acts of
 573 terrorism affecting the qualified target industry business have
 574 prevented the business from complying with the terms and
 575 conditions of its tax refund agreement.

576 2. Upon receipt of a request under subparagraph 1., the
 577 office director has ~~shall have~~ 45 days to notify the requesting
 578 business, in writing, if its extension ~~exemption~~ has been
 579 granted or denied. In determining if an extension ~~exemption~~
 580 should be granted, the office director shall consider the extent
 581 to which negative economic conditions in the requesting
 582 business's industry have occurred in the state or the effects of
 583 the impact of a named hurricane or tropical storm or specific
 584 acts of terrorism affecting the qualified target industry
 585 business have prevented the business from complying with the
 586 terms and conditions of its tax refund agreement. The office
 587 shall consider current employment statistics for this state by
 588 industry, including whether the business's industry had

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589 substantial job loss during the prior year, when determining
590 whether an extension ~~exemption~~ shall be granted.

591 3. As a condition for receiving a prorated refund under
592 paragraph (6) (e) ~~(5) (d)~~ or an economic recovery extension
593 ~~economic-stimulus-exemption~~ under this paragraph, a qualified
594 target industry business must agree to renegotiate its tax
595 refund agreement with the office to, at a minimum, ensure that
596 the terms of the agreement comply with current law and office
597 procedures governing application for and award of tax refunds.
598 Upon approving the award of a prorated refund or granting an
599 economic recovery extension ~~economic-stimulus-exemption~~, the
600 office shall renegotiate the tax refund agreement with the
601 business as required by this subparagraph. When amending the
602 agreement of a business receiving an economic recovery extension
603 ~~economic-stimulus-exemption~~, the office may extend the duration
604 of the agreement for a period not to exceed 2 years.

605 4. A qualified target industry business may submit a
606 request for an economic recovery extension ~~economic-stimulus~~
607 ~~exemption~~ to the office in lieu of any tax refund claim
608 scheduled to be submitted after January 1, 2009, but before July
609 1, 2012 ~~2011~~.

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

613 (c) The agreement must be signed by the director and by an
614 authorized officer of the qualified target industry business
615 within 120 days after the issuance of the letter of
616 certification under subsection (4) ~~(3)~~, but not before passage

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617 and receipt of the resolution of local financial support. The
 618 office may grant an extension of this period at the written
 619 request of the qualified target industry business.

620 (d) The agreement must contain the following legend,
 621 clearly printed on its face in bold type of not less than 10
 622 points in size: "This agreement is neither a general obligation
 623 of the State of Florida, nor is it backed by the full faith and
 624 credit of the State of Florida. Payment of tax refunds is ~~are~~
 625 conditioned on and subject to specific annual appropriations by
 626 the Florida Legislature ~~of moneys~~ sufficient to pay amounts
 627 authorized in section 288.106, Florida Statutes."

628 (6) ~~(5)~~ ANNUAL CLAIM FOR REFUND.—

629 (a) To be eligible to claim any scheduled tax refund, a
 630 qualified target industry business that has entered into a tax
 631 refund agreement with the office under subsection (5) ~~(4)~~ must
 632 apply by January 31 of each fiscal year to the office for the
 633 tax refund scheduled to be paid from the appropriation for the
 634 fiscal year that begins on July 1 following the January 31
 635 claims-submission date. The office may, upon written request,
 636 grant a 30-day extension of the filing date.

637 (b) The claim for refund by the qualified target industry
 638 business must include a copy of all receipts pertaining to the
 639 payment of taxes for which the refund is sought and data related
 640 to achievement of each performance item specified in the tax
 641 refund agreement. The amount requested as a tax refund may not
 642 exceed the amount specified for the relevant fiscal year in that
 643 agreement.

644 (c) If the qualified target industry business provides the

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645 office with proof that in a single year it has paid an amount of
 646 state taxes, from the categories in paragraph (3) (d), which is
 647 at least equal to the total amount of tax refunds it may receive
 648 through successful completion of its qualified target industry
 649 agreement, the office may waive the requirement for proof of
 650 taxes paid in future years.

651 (d)~~(e)~~ A tax refund may not be approved for a qualified
 652 target industry business unless the required local financial
 653 support has been paid into the account for that refund. If the
 654 local financial support provided is less than 20 percent of the
 655 approved tax refund, the tax refund must be reduced. In no event
 656 may the tax refund exceed an amount that is equal to 5 times the
 657 amount of the local financial support received. Further, funding
 658 from local sources includes any tax abatement granted to that
 659 business under s. 196.1995 or the appraised market value of
 660 municipal or county land conveyed or provided at a discount to
 661 that business. The amount of any tax refund for such business
 662 approved under this section must be reduced by the amount of any
 663 such tax abatement granted or the value of the land granted; and
 664 the limitations in subsection (3)~~(2)~~ and paragraph (4) (e)~~(3) (e)~~
 665 must be reduced by the amount of any such tax abatement or the
 666 value of the land granted. A report listing all sources of the
 667 local financial support shall be provided to the office when
 668 such support is paid to the account.

