The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: CS/CS/SB 1502

INTRODUCER: Community Affairs Committee, Commerce Committee, Senator Fasano, and others

SUBJECT: Fast Track Economic Stimulus for New Businesses/New Markets Development Program

DATE: March 31, 2009 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pugh	Cooper	CM	**Fav/CS**
2.	Wolfgang	Yeatman	CA	**Fav/CS**
3.			FT	
4.			WPSC	
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS........................		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

The federal government in 2000 created the New Markets Tax Credit Program, which allows investors to receive a credit against federal income taxes for making qualified equity investments in designated Community Development Entities (CDE's). Substantially all of the qualified equity investment must in turn be used by the CDE to provide loans or capitalization projects in low-income communities. Two states have created similar programs to piggy-back state tax credits onto the federal tax credits, in hopes of attracting more investment.

CS/SB 1502 creates state tax credits for corporate income tax, under s. 220.11, F.S., and premium insurance tax, under s. 624.509, F.S., for qualified investments in Florida low-income communities. Investors in Florida New Markets projects can recapture up to 39 percent of their investment as a state tax credit, in addition to the 39-percent income tax credit allowed under the federal program.

The cap on the Florida tax credits is $97.5 million over 7 years, with up to $20 million available each year. The credits may be carried forward to future taxable years, until December 31, 2022. The credits are not refundable or transferable, except in specific circumstances.
Briefly, the Florida New Markets Development Program is envisioned to work this way:

- One or more qualified CDE's will attract private investors, typically large banks or insurers, to invest in proposed business development projects in low-income communities.
- The CDE's then will apply to the Governor's Office of Tourism, Trade, and Economic Development (OTTED) for its approval to make qualified investments in eligible businesses within low-income communities, using the funds raised in exchange for the corporate income or insurance premium tax credits.
- Once notified by OTTED, the state Department of Revenue (DOR) will begin tracking tax credit claims from the CDE investors.
- Credits may not be claimed until 2 years after the qualified investments were made. So, in the third year of the program, up to $17.5 million in tax credits may be claimed, and in each of the subsequent 4 years, $20 million in new credits may be claimed against taxes owed.

Certain types of businesses are not eligible for investment within the program, and OTTED requires periodic reports from the CDE's to determine if they are carrying out the program as required.

CS/SB 1502 also creates penalties for fraudulent activities by CDE's, and includes a provision for recapturing the unused tax credits, under certain circumstances.

The program expires December 31, 2022.

CS/SB 1502 takes effect July 1, 2009, and creates 12 new sections of law in ch. 288, F.S., and amends ss. 213.053, 220.02, and 220.13, F.S.

II. Present Situation:

Florida's use of tax credits as venture capital incentives

The State of Florida offers direct tax credits for the premium insurance tax through the Certified Capital Company Act (CAPCO), pursuant to Part XI of ch. 288, F.S.

Enacted in 1998 by the Florida Legislature, CAPCO encourages private investment in venture capital by providing tax credits for investment in qualified businesses. The stated purpose of this act is to stimulate a substantial increase in venture capital investments in Florida by providing an incentive for insurance companies to invest in state-certified capital companies (CAPCOs) which, in turn, will invest in new or expanding businesses.[1] Eligible insurance companies are granted insurance premium tax credits in amounts equal to investments in CAPCOs. The increase in investment capital is intended to contribute to employment growth, create high-paying jobs, and expand or diversify Florida's economy. The three CAPCOs are: Advantage Capital; BOCF, LLC; and Wilshire Partners.

[1] Section 288.99(2), F.S. Among the qualifications for eligible businesses are that they are involved in manufacturing, processing or assembling products, conducting R&D, or providing services.

According to information in OTTED's most recent report on the program, the CAPCOs have invested in 73 qualified businesses as of December 31, 2007.[2] Examples of industries represented by the qualified businesses are: electronic fingerprint imaging, medical technology, catamaran manufacturing, credit card payment processing, vehicle fleet management systems, an internet portal for fishermen, a bacteriological research company, a cookie manufacturer, three landscaping companies, and a children's day-care center. The total number of full-time jobs in qualified businesses at the time of the initial investments in the 47 companies was 1,218. The total number of full-time jobs in all qualified businesses as of December 31, 2007, was 1,455.

