

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

BUDGET
Senator Alexander, Chair
Senator Negron, Vice Chair

MEETING DATE: Friday, March 11, 2011
TIME: 1:15 —4:15 p.m.
PLACE: Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Alexander, Chair; Senator Negron, Vice Chair; Senators Altman, Benacquisto, Bogdanoff, Fasano, Flores, Gaetz, Hays, Joyner, Lynn, Margolis, Montford, Rich, Richter, Simmons, Siplin, Sobel, Thrasher, and Wise

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	Presentation on Creating Jobs by Matching the Strengths of Florida's Universities with the Needs of an Innovation Economy by Dr. Win Phillips, Vice President of Research, University of Florida Dr. M.J. Soileau, Vice President for Research and Commercialization, University of Central Florida		Presented
2	Presentation on Talent and Technology: The Polytechnic Idea Dr. Marshall Goodman, Regional Chancellor, USF Polytechnic		Presented
3	Review of Interim Budget Amendment Process		Not Considered
4	Enterprise Information Technology Consolidations - Potential Budget Reductions		Presented
5	CS/SM 214 Community Affairs / Gaetz (Identical HM 539)	Deepwater Horizon Oil Spill/Tax Relief; Urges the Congress of the United States to support the tax-relief provisions of H.R. 5699 and S. 3934, initiated in the 111th Congress, or similar legislation, relating to the Deepwater Horizon Oil Spill of 2010. CA 01/11/2011 Fav/CS BTA 01/27/2011 Favorable BC 03/11/2011 Favorable	Favorable Yeas 15 Nays 0
6	SM 216 Gaetz (Identical HM 679)	Deepwater Horizon Oil Disaster/Federal Income Tax; Urges the Congress of the United States to exempt from federal income tax payments made to victims of the Deepwater Horizon oil disaster and to extend the net operating loss carryback period from 2 years to 5 years. CA 01/11/2011 Favorable BTA 01/27/2011 Favorable BC 03/11/2011 Favorable	Favorable Yeas 15 Nays 0

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7	SM 218 Gaetz (Identical HM 363)	Deepwater Horizon Oil Disaster/Penalties; Urges the Congress of the United States to dedicate penalties collected from parties responsible for the Deepwater Horizon oil disaster to repairing the environmental and economic damage caused by the disaster. CA 01/11/2011 Favorable BTA 01/27/2011 Favorable BC 03/11/2011 Favorable	Favorable Yeas 15 Nays 0
8	SM 220 Gaetz (Identical HM 1221)	Unemployment Assistance/Oil Spill; Urges the Congress of the United States to enact a law providing unemployment assistance for individuals who become unemployed as a result of an oil spill. CA 01/11/2011 Favorable BTA 01/27/2011 Favorable BC 03/11/2011 Favorable	Favorable Yeas 15 Nays 0
9	CS/CS/SB 248 Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations / Community Affairs / Gaetz (Compare H 1309)	Economic Recovery/Deepwater Horizon Disaster; Creates a process for the Office of Tourism, Trade, and Economic Development to waive any or all job or wage eligibility requirements under certain circumstances when in the best interest of the public. Waives the requirement that a facility located in a Disproportionally Affected County be in a high-impact sector in order to qualify for the capital investment tax credit, etc. CA 01/11/2011 Fav/CS BTA 01/27/2011 Fav/CS BC 03/11/2011 Fav/CS	Fav/CS Yeas 15 Nays 0
10	SB 298 Alexander (Identical H 65)	Municipal Governing Body Meetings; Authorizes the governing bodies of certain municipalities to hold meetings within specified boundaries. CA 01/25/2011 Favorable BGA 02/10/2011 Favorable BC 03/11/2011 Favorable	Favorable Yeas 14 Nays 0
11	SB 1012 Budget Subcommittee on Criminal and Civil Justice Appropriations (Identical H 7063)	State Attorneys Revenue Trust Fund/JAC; Re-creates the State Attorneys Revenue Trust Fund within the Justice Administrative Commission without modification. Abrogates provisions relating to the termination of the trust fund, to conform. BC 02/23/2011 Not Considered BC 03/11/2011 Favorable	Favorable Yeas 14 Nays 0

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12	SB 1014 Budget Subcommittee on Criminal and Civil Justice Appropriations (Identical H 7065)	Public Defenders Revenue Trust Fund/JAC; Re-creates the Public Defenders Revenue Trust Fund within the Justice Administrative Commission without modification. Abrogates provisions relating to the termination of the trust fund, to conform. BC 02/23/2011 Not Considered BC 03/11/2011 Favorable	Favorable Yeas 14 Nays 0
13	SB 1016 Budget Subcommittee on Criminal and Civil Justice Appropriations (Identical H 7067)	Indigent Civil Defense Trust Fund/JAC; Re-creates the Indigent Civil Defense Trust Fund within the Justice Administrative Commission without modification. Abrogates provisions relating to the termination of the trust fund, to conform. BC 02/23/2011 Not Considered BC 03/11/2011 Favorable	Favorable Yeas 14 Nays 0
14	SB 1018 Budget Subcommittee on Criminal and Civil Justice Appropriations (Identical H 7061)	State Courts Revenue Trust Fund; Re-creates the State Courts Revenue Trust Fund within the state courts system without modification. Abrogates provisions relating to the termination of the trust fund, to conform. BC 02/23/2011 Not Considered BC 03/11/2011 Favorable	Favorable Yeas 14 Nays 0
15	SB 1020 Budget Subcommittee on Criminal and Civil Justice Appropriations (Identical H 7073)	Federal Grants Trust Fund/DLA; Re-creates the Federal Grants Trust Fund within the Department of Legal Affairs without modification. Abrogates provisions relating to the termination of the trust fund, to conform. BC 02/23/2011 Not Considered BC 03/11/2011 Favorable	Favorable Yeas 14 Nays 0
16	SB 1022 Budget Subcommittee on Criminal and Civil Justice Appropriations (Identical H 7071)	Operating Trust Fund/DLA; Re-creates the Operating Trust Fund within the Department of Legal Affairs without modification. Abrogates provisions relating to the termination of the trust fund, to conform. BC 02/23/2011 Not Considered BC 03/11/2011 Favorable	Favorable Yeas 14 Nays 0
17	SB 1024 Budget Subcommittee on Criminal and Civil Justice Appropriations (Identical H 7069)	Federal Grants Trust Fund/DJJ; Re-creates the Federal Grants Trust Fund within the Department of Juvenile Justice without modification. Abrogates provisions relating to the termination of the trust fund, to conform. BC 02/23/2011 Not Considered BC 03/11/2011 Favorable	Favorable Yeas 13 Nays 0

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18	SB 1026 Budget Subcommittee on Education Pre-K - 12 Appropriations (Identical H 7053)	Operating Trust Fund/Department of Education; Re-creates the Operating Trust Fund within the Department of Education without modification. Abrogates provisions relating to the termination of the trust fund, to conform. BC 02/23/2011 Not Considered BC 03/11/2011 Favorable	Favorable Yeas 14 Nays 0
19	SB 1028 Budget Subcommittee on Education Pre-K - 12 Appropriations (Identical H 7055)	Administrative Trust Fund/Department of Education; Re-creates the Administrative Trust Fund within the Department of Education without modification. Abrogates provisions relating to the termination of the trust fund, to conform. BC 02/23/2011 Not Considered BC 03/11/2011 Favorable	Favorable Yeas 14 Nays 0
20	SB 1030 Budget Subcommittee on General Government Appropriations (Identical H 7049)	Trust Funds/Department of Financial Services; Terminates specified trust funds within the Department of Financial Services. Provides for the disposition of balances in and revenues of such trust funds. Prescribes procedures for the termination of such trust funds. BC 02/23/2011 Not Considered BC 03/11/2011 Favorable	Favorable Yeas 14 Nays 0
21	SB 1032 Budget Subcommittee on General Government Appropriations (Identical H 7041)	Federal Grants Trust Fund/DEP; Re-creates the Federal Grants Trust Fund within the Department of Environmental Protection without modification. Abrogates provisions relating to the termination of the trust fund, to conform. BC 02/23/2011 Not Considered BC 03/11/2011 Favorable	Favorable Yeas 14 Nays 0
22	SB 1034 Budget Subcommittee on General Government Appropriations (Identical H 7045)	Federal Grants Trust Fund/Department of Revenue; Re-creates the Federal Grants Trust Fund within the Department of Revenue without modification. Abrogates provisions relating to the termination of the trust fund, to conform. BC 02/23/2011 Not Considered BC 03/11/2011 Favorable	Favorable Yeas 14 Nays 0
23	SB 1036 Budget Subcommittee on General Government Appropriations (Identical H 7043)	Operations Trust Fund/Department of Revenue; Re-creates and renames the Operations Trust Fund within the Department of Revenue. Abrogates provisions relating to the termination of the trust fund, to conform. BC 02/23/2011 Not Considered BC 03/11/2011 Favorable	Favorable Yeas 14 Nays 0

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24	SB 1038 Budget Subcommittee on General Government Appropriations (Identical H 7047)	Federal Grants Trust Fund/DFS; Creates the Federal Grants Trust Fund within the Department of Financial Services. Provides for the purpose of the trust fund and sources of funds. Provides for future review and termination or re-creation of the trust fund. BC 02/23/2011 Not Considered BC 03/11/2011 Favorable	Favorable Yeas 14 Nays 0
25	SB 1040 Budget Subcommittee on General Government Appropriations (Identical H 7051)	Florida Drug, Device, and Cosmetic Trust Fund/DBPR; Provides a statutory reference for the trust fund created by the act. Creates the Florida Drug, Device, and Cosmetic Trust Fund within the Department of Business and Professional Regulation. Provides for the purpose of the trust fund and sources of funds. Provides for future review and termination or re-creation of the trust fund. BC 02/23/2011 Not Considered BC 03/11/2011 Favorable	Favorable Yeas 14 Nays 0
26	SB 1042 Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations (Identical H 7057)	Federal Grants Trust Fund/HSMV; Re-creates the Federal Grants Trust Fund within the Department of Highway Safety and Motor Vehicles without modification. Abrogates provisions relating to the termination of the trust fund, to conform. BC 02/23/2011 Not Considered BC 03/11/2011 Favorable	Favorable Yeas 14 Nays 0
27	SB 1044 Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations (Identical H 7059)	International Registration Clearing TF/HSMV; Terminates the International Registration Clearing Trust Fund within the Department of Highway Safety and Motor Vehicles. Provides for the disposition of balances in and revenues of the trust fund. Prescribes procedures for terminating the trust fund. Repeals provisions relating to an exemption from termination provided for the trust fund. BC 02/23/2011 Not Considered BC 03/11/2011 Favorable	Favorable Yeas 14 Nays 0



Creating Jobs by Matching the Strengths
of Florida's Universities with the Needs
of an Innovation Economy

New Florida Initiative

STATE UNIVERSITY SYSTEM of FLORIDA

Building Florida's Knowledge Economy



- ***Focusing SUS Resources on Florida's Economic Transformation***
 - Double degree granting capacity
 - Utilize SUS teaching & research strengths
 - Build a workforce pipeline through applied research programs
 - Build entrepreneurial environment through incubation



STATE UNIVERSITY SYSTEM of FLORIDA
Board of Governors

The New Florida Initiative: Address Critical State Needs

- ***Doubling Capacity***
 - Develop a pool of graduates with degrees needed for regional and statewide development
 - Science, Technology, Engineering and Math (STEM)
 - Health & Life Sciences, Education, Business and More
- ***Capital Improvements***
 - Enhance labs, classrooms and office space
- ***Attracting & Retaining***
 - World-class faculty
 - Top students



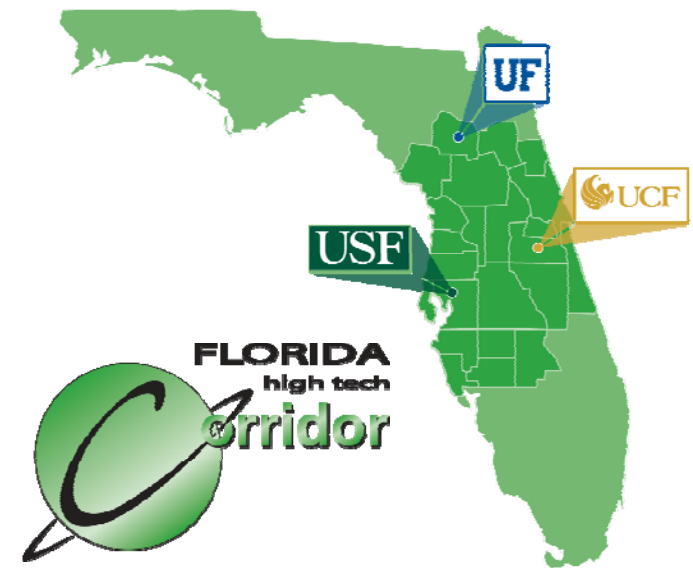
The New Florida Initiative: Leverage University Strengths

- ***Advance Cluster Development***
 - Create a strategic research agenda built on the strengths of each institution
 - Encourage collaboration among SUS Centers of Excellence
- ***Create a Statewide Matching Grants Research Program***
 - Modeled after Florida High Tech Corridor Council's program
 - Engage SUS faculty and industry partners in applied research
 - FHTCC MGRP Results Since 1996:
 - 1,150 projects
 - 330 companies, 2,200 students and 275 professors
 - Contributed to 127 patents



Creating a New Florida Economy: Downstream Impact from FHTCC's Program

- **\$54 Million** in FHTCC Funds
- **\$880 Million** in Company Match and Downstream Value to Companies and Universities
- **\$34 Million** in State and Local Tax Receipts
- **\$1.3 Billion** in Combined Economic Impact
- **3,200+ Jobs**



Creating a New Florida Economy: Matching Grants Research Program

Program Funding Model:

- *Up to \$50 million recurring per year for statewide university-based Matching Grants Research Program*
- *Utilize experienced FHTCC team to share program with remaining universities as a template to creating Matching Grant Research Programs*



Creating a New Florida Economy: Matching Grants Research Program

Implementation and Outcomes:

- ***Competitive Program***
 - Technology sectors match university research strengths
 - Require 2:1 match from industry partner
- ***Job Creation Estimate:***
 - Conservative modeling demonstrates the potential for 3,000 jobs per year
 - Five-year potential of **15,000+ jobs**



Creating a New Florida Economy: University-based Incubation Programs

Fostering Start-Up Business Growth:

- Accelerates the successful development and increases the success of entrepreneurial companies
- Utilizes targeted business support resources and services
- Develops and recruits talent and opportunities for SUS graduates
- Enables a robust innovation-based economy from research to innovation to commercial success



Creating a New Florida Economy: University-based Incubation Programs

Business Incubation Works!