669 (e)~~(d)~~ A prorated tax refund, less a 5-percent penalty,
 670 shall be approved for a qualified target industry business if
 671 ~~provided~~ all other applicable requirements have been satisfied
 672 and the business proves to the satisfaction of the office

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673 ~~director~~ that:

674 1. It has achieved at least 80 percent of its projected

675 employment; and ~~that~~

676 2. The average wage paid by the business is at least 90

677 percent of the average wage specified in the tax refund

678 agreement, but in no case less than 115 percent of the average

679 private sector wage in the area available at the time of

680 certification, or 150 percent or 200 percent of the average

681 private sector wage if the business requested the additional

682 per-job tax refund authorized in paragraph (3) (b) (2) (b) for

683 wages above those levels. The prorated tax refund shall be

684 calculated by multiplying the tax refund amount for which the

685 qualified target industry business would have been eligible, if

686 all applicable requirements had been satisfied, by the

687 percentage of the average employment specified in the tax refund

688 agreement which was achieved, and by the percentage of the

689 average wages specified in the tax refund agreement which was

690 achieved.

691 (f) (e) The office director, ~~with such assistance as may be~~

692 ~~required from the office~~, the Department of Revenue, or the

693 Agency for Workforce Innovation, shall, by June 30 following the

694 scheduled date for submission of the tax refund claim, specify

695 by written order the approval or disapproval of the tax refund

696 claim and, if approved, the amount of the tax refund that is

697 authorized to be paid to the qualified target industry business

698 for the annual tax refund. The office may grant an extension of

699 this date on the request of the qualified target industry

700 business for the purpose of filing additional information in

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701 support of the claim.

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

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

707 (i)~~(h)~~ Upon approval of the tax refund under paragraphs
 708 ~~(e)~~, (d), ~~and (e)~~, and (f), the Chief Financial Officer shall
 709 issue a warrant for the amount specified in the written order.
 710 If the written order is appealed, the Chief Financial Officer
 711 may not issue a warrant for a refund to the qualified target
 712 industry business until the conclusion of all appeals of that
 713 order.

714 (7)~~(6)~~ ADMINISTRATION.—

715 (a) The office may ~~is authorized to~~ verify information
 716 provided in any claim submitted for tax credits under this
 717 section with regard to employment and wage levels or the payment
 718 of the taxes to the appropriate agency or authority, including
 719 the Department of Revenue, the Agency for Workforce Innovation,
 720 or any local government or authority.

721 (b) To facilitate the process of monitoring and auditing
 722 applications made under this program, the office may provide a
 723 list of qualified target industry businesses to the Department
 724 of Revenue, to the Agency for Workforce Innovation, or to any
 725 local government or authority. The office may request the
 726 assistance of those entities with respect to monitoring jobs,
 727 wages, and the payment of the taxes listed in subsection (3)~~(2)~~.

728 (c) Funds specifically appropriated for the tax refund

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729 program for qualified target industry businesses may not be used
 730 by the office for any purpose other than the payment of tax
 731 refunds authorized by this section.

732 (d)1. For all agreements signed between January 1, 2006,
 733 and July 1, 2010, and for at least 25 percent of the agreements
 734 signed after July 1, 2010, the office shall conduct a review of
 735 each qualified target industry business within 12 months after
 736 such business has submitted its final incentive refund request
 737 in order to evaluate whether the business is continuing to
 738 contribute to the regional or state economy. To complete the
 739 review, the office shall examine the size of each business's
 740 workforce, the annual average wage of its employees, whether the
 741 business has made additional investments in its operations since
 742 the completion of its agreement, and whether the business has
 743 expanded into additional locations.

744 2. For all agreements signed after July 1, 2010, in which
 745 the business did not complete the agreement, the office must
 746 attempt to ascertain the causes for the non-completion of the
 747 agreement.

748 3. The office shall submit a report of its findings and
 749 recommendations from its review to the Governor, the President
 750 of the Senate, and the Speaker of the House of Representatives.
 751 The first report shall be submitted by December 1, 2011, and
 752 each December 1 thereafter.

753 ~~(7) Notwithstanding paragraphs (4) (a) and (5) (c), the~~
 754 ~~office may approve a waiver of the local financial support~~
 755 ~~requirement for a business located in any of the following~~
 756 ~~counties in which businesses received emergency loans~~

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757 ~~administered by the office in response to the named hurricanes~~
 758 ~~of 2004: Bay, Brevard, Charlotte, DeSoto, Escambia, Flagler,~~
 759 ~~Glades, Hardee, Hendry, Highlands, Indian River, Lake, Lee,~~
 760 ~~Martin, Okaloosa, Okeechobee, Orange, Osceola, Palm Beach, Polk,~~
 761 ~~Putnam, Santa Rosa, Seminole, St. Lucie, Volusia, and Walton. A~~
 762 ~~waiver may be granted only if the office determines that the~~
 763 ~~local financial support cannot be provided or that doing so~~
 764 ~~would effect a demonstrable hardship on the unit of local~~
 765 ~~government providing the local financial support. If the office~~
 766 ~~grants a waiver of the local financial support requirement, the~~
 767 ~~state shall pay 100 percent of the refund due to an eligible~~
 768 ~~business. The waiver shall apply for tax refund applications~~
 769 ~~made for fiscal years 2004-2005, 2005-2006, and 2006-2007.~~

770 (8) EXPIRATION.—An applicant may not be certified as
 771 qualified under this section after June 30, 2020 ~~2010~~. A tax
 772 refund agreement existing on that date shall continue in effect
 773 in accordance with its terms.