The insurance industry has invested $150 million in three state-certified CAPCOs, and insurance companies may claim insurance premium tax credits totaling $15 million each year for 10 years. As of December 31, 2007, the insurance company investors have claimed $105 million in credits against their premium tax owed, according to the report.[3]

While as many as nine states have created CAPCOs, this type of program is increasingly viewed by researchers as the more "problematic" of the Venture Capital Funds (VCF) programs, in terms of:

> "…its high cost, poor design and target-inefficiency. Unlike any other VCF program, the CAPCO program provides a 100% premium tax credit to insurance company investors. In effect, the government underwrites the entire investment risk."[4]

The federal New Market Tax Credit Program

Created in 2000, the New Markets Tax Credit Program[5] permits taxpayers to receive a credit against federal income taxes for making qualified equity investments in designated Community Development Entities (CDE's). Substantially all of the qualified equity investment must in turn be used by a CDE to provide loans or capitalization projects in low-income communities. CDE's are certified by the U.S. Treasury Department and receive an allocation of federal income tax credits. The CDE's use these allocated tax credits to attract investors, and award the credits to their investors after receiving the investments.

The credit provided to an investor totals 39 percent of the cost of the investment and is claimed over a 7-year credit allowance period. In each of the first 3 years, the investor receives a credit equal to 5 percent of the total amount paid for the stock or capital interest at the time of purchase. For the final 4 years, the value of the credit is 6 percent annually. Investors may not redeem their investments in CDE's prior to the conclusion of the 7-year period.[6]

[2] Section 288.99(12), F.S., requires OTTED to report annually on the performance of the CAPCO program. The above information was reported in the 2007 annual report issued in late 2008 by the Executive Office of the Governor/Office of Tourism, Trade & Economic Development. Report on file with the Senate Commerce Committee.
[3] Ibid.
[4] Statement of Professor Daniel Sandler, University of Western Ontario, London; senior research fellow of the Taxation Law and Policy Research Institute, Melbourne; associated with Minden Gross Grafstein & Greenstein LLP, Toronto. See Daniel Sandler, *Venture Capital and Tax Incentives: A Comparative Study of Canada and the United States* (Toronto: Canadian Tax Foundation, 2004).
[5] 26 CFR Parts 1 and 602, and Sec. 45D, Internal Revenue Code.
[6] Information contained in this paragraph can be found at:
http://www.cdfifund.gov/what_we_do/programs_id.asp?programID=5.

An organization wishing to receive awards under the New Markets Tax Credit Program must be certified as a CDE by the U.S. Department of Treasury. To qualify as a CDE, an organization must:

- Be a domestic corporation or partnership at the time of the certification application;
- Demonstrate a primary mission of serving, or providing investment capital for, low-income communities or low-income persons; and
- Maintain accountability to residents of low-income communities through representation on a governing board of, or advisory board to, the entity.[7]

For the purposes of the federal law, "low-income communities" are census tracts: with at least a 20-percent poverty rate; where the median family income does not exceed 80 percent of the area median family income; which have a population of less than 2,000, are contained within a federally designated Empowerment Zone, and are contiguous to at least one other low-income community; or where the median family income does not exceed 85 percent of the area median family income, provided the census tract is located in a high-migration rural county.

Responsible for monitoring the program are the IRS and the U.S. Treasury Department's Community Development Financial Institutions Fund.

Since the inception of the New Markets program, Congress has approved $23 billion in federal tax credit allocation authority, of which $19.5 billion has been awarded to qualified CDE's.[8] In the first six rounds of the federal tax credit allocations, CDE's whose service areas include Florida have received cumulative federal income tax credit allocations of at least $2.2 billion. In 2008, eight CDE's whose territories of operation include Florida (but who are not headquartered in Florida) received $468.25 million in tax credit allocations.[9]

Over the life of the program, it appears that only one CDE based in Florida – the Florida Community Loan Fund – has ever received an allocation of federal New Markets tax credits, and that was in 2003.[10] According to its executive director, the Florida Community Loan Fund used some of its New Market credits to attract investors to a charter school development project in Miami.[11] It currently is involved in the development of an 118,000-square-foot research and development building at the University of Miami Life Sciences Park for use by early-stage bioscience companies.

The amount of federal tax credits redeemed by investors against their federal income tax liabilities is not readily determinable.