- ***Increase Chances of Success***
 - 87% of incubator graduates still in business after 5 years
- ***Home-Grown Companies***
 - 84% of graduates stay in the community (NBIA survey)
- ***Good Investment of Public Funds***
 - Generates more tax revenue than it costs
 - Technology incubators lead to cluster creation
- ***Florida Ranked 47th in Number of Incubators per 10,000 Business Establishments (Milken Institute Report)***



Creating a New Florida Economy: University-based Incubation Programs

Demonstrated Incubation Success:

- *UCF Business Incubator*
 - Created **1,650 jobs** in 2009
 - Generated \$70 million in earnings and \$200 million in total annual economic output
- *In 2009 UCF's Program Created:*
 - \$4.5 million in revenues for local government
 - ROI of \$5.25 for every \$1.00 invested by local governments
- *UF Sid Martin Biotech Incubator*
 - 40 companies admitted
 - 75% success rate
 - More than **550 jobs**
 - Cluster creation
- *Client Companies Attracted:*
 - \$330 million investment
 - \$150 million grant & contracts
 - 40+ Investment funds



Creating a New Florida Economy: University-based Incubation Programs

Funding Model for Statewide Incubation:

- ***Build Incubation Facilities (\$50 MM per Year)***
 - State-of-the-art facilities to foster Innovative companies
 - Attract seed and other funds to enhance existing facilities
 - Prototyping labs, test beds, wet labs
 - Up to \$5 million per project
- ***Enhance Operational Capabilities (\$12 MM per Year)***
 - Incubate new incubators to develop effective high performing programs, capitalizing on FHTCC team experience
 - Enhance existing programs to reach next level
 - Provide up to \$600,000 per year for up to 20 incubators



Creating a New Florida Economy: University-based Incubation Programs

Implementation and Outcomes:

- ***Competitive Program***

- Require 1:1 match from local government or private sector
- Target high-impact or high-technology ventures
- Sound plan required, not limited to universities

- ***Job Creation Estimate:***

- Year one: 2,500
- Year two: 3,500
- Year three: 4,500
- Year four: 5,500
- Year five: 6,500
- Total: **22,500**



The New Florida Initiative: Funding

2011-12 Recurring Funding Request:

- *SUS Capacity Enhancement - \$150 million**
- *Matching Grants Research Programs - \$50 million*
- *Statewide University-based Incubator Network - \$62 million*

* Goal is to double SUS funding over 5-7 years



The New Florida Initiative: Return On Investment

- *Increase Annual Degree Production by 15,000 each year*
- *\$500 Million in New Corporate/Federal Funding*
- *Increase Annual Patent Awards by 100*



STATE UNIVERSITY SYSTEM of FLORIDA
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The New Florida Initiative: Total Job Creation

*Total Job Creation: **40,000+***

- 2,500 from University Enhancements (faculty)
- 15,000 from Matching Grants Research Programs
- 22,500 from Statewide Incubation Network



STATE UNIVERSITY SYSTEM of FLORIDA
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The New Florida Initiative

Florida Becomes ...

- *More attractive for **high-tech, high-wage industry***
- *More likely to increase **entrepreneurial startups***
- *More valuable to industry by **retaining SUS graduates** to build a world-class workforce*
- *More inviting to **investors and venture capitalists***



STATE UNIVERSITY SYSTEM of FLORIDA
Board of Governors



Talent and Technology: The Polytechnic Idea

03.11.11

Marshall Goodman, Ph.D.
Regional Chancellor

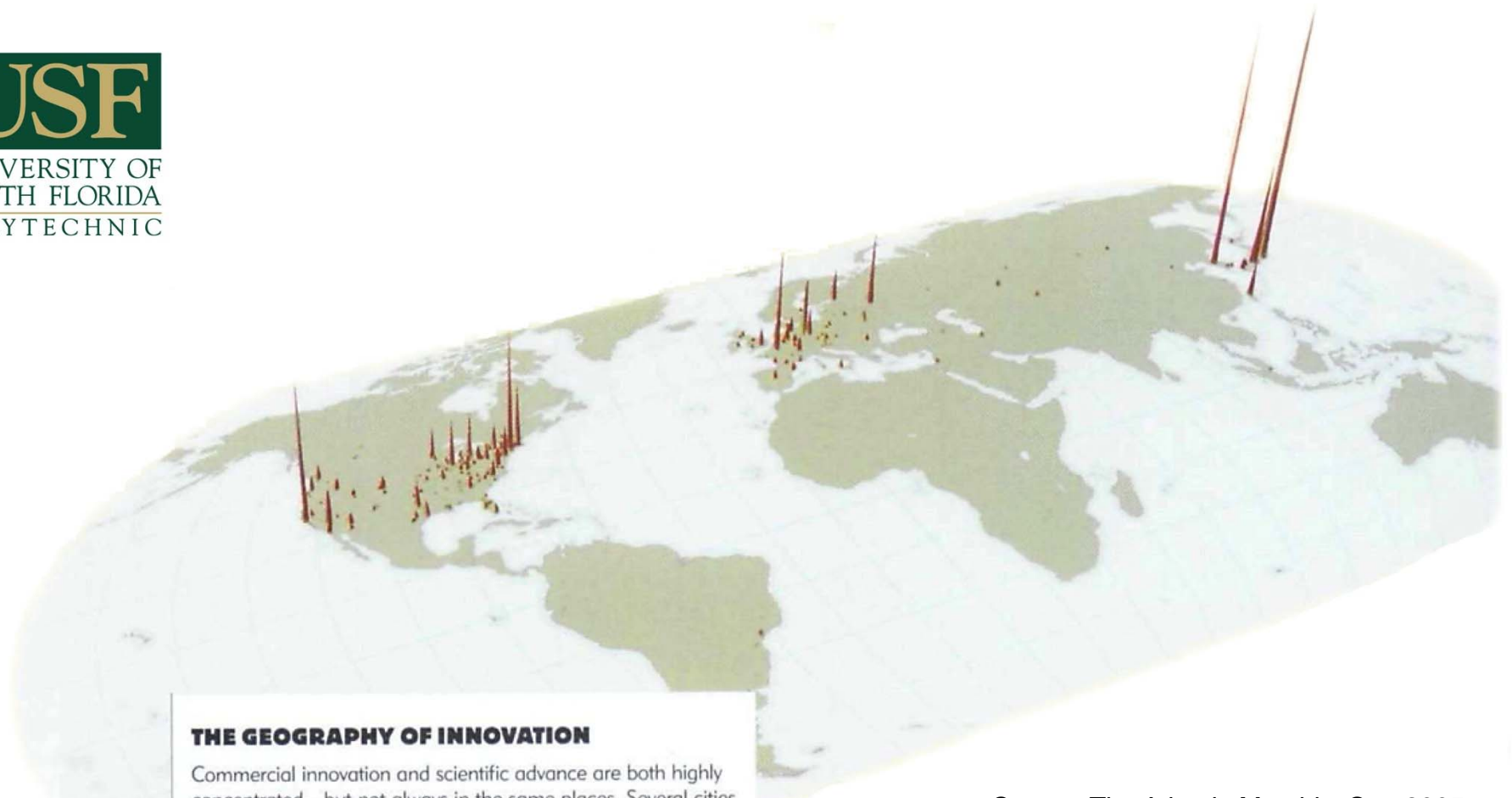


The Geography of Innovation: Critical Mass and Concentration

- **Thomas Friedman:**
 - *The Lexus and the Olive Tree*
 - *The World is Flat*
 - *Hot, Flat and Crowded*
- **Richard Florida:**
 - *The Rise of the Creative Class: And How it's Transforming Work, Leisure and Everyday Life*
 - *Cities and the Creative Class*
 - *The Flight of the Creative Class: The New Global Competition for Talent*
- **Joseph Stiglitz:** *Making Globalization Work*
- **Richard McCormick:** *Manufacturing a Better Future for America*
- **Fareed Zakaria:** *The Post-American World*
- **AnnaLee Saxenian:** *Regional Advantage*

USF

UNIVERSITY OF
SOUTH FLORIDA
POLYTECHNIC



THE GEOGRAPHY OF INNOVATION

Commercial innovation and scientific advance are both highly concentrated—but not always in the same places. Several cities in East Asia—particularly in Japan—are home to prolific business innovation but still depend disproportionately on scientific breakthroughs made elsewhere. Likewise, some cities excel in scientific research but not in commercial adaptation. The few places that do both well are very strongly positioned in the global economy. These regions have little to fear, and much to gain, from continuing globalization.

Source: The Atlantic Monthly, Oct. 2005
“The World is Spiky”
World Intellectual Property Organization
US Patent and Trademark Office

the POLYTECHNIC IDEA

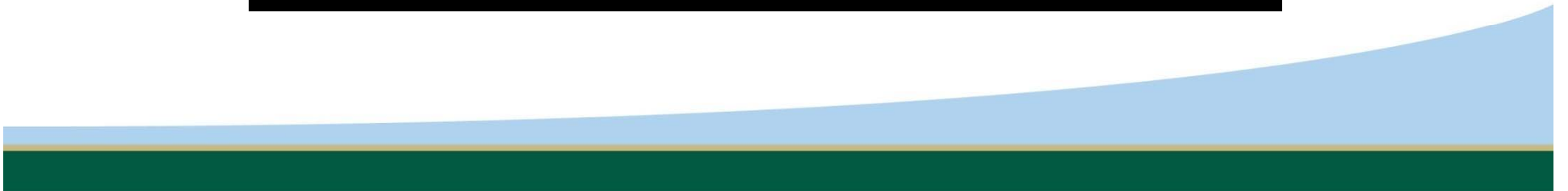
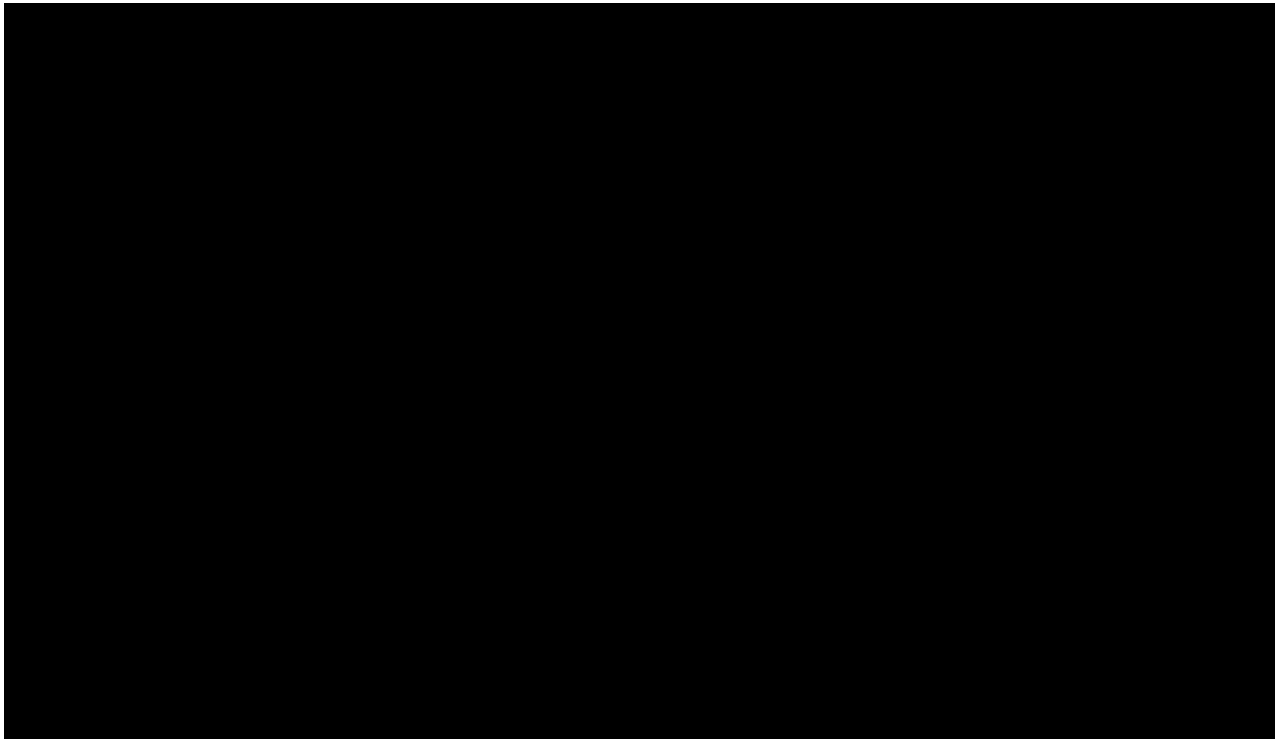
The Talent Dividend

“Increasing the four-year college attainment rate in each of the nation’s 51 largest metropolitan areas by **one percentage point** would be associated with a **\$124 billion increase** in aggregate **annual personal income.**”

City Dividends:
Gains from Improving Metropolitan Performance
CEOs for Cities



UNIVERSITY OF
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Did you know?



Each year, the U.S. falls more than 1 decade behind China in producing engineers.

Relevant Degrees



“Our universities need to be graduating people in the majors where there are jobs.”

Governor Rick Scott
12.08.10

The Polytechnic Idea: We Put Students to Work

- Talent Management vs. Career
- New Pedagogy
 - Guide on the Side
 - Active Learning
- No More Mine Shafts
 - Collaboration/
Interdisciplinary are Central



The Polytechnic Idea

- Collaborative, unique learning environments
- University as Innovation Hub:

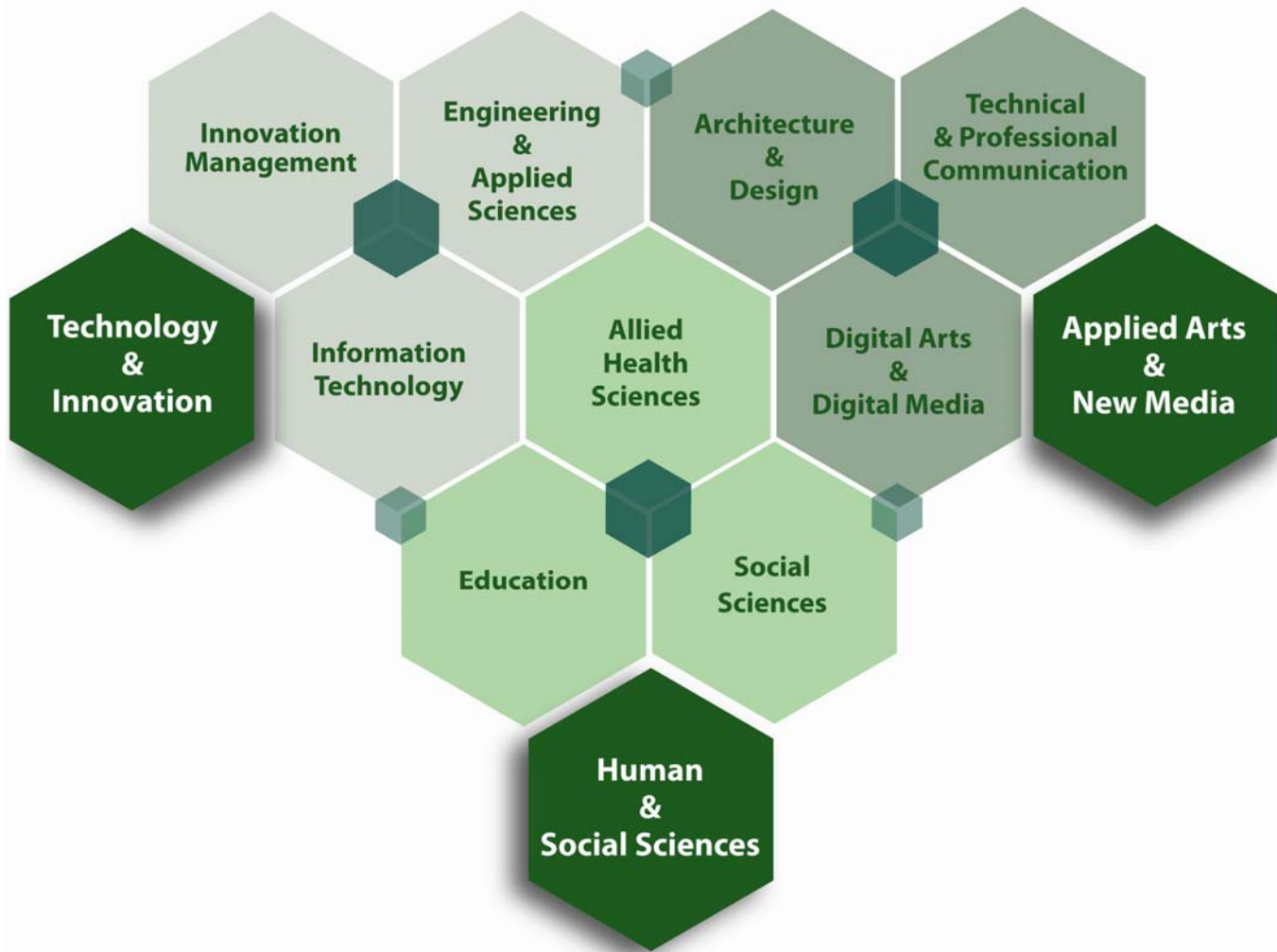
We invent, create entrepreneurs!