774 Section 2. Paragraph (e) of subsection (1), subsection
 775 (2), paragraphs (a) and (d) of subsection (4), and paragraph (b)
 776 of subsection (5) of section 288.107, Florida Statutes, are
 777 amended to read:

778 288.107 Brownfield redevelopment bonus refunds.—

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

780 (e) "Eligible business" means:

781 1. A qualified target industry business as defined in s.
 782 288.106(2) ~~s. 288.106(1)(e)~~; or

783 2. A business that can demonstrate a fixed capital
 784 investment of at least \$2 million in mixed-use business

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785 activities, including multiunit housing, commercial, retail, and
 786 industrial in brownfield areas, or at least \$500,000 in
 787 brownfield areas that do not require site cleanup, and which
 788 provides benefits to its employees.

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

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

797 (b) A bonus refund of up to \$2,500 shall be allowed to any
 798 other eligible business as defined in subparagraph (1)(e)2. for
 799 each new Florida job created in a brownfield which is claimed
 800 under an annual claim procedure similar to the annual refund
 801 claim authorized in s. 288.106(6) ~~s. 288.106(5)~~. The amount of
 802 the refund shall be equal to 20 percent of the average annual
 803 wage for the jobs created.

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

805 (a) To be eligible to receive a bonus refund for new
 806 Florida jobs created in a brownfield, a business must have been
 807 certified as a qualified target industry business under s.
 808 288.106 or eligible business as defined in paragraph (1)(e) and
 809 must have indicated on the qualified target industry tax refund
 810 application form submitted in accordance with s. 288.106(4) ~~s.~~
 811 ~~288.106(3)~~ or other similar agreement for other eligible
 812 business as defined in paragraph (1)(e) that the project for

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813 | which the application is submitted is or will be located in a
 814 | brownfield and that the business is applying for certification
 815 | as a qualified brownfield business under this section, and must
 816 | have signed a qualified target industry tax refund agreement
 817 | with the office which indicates that the business has been
 818 | certified as a qualified target industry business located in a
 819 | brownfield and specifies the schedule of brownfield
 820 | redevelopment bonus refunds that the business may be eligible to
 821 | receive in each fiscal year.

822 | (d) After entering into a tax refund agreement as provided
 823 | in s. 288.106 or other similar agreement for other eligible
 824 | businesses as defined in paragraph (1)(e), an eligible business
 825 | may receive brownfield redevelopment bonus refunds from the
 826 | account pursuant to s. s. 288.106(3)(d) ~~288.106(2)(e)~~.

827 | (5) ADMINISTRATION.—

828 | (b) To facilitate the process of monitoring and auditing
 829 | applications made under this program, the office may provide a
 830 | list of qualified target industry businesses to the Department
 831 | of Revenue, to the Agency for Workforce Innovation, to the
 832 | Department of Environmental Protection, or to any local
 833 | government authority. The office may request the assistance of
 834 | those entities with respect to monitoring the payment of the
 835 | taxes listed in s. s. 288.106(3) ~~288.106(2)~~.

836 | Section 3. Section 290.00677, Florida Statutes, is amended
 837 | to read:

838 | 290.00677 Rural enterprise zones; special qualifications.—

839 | (1) Notwithstanding the enterprise zone residency
 840 | requirements set out in s. 212.096(1)(c), eligible businesses as

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841 defined by s. 212.096(1)(a), located in rural enterprise zones
 842 as defined by s. 290.004, may receive the basic minimum credit
 843 provided under s. 212.096 for creating a new job and hiring a
 844 person residing within the jurisdiction of a rural community
 845 county, as defined by s. 288.106(2) ~~s. 288.106(1)(r)~~. All other
 846 provisions of s. 212.096, including, but not limited to, those
 847 relating to the award of enhanced credits, apply to such
 848 businesses.

849 (2) Notwithstanding the enterprise zone residency
 850 requirements set out in s. 220.03(1)(q), businesses as defined
 851 by s. 220.03(1)(c), located in rural enterprise zones as defined
 852 in s. 290.004, may receive the basic minimum credit provided
 853 under s. 220.181 for creating a new job and hiring a person
 854 residing within the jurisdiction of a rural community ~~county~~, as
 855 defined by s. 288.106(2) ~~s. 288.106(1)(r)~~. All other provisions
 856 of s. 220.181, including, but not limited to, those relating to
 857 the award of enhanced credits apply to such businesses.

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