A 2007 General Accounting Office (GAO) report indicated that Florida ranked 25th in total investment dollars during fiscal years 2003-2005 related to the New Markets Tax Credit

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7 Available online at http://www.cdfifund.gov/what_we_do/programs_id.asp?programID=5.
8 Ibid.
9 http://www.cdfifund.gov/docs/2008/nmtc/2008NMTCStatesServed.pdf.
10 Florida Community Loan Fund, Inc., received $15 million in federal NMTC, according to the http://www.cdfifund.gov/awardees/db/basicSearchResults.asp.
11 Information derived from email and telephone interviews with FCLF executive director Ignacio Esteban, occurring variously within March 4-March 12, 2009. Documents on file with the Commerce Committee.

program. Through 2005, Florida had attracted $38.26 million in total loans and investments related to the New Markets program, financing eight projects, according to the GAO report.[12]

As of 2007, there were 63 CDE's with service areas in Florida,[13] trailing only New York (121), California (116), and Texas (66). Nationally, there are 2,223 federally certified CDE's.
A GIS map prepared using data maintained by the U.S. Treasury's Community Development Financial Institutions Fund indicates areas within nearly two dozen Florida counties that are New Market Tax Credit Qualified Tracts, because they meet the low-income and other federal requirements.

The federal New Markets Tax Credit Program is set to expire at the end of 2009, and while no legislation has been filed in Congress yet to extend it, typically the program has been extended year to year late in the congressional session. However, the American Recovery and Reinvestment Act (the federal "stimulus package") approved last month by Congress and the President included an additional $1.5 billion for the 2008 round of New Markets applications, to fund proposals that ranked too low on the list to receive allocations, and $1.5 million more for the 2009 round, for a total of $5 billion.[14]

<u>Examples of New Markets projects in other states</u>
At least two states – Louisiana and Illinois – have enacted state New Markets program that piggyback the federal program. But federal New Markets investments have been made in nearly all 50 states. Examples of the types of projects include:[15]
- Expansion of a pet-food manufacturer in Red Bay, Alabama, that created 200 jobs.
- Development of the National Hispanic University in a low-income area of San Diego.
- Improvements to a tortilla bakery operation in Haywood, California, creating five jobs.
- Building and equipment purchases in Marion, Indiana, to rejuvenate a paper-products company, creating 40 jobs.
- Investment in a mixed-use Life Sciences Park in Baltimore, near Johns Hopkins Hospital, designed to include scientific laboratories, residential units, and retail stores.
- Expansion of a women's sleepwear manufacturer in McAlester, Oklahoma, creating 70 jobs.
- Improvements to a wheat processing mill in a north Texas community that was used by a multi-state farmers' cooperative, and refinancing of the mill's existing debt.
- Restoration of an historic hotel in Seattle into a museum and government offices, as part of a larger redevelopment project for the neighborhood.

[12] United States Government Accounting Office Report GAO-07-297, *New Markets Tax Credit Appears to Increase Investment by Investors in Low-Income Communities but Opportunities Exist to Better Monitor Compliance*, January, 2007.
[13] Available online at http://www.cdfifund.gov/awardees.
[14] See enrolled version of H.R.1, Section 1403, at http://thomas.loc.gov/cgi-bin/query/C?c111:./temp/~c111aKNmSz. Also see http://www.taxpolicycenter.org/taxtopics/conference_newmarkets.cfm.
[15] Examples from across the nation are described in a New Markets Tax Credit Coalition report at http://www.newmarketstaxcreditcoalition.org/reportsETC/newfiles/NMTC%20Deals%20and%20Press%20Binder.pdf. Last visited March 12, 2009.

III. Effect of Proposed Changes:

General Overview

CS/SB 1502 creates a "new markets development program" in Part XII of ch. 288, F.S. The program will provide, over the next 13 years, $97.5 million in tax credits for corporate income tax, under s. 220.11, F.S., and premium insurance tax, under s. 624.509, F.S., in exchange for qualified investments in low-income Florida communities.

Under the program, OTTED will allocate tax credits to federally certified CDE's that meet specified state requirements. The CDE's will use this allocation of tax credits to attract private investors in Florida's low-income communities. The investors' tax credits will be based on their individual proportionate shares of the total investment in a project. The investors may use their tax credits in increments over 6 taxable years to reduce their corporate or premium insurance tax liabilities. The tax credits can amount to a 39-percent reduction in taxes owed.

Section 1 amends s. 213.053, F.S., to allow DOR to disclose to OTTED and specified employees certain confidential tax information related to entities claiming New Markets tax credits.