UNIVERSITY OF
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POLYTECHNIC

Applied Learning, Applied Research & Applied Technology



the POLYTECHNIC IDEA



An Economic Engine

Total Annual Economic Impact

Total Estimated Impact on Economic Output	\$3.2 billion
Total Estimated Impact on Earnings	\$1.3 billion
Total Estimated Impact on Jobs	36,610

Economic Impact Analysis 1/2011
Gordon Kettle, Independent Economist

the POLYTECHNIC IDEA

An Economic Engine

Construction Impact

Total Estimated Impact on Economic Output	\$535 million
Total Estimated Impact on Earnings	\$163 million
Total Estimated Impact on Jobs	6,600

Economic Impact Analysis 1/2011
Gordon Kettle, Independent Economist



An Economic Engine

Annual Property Value Increase: \$84 million

Property / Tangible Taxes			
Project Name	School	County	Total
Research Park	\$37 million	\$34 million	\$71 million
Retail Development	\$7 million	\$6 million	\$13 million

Economic Impact Analysis 1/2011
Gordon Kettle, Independent Economist

Current Investment

\$200 million of private, federal, state and local investment in infrastructure

- *East West Road*
- *Interchange with Polk Parkway*
- *Construction road and site manager*
- *“De-mucking” of main site*
- *Ring Road*





“The more we invest in our education system, like **USF Polytechnic** and all the technical degrees that come out of that, it will play a **significant role** in our **diversification** here and **benefit Polk County** and the **central Florida area.**”

2011 Economic Forecast Breakfast
J. Antonio “Tony” Villamil, Ph.D.
Board Member, Enterprise Florida
Senior Research Fellow, Florida TaxWatch
Dean, School of Business, St. Thomas University

the POLYTECHNIC IDEA



References

CAL POLY

Mayor: (805) 783-7752

Governor: (916) 445-2841



Rensselaer

Mayor: (518) 279-7130

Governor: (518) 474-8390



TEXAS TECH UNIVERSITY.

Mayor: (806) 775-2010

Governor: (512) 463-2000

Georgia Tech



Mayor: (404) 330-6100

Governor: (404) 651-1151

SOUTHERN POLYTECHNIC

STATE UNIVERSITY

Mayor: (770) 794-5501

Governor: (404) 651-1151



VirginiaTech

Mayor: (540) 853-2444

Governor: (804) 786-2211



Thank you!





Amending the Approved Budget

Authority & Limitations

2

- The General Appropriations Act authorizes the expenditure of funds in specific categories for specific purposes. Revisions are permissible pursuant to chapter 216
- Amendments shall be requested by the Executive Office of the Governor or Chief Justice
- Major statutory provisions –ss. 216.177, 216.181, 216.292 F.S.
- Guidelines for amendments – s. 216.181(2) F.S.
 - Consistent with legislative intent
 - may not initiate a new program or a fixed capital outlay project or eliminate an existing program
 - Except as provided in chapter 216, may not provide funding or increased funding for items which were funded by the Legislature in an amount less than that requested by the agency in the legislative budget request or recommended by the Governor, or which were vetoed by the Governor
 - shall not conflict with any provision of law
 - must not provide funding for any issue which was requested by the agency or branch in its legislative budget request and not funded in the General Appropriations Act

Example of Actions requiring notification

3

Five Percent Transfers – 3 day notice

- Based on changed conditions, budget amendments transferring appropriations, excluding amounts for fixed capital outlay, from identical funding sources between appropriation categories within a budget entity up to 5 percent of the original approved budget or \$250,000, whichever is greater (s. 216.292(2)(a)1., F.S.);
- Budget amendments transferring appropriations, excluding amounts for fixed capital outlay, from identical funding sources between budget entities within identical categories of appropriation up to 5 percent of the original approved budget or \$250,000, whichever is greater (s. 216.292(2)(b)1., F.S.);

Program Flexibility – 5 day notice

- Budget amendments transferring funds within programs identified in the General Appropriations Act from identical funding sources between specified appropriation categories (s. 216.292(2)(b)1., F.S.);
- Budget amendments transferring positions and funds between salaries and benefits appropriation categories from identical funding sources within programs identified in the General Appropriations Act, (s. 216.292(2)(b)2., F.S.);

Examples of Actions requiring 14 day consultation

4

- Budget amendments changing non-operating budget authority for executive branch agencies and judicial branch entities (s. 216.181(12), F.S.)
- Budget amendments transferring appropriations for operations from trust funds in excess of the agency head flexibility but not exceeding \$1 million (s. 216.292(3)(a), F.S.)
- Budget amendments transferring positions between budget entities (s. 216.292(3)(b), F.S.)

Examples of Actions Requiring LBC Approval

5

- The initiation of new programs or changes in current programs in the executive branch or the judicial branch that are not contemplated by the General Appropriations Act (s. 216.241, F.S.)
- The transfer of General Revenue appropriations for operations in the executive branch or judicial branch in excess of the amount authorized in ss. 216.292(2) and (3), F.S. (s. 216.292(4)(a), F.S.) (in excess of the amounts authorized for notice or 14 day consultation amendments)
- The transfer of appropriations in the executive branch or the judicial branch for fixed capital outlay. Transfers of FCO excess are permissible for same year, same fund projects, scope of projects may not change (s. 216.292(4)(c), F.S.)

Typical Budget Amendments

6

- Transfers of budget within the agency to cover projected deficits
- Transfers of budget within the agency to reflect management decisions (such as internal agency realignment)

Enterprise Information Technology – Proposed Reductions

Senate Budget Committee -

March 11, 2011

Proposed Reductions - Enterprise Information Technology

Budget Entity Providing Service to All State Agencies	Agency Schedule 8B	Senate Proposed Reduction FY 2011-12
<u>Northwood Shared Resource Center (Primary Data Center)</u>		
1 Data Center Consolidation Savings	(1,275,867)	(1,275,867)
2 Utility Computing Savings		(104,000)
3 Operational Efficiencies	(677,066)	(677,066)
<u>Southwood Shared Resource Center (Primary Data Center)</u>		
1 Mainframe Application Consolidation Savings	(700,000)	(2,000,000)
		(3,000,000 to
2 Utility Computing Savings	(600,000)	6,000,000)
3 Operational Efficiencies	(1,916,072)	(1,916,072)
4 Data Center Consolidation Savings		(2,242,447)
5 Email - Enterprise Solution Savings		<i>TBD</i>
<u>Department of Management Services - Division of Telecommunications</u>		
1 My FloridaNet Contract Renewal Savings		(1,920,564)
<u>Northwest Regional Data Center (Primary Data Center)</u>		
1 Data Center Consolidation Savings		(526,442)
	Total Savings*	(16,662,458)
	(5,169,005)	

*Savings will result in reduced billings to state agency customers

Southwood Shared Resource Center

- ❑ Established in 2008 with SB 1892
 - ❑ Formally, Department of Management Services shared data center
- ❑ State-owned, Tier III (“Continuous Operation”) facility
 - ❑ 100% Criminal Justice Information Services (CJIS) Certified
 - ❑ 12,000 SQ FT raised floor, 80% occupied
- ❑ Offering six cost-recovered service platforms
 - ❑ FY11: \$20.6 budget , 97 State, 5 contract employees
 - ❑ 50 State and non-State customers

Agency for Healthcare Administration	Department of Management Services
Agency for Healthcare Administration	DMS - Florida Retirement System
Agency for Persons with Disabilities	DMS - MyFlorida Market Place
Agency for Workforce Innovation	DMS - Network
Children's Home Society	DMS - People First
Department of Business & Professional Regulation	DMS -Public Employees Relations Commission (PERC)
Department of Children & Families	Executive Office of the Governor (LAN Equipment)
Department of Community Service	Executive Office of the Governor (LAS/PBS)
Department of Education	Fish & Wildlife Commission
Department of Elder Affairs	Florida Commission on Human Relations
Department of Health	Florida Parole Commission
Department of Highway Safety - Motor Vehicles	Guardian Ad-Litem
Department of Juvenile Justice	Northwest Florida Water Mangement District
Department of Lottery - Edge Server Hosting	Public Service Commission
Department of Revenue	Santa Rosa County
Department of State - DR Equipment (FVRS)	State Board of Administration
	Suwannee River Water Management



Utility-based (Cloud) Computing

- SSRC staff and Board initiated this project
 - Customer/Board committee established requirements
 - SSRC offered \$600k savings in Schedule VIII-B
 - Project is aggressive in efforts to save cost and improve reliability
 - Improved standards and processes will increase the savings
 - Managed infrastructure hardware inventory
 - Virtualized operating systems
 - Database “clusters”
 - Enterprise application sharing
 - State-wide network strategy to support PDCs
 - Eventual separation of application and infrastructure
 - Primary Data Centers helping agencies migrate to standards

- Project started with four goals
 - No capital investment
 - Equal or less cost of service
 - Improved service agility and delivery speed
 - Standard, shared, and uniformly supported infrastructure

- Multiple solicitations will be required
 - First RFQ solicited 200+ *State Contract* vendors
 - Fourteen vendors responded to first RFQ

Northwood Shared Resource Center

- Established in 2009 with SB 2574
 - Formerly, Department of Children and Families Data Center
- 90 State and 18 contract employees, 24X7 coverage
- Tier 2.0 facility, 36,000 SQFT raised floor, 50% occupied
- Currently provide data processing services to eight agencies with over 56 program areas such as:

<u>AGENCIES</u>	<u>PROGRAMS</u>
□ Department of Children & Families	Family Safety (FSFN), ACCESS Florida (Medicaid, Cash & Food Assistance, Mental Health, Substance Abuse)
□ Department of Revenue	Child Support Enforcement
□ Department of Health	Women, Infants and Children (WIC)
□ Department of State	Elections, Corporations, Libraries, Historical Resources
□ Agency for Persons w/ Disabilities	Consumer Directed Care Plus (CDC+), iBUDGET
□ Department of Juvenile Justice	Juvenile Justice Information System (JJIS)
- 100% Criminal Justice Information Services (CJIS) Certified
- Consolidate Department of Transportation – Motor Carrier Compliance, DCF Winewood and Highway Safety & Motor Vehicles by June, 2012.

Agency for Enterprise Information Technology

■ Agency Goals and Objectives

- The Agency's statutory goals for this fiscal year are outlined in the *2010 Operational Work Plan*. In summary of Ch. 14.204 and 282.318, Florida Statutes (F.S.), the agency has the following duties and responsibilities:
 - *Develop, monitor and recommend strategies for the design, delivery and management of enterprise information technology (IT) services established in law.*
 - Facilitate and Plan Consolidation into State Data Center System.
 - Facilitate the creation of an Enterprise E-mail System.
 - Implement Information Security as an Enterprise Service.
 - *Plan and Monitor Information Technology Security.*
 - Create Information Technology security policies and rules for the enterprise.
 - Provide Information Security training opportunities to security and audit personnel within the enterprise.
 - *Enterprise Procurement*
 - Coordinate with Department of Management Services on procurement of enterprise IT hardware and software.
 - Work with the DMS Division of Purchasing to establish best practices for the procurement of IT products.
 - Develop standards for enterprise information technology services;

Enterprise E-mail

■ Enterprise E-mail – History

- E-mail became an enterprise service in 2009.
- AEIT submitted recommendations for a statewide e-mail project to the Governor and Legislature on 12/31/2009.
- Workgroups led by AEIT developed and delivered:
 - Business requirements specification for a consolidated statewide e-mail system.
 - Baseline technical architecture for an enterprise email solution.
 - Estimates for e-mail costs over the past 6 years and estimates for the costs over the next 5 years.
 - Procurement instrument draft and specifications for DMS to use when purchasing the e-mail system.
- Coordinated the development and release of ITN DMS-10/11-002 Enterprise E-mail Services.

Enterprise E-mail

■ Enterprise E-mail – Current Status

- Negotiations are currently underway with three Vendors (ACS, Dell, HP).
- AEIT has finalized its data collection efforts of existing and future estimated e-mail costs and is documenting their findings.
- AEIT is leading agencies' resources in the development of a business case analysis containing its recommendations for procuring the service.
- AEIT's analysis data focused on compressing implementation timeframe from four to two fiscal years.

■ Enterprise E-mail – Roadmap

- Negotiations completion – within the next 1 month.
- Business case completion – within 1 month after negotiations are completed.
- Implementation plan/ project schedule – completion by July 1, 2011.
- 2011 Governor's budget implementing bill recommends compressing the 4 year project timeline to 2 years; complete statewide migration to system by July 2013.
- AEIT working towards a system "go live" date of one year from contract signature.

Enterprise E-mail

■ Enterprise E-mail Benefits

- Reduce the cost of the email service
 - Currently 115,000 mailboxes at \$9 per mailbox (approx. \$10.4 million annually)
- Single email system and addressing for all state agencies
- Cost predictability & cost transparency for budgeting
- Value based decision making with pay as we go pricing
- No capital costs or new appropriations
- Move to cloud-based computing makes further consolidation faster and cheaper – Desktop and Helpdesk
- Standardized services levels statewide
- Access email from anywhere
- Availability of common email archiving
 - Facilitates e-mail public records requests
 - De-duplicated storage to minimize ongoing storage costs

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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 Budget Committee

BILL: CS/SM 214

INTRODUCER: Senate Committee on Community Affairs and Senator Gaetz

SUBJECT: Deepwater Horizon Oil Spill/Tax Relief

DATE: March 4, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gizzi	Yeatman	CA	Fav/CS
2.	Martin	Meyer, R.	BTA	Favorable
3.	Martin	Meyer, C.	BC	Favorable
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

On April 20, 2010, the Transocean drilling rig known as Deepwater Horizon exploded in the Gulf of Mexico with the loss of 11 missing and presumed dead crewmembers. An estimated 4.2 million barrels of crude oil spilled from the well into the Gulf waters before it was capped on July 15, 2010.

CS/SM 214 urges Congress to support certain tax-relief provisions of H.R. 5699 and S. 3934, introduced in the 111th Congress, or similar legislation relating to the Deepwater Horizon Oil Spill of 2010.

II. Present Situation:

Initial Deepwater Horizon Explosion

At approximately 10:00 p.m. on April 20, 2010, the Transocean drilling rig known as Deepwater Horizon exploded in the Gulf of Mexico with the loss of 11 missing and presumed dead crewmembers.¹ With the resulting leakage of crude oil and natural gas from the well site, the

¹ Wall Street Journal, Deepwater Horizon Rig Disaster – Timeline, available at <http://online.wsj.com/article/SB1000142405274870430230457521388355525958.html> (last visited 12/20/2010).

Deepwater Horizon disaster is now considered by many to be the largest single environmental disaster in United States history.

At the time of the explosion, the Deepwater Horizon rig was moored approximately 45 miles southeast of the Louisiana coast. Drilling operations were being conducted at a sea depth of 5,000 feet and had progressed more than 18,000 feet below the sea floor where commercial oil deposits were discovered. The site, known as the Mississippi Canyon Block 252, is estimated to hold as much as 110 million barrels of product.²

On April 22, 2010, the Deepwater Horizon rig capsized and sank. Two days later, underwater cameras detected crude oil and natural gas leaking from the surface riser pipes attached to the well-head safety device known as the blowout preventer. The blowout preventer malfunctioned and failed to shut off flow out of the well-head.

Initial estimates assessed leakage at 1,000 barrels per day. The estimate was subsequently revised to 5,000 barrels per day.³ Estimates about the flow rate from the broken well were a subject of controversy, with various scientists calculating different rates from the official government estimates. The actual daily rate of leakage was somewhere between 35,000 and 60,000 barrels per day. “The emerging consensus is that roughly five million barrels of oil were released by the Macondo well, with roughly 4.2 million barrels pouring into the waters of the Gulf of Mexico.”⁴ As of August 26, 2010, 2,000 tons (500,000 gallons) of oil had been recovered from Florida’s shoreline.⁵

Florida Response

Governor Crist declared a state of emergency on April 30, 2010, as a result of the spreading oil spill in the Gulf of Mexico and included Escambia, Santa Rosa, Okaloosa, Walton, Bay and Gulf counties in the emergency declaration.⁶ The initial executive order was amended on May 3, 2010, to include Franklin, Wakulla, Jefferson, Taylor, Dixie, Levy, Citrus, Hernando, Pasco, Pinellas, Hillsborough, Manatee, and Sarasota counties.⁷ Subsequently Charlotte, Lee, Collier, Monroe, Dade, Broward, and Palm Beach counties were added to the declaration.⁸

² National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, Staff Working Paper No. 6: Stopping the Spill: The Five-Month Effort to Kill the Macondo Well, available at <http://www.oilspillcommission.gov/sites/default/files/documents/Containment%20Working%20Paper%2011%2022%2010.pdf%20> (last visited 12/22/2010).

³ WSJ.com Deepwater Horizon Rig Disaster – Timeline.

⁴ National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, Staff Working Paper No. 3: The Amount and Fate of the Oil, available at <http://www.oilspillcommission.gov/sites/default/files/documents/Amount%20and%20Fate%20of%20the%20Oil%20Working%20Paper%2010%206%2010.pdf%20> (last visited 12/22/2010). “By initially underestimating the amount of oil flow and then, at the end of the summer, appearing to underestimate the amount of oil remaining in the Gulf, the federal government created the impression that it was either not fully competent to handle the spill or not fully candid with the American people about the scope of the problem.”

⁵ Situation Report #114 (Final), Deepwater Horizon Response, available at http://www.dep.state.fl.us/deepwaterhorizon/files/sit_reports/0810/situation_report114_082610.pdf (last visited 12/23/2010).

⁶ Office of the Governor, Executive Order Number 10-99, dated April 30, 2010.

⁷ Office of the Governor, Executive Order Number 10-100, dated May 3, 2010.

⁸ Office of the Governor, Executive Order Number 10-106, dated May 20, 2010.


Florida’s emergency response system began immediate operations, which continued through the capping of the well.⁹ The cost to Florida in terms of response costs, damage to Florida’s economy and business community, individual workers who have lost jobs, decrease in property values, and restoration of environmental damage remains to be determined and is expected to rise as cleanup and recovery continues.

As reported by the Governor’s Gulf Oil Spill Economic Recovery Task Force at their monthly meeting in October 2010, state and local government institutions in Florida have been granted \$130 million in funding from BP to support environmental response and economic recovery efforts.¹⁰

Award	Amount
1. Response and Recovery Costs	
a. Booming/Consultant Cost	\$40,000,000
b. State Response Cost	\$10,000,000
2. Tourism	\$32,000,000
3. Natural Resource Damage Assessment	\$8,000,000
4. Employment and Training Activities	\$7,000,000
5. Research Impact on Gulf of Mexico	\$10,000,000
6. Mental Health Care	\$3,000,000
7. Fish and Shell Fish Testing and Marketing	\$20,000,000

On December 29, 2010, BP reported that it had invested over \$1 billion in Florida:¹¹

BP Payments and Investments – Florida
December 29, 2010



Florida Government Payments	\$66,600,000
Payments to Individuals and Businesses	\$1,102,800,000
BP Claims Process -- \$81,600,000 ¹	
Gulf Coast Claims Facility -- \$1,021,200,000 ²	
Vessels of Opportunity Payments ³	\$73,200,000
Tourism Grants	\$32,000,000
NRDA Grants	\$8,000,000
Research Grant	\$10,000,000
Behavioral Health	\$3,000,000
Community Contributions	\$300,000
TOTAL	\$1,295,900,000

¹ Through 8-22-2010. ² Through 12-28-2010. ³ Through 12-25-2010.

⁹ The operations transitioned to a monitoring status on August 27, 2010.

¹⁰ Governor’s Gulf Oil Spill Economic Recovery Task Force, created by Executive Order No. 10-101. See the October 28, 2010 Report for detailed information on funding from BP.

¹¹ BP Investments and Payments - Florida, Dec 29, 2010, available at <http://www.floridagulfresponse.com/go/doc/3059/979815/> (last visited on 1/5/11).

Ongoing Response Efforts

While oil leaked from the Deepwater Horizon rig site, efforts were focused both on stopping the leaking well and on recovering and cleaning up the oil that had leaked out.

The spill caused the closure of 88,522 square miles of federal waters to fishing, and affected hundreds of miles of shoreline, bayous, and bays. “At its peak, efforts to stem the spill and combat its effects included more than 47,000 personnel; 7,000 vessels; 120 aircraft; and the participation of scores of federal, state, and local agencies.”¹² BP hired local boats and crews for the Vessels of Opportunity program. Boats and crews participating in the program were paid for their services, which included a variety of activities, including oil recovery, transportation of supplies, wildlife rescue, and boom deployment and recovery. BP reports that about 3,500 vessels were put into service during the life of the program, with thousands of boats deployed on a daily basis, and that over \$500 million was paid across all the Gulf States.¹³ The program concluded in Florida in September 2010. Additionally BP hired locals as part of its cleanup crews on the beaches and shores in Florida; almost 15,000 oil spill related jobs were advertised and 46,486 referrals were made through the Agency for Workforce Innovation and regional workforce boards as of the last situation report by the Department of Environmental Protection on August 26, 2010.¹⁴

From April until July, several efforts were made to stop the flow of oil from the broken well. Most were unsuccessful. Finally, on July 15, 2010, (87 days after the blowout) the leaking well at the Deepwater Horizon site was capped and oil discharge into the ocean was stopped (the “top kill”). On September 19, 2010, 152 days after the April 20 blowout, Admiral Allen announced that the well was “effectively dead,” as the “static kill” was completed (drilling intersected the original well site nearly 18,000 feet below the surface and filled the well with mud and cement).¹⁵ On August 26, 2010, Governor Crist signed an executive order that continued the state of emergency for Escambia, Franklin, Santa Rosa, Okaloosa, Walton, Bay and Gulf counties through October 27, 2010.¹⁶

Once the well was killed, there was further debate on the amount of oil remaining in the Gulf of Mexico. The federal government accounted for 100 percent of the oil through an “Oil Budget” that accounted for oil in 7 categories:¹⁷

- Direct Recovery from Wellhead (17%)
- Burned (5%)
- Skimmed (3%)
- Chemically Dispersed (8%)
- Naturally Dispersed (16%)

¹² America’s Gulf Coast: A Long Term Recovery Plan after the Deepwater Horizon Oil Spill, U.S. Secretary of the Navy, General Ray Mabus, available at http://www.oilspillcommission.gov/sites/default/files/documents/Mabus_Report.pdf%20 (last visited 12/23/2010).

¹³ BP, Florida News, Vessels of Opportunity Program to Close in Florida, available at <http://www.floridagulfresponse.com/go/doc/3059/899263/> (last visited 12/23/2010).

¹⁴ Situation Report #114 (Final).

¹⁵ National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, Staff Working Paper No. 6.

¹⁶ Office of the Governor, Executive Order Number 10-191, dated August 26, 2010.

¹⁷ As of August 4, 2010. National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, Staff Working Paper No. 3.

- Evaporated or Dissolved (25%)
- Residual (or “remaining”) (26%)

Some scientific reports found that there was a large underwater plume of oil unaccounted for by the government Oil Budget; additionally, surrounding the well site, some scientists have found that the plume contains high concentrations of natural gas. Other reports found oil lying on or mixed into the sediments of the ocean floor.¹⁸ As recently as October 2010, underwater deposits of oil and tar were found in Pensacola Pass.¹⁹

Net Operating Loss Carryback Period

Legislation was introduced in Congress to allow any taxpayer who has a qualified oil-spill loss to use a federal 5-year net operating loss carryback for federal tax purposes.²⁰ Under current law, the net operating loss carryback period allows businesses to amend tax returns from the previous 2 years to account for losses and receive a refund for past taxes paid.

Legislation was also introduced in Congress seeking to enact law that would allow fishing- and tourism-related businesses to carry back their losses from the oil spill for an additional 3 taxable years (“Gulf Coast net operating loss carryback”).²¹ The Gulf Coast net operating loss carryback would allow Gulf Coast fishing- and tourism-related businesses with \$5 million or less in revenue to look back 5 years. Losses otherwise eligible for the carryback period would be reduced by any amounts the business receives from BP for lost profits and earning capacity.

Congress previously enacted a similar rule for businesses following Hurricane Katrina in 2005 and the Midwestern storms, tornadoes, and floods in 2009. Farming losses permanently qualify for a 5-year carryback period.

Housing Stipends

Individuals employed in the cleanup efforts of the Deepwater Horizon Oil Spill were eligible for housing stipends to cover lodging expenses acquired during the course of their employment. Under Federal law, housing allowances are generally treated as taxable income, unless specifically excluded under the IRS Code (i.e. clergy, military).²² Certain employers with a trade or business located in the Gulf Oil Spill Recovery Zone have paid housing stipends during the Deepwater Horizon Oil Spill cleanup process. Currently, there is no available data indicating how much has been paid in housing stipends.²³

¹⁸ As of September 2010. National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, Staff Working Paper No. 6.

¹⁹ [Oil Spill: BP Targets Submerged Oil](http://www.pnj.com/article/20101115/NEWS01/11150309/Oil-Spill-BP-targets-submerged-oil), Pensacola News Journal, November 15, 2010, available at <http://www.pnj.com/article/20101115/NEWS01/11150309/Oil-Spill-BP-targets-submerged-oil> (last visited 12/23/2010).

²⁰ H.R.5699, introduced by Representative Jeff Miller in the 111th Congress.

²¹ Senator Nelson introduced an amendment to H.R. 4213 to achieve this purpose; see also, S. 3934, sponsored by Senators Wicker (MS), Cochran (MS), and Vitter (LA).

²² U.S. Department of Treasury, Internal Revenue Service, Publication 517, Social Security and Other Information for Members of the Clergy and Religious Workers, available at <http://www.irs.gov/faqs/faq/0..id=199753.00.html> See also Publication 3, Armed Forces Tax Guide, at 4, available at <http://www.irs.gov/pub/irs-pdf/p3.pdf> (last visited on 1/6/2011).

²³ Email from Michelle Dennard to Joyce Pugh, Florida Senate Committee on Commerce and Tourism (Jan. 6, 2011) (on file with the Senate Committee on Community Affairs).

Work Opportunity Tax Credit

The Work Opportunity Tax Credit (WOTC) is a federal income tax credit program administered by the U.S. Department of Labor and the state workforce agencies (in Florida, the state workforce agency is the Agency for Workforce Innovation). “The main objective of this program is to enable the targeted employees to gradually move from economic dependency into self-sufficiency as they earn a steady income and become contributing taxpayers, while the participating employers are compensated by being able to reduce their federal income tax liability.”²⁴ The WOTC is intended to lower an employer’s cost of doing business.

Employers must request and receive certification from the state workforce agency before claiming a WOTC on federal income tax returns. The state workforce agency is responsible for certifying that the employee is a new hire that is a member of one of the WOTC target groups consisting of individuals who have consistently faced significant barriers to employment. There are several target groups for this tax credit:

- Qualified Temporary Assistance to Needy Families Recipients
- Qualified Veterans/Disabled Veterans
- Qualified Ex-felons
- Designated Community Residents residing in an Empowerment Zone (Hurricane Katrina victims)
- Vocational Rehabilitation Referrals
- Qualified Summer Youths
- Qualified Food Stamp Recipients
- Qualified Supplemental Security Income Recipients
- Long-Term Family Assistance Recipients
- Qualified Unemployed Veterans
- Qualified Disconnected Youth

For most target groups, the WOTC can be as much as \$2,400, which is based on qualified wages paid to the new employee for the first year of employment. Generally, qualified wages are capped at \$6,000. The credit is 25% of qualified first-year wages for those employed at least 120 hours and 40% for those employed 400 hours or more. To qualify employers for the WOTC, the new hire must begin work after December 31, 2005, and before September 1, 2011.²⁵ There is no limit to the number of qualified employees for which an employer can take the credit.

Congress has enacted a special WOTC for certain impacted groups in the past. After Hurricane Katrina, hired employees that were victims of Hurricane Katrina were eligible for the WOTC.

Tax Penalties on Early Withdrawals of Retirement Plans

Most retirement distributions that are paid from a qualified retirement plan or nonqualified (deferred) annuity contract to a participant before he/she reaches the age 59½, are subject to a

²⁴ For more information, see U.S. Department of Labor – Work Opportunity Tax Credit, available at <http://www.doleta.gov/business/incentives/opptax/> (last visited 1/4/2011); and Agency for Workforce Innovation, Office of Workforce Services – Work Opportunity Tax Credit Program Fact Sheet, available at http://floridajobs.org/wotc/WOTC_QuickFacts_March2009.pdf (last visited 1/4/2011).

²⁵ U.S. Department of Labor – Work Opportunity Tax Credit Brochure, available at http://www.doleta.gov/business/incentives/opptax/PDF/WOTC_Program_ARRA_Brochure.pdf (last visited 1/4/2011).

10% additional tax penalty for early withdrawal.²⁶ This additional tax only applies to the portion of the distribution that the participant must include in his/her gross income, and does not apply to any portions of a distribution that are tax free, or for “corrective distributions of excess deferrals, excess contributions, or excess aggregate contributions.”²⁷

According to the Internal Revenue Service (IRS), a qualified retirement plan includes:

- A qualified employee plan
 - Including a qualified cash or deferred arrangement (CDA) under the Internal Revenue Code section 401(k),
- A qualified employee annuity plan,
- A tax-sheltered annuity plan (403(b) plan), or
- An eligible state or local government section 457 deferred compensation plan
 - To the extent that any distribution is attributable to amounts the plan received in a direct transfer or rollover from one of the other plans listed here or an IRA.²⁸

Deferred annuity contracts that are otherwise subject to the additional 10% tax penalty for early distributions may receive a 5% tax rate instead. “This 5% tax rate applies to distributions under a written election providing a specific schedule for the distribution of [the participant’s] interest in the contract if, as of March 1, 1986, [the participant] had begun receiving payments under the election.”²⁹

Exceptions to the Early Withdrawal Tax Penalty

There are certain exceptions to the early distribution tax penalty, depending upon the type of retirement plan. Beginning with general exceptions, the 10% additional tax penalty does not apply to early distributions that are:

- Part of a series of substantially equal periodic payments that are made at least annually, for the participant’s life or life expectancy, or joint lives or joint life expectancies of the participant and his/her designated beneficiary,³⁰
- Made because the participant is totally and permanently disabled, or
- Made on or after the death of the plan participant or contract holder.³¹

The IRS also outlines additional exceptions that specifically apply to distributions from qualified retirement plans; these include early distributions that are:

- From a qualified retirement plan after the plan participant’s separation from service in or after the year he/she reaches age 55 (or age 50 for qualified public safety employees),
- From a qualified retirement plan to an alternate payee under a qualified domestic relations order,

²⁶U.S. Department of Treasury, Internal Revenue Service, Publication 575, Pension and Annuity Income: Special Additional Taxes, Taxes on Early Distributions, at 30 available at <http://www.irs.gov/pub/irs-pdf/p575.pdf> (last visited 1/5/2011).

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.* (alteration in original).

³⁰ The IRS publication notes that if the distribution is “from a qualified retirement plan, the payments must begin after separation from service”.

³¹ Information obtained from the U.S. Department of Treasury, *See supra* note 23, at 31 (alteration in original) (citation omitted).

- From a qualified retirement plan that are equal to, or less than the participant's deductible medical expenses (the amount of your medical expenses that is more than 7.5% of your adjusted gross income), whether or not the participant itemizes his/her deductions,
- From an employer plan under a written election that provides a specific schedule for distributions of the participant's interest if, as of March 1, 1986, the participant had separated from service and begun receiving payments under the election,
- From an employee stock ownership plan, for dividends on employer securities held by the plan,
- From a qualified retirement plan due to an IRS levy of the plan,
- From elective deferral accounts under 401(k) or 403(b) plans, or similar arrangements, that are qualified reservist distributions,
- From a governmental defined benefit pension plan to a public safety employee, and
- Provided to qualified reservists.³²

Additional exceptions that apply specifically to nonqualified annuity contracts include early distributions from a(n):

- Deferred annuity contract to the extent allocable to investment in the contract prior to August 14, 1982,
- Deferred annuity contract under a qualified personal injury settlement,
- Deferred annuity contract purchased by the participant's employer upon termination of a qualified employee plan or qualified employee annuity plan and held by the employer until the participant's separation from service, and
- Immediate annuity contract.³³

Federal Cap on Deductions for Charitable Contributions

Taxpayers are permitted to deduct the value of charitable contributions that are made to qualified organizations from their income taxes. The IRS outlines five types of organizations that can constitute as a qualified organization:

- Community chests, corporations, trusts, funds, or foundations that are organized under the laws of the United States, any state, or the District of Columbia that is organized and operated for the following purposes:
 - Religion, charity, education, science, literary, and for the prevention of cruelty to children or animals.
- War veterans' organizations.
- Domestic fraternal societies, orders and associations operating under the lodge system.
- Certain nonprofit cemetery companies/corporations.
- The United States, any state, the District of Columbia, a U.S. possession or a political subdivision therein, or an Indian tribal government or subdivision performing governmental functions.³⁴

The Federal Government limits the amount of charitable contributions certain taxpayers can deduct from their income taxes, depending upon the taxpayer and the type of charity or

³² Information obtained from the U.S. Department of Treasury, *See supra* note 23 (alteration in original) (citation omitted).