Section 2 amends s. 220.02, F.S., to add the corporate income tax credits awarded under this program at the end of the list of similar credits.

Section 3 amends s. 220.13, F.S., to add qualified investments under the state's New Markets Tax Credit program to income tax returns.

Section 4 creates s. 288.991, F.S., which is the "New Markets Development Program Act" within ch. 288, F.S.

Section 5 creates s. 288.9912, F.S., which expresses the program's purpose:

> "to encourage capital investment in rural and urban low-income communities by allowing taxpayers to earn credits against specified taxes by investing in qualified community development entities that make qualified low-income community investments in qualified active low-income community businesses to create and retain jobs."

Section 6 creates s. 288.9913, F.S., and defines a number of terms unique to this proposal. The definitions are similar to those used in the federal law. Among the key definitions are:

- "Credit Allowance Date" means the date on which a qualified investment is made and each of the six anniversaries of that date.
- A "qualified community development entity" (CDE) means an entity that:
  - Has been certified by the Internal Revenue Service to participate in the federal New Markets Tax Credit Program, and
  - Has entered into, or is controlled by an entity that has entered into, a New Markets Tax Credit allocation agreement with the U.S. Department of the Treasury's Community Development Financial Institutions Fund, and is authorized to use the credits to serve Florida businesses.
- A "qualified investment" means any equity investment or long-term debt security that:

  - Is issued solely in exchange for cash at the time of its original issuance; and
  - Is designated by the CDE as a qualified investment and has been approved by OTTED.
- A "qualified active low-income community business" is a corporation or partnership that must meet a number of criteria, such as:
  - Deriving at least 50 percent of its total gross income each taxable year from its business activities within the low-income community;
  - Using a "substantial portion" of its tangible property within the low-income community in any taxable year; and
  - Creating or retaining jobs that pay an average wage of at least 115 percent of the federal poverty wage for a family of four.
- A "qualified low-income community investment" means a capital or equity investment in, or a loan to, any qualified active, low-income community business.
- A low-income community" means any population tract within the state where:
  - The federal individual poverty rate is at least 20 percent; or
  - In the case of a tract that is located <u>within a metropolitan area</u>, the median family income does not exceed 80 percent of the greater of the statewide median family income or the metropolitan area median income; or
  - If not located in a metropolitan area, the median family income does not exceed 80 percent of the statewide median family income.

CDE's must place their investments in "qualified active low-income community businesses" as defined, but <u>excludes</u> any trade or business that:

- Derives 15 percent or more of their annual revenue from the rental or sale of real estate;
- Engages predominantly in the development or holding of intangibles for sale or licenses;
- Operates a private or commercial golf course, country club, massage parlor, hot-tub facility, suntan facility, race track or other facility used for gambling, or a store whose principle business is the sale of alcoholic beverages for consumption off premises; or
- Is principally involved in farming, if the sum of the aggregate unadjusted bases or the fair market value of the assets owned by the business, and the aggregate value of its leased assets exceeds $500,000.

<u>**Section 7**</u> creates s. 288.9914, F.S., to establish the state CDE certification process. OTTED, in consultation with Enterprise Florida, Inc., is directed to designate industries that are eligible to receive low-income community investments, based in part on their potential to create "strong positive impacts on, or benefits to, the state, regional and local economies." They will be identified using the North American Industry Classification System (NAICS), the standard developed by the U.S. Department of Labor.[16]

CDE's may not make investments in a business whose principal activities are not within an eligible industry as determined by its NAICS code, although OTTED may waive this requirement if it determines the business will have a positive impact on its community.

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[16] *See* http://www.bls.gov/bls/naics.htm for more information.

Prior to making these investments, CDE's must be certified by OTTED and its investments qualified. Each CDE must submit a detailed application to OTTED that includes such information as:

- Its name, address, and tax identification number;
- Documentation that it is a federally certified CDE and has received an allocation of federal New Markets tax credits;
- An explanation of how the investment will be used;
- A description of the proposed amount, structure, and purchaser of the equity investment or long-term debt security;
- The CDE's plans for development of relationships with persons and entities within the low-income community; and
- A statement that the CDE will not invest in businesses that do not create or retain jobs that pay an average wage of at least 115 percent of the federal poverty guideline for a family of four.[17]

OTTED must either certify or deny the application within 30 days of receipt. If OTTED intends to deny the application, it must inform the applicant of its reasons, and give the applicant 15 days to submit a revised application, giving OTTED another 30 days to review for approval or denial.