³³ *Id.*

³⁴ Information obtained from the U.S. Department of Treasury, Internal Revenue Service, Publication 526, Charitable Contributions, available at <http://www.irs.gov/pub/irs-pdf/p526.pdf> (last visited on 1/5/2011).

organization. As of 2009, this charitable contribution limit applies to taxpayers who have an adjusted gross income that is more than \$166,800 or \$83,400 for married taxpayers who file separately.³⁵

Generally the federal cap on deductions for charitable contributions is 50%, meaning that the taxpayer's charitable contributions cannot exceed more than 50% of his or her gross income for that year.³⁶ According to the IRS, the following organizations are classified as 50% limit organizations, of which the 50% cap applies:

1. Churches, and conventions or associations of churches.
2. Educational organizations with a regular faculty and curriculum that normally have a regularly enrolled student body that attends classes on site.
3. Hospitals and certain medical research organizations associated with hospitals.
4. Organizations that operate only to receive, hold, invest, and administer property and to make expenditures to, or for the benefit of, state and municipal colleges and universities that normally receive substantial support from the U.S., any state, or political subdivisions therein, or from the general public.
5. The U.S. or any state, the District of Columbia, a U.S. possession or a political subdivision thereof, or an Indian tribal government or any of its subdivisions performing substantial governmental functions.
6. "Publicly supported"³⁷ corporations, trusts, or community chests, funds, or foundations organized and operated only for charitable, religious, educational, scientific, or literary purposes, or to prevent cruelty to children or animals, or to foster certain national or international amateur sports competition.
7. Organizations that may not qualify as "publicly supported", but that meet other tests showing they respond to the needs of the general public, not a limited number of donors or other persons.
8. Most organizations operated or controlled by, and operated for the benefit of, those organizations described herein.
9. Private operating foundation.
10. Private non-operating foundations that make qualifying distributions of 100% of contributions within 2½ months following the year they receive the contribution.
11. A private foundation whose contributions are pooled into a common fund, if the foundation would be described in (8) above but for the right of substantial contributors to name the public charities that receive contributions from the fund.³⁸

Charitable gifts to organizations that are not amongst the list of 50% limit organizations, such as "veterans' organizations, fraternal societies, nonprofit cemeteries and certain private non-operating foundations" have a lower deduction limit of 30%.³⁹

³⁵ *Id.* at 13.

³⁶ *Id.*

³⁷ The IRS defines "publicly supported" organization to mean that the organization "normally must receive a substantial part of their support, other than income from their exempt activities, from direct or indirect contributions from the general public or from governmental units". *See supra* note 31, at 13.

³⁸ Information obtained from the U.S. Department of Treasury, *supra* note 31, at 13-14 (alteration in original) (citation omitted).

³⁹ *Id.* at 14.

Gifts of property that would otherwise be subject to capital gains taxes are treated differently by the IRS. Gifts of capital gains property that are provided to a 50% limit organization have a 30% cap, whereas gifts to non-50% limit organizations, have a 20% cap.⁴⁰

Taxpayers that have provided charitable contributions that exceed the adjusted gross income limit for the year are permitted to “carryover” any excess contributions over the next 5 years until the excess amount is used up.⁴¹

III. Effect of Proposed Changes:

CS/SM 214 urges Congress to support certain tax-relief provisions of H.R. 5699 and S. 3934, introduced in the 111th Congress, or similar legislation relating to the Deepwater Horizon Oil Spill of 2010. Specifically, the memorial urges Congress to adopt the following provisions:

- Exempt from federal taxation as income, any insurance payouts arising from the oil spill, and payments for damages attributable to the oil spill under s. 1002 of the Oil Pollution Act of 1990, 33 U.S.C. 2702, which were reinvested in the Oil Spill Recovery Zone;
- Recognize any taxpayer who has a qualified oil-spill loss as eligible to use the federal 5-year net operating loss carryback for federal tax purposes;
- Exempt from federal taxation, the housing stipends paid to persons who are employed in the cleanup efforts, and award a tax credit to employers who paid the stipends;
- Award an Employee Retention Tax Credit to qualified employers in the affected Gulf Coast area;
- Waive the tax penalty on early withdrawals of certain retirement plans if the proceeds are used as specified;
- Relax the cap on federal deductions for charitable contributions dedicated to the cleanup efforts; and
- Award a Work Opportunity Tax Credit for the hiring of qualified recovery zone employees.

Copies of the memorial are to be distributed to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

⁴⁰ *Id.*

⁴¹ *Id.* at 17.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

If Congress were to enact legislation supported by the memorial, individuals and businesses in Florida would receive certain federal tax reliefs provided therein.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

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 Senate Committee on Community Affairs on January 11, 2011:

Specifies that the memorial is addressing H.R. 5699 and S. 3934, which were initiated in the 111th Congress, or similar legislation (WITH TITLE AMENDMENT).

B. Amendments:

None.

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 Budget Committee

BILL: SM 216

INTRODUCER: Senator Gaetz

SUBJECT: Deepwater Horizon Oil Disaster/Federal Income Tax

DATE: March 4, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gizzi	Yeatman	CA	Favorable
2.	Martin	Meyer, R.	BTA	Favorable
3.	Martin	Meyer, C.	BC	Favorable
4.				
5.				
6.				

I. Summary:

On April 20, 2010, the Transocean drilling rig known as Deepwater Horizon exploded in the Gulf of Mexico with the loss of 11 missing and presumed dead crewmembers. An estimated 4.2 million barrels of crude oil spilled from the well into the Gulf waters before it was capped on July 15, 2010. BP, p.l.c. (“BP”), and the Gulf Coast Claims Facility have been making payments to individuals and business negatively impacted by the oil spill.

SM 216 urges Congress to enact legislation that gives tax relief to individuals and businesses affected by the Deepwater Horizon oil spill. Specifically, Congress is requested to:

- Exempt claim payments from BP or the Gulf Coast Claims Facility from federal income taxes; and
- Extend the net operating loss carryback for fishing- and tourism-related businesses for an additional 3 taxable years (from 2 years to 5 years), which would allow businesses with \$5 million or less in revenues to amend tax returns from the previous 5 years and receive a refund for taxes paid.

II. Present Situation:

Deepwater Horizon Oil Spill

At approximately 10:00 p.m. on April 20, 2010, the Transocean drilling rig known as Deepwater Horizon exploded in the Gulf of Mexico with the loss of 11 missing and presumed dead crewmembers.¹ With the resulting leakage of crude oil and natural gas from the well site, the

¹ Wall Street Journal, Deepwater Horizon Rig Disaster – Timeline, available at <http://online.wsj.com/article/SB1000142405274870430230457521388355525958.html> (last visited 12/20/2010).

Deepwater Horizon disaster is now considered by many to be the largest single environmental disaster in United States history.

At the time of the explosion, the Deepwater Horizon rig was moored approximately 45 miles southeast of the Louisiana coast. Drilling operations were being conducted at a sea depth of 5,000 feet and had progressed more than 18,000 feet below the sea floor where commercial oil deposits were discovered. The site, known as the Mississippi Canyon Block 252, is estimated to hold as much as 110 million barrels of product.²

On April 22, 2010, the Deepwater Horizon rig capsized and sank. Two days later, underwater cameras detected crude oil and natural gas leaking from the surface riser pipes attached to the well-head safety device known as the blowout preventer. The blowout preventer malfunctioned and failed to shut off flow out of the well-head.

Initial estimates assessed leakage at 1,000 barrels per day. The estimate was subsequently revised to 5,000 barrels per day.³ Estimates about the flow rate from the broken well were a subject of controversy, with various scientists calculating much different rates from the official government estimates. The actual daily rate of leakage was somewhere between 35,000 and 60,000 barrels per day. “The emerging consensus is that roughly five million barrels of oil were released by the Macondo well, with roughly 4.2 million barrels pouring into the waters of the Gulf of Mexico.”⁴ As of August 26, 2010, 2,000 tons (500,000 gallons) of oil had been recovered from Florida’s shoreline.⁵

From April until July 2010, several efforts were made to stop the flow of oil from the broken well. Most were unsuccessful. Finally, on July 15, 2010, (87 days after the blowout) the leaking well at the Deepwater Horizon site was capped and oil discharge into the ocean was stopped (the “top kill”). On September 19, 2010, 152 days after the April 20 blowout, Admiral Allen announced that the well was “effectively dead,” as the “static kill” was completed (drilling intersected the original well site nearly 18,000 feet below the surface and filled the well with mud and cement).⁶

² National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, Staff Working Paper No. 6: Stopping the Spill: The Five-Month Effort to Kill the Macondo Well, available at <http://www.oilspillcommission.gov/sites/default/files/documents/Containment%20Working%20Paper%2011%2022%2010.pdf%20> (last visited 12/22/2010).

³ WSJ.com Deepwater Horizon Rig Disaster – Timeline.

⁴ National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, Staff Working Paper No. 3: The Amount and Fate of the Oil, available at <http://www.oilspillcommission.gov/sites/default/files/documents/Amount%20and%20Fate%20of%20the%20Oil%20Working%20Paper%2010%206%2010.pdf%20> (last visited 12/22/2010). “By initially underestimating the amount of oil flow and then, at the end of the summer, appearing to underestimate the amount of oil remaining in the Gulf, the federal government created the impression that it was either not fully competent to handle the spill or not fully candid with the American people about the scope of the problem.”

⁵ Situation Report #114 (Final), Deepwater Horizon Response, available at http://www.dep.state.fl.us/deepwaterhorizon/files/sit_reports/0810/situation_report114_082610.pdf (last visited 12/23/2010).

⁶ National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, Staff Working Paper No. 6.

Florida Response

Governor Crist declared a state of emergency on April 30, 2010, as a result of the spreading oil spill in the Gulf of Mexico and included Escambia, Santa Rosa, Okaloosa, Walton, Bay and Gulf counties in the emergency declaration.⁷ The initial executive order was amended on May 3, 2010, to include Franklin, Wakulla, Jefferson, Taylor, Dixie, Levy, Citrus, Hernando, Pasco, Pinellas, Hillsborough, Manatee, and Sarasota counties.⁸ Subsequently Charlotte, Lee, Collier, Monroe, Dade, Broward, and Palm Beach counties were added to the declaration.⁹

Florida's emergency response system began immediate operations, which continued through the capping of the well.¹⁰ The cost to Florida in terms of response costs, damage to Florida's economy and business community, individual workers who have lost jobs, decrease in property values, and restoration of environmental damage remains to be determined and is expected to rise as cleanup and recovery continues.

On December 29, 2010, BP reported that it had invested over \$1 billion in Florida:¹¹

BP Payments and Investments – Florida December 29, 2010	
Florida Government Payments	\$66,600,000
Payments to Individuals and Businesses	\$1,102,800,000
BP Claims Process -- \$81,600,000 ¹	
Gulf Coast Claims Facility -- \$1,021,200,000 ²	
Vessels of Opportunity Payments ³	\$73,200,000
Tourism Grants	\$32,000,000
NRDA Grants	\$8,000,000
Research Grant	\$10,000,000
Behavioral Health	\$3,000,000
Community Contributions	\$300,000
TOTAL	\$1,295,900,000



¹ Through 8-22-2010. ² Through 12-28-2010. ³ Through 12-25-2010.

Responsibility and Payment of Claims

BP was the operator of Deepwater Horizon and has recognized its role as the principal responsible party for the disaster. BP pledged to fully cover the cost of response, recovery, and damages.

⁷ Office of the Governor, Executive Order Number 10-99, dated April 30, 2010.

⁸ Office of the Governor, Executive Order Number 10-100, dated May 3, 2010.

⁹ Office of the Governor, Executive Order Number 10-106, dated May 20, 2010. On August 26, 2010, Governor Crist signed an executive order that continued the state of emergency for Escambia, Franklin, Santa Rosa, Okaloosa, Walton, Bay and Gulf counties through October 27, 2010. Office of the Governor, Executive Order Number 10-191, dated August 26, 2010.

¹⁰ The operations transitioned to a monitoring status on August 27, 2010.

¹¹ BP Investments and Payments - Florida, Dec 29, 2010, available at <http://www.floridagulfresponse.com/go/doc/3059/979815/> (last visited on 1/5/11).

Under the Oil Pollution Act of 1990 (OPA) “responsible parties,” including lessees of offshore facilities, are strictly liable for removal costs and certain damages resulting from a spill. However, OPA caps liability for damages from a spill from an offshore facility to \$75 million per incident, except in limited circumstances. Through August 2010, BP administered the processing and payment of claims. Under OPA, the responsible parties are responsible for all removal costs and applicable damages incurred by individuals, business, and state and local governments as a result of the oil spill. Claims include: property damage, economic loss, rental income, and bodily injury.

BP also provided interim advance payments to claimants who were not receiving their ordinary income or profit while cleanup was underway, and who demonstrated financial hardship). Additionally, no person asserting a claim or receiving payment for interim benefits was asked or required to sign a release or waive any rights to assert additional claims, to file an individual legal action, or to participate in other legal actions associated with the Deepwater Horizon oil spill.

Agreeing to a request by the President of the United States, BP committed \$20 billion to a trust fund designed to provide compensation for damages incurred by individuals and businesses, as well as for certain government claims. Responsibility for adjudicating individual and business claims against BP to be paid out of this fund was turned over to an independent claims facility run by Kenneth Feinberg, who on August 23, 2010, opened the Gulf Coast Claims Facility to manage the process.¹² From August 23, 2010, through November 23, 2010, claimants could submit claims to the Gulf Coast Claims Facility for “emergency advance payments” to receive emergency relief for damages caused by the oil spill.¹³

Claims covered by the Gulf Coast Claims Facility include:¹⁴

- Removal and clean up costs: costs that result from actions taken to prevent, minimize, mitigate, or cleanup damages or anticipated damages from the oil spill;
- Damages to real or personal property: any physical injury or damage to:
 - Land and buildings, houses, or objects affixed or attached to the land, or
 - Equipment, boats, cars, furniture, or objects not affixed or attached to the land, and any property not considered real property;
- Lost earnings or profits:
 - Lost Earnings: a loss of or reduction in one’s ability to earn wages or income because of the oil spill – for example, if a person was not able to engage in his or her normal job because of the oil spill or made less money than usual because of the oil spill;
 - Lost Profits: loss of income or profits by a business – for example, if a business experienced a temporary or permanent loss or reduction in profits due to the oil spill, or if it was forced to operate under different conditions than those that existed prior to the oil spill;

¹² America’s Gulf Coast: A Long Term Recovery Plan after the Deepwater Horizon Oil Spill, U.S. Secretary of the Navy, General Ray Mabus, available at http://www.oilspillcommission.gov/sites/default/files/documents/Mabus_Report.pdf%20 (last visited 12/23/2010).

¹³ Gulf Coast Claims Facility, Frequently Asked Questions, Section 2, available at <http://gulfoastclaimsfacility.com/faq> (last visited 12/22/2010).

¹⁴ Id. at Section 9.

- Loss of subsistence use of natural resources: when an individual or business can no longer use a natural resource to obtain food, shelter, clothing, medicine, or other minimum necessities of life because the natural resource has been injured, destroyed or lost because of the oil spill – for example, if an individual who uses fish or other wildlife for food but can no longer do so because of the oil spill;
- Physical injury or death: an injury to the body proximately caused by the oil spill or the explosion and fire associated with the Deepwater Horizon incident, or by the cleanup of the oil spill; an injury that relates to emotional or mental health is not a physical injury and is not an eligible claim.

Currently, the Gulf Coast Claims Facility is offering claimants a “quick payment final claim” of \$5,000 for individuals and \$25,000 for businesses without having to submit any more documentation or undergo further claim review; however the quick payment also requires the claimant to sign a release and covenant not to sue. This payment option requires a claimant to release and waive any claims against BP and all other potentially responsible parties with regard to the oil spill or to submit any claim for payment to the National Pollution Funds Center, the Coast Guard office responsible for evaluating and approving Oil Pollution Act claims.¹⁵

Claimants can also seek a “full review final payment.” This option pays for all past and future losses caused by the oil spill. Again, with the full review final payment the claimant must sign a release that releases all of the claimant’s past and future damages in exchange for a liquidated amount. Additionally, certain types of payments that claimants may have received will be deducted from the final payment amount, including:

- Any prior payments by BP, the Coast Guard, or the Gulf Coast Claims Facility;
- Payments for lost earnings or profits, any amounts received from unemployment compensation, severance pay, or other employment benefit since the oil spill;
- Amounts received from insurance or other programs as replacement income;
- Amounts received from insurance for losses on injuries (for claims for removal and clean up costs, damage to real or personal property, loss of subsistence use of natural resources, or physical injury or death); and
- Amounts needed to pay any liens, garnishments, or other attachments received by the Gulf Coast Claims Facility on the claimant.

However, amounts a claimant has received from charities will not be deducted from the full review final payment.¹⁶

Claimants can also seek interim payment claims, which are paid once a quarter for documented past losses caused by the oil spill. These types of payments are available under the Gulf Coast Claims Facility program concludes on August 22, 2013. Also, claimants receiving these payments do not have to sign releases.¹⁷

¹⁵ Id. at Section 3.

¹⁶ Id. at Section 4.

¹⁷ Id. at Section 5.

As of January 4, 2011, the Gulf Coast Claims Facility has processed approximately 469,374 claims and paid out an estimated \$2.89 billion. In Florida:¹⁸

Gulf Coast Claims Facility – Florida Statistics		
Total Claims (who may have more than one claim type):		<u>156,677</u>
• Individual Claims:		122,426
• Business Claims:		34,251
	Amount Paid	Number of Claims
Totals:	\$1,095,431,476	81,296
Total Individual Claims Paid:	\$437,618,200	58,683
Total Business Claims Paid:	\$657,813,276	22,613
Removal and Cleanup Costs:	\$138,000	23
Real or Personal Property:	\$187,100	40
Lost Earning or Profits:	\$1,095,093,633.14	81,224
Loss of Subsistence Use of Natural Resources:	\$0	0
Physical Injury/Death:	\$12,742.86	9

States, parishes, counties, local governments, and other political subdivisions that incurred expenses responding to the oil spill and oil spill cleanup have a separate dedicated claims process.

Taxes on Claims

The Internal Revenue Service (IRS) has determined that claims paid for lost wages, income, and profits, certain property damages claims, and payments for emotional distress are taxable.¹⁹ When BP was processing the claims itself, company representatives stated that BP would report any claims it pays to the IRS. Additionally, the Gulf Coast Claims Facility website states that it “will report payments made annually to federal and state taxing authorities, using a Form 1099 or state form equivalent.” A copy of that form is also sent to the claimant.²⁰

¹⁸ Gulf Coast Claims Facility, Florida Program Statistics, available at http://www.gulfcoastclaimsfacility.com/GCCF_Florida_Status_Report.pdf (last visited on 1/5/11).

¹⁹ IRS, Gulf Oil Spill Information Center, available at <http://www.irs.gov/newsroom/article/0,,id=224887,00.html> (last visited 12/23/2010).

²⁰ Gulf Coast Claims Facility, Frequently Asked Questions, #67.

On June 15, 2010, Attorney General Bill McCollum sent a letter to U.S. Congressional members asking them to consider legislation that would exempt oil spill claim payments made to Floridians by BP from 2010 federal income taxes.²¹

There is precedence for Congress to exempt payments related to a disaster from the federal income tax. For example, the payments from the September 11 Victim Compensation Fund of 2001 were exempted from taxation.

H.R. 5598, from the 111th Congress, would have exempted oil spill claim payments from taxation. This bill was sponsored by Representatives Melancon (LA), Boyd (FL), and Ros-Lehtinen (FL).

Net Operating Loss Carryback Period

Legislation was also introduced in Congress to enact law that would allow fishing- and tourism-related businesses to carry back their losses from the oil spill for an additional 3 taxable years (“Gulf Coast net operating loss carryback”).²² Under current law, the net operating loss carryback period allows businesses to amend tax returns from the previous 2 years to account for losses and receive a refund for past taxes paid.

The Gulf Coast net operating loss carryback would allow Gulf Coast fishing- and tourism-related businesses with \$5 million or less in revenue to look back 5 years. Losses otherwise eligible for the carryback period would be reduced by any amounts the business receives from BP for lost profits and earning capacity.

Congress previously enacted a similar rule for businesses following Hurricane Katrina in 2005, and the Midwestern storms, tornadoes, and floods in 2009. Farming losses permanently qualify for a 5-year carryback period.

III. Effect of Proposed Changes:

SM 216 urges Congress to enact legislation that gives tax relief to individuals and businesses affected by the Deepwater Horizon oil spill. Specifically Congress is requested to:

- Exempt from federal income tax, those claim payments from BP or the Gulf Coast Claims Facility made to individuals and businesses as a result of the Deepwater Horizon oil disaster for:
 - Lost wages, income, and profits; and
 - Property damage.
- Extend the net operating loss carryback for fishing- and tourism-related businesses for an additional 3 taxable years (from 2 years to 5 years), which would allow fishing- and tourism-related businesses with \$5 million or less in revenues to amend tax returns from the previous 5 years and receive a refund for taxes paid.

²¹ Letter available at [http://myfloridalegal.com/webfiles.nsf/WF/MRAY-86FKCM/\\$file/TaxReliefLtr.pdf](http://myfloridalegal.com/webfiles.nsf/WF/MRAY-86FKCM/$file/TaxReliefLtr.pdf) (last visited 12/23/2010).

²² Senator Nelson introduced an amendment to H.R. 4213 to achieve this purpose; see also, S. 3934, sponsored by Senators Wicker (MS), Cochran (MS), and Vitter (LA).

Copies of the memorial are to be distributed to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

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:

None.

B. Private Sector Impact:

If Congress were to enact legislation supported by this memorial, individuals and businesses in Florida would receive a tax relief.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

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.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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 Budget Committee

BILL: SM 218

INTRODUCER: Senator Gaetz

SUBJECT: Deepwater Horizon Oil Disaster/Penalties

DATE: March 4, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gizzi	Yeatman	CA	Favorable
2.	Martin	Meyer, R.	BTA	Favorable
3.	Martin	Meyer, C.	BC	Favorable
4.				
5.				
6.				

I. Summary:

On April 20, 2010, the Transocean drilling rig known as Deepwater Horizon exploded in the Gulf of Mexico with the loss of 11 missing and presumed dead crewmembers. An estimated 4.2 million barrels of crude oil spilled from the well into the Gulf waters before it was capped on July 15, 2010. The federal government sued nine companies asking that the companies be held liable without limitation under OPA for all removal costs and damages caused by the spill, including damages to natural resources. The lawsuit also seeks civil penalties under the Clean Water Act.

SM 218 urges Congress to enact legislation that permits any civil penalties recovered under the Clean Water Act due to the Deepwater Horizon oil disaster to be distributed in the following manner:

- (1) Deposited into a newly created Gulf Coast Recovery Fund, managed by a Gulf Coast Recovery Council to provide long-term environmental and economic recovery in the Gulf;
- (2) Directed to the five Gulf States to enable each state to pursue their own recovery efforts; and
- (3) Remaining funds deposited into the Oil Spill Liability Trust Fund for future recovery efforts.

II. Present Situation:

Initial Deepwater Horizon Explosion

At approximately 10:00 p.m. on April 20, 2010, the Transocean drilling rig known as Deepwater Horizon exploded in the Gulf of Mexico with the loss of 11 missing and presumed dead

crewmembers.¹ With the resulting leakage of crude oil and natural gas from the well site, the Deepwater Horizon disaster is now considered by many to be the largest single environmental disaster in United States history.

At the time of the explosion, the Deepwater Horizon rig was moored approximately 45 miles southeast of the Louisiana coast. Drilling operations were being conducted at a sea depth of 5,000 feet and had progressed more than 18,000 feet below the sea floor where commercial oil deposits were discovered. The site, known as the Mississippi Canyon Block 252, is estimated to hold as much as 110 million barrels of product.²

On April 22, 2010, the Deepwater Horizon rig capsized and sank. Two days later, underwater cameras detected crude oil and natural gas leaking from the surface riser pipes attached to the well-head safety device known as the blowout preventer. The blowout preventer malfunctioned and failed to shut off flow out of the well-head.

Initial estimates assessed leakage at 1,000 barrels per day. The estimate was subsequently revised to 5,000 barrels per day.³ Estimates about the flow rate from the broken well were a subject of controversy, with various scientists calculating much different rates from the official government estimates. The actual daily rate of leakage was somewhere between 35,000 and 60,000 barrels per day. “The emerging consensus is that roughly five million barrels of oil were released by the Macondo well, with roughly 4.2 million barrels pouring into the waters of the Gulf of Mexico.”⁴ As of August 26, 2010, 2,000 tons (500,000 gallons) of oil had been recovered from Florida’s shoreline.⁵

Florida Response

Governor Crist declared a state of emergency on April 30, 2010, as a result of the spreading oil spill in the Gulf of Mexico and included Escambia, Santa Rosa, Okaloosa, Walton, Bay and Gulf counties in the emergency declaration.⁶ The initial executive order was amended on May 3, 2010, to include Franklin, Wakulla, Jefferson, Taylor, Dixie, Levy, Citrus, Hernando, Pasco,

¹ Wall Street Journal, Deepwater Horizon Rig Disaster – Timeline, available at <http://online.wsj.com/article/SB10001424052748704302304575213883555525958.html> (last visited 12/20/2010).

² National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, Staff Working Paper No. 6: Stopping the Spill: The Five-Month Effort to Kill the Macondo Well, available at <http://www.oilspillcommission.gov/sites/default/files/documents/Containment%20Working%20Paper%2011%2022%2010.pdf%20> (last visited 12/22/2010).

³ WSJ.com Deepwater Horizon Rig Disaster – Timeline.

⁴ National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, Staff Working Paper No. 3: The Amount and Fate of the Oil, available at <http://www.oilspillcommission.gov/sites/default/files/documents/Amount%20and%20Fate%20of%20the%20Oil%20Working%20Paper%2010%206%2010.pdf%20> (last visited 12/22/2010). “By initially underestimating the amount of oil flow and then, at the end of the summer, appearing to underestimate the amount of oil remaining in the Gulf, the federal government created the impression that it was either not fully competent to handle the spill or not fully candid with the American people about the scope of the problem.”

⁵ Situation Report #114 (Final), Deepwater Horizon Response, available at http://www.dep.state.fl.us/deepwaterhorizon/files/sit_reports/0810/situation_report114_082610.pdf (last visited 12/23/2010).

⁶ Office of the Governor, Executive Order Number 10-99, dated April 30, 2010.

Pinellas, Hillsborough, Manatee, and Sarasota counties.⁷ Subsequently Charlotte, Lee, Collier, Monroe, Dade, Broward, and Palm Beach counties were added to the declaration.⁸

Florida’s emergency response system began immediate operations, which continued through the capping of the well.⁹ The cost to Florida in terms of response costs, damage to Florida’s economy and business community, individual workers who have lost jobs, decreases in property values, and restoration of environmental damage remains to be determined and is expected to rise as cleanup and recovery continues.

As reported by the Governor’s Gulf Oil Spill Economic Recovery Task Force at their monthly meeting in October 2010, state and local government institutions in Florida have been granted \$130 million in funding from BP, p.l.c. (“BP”), to support environmental response and economic recovery efforts.¹⁰

Award	Amount
1. Response and Recovery Costs	
a. Booming/Consultant Cost	\$40,000,000
b. State Response Cost	\$10,000,000
2. Tourism	\$32,000,000
3. Natural Resource Damage Assessment	\$8,000,000
4. Employment and Training Activities	\$7,000,000
5. Research Impact on Gulf of Mexico	\$10,000,000
6. Mental Health Care	\$3,000,000
7. Fish and Shell Fish Testing and Marketing	\$20,000,000

On December 29, 2010, BP reported that it had invested over \$1 billion in Florida:¹¹

BP Payments and Investments – Florida	
December 29, 2010	
Florida Government Payments	\$66,600,000
Payments to Individuals and Businesses	\$1,102,800,000
BP Claims Process -- \$81,600,000 ¹	
Gulf Coast Claims Facility -- \$1,021,200,000 ²	
Vessels of Opportunity Payments ³	\$73,200,000
Tourism Grants	\$32,000,000
NRDA Grants	\$8,000,000
Research Grant	\$10,000,000
Behavioral Health	\$3,000,000
Community Contributions	\$300,000
TOTAL	\$1,295,900,000



¹ Through 8-22-2010. ² Through 12-28-2010. ³ Through 12-25-2010.

⁷ Office of the Governor, Executive Order Number 10-100, dated May 3, 2010.

⁸ Office of the Governor, Executive Order Number 10-106, dated May 20, 2010.

⁹ The operations transitioned to a monitoring status on August 27, 2010.

¹⁰ Governor’s Gulf Oil Spill Economic Recovery Task Force, created by Executive Order No. 10-101. See the October 28, 2010, Report for detailed information on funding from BP.

¹¹ BP Investments and Payments - Florida, Dec 29, 2010, available at <http://www.floridagulfresponse.com/go/doc/3059/979815/> (last visited on 1/5/11).

Ongoing Response Efforts

While oil leaked from the Deepwater Horizon rig site, efforts were focused both on stopping the leaking well and on recovering and cleaning up the oil that had leaked out.

The spill caused the closure of 88,522 square miles of federal waters to fishing, and affected hundreds of miles of shoreline, bayous, and bays. “At its peak, efforts to stem the spill and combat its effects included more than 47,000 personnel; 7,000 vessels; 120 aircraft; and the participation of scores of federal, state, and local agencies.”¹² BP hired local boats and crews for the Vessels of Opportunity program. Boats and crews participating in the program were paid for their services, which included a variety of activities, including oil recovery, transportation of supplies, wildlife rescue, and boom deployment and recovery. BP reports that about 3,500 vessels were put into service during the life of the program, with thousands of boats deployed on a daily basis, and that over \$500 million was paid across all the Gulf States.¹³ The program concluded in Florida in September 2010. Additionally BP hired locals as part of its cleanup crews on the beaches and shores in Florida; almost 15,000 oil spill related jobs were advertised and 46,486 referrals were made through the Agency for Workforce Innovation and regional workforce boards as of the last situation report by the Department of Environmental Protection on August 26, 2010.¹⁴

From April until July, several efforts were made to stop the flow of oil from the broken well. Most were unsuccessful. Finally, on July 15, 2010, (87 days after the blowout) the leaking well at the Deepwater Horizon site was capped and oil discharge into the ocean was stopped (the “top kill”). On September 19, 2010, 152 days after the April 20 blowout, Admiral Allen announced that the well was “effectively dead,” as the “static kill” was completed (drilling intersected the original well site nearly 18,000 feet below the surface and filled the well with mud and cement).¹⁵ On August 26, 2010, Governor Crist signed an executive order that continued the state of emergency for Escambia, Franklin, Santa Rosa, Okaloosa, Walton, Bay and Gulf counties through October 27, 2010.¹⁶

Once the well was killed, there was further debate on the amount of oil remaining in the Gulf of Mexico. The federal government accounted for 100 percent of the oil through an “Oil Budget” that accounted for oil in 7 categories:¹⁷

- Direct Recovery from Wellhead (17%)
- Burned (5%)
- Skimmed (3%)
- Chemically Dispersed (8%)
- Naturally Dispersed (16%)

¹² America’s Gulf Coast: A Long Term Recovery Plan after the Deepwater Horizon Oil Spill, U.S. Secretary of the Navy, General Ray Mabus, available at http://www.oilspillcommission.gov/sites/default/files/documents/Mabus_Report.pdf%20 (last visited 12/23/2010).