OTTED may not approve a cumulative amount of qualified investments that result in a tax credit claim of $97.5 million during the 13-year life of the program. The per-year maximum is $20 million, although more than $20 million may, for all practical purposes, be claimed in a single year because of the potential that tax credits will be carried forward. OTTED is prohibited from factoring in potential carry-forward amounts when calculating how much qualified investments to approve each year.

Finally, OTTED must forward to DOR a copy of its final order approving a qualified investment, which includes the identities of the taxpayers who are eligible to receive the tax credits and in what amounts.

The next steps in the process are:

- If more than one application is approved on the same day, and the amount of tax credits available is insufficient, then the tax credits shall be allocated in proportion to the proposed purchase price to the total purchase price of all of the proposed investments.
- The CDE must issue the qualified investment in exchange for cash within 60 days after it receives the order from OTTED approving the investment as a qualified investment. Within 30 days after receiving the cash, the CDE must provide OTTED with documentation of that transaction.

Section 8 creates s. 288.9915, F.S., to prohibit CDE's from using their qualified investments and what types of records they must maintain. A CDE may not make cash interest payments on a long-term debt security that is a qualified investment in excess of its operating income for 6 years following the issuance of the security.

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[17] The basic 2009 federal poverty guideline for a family of four persons is an income of $22,050. So, 115 percent of that is $25,357. *See* http://aspe.hhs.gov/poverty/09poverty.shtml.

Each CDE must keep detailed records of its transactions, including how the funds are used in low-income communities. No low-income community business, including its affiliates, may receive more than $10 million in qualified, low-income community investments under the state program.

Section 9 creates s. 288.9916, F.S., which explains the tax credit. Entities that pay Florida corporate income tax or insurance premium tax may take a New Market tax credit of up to 39 percent of the purchase price of the qualified investment they make to a CDE. The tax credit may be claimed as follows:

- No credit can be claimed in the first 2 years. The holder of the credit may apply 7 percent of the purchase price against its tax liability in the 3rd year of the credit allowance date;
- The credit amount is 8 percent in years 4 through 7;
- A taxpayer may not claim a tax credit in excess of his tax liability;
- An insurance company can only apply the tax credits to the insurance premium tax, and is not subject to the retaliatory tax levied under s. 624.5091, F.S.
- Unused credits may be carried forward for up to 5 years.

The federal program provides credits totaling 39 percent of the investment over a 7-year period. So, a company with a qualified investment for both the federal and state programs would receive 78 percent of the purchase price of its investment in tax credits, in addition to any profits generated from the investments**.** Under this scenario, a business would qualify for credits as follows:

Tax Year	State Program	Federal Program
1	0%	5%
2	0%	5%
3	7%	5%
4	8%	6%
5	8%	6%
6	8%	6%
7	8%	6%

CS/SB 1502 prohibits the transfer or sale of tax credits, except to a partner, member or shareholder of the partnership, limited-liability company, "s"-corporation, or other pass-through business entity affiliated with the original investor, and by internal agreement. Any change to the agreement must be reported to OTTED and DOR. Also, credits can be transferred to subsequent purchasers of the qualified investment, which, too, must be reported to OTTED and DOR.

Section 10 creates s. 288.9917, F.S., related to reporting requirements. Within 30 days after each credit allowance date, the CDE must submit a report to OTTED that includes the following information:

- A list of all active qualified low-income community businesses in which a qualified low-income community investment has been made since the last credit allowance date, the type and amount of investment in each business, and the business's address or principle location.

- Bank records, wire transfers, or other documents that provide evidence of the qualified low-income community investments made since the last credit allowance date.
- A verified statement by the CDE's chief financial or accounting officer that the investment has not been redeemed or principal repaid since the last credit allowance date.
- Information related to the recapture of federal New Markets tax credits since the last credit allowance date.

After receiving this data, OTTED must certify in writing to the CDE and to DOR the amount of tax credit authorized to be claimed for each eligible taxpayer during the tax year containing the last credit allowance date.

Section 11 creates s. 288.9918, F.S., which requires each CDE to provide OTTED with the following information by April 30 of each year which includes a credit allowance date:

- Its annual, audit financial statements;
- The identity of the types of industries, identified by NAICS code, in which the investments were made;
- A list of the counties where the investments have been put to work and the number of jobs created and retained, including verification that the average wages paid met or exceeded the target of 115 percent of the federal poverty guideline for a family of four;
- A description of the relationships the CDE has established with community-based organizations, local community development offices and organizations, economic development organizations, and a summary of the outcomes resulting from those relationships; and
- Any other information and documentation as requested by OTTED.