¹³ BP, Florida News, Vessels of Opportunity Program to Close in Florida, available at <http://www.floridagulfresponse.com/go/doc/3059/899263/> (last visited 12/23/2010).

¹⁴ Situation Report #114 (Final).

¹⁵ National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, Staff Working Paper No. 6.

¹⁶ Office of the Governor, Executive Order Number 10-191, dated August 26, 2010.

¹⁷ As of August 4, 2010. National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, Staff Working Paper No. 3.

- Evaporated or Dissolved (25%)
- Residual (or “remaining”) (26%)

Some scientific reports found that there was a large underwater plume of oil unaccounted for by the government Oil Budget; additionally, surrounding the well site, some scientists have found that the plume contains high concentrations of natural gas. Other reports found oil lying on or mixed into the sediments of the ocean floor.¹⁸ As recently as October 2010, underwater deposits of oil and tar were found in Pensacola Pass.¹⁹

Responsibility and Payment of Claims

BP PLC was the operator of Deepwater Horizon and has recognized its role as the principal responsible party for the disaster. BP pledged to fully cover the cost of response, recovery, and damages.

Under the Oil Pollution Act of 1990 (OPA) “responsible parties,” including lessees of offshore facilities, are strictly liable for removal costs and certain damages resulting from a spill. However, OPA caps liability for damages from a spill from an offshore facility to \$75 million per incident, except in limited circumstances. Through August 2010, BP administered the processing and payment of claims. Under OPA, the responsible parties are responsible for all removal costs and applicable damages incurred by individuals, business, and state and local governments as a result of the oil spill. Claims include: property damage, economic loss, rental income, and bodily injury.

Agreeing to a request by the President of the United States, BP committed \$20 billion to a trust fund designed to provide compensation for damages incurred by individuals and businesses, as well as for certain government claims. Responsibility for adjudicating individual and business claims against BP to be paid out of this fund was turned over to an independent claims facility run by Kenneth Feinberg, who on August 23, 2010, opened the Gulf Coast Claims Facility to manage the process.²⁰

As of January 4, 2011, the Gulf Coast Claims Facility has processed approximately 469,374 claims and paid out an estimated \$2.89 billion; Florida represents over 156,000 of those claims, and about \$1 billion of the funds distributed.²¹

States, parishes, counties, local governments, and other political subdivisions that incurred expenses responding to the oil spill and oil spill cleanup have a separate dedicated claims process.

¹⁸ As of September 2010. National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, Staff Working Paper No. 6.

¹⁹ Oil Spill: BP Targets Submerged Oil, Pensacola News Journal, November 15, 2010, available at <http://www.pnj.com/article/20101115/NEWS01/11150309/Oil-Spill-BP-targets-submerged-oil> (last visited 12/23/2010).

²⁰ America’s Gulf Coast.

²¹ Gulf Coast Claims Facility, Program Statistics, available at <http://gulfoastclaimsfacility.com/reports> (last visited 1/5/2011).

Civil Penalties under Federal Law

Liability for damages from a spill from an offshore facility is capped at \$75 million per incident, except in limited circumstances, under the OPA. On December 15, 2010, the federal government filed suit against BP and 8 other companies asking that the companies be held liable without limitation under OPA for all removal costs and damages caused by the spill, including damages to natural resources. The lawsuit also seeks civil penalties under the Clean Water Act. “Under the Clean Water Act alone, BP faces fines of up to \$1,100 for each barrel of oil spilled. If BP were found to have committed gross negligence or willful misconduct, the fine could be up to \$4,300 per barrel. That means that based on the government's estimate of 206 million gallons (4.2 million barrels) released by the well, BP could face civil fines of between \$5.4 billion and \$21.1 billion.”²² However, BP disputes the estimate of the amount of oil spilled into the Gulf, saying that it is overstated by 20 to 50 percent.²³

The federal Justice Department is also holding a criminal investigation into BP, Transocean, and Halliburton.

“The Clean Water Act civil penalty provision associated with oil spills provides that penalties recovered under the Act must be deposited into the Oil Spill Liability Trust Fund. The Fund, in turn, is designed, among other things, to ensure that there are available funds for cleanup, response, and restoration efforts for future oil spills. The Fund is available to pay compensation for removal costs and damages if a responsible party does not do so and to pay compensation in excess of the responsible parties’ liability” (*emphasis added*).²⁴

Several members of Congress, the President, and the Secretary of the Navy have recommended that Congress pass legislation that dedicates a significant amount of any civil penalties collected be directed to the areas impacted by the Deepwater Horizon oil spill instead of being placed into the Oil Spill Liability Trust Fund for future purposes. Some proposals recommend that a council be formed to distribute the money, and others additionally propose that some money be given directly to the impacted states. The proposals also recommend that the money be used for long-term environmental and economic recovery efforts.²⁵

III. Effect of Proposed Changes:

SM 218 urges Congress to enact legislation that permits any civil penalties recovered under the Clean Water Act due to the Deepwater Horizon oil disaster to be distributed in the following manner:

²² Government Sues BP for Gulf Oil Spill: U.S. Justice Department Files Lawsuit Against Nine Companies Involved in Disaster, The Associated Press, December 15, 2010, available at http://www.huffingtonpost.com/2010/12/15/government-sues-bp-for-gu_n_797197.html (last visited 12/23/2010). See also BP, 8 Other Firms Sued by Justice Dept. Over Gulf Oil Spill, The Washington Post, December 15, 2010, available at <http://www.washingtonpost.com/wp-dyn/content/article/2010/12/15/AR2010121503894.html> (last visited 12/23/2010).

²³ BP Disputes Size of Spill, The Associated Press, December 4, 2010, available at <http://www2.tbo.com/content/2010/dec/04/T2NEWS04-bp-disputes-size-of-spill/news-nationworld/> (last visited 12/23/2010).

²⁴ America’s Gulf Coast, p. 3. This document also contains a summary of the provisions of the Clean Water Act and the OPA.

²⁵ See America’s Gulf Coast, p. 5; H.R. 6112 (limits funds to environmental recovery efforts); and S. 3792 (limits funds to environmental recovery efforts). The Congressional bills were filed prior to the release of the Secretary of the Navy’s report.

- (1) Deposited into a newly created Gulf Coast Recovery Fund, managed by a Gulf Coast Recovery Council to provide long-term environmental and economic recovery in the Gulf;
- (2) Directed to the five Gulf States to enable each state to pursue their own recovery efforts; and
- (3) Deposited into the Oil Spill Liability Trust Fund for future recovery efforts.

Copies of the memorial are to be distributed to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

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:

None.

B. Private Sector Impact:

If Congress enacts law providing for any civil penalty money to help in both environmental and economic recovery efforts, the state could direct that money towards helping Florida businesses impacted by the oil spill.

C. Government Sector Impact:

If Congress enacts law providing for any civil penalty money to help in both environmental and economic recovery efforts, the state will benefit from increase funds to focus on long-term recovery efforts.

VI. Technical Deficiencies:

None.

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.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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 Budget Committee

BILL: SM 220

INTRODUCER: Senator Gaetz

SUBJECT: Unemployment Assistance/Oil Spill

DATE: March 4, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wood	Yeatman	CA	Favorable
2.	Martin	Meyer, R.	BTA	Favorable
3.	Martin	Meyer, C.	BC	Favorable
4.				
5.				
6.				

I. Summary:

On April 20, 2010, the Transocean drilling rig known as Deepwater Horizon exploded in the Gulf of Mexico with the loss of 11 missing and presumed dead crewmembers. An estimated 4.2 million barrels of crude oil spilled from the well into the Gulf waters before it was capped on July 15, 2010.

Because Disaster Unemployment Assistance, a federal unemployment program, is only available for natural disasters, some Floridians who became unemployed as a result of the oil spill, such as self-employed individuals, were not eligible for unemployment benefits. The Agency for Workforce Innovation received 440 claims for benefits from individuals who had lost their jobs due to the oil spill; of that amount 385 claimants received at least one benefit payment.

This memorial urges Congress to enact legislation providing unemployment assistance to individuals who are unemployed due to the oil spill. This would provide benefits to those who would not otherwise be eligible for regular state unemployment benefits.

II. Present Situation:

Initial Deepwater Horizon Explosion

At approximately 10:00 p.m. on April 20, 2010, the Transocean drilling rig known as Deepwater Horizon exploded in the Gulf of Mexico with the loss of 11 missing and presumed dead crewmembers.¹ With the resulting leakage of crude oil and natural gas from the well site, the

¹ The Wall Street Journal, Deepwater Horizon Rig Disaster – Timeline, <http://online.wsj.com/article/SB1000142405274870430230457521388355525958.html> (last visited 01/07 2011).

Deepwater Horizon disaster is now considered by many to be the largest single environmental disaster in United States history.

At the time of the explosion, the Deepwater Horizon rig was moored approximately 45 miles southeast of the Louisiana coast. Drilling operations were being conducted at a sea depth of 5,000 feet and had progressed more than 18,000 feet below the sea floor where commercial oil deposits were discovered. The site, known as the Mississippi Canyon Block 252, is estimated to hold as much as 110 million barrels of product.²

On April 22, 2010, the Deepwater Horizon rig capsized and sank. Two days later, underwater cameras detected crude oil and natural gas leaking from the surface riser pipes attached to the well-head safety device known as the blowout preventer. The blowout preventer malfunctioned and failed to shut off flow out of the well-head.

Initial estimates assessed leakage at 1,000 barrels per day. The estimate was subsequently revised to 5,000 barrels per day.³ Estimates about the flow rate from the broken well were a subject of controversy, with various scientists calculating much different rates from the official government estimates. The actual daily rate of leakage was somewhere between 35,000 and 60,000 barrels per day. “The emerging consensus is that roughly five million barrels of oil were released by the Macondo well, with roughly 4.2 million barrels pouring into the waters of the Gulf of Mexico.”⁴ As of August 26, 2010, 2,000 tons (500,000 gallons) of oil had been recovered from Florida’s shoreline.⁵

Florida Response

Governor Crist declared a state of emergency on April 30, 2010, as a result of the spreading oil spill in the Gulf of Mexico and included Escambia, Santa Rosa, Okaloosa, Walton, Bay and Gulf counties in the emergency declaration.⁶ The initial executive order was amended on May 3, 2010, to include Franklin, Wakulla, Jefferson, Taylor, Dixie, Levy, Citrus, Hernando, Pasco, Pinellas, Hillsborough, Manatee, and Sarasota counties.⁷ Subsequently Charlotte, Lee, Collier, Monroe, Dade, Broward, and Palm Beach counties were added to the declaration.⁸

² National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, Staff Working Paper No. 6: Stopping the Spill: The Five-Month Effort to Kill the Macondo Well, available at <http://www.oilspillcommission.gov/sites/default/files/documents/Containment%20Working%20Paper%2011%2022%2010.pdf%20> (last visited 12/22/2010).

³The Wall Street Journal, *supra* note 1.

⁴ National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, Staff Working Paper No. 3: The Amount and Fate of the Oil, available at <http://www.oilspillcommission.gov/sites/default/files/documents/Amount%20and%20Fate%20of%20the%20Oil%20Working%20Paper%2010%206%2010.pdf%20> (last visited 12/22/2010). “By initially underestimating the amount of oil flow and then, at the end of the summer, appearing to underestimate the amount of oil remaining in the Gulf, the federal government created the impression that it was either not fully competent to handle the spill or not fully candid with the American people about the scope of the problem.”

⁵ Situation Report #114 (Final), Deepwater Horizon Response, available at http://www.dep.state.fl.us/deepwaterhorizon/files/sit_reports/0810/situation_report114_082610.pdf (last visited 12/23/2010).

⁶ Fla. Exec. Order No. 10-99 (April 30, 2010).

⁷ Fla. Exec. Order No. 10-100 (May 3, 2010).

⁸ Fla. Exec. Order No. 10-106 (May 20, 2010).

Florida’s emergency response system began immediate operations, which continued through the capping of the well.⁹ The cost to Florida in terms of response costs, damage to Florida’s economy and business community, individual workers who have lost jobs, decrease in property values, and restoration of environmental damage remains to be determined and is expected to rise as cleanup and recovery continues.

As reported by the Governor’s Gulf Oil Spill Economic Recovery Task Force at their last monthly meeting in October, state and local government institutions in Florida had been granted a total of \$7 million for employment and training activities. For example, BP, p.l.c. (“BP”), granted Workforce Escarosa \$2.5 million to help with reemployment in the area.¹⁰ In a presentation to the Governor’s Gulf Oil Spill Economic Recovery Task Force, the Agency for Workforce Innovation reported that industries likely to be impacted were:

- Fishing, seafood preparation and packaging, fish and seafood wholesalers;
- Accommodation and food services, amusement parks, sightseeing tours, gift shops;
- Retail and general merchandise stores;
- Travel agencies, car rental, air transportation, water transportation;
- Gasoline stations, construction, building materials stores;
- Banking, real estate, temporary help services, building services, waste and remediation services;
- Physicians’ offices, emergency medical services, hospitals, emergency services, pharmacies, drug stores; and
- Government.¹¹

On December 29, 2010, BP reported that it had invested over \$1 billion in Florida:¹²

BP Payments and Investments – Florida December 29, 2010	
Florida Government Payments	\$66,600,000
Payments to Individuals and Businesses	\$1,102,800,000
BP Claims Process -- \$81,600,000 ¹	
Gulf Coast Claims Facility -- \$1,021,200,000 ²	
Vessels of Opportunity Payments ³	\$73,200,000
Tourism Grants	\$32,000,000
NRDA Grants	\$8,000,000
Research Grant	\$10,000,000
Behavioral Health	\$3,000,000
Community Contributions	\$300,000
TOTAL	\$1,295,900,000



¹ Through 8-22-2010. ²Through 12-28-2010. ³ Through 12-25-2010.

⁹ The operations transitioned to a monitoring status on August 27, 2010.

¹⁰ Free Services Available to Help Jobless, BP Florida News, available at <http://www.floridagulfresponse.com/go/doc/3059/901695/> (last visited 12/23/2010).

¹¹ Gulf Oil Spill Economic Recovery Task Force, BP Claims Process Workgroup, Presentation by Cynthia Lorenzo, Director of Agency for Workforce Innovation, June 23, 2010, available at <http://emergency.awiadministration.com/AlertDetail.aspx?ID=100> (last visited 12/23/2010).

¹² BP Investments and Payments - Florida, Dec. 29, 2010, available at <http://www.floridagulfresponse.com/go/doc/3059/979815/> (last visited 1/5/2011).

Ongoing Response Efforts

While oil leaked from the Deepwater Horizon rig site, efforts were focused both on stopping the leaking well and on recovering and cleaning up the oil that had leaked out.

The spill caused the closure of 88,522 square miles of federal waters to fishing, and affected hundreds of miles of shoreline, bayous, and bays. “At its peak, efforts to stem the spill and combat its effects included more than 47,000 personnel; 7,000 vessels; 120 aircraft; and the participation of scores of federal, state, and local agencies.”¹³ BP hired local boats and crews for the Vessels of Opportunity program. Boats and crews participating in the program were paid for their services, which included a variety of activities, including oil recovery, transportation of supplies, wildlife rescue, and boom deployment and recovery. BP reports that about 3,500 vessels were put into service during the life of the program, with thousands of boats deployed on a daily basis, and that over \$500 million was paid across all the Gulf States.¹⁴ The program concluded in Florida in September 2010. Additionally BP hired locals as part of its cleanup crews on the beaches and shores in Florida; almost 15,000 oil spill related jobs were advertised and 46,486 referrals were made through the Agency for Workforce Innovation and regional workforce boards as of the last situation report by the Department of Environmental Protection on August 26, 2010.¹⁵ As of December 23, 2010, about 730 cleanup workers were still working.¹⁶

From April until July, several efforts were made to stop the flow of oil from the broken well. Most were unsuccessful. Finally, on July 15, 2010, (87 days after the blowout) the leaking well at the Deepwater Horizon site was capped and oil discharge into the ocean was stopped (the “top kill”). On September 19, 2010, 152 days after the April 20 blowout, Admiral Allen announced that the well was “effectively dead,” as the “static kill” was completed (drilling intersected the original well site nearly 18,000 feet below the surface and filled the well with mud and cement).¹⁷ On August 26, 2010, Governor Crist signed an executive order that continued the state of emergency for Escambia, Franklin, Santa Rosa, Okaloosa, Walton, Bay and Gulf counties through October 27, 2010.¹⁸

Claims for Lost Income

BP was the operator of Deepwater Horizon and has recognized its role as the principal responsible party for the disaster. BP pledged to fully cover the cost of response, recovery, and damages.