Section 12 creates s. 288.9919, F.S., to specify that CDE's are eligible to use the state's "Single Audit Act," in s. 215.97, F.S. Also, OTTED has discretion to conduct examinations to verify the CDE's compliance with the state New Markets Development Program Act.

Section 13 creates s. 288.9920, F.S., to specify requirements and process for recapturing state New Markets tax credits under certain circumstances.

OTTED will direct DOR to recapture tax credits available to an investor, at any time before December 31, 2022, if:

- For any reason the federal government recaptures a related tax credit, then he state shall recapture an amount equal to that of the federal recapture;
- The CDE redeems or makes any principal repayment related to the investment prior to the final allowance date;
- The CDE fails to invest at least 85 percent of the purchase price in qualified low-income community investments within 12 months of the investment's issuance or fails to maintain at least 85 percent of the investment in low-income community investments;
- The CDE fails to provide OTTED or DOR any of the required information or documents; or
- OTTED determines from an audit or other examination that a taxpayer received tax credits for which it was not entitled.

OTTED must provide notice to a CDE and to DOR before recapturing the CDE's credits, and the CDE has 90 days to correct any deficiencies. If the deficiencies aren't corrected, OTTED will provide a final order to the CDE, DOR, and any taxpayers who were previously authorized to claim the applicable tax credit. All recaptured funds shall be deposited into the state's General Revenue Fund.

An entity that submits fraudulent information to OTTED is liable for the costs associated with the investigation and prosecution of the claim, plus a penalty in an amount double the tax credits claimed by its investors. This penalty will be in addition to any other penalty imposed by law.

Section 14 creates s. 288.9921, F.S., to authorize OTTED and DOR to adopt rules pursuant to ss. 120.536(1) and 120.54, F.S., to administer the New Markets program.

Section 15 creates s. 288.9922, F.S., which specifies that the New Markets Development Program Act shall expire on December 31, 2022.

Section 16 specifies that this act shall take effect July 1, 2009.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

CS/SB 1502 creates a tax credit program capped at $96.5 million over its life, through December 31, 2022. OTTED may not qualify more than $20 million in new investments each year, which could translate to $20 million tax credits. However, since the credits apparently can be carried forward, there is no annual cap, for all practical purposes.

Also, there appears to be no fiscal impact to the state until FY 2011-2012, when the tax credits can be claimed.

At its March 14, 2009, meeting, the Revenue Estimating Conference adopted by consensus a negative fiscal impact to the state of $17.5 million in FY 2011-2012, and a

$20 million negative impact the following fiscal year, if CS/SB 1502 becomes law. The estimate assumes that the reduction in state revenues will be evenly split between state corporate income tax and state insurance premium tax.

B. Private Sector Impact:

Indeterminate. To the extent that investments are made in businesses that succeed, the legislation may facilitate the development of new or expanded businesses, and new jobs, to some of Florida's poorest communities

C. Government Sector Impact:

CS/SB 1502 creates increased workloads on OTTED and DOR. At this time, DOR and OTTED have not indicated the resources they may need to implement this act.

VI. Technical Deficiencies:

Recommended by DOR:
Line 172 references "s.288.9913" but it should reference "s. 288.9916".
Line 430 references a statute for corporate tax not insurance tax. On lines 430, delete "in the order provided in s. 220.02(8)".
Line 560 should likely reference OTTED not DOR. Replace the word "department" with "office".

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Commerce on March 17, 2009:
A delete-all amendment was adopted that incorporated several technical corrections requested by DOR and provisions that promoted internal consistency within the bill. The changes included:

- A specific provision allowing unused state tax credits to be carried forward up to 5 years.
- Providing consistent references to the wage requirement.
- Clarification that the state tax credits can be claimed during the applicable tax year.
- Correction of an inaccurate statutory cite.
- Rewording to the retaliatory tax provisions as they relate to the New Markets insurance premium tax credits, to conform to current state law.
- Clarifying that the low-income community businesses must meet all of the specified criteria.

- Clarifying, where necessary, that the "entity" in question is a "community development entity."

CS by Community Affairs on March 31, 2009:
The CS engrosses three technical amendments.

B. Amendments:

None.