The Oil Pollution Act of 1990 requires “responsible parties,” including lessees of offshore facilities, to pay for removal costs and certain damages resulting from a spill. The act allows individuals to submit claims for damages for lost income.

¹³ RestoretheGulf.gov, America’s Gulf Coast: A Long Term Recovery Plan after the Deepwater Horizon Oil Spill 3, September 2010, <http://www.restorethegulf.gov/sites/default/files/documents/pdf/gulf-recovery-sep-2010.pdf> (last visited 01/07/2011).

¹⁴ BP, Florida News, Vessels of Opportunity Program to Close in Florida, <http://www.floridagulfresponse.com/go/doc/3059/899263/> (last visited 12/23/2010).

¹⁵ Situation Report #114 (Final).

¹⁶ Data from the Agency for Workforce Innovation, on file with the Senate Commerce and Tourism Committee.

¹⁷ National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, Staff Working Paper No. 6.

¹⁸ Fla. Exec. Order No. 10-191 (August 26, 2010).

BP provided interim advance payments to claimants who were not receiving their ordinary income or profit while cleanup was underway (upon demonstration of financial hardship).

Agreeing to a request by the President of the United States, BP committed \$20 billion to a trust fund designed to provide compensation for damages incurred by individuals and businesses, as well as for certain government claims. Responsibility for adjudicating individual and business claims against BP to be paid out of this fund was turned over to an independent claims facility run by Kenneth Feinberg, who on August 23, 2010, opened the Gulf Coast Claims Facility to manage the process.¹⁹ From August 23, 2010, through November 23, 2010, claimants could submit claims to the Gulf Coast Claims Facility for “emergency advance payments” to receive emergency relief for damages caused by the oil spill.²⁰

Of particular importance to individuals out of work, claims covered by the Gulf Coast Claims Facility include:²¹

- **Lost Earnings:** a loss of or reduction in one’s ability to earn wages or income because of the oil spill – for example, if a person was not able to engage in his or her normal job because of the oil spill or made less money than usual because of the oil spill; and
- **Lost Profits:** loss of income or profits by a business – for example, if a business experienced a temporary or permanent loss or reduction in profits due to the oil spill, or if it was forced to operate under different conditions than those that existed prior to the oil spill.

Currently, the Gulf Coast Claims Facility is offering claimants a “quick payment final claim” of \$5,000 for individuals and \$25,000 for businesses without having to submit any more documentation or undergo further claim review; however the quick payment also requires the claimant to sign a release and covenant not to sue. This payment option requires a claimant to release and waive any claims against BP and all other potentially responsible parties with regard to the oil spill or to submit any claim for payment to the National Pollution Funds Center, the Coast Guard office responsible for evaluating and approving Oil Pollution Act claims.²²

Claimants can also seek a “full review final payment.” This option pays for all past and future losses caused by the oil spill. Again, with the full review final payment the claimant must sign a release that releases all of the claimant’s past and future damages in exchange for a liquidated amount. Additionally, certain types of payments that claimants may have received will be deducted from the final payment amount, including:

- Any prior payments by BP, the Coast Guard, or the Gulf Coast Claims Facility;
- For payments for lost earnings or profits, any amounts received from unemployment compensation, severance pay, or other employment benefit since the oil spill;
- Amounts received from insurance or other programs as replacement income;

¹⁹ RestoretheGulf.gov, *supra* note 13.

²⁰ Gulf Coast Claims Facility, Frequently Asked Questions, available at <http://gulfcoastclaimsfacility.com/faq> (last visited 12/22/2010).

²¹ *Id.*

²² *Id.*

- Amounts needed to pay any liens, garnishments, or other attachments received by the Gulf Coast Claims Facility on the claimant.

However, amounts a claimant has received from charities will not be deducted from the full review final payment.²³

Claimants can also see interim payment claims, which are paid one a quarter for documented past losses caused by the oil spill. These types of payments are available under the Gulf Coast Claims Facility program that concludes on August 22, 2013. Also, claimants receiving these payments do not have to sign releases.²⁴

To date, the Gulf Coast Claims Facility has processed claims from over 580,000 claimants and paid out about \$2.89 billion. In Florida:²⁵

Gulf Coast Claims Facility – Florida Statistics	
Total Claimants (who may have more than one claim type):	156,677
Total Paid:	\$1,124,431,476
Individual Claimants (who may have more than one claim category):	122,426
Individual Claimants Paid:	58,683
Total Individual Claims Paid:	\$437,618,200
Claims for Lost Earnings or Profits:	81,224
Paid for Lost Earning or Profits:	\$1,095,094,633

Disaster Unemployment Assistance

The Disaster Unemployment Assistance (DUA) program is administered by the Agency for Workforce Innovation (AWI) and funded by the U.S. Department of Homeland Security Federal Emergency Management Agency (FEMA) through the U.S. Department of Labor.

- 26 weeks of benefits from the date of the disaster declaration;
- Federally funded program;
- Helps people who become unemployed as a direct result of a declared natural disaster; and
- Unlike unemployment compensation, DUA benefits individuals, including the self-employed, who are not eligible for regular state and federal unemployment compensation.

²³ Id.

²⁴ Id.

²⁵ Gulf Coast Claims Facility, Program Statistics, <http://gulfcoastclaimsfacility.com/reports> (last visited January 5, 2011).

Unfortunately, because DUA is only available for natural disasters, this program was not available for the Floridians who became unemployed as a result of the oil spill, a man-made disaster.

III. Effect of Proposed Changes:

SM 220 urges Congress to pass legislation that creates an Oil Spill Unemployment Assistance Program to provide income assistance to individuals who are unemployed as a result of a spill of national significance and who have no entitlement to any other unemployment compensation, the cost of which shall be borne by responsible parties under the Oil Pollution Act.

Copies of the memorial are to be distributed to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

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:

None.

B. Private Sector Impact:

If Congress passes legislation that permits individuals to receive unemployment assistance as a result of a spill of national significance, like the Deepwater Horizon oil spill, then out-of-work individuals will benefit by receiving income replacement for a period of time while they seek new employment.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

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.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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 Budget Committee

BILL: CS/CS/SB 248

INTRODUCER: Senate Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations; Committee on Community Affairs; and Senator Gaetz

SUBJECT: Economic Recovery from the Deepwater Horizon Disaster

DATE: March 4, 2011 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wolfgang	Yeatman	CA	Fav/CS
2.	Martin	Meyer, R.	BTA	Fav/CS
3.	Martin	Meyer, C.	BC	Pre-meeting
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

On April 20, 2010, the Transocean drilling rig known as Deepwater Horizon (DWH) exploded in the Gulf of Mexico with the loss of 11 missing and presumed dead crewmembers. An estimated 4.2 million barrels of crude oil spewed from the well before it was capped July 15, 2010. BP PLC, the company operating the rig, has paid in excess of \$1.2 billion in claims and grants to Florida residents, businesses, and institutions, as of Dec. 22, 2010.

CS/CS/SB 248 seeks to address many of the negative economic impacts resulting from the oil spill. The CS/CS defines the term “disproportionally affected county.” It amends certain state economic development incentives assigned to the Governor’s Office of Tourism, Trade, and Economic Development (OTTED) to provide waivers for business requirements in disproportionately affected counties. The CS creates a 3-month-long sales-tax holiday for marine-related purchases in Northwest Florida, and appropriates \$10 million to OTTED to develop a strategy to diversify and expand economic opportunities in Northwest Florida.

This CS/CS also:

- Waives, for three years, the Capital Investment Tax Credit requirement that a facility be in a high-impact sector for any otherwise eligible business from another state which locates all or a portion of its business to a Disproportionally Affected County;
- Authorizes OTTED to waive, for three years, any or all wage or local financial support eligibility requirements for a qualified target industry business from another state which locates all or a portion of its business to a Disproportionally Affected County.
- Tolls the expiration dates of certain building permits and authorizations, and extends their duration by 6 months, under emergency situations;
- Allows holders of leases of sovereignty submerged lands to apply to the state for reimbursement of lease fees paid, under specified circumstances;
- Directs Florida's Board of Trustees of the Internal Improvement Trust Fund to report to the Legislature whether existing multi-state compacts should be modified so as to address issues arising from the DWH oil spill and similar catastrophes; and
- Directs the deposit of federal funds collected from the companies responsible for the DWH oil spill and appropriated to Florida into applicable trust funds managed by OTTED and the Florida Department of Environmental Protection (DEP).

The CS/CS will reduce overall state revenue collections by approximately \$2.0 million in FY 2010-11 and \$15.2 million in FY 2011-12, and will reduce local revenues by approximately \$300,000 in FY 2010-11 and \$2.1 million in FY 2011-12.

This CS/CS substantially amends the following sections of the Florida Statutes: 14.2015, 220.191, 288.106, and 253.02. This CS/CS creates section 252.363 of the Florida Statutes.

II. Present Situation:

Brief Background on DWH Explosion

At approximately 10:00 PM on April 20, 2010, the Transocean drilling rig known as Deepwater Horizon exploded in the Gulf of Mexico with the loss of 11 missing and presumed dead crewmembers.¹ With the resulting leakage of crude oil and natural gas from the well site, the Deepwater Horizon disaster is now considered by many to be the largest single environmental disaster in United States history.

At the time of the explosion, the Deepwater Horizon rig was moored approximately 45 miles southeast of the Louisiana coast. Drilling operations were being conducted at a sea depth of 5,000 feet and had progressed more than 18,000 feet below the sea floor where commercial oil deposits were discovered. The site, known as the Mississippi Canyon Block 252, is estimated to hold as much as 100 million barrels of product.²

On April 22, 2010, the Deepwater Horizon rig capsized and sank. Two days later, underwater cameras detected crude oil and natural gas leaking from the surface riser pipes attached to the

¹ *Rig Disaster: Timeline*, WALL ST. J., <http://online.wsj.com/article/SB10001424052748704302304575213883555525958.html> (last visited January 9, 2011).

² Christopher Helman, *BP's Gulf Well: One of America's Biggest Oil Fields?*, FORBES, Aug. 2010, available at <http://www.forbes.com/2010/08/16/americas-biggest-oil-fields-business-energy-oil-fields.html>.

well-head safety device known as the blowout preventer. The blowout preventer malfunctioned and failed to shut off flow out of the well-head.

Initial estimates assessed leakage at 1,000 barrels per day. The estimate was subsequently revised to 5,000 barrels per day.³ The estimates were further revised twice more and now stand at between 35,000 and 60,000 barrels per day.⁴

BP PLC was the operator of Deepwater Horizon and has recognized its role as the principal responsible party for the disaster. BP has pledged to fully cover the cost of response, recovery, and damages.

Governor Crist declared a state of emergency on April 30, 2010, as a result of the spreading oil spill in the Gulf of Mexico and included Escambia, Santa Rosa, Okaloosa, Walton, Bay and Gulf counties in the emergency declaration.⁵ The initial executive order was amended on May 3, 2010, to include Franklin, Wakulla, Jefferson, Taylor, Dixie, Levy, Citrus, Hernando, Pasco, Pinellas, Hillsborough, Manatee, and Sarasota counties.⁶ Subsequently Charlotte, Lee, Collier, Monroe, Dade, Broward, and Palm Beach counties were added to the declaration.⁷

Florida's emergency response system began immediate operations which have significantly increased in size since the initial emergency declaration.

On December 22, 2010, BP reported that it had invested over \$1 billion in Florida:⁸

³ *E.g. Rig Disaster: Timeline*, *supra* note 1.

⁴ DEEPWATER HORIZON INCIDENT JOINT INFORMATION CENTER, *Restore the Gulf, U.S. Scientific Team Draws on New Data, Multiple Scientific Methodologies to Reach Updated Estimate of Oil Flows from BP's Well*, June 15, 2010, <http://www.restorethegulf.gov/release/2010/06/15/us-scientific-team-draws-new-data-multiple-scientific-methodologies-reach-updated> (last visited January 9, 2011).

⁵ Fla. Exec. Order No. 10-99 (April 30, 2010).

⁶ Fla. Exec. Order No. 10-100 (May 3, 2010).

⁷ Fla. Exec. Order No. 10-106 (May 20, 2010).

⁸ BP, *BP Florida Gulf Response, BP Investments and Payments - Florida*, Jan. 6, 2011, <http://www.floridagulfresponse.com/go/doc/3059/984543/> (last visited Jan. 9, 2011).

BP Payments and Investments – Florida

January 6, 2011



Florida Government Payments	\$66,600,000
Payments to Individuals and Businesses	\$1,219,200,000
BP Claims Process -- \$81,600,000 ¹	
Gulf Coast Claims Facility -- \$1,137,600,000 ²	
Vessels of Opportunity Payments ³	\$73,200,000
Tourism Payments	\$32,000,000
NRDA Payments	\$8,000,000
Research Payments	\$10,000,000
Behavioral Health Payments	\$3,000,000
Social Service Payments	\$300,000
TOTAL	\$1,412,300,000

¹ Through 8-22-2010. ² Through 1-5-2011. ³ Through 12-25-2010.

Still, the ultimate cost to Florida in terms of response costs, damage to Florida's economy and business community, individual workers who have lost jobs, decrease in property values, and restoration of environmental damage remains to be determined and is expected to rise as cleanup and recovery continues.

Civil Penalties under Federal Law

Liability for damages from a spill from an offshore facility is capped at \$75 million per incident, except in limited circumstances, under the OPA. On December 15, 2010, the federal government filed suit against BP and 8 other companies asking that the companies be held liable without limitation under OPA for all removal costs and damages caused by the spill, including damages to natural resources. The lawsuit also seeks civil penalties under the Clean Water Act. "Under the Clean Water Act alone, BP faces fines of up to \$1,100 for each barrel of oil spilled. If BP were found to have committed gross negligence or willful misconduct, the fine could be up to \$4,300 per barrel. That means that based on the government's estimate of 206 million gallons (4.2 million barrels) released by the well, BP could face civil fines of between \$5.4 billion and \$21.1 billion."⁹ However, BP disputes the estimate of the amount of oil spilled into the Gulf,

⁹ *Government Sues BP for Gulf Oil Spill: U.S. Justice Department Files Lawsuit Against Nine Companies Involved in Disaster*, HUFFINGTON POST, Dec. 15, 2010, http://www.huffingtonpost.com/2010/12/15/government-sues-bp-for-gu_n_797197.html (last visited Jan. 9, 2011). See also Jerry Markon, *BP, 8 Other Firms Sued by Justice Dept. Over Gulf Oil Spill*, WASH. POST, Dec. 15, 2010, available at <http://www.washingtonpost.com/wp-dyn/content/article/2010/12/15/AR2010121503894.html> (last visited Jan. 9, 2011); and *Government sues BP, 8 Others in Gulf Oil Spill*, ASSOC. PRESS, Dec. 15, 2010, available at http://www.msnbc.msn.com/id/40684304/ns/us_news-crime_and_courts/ (last visited Jan. 9, 2011).

saying that it is overstated by 20 to 50 percent.¹⁰ The federal Justice Department is also doing a criminal investigation into BP, Transocean, and Halliburton.

“The Clean Water Act civil penalty provision associated with oil spills provides that penalties recovered under the Act must be deposited into the Oil Spill Liability Trust Fund. The Fund, in turn, is designed, among other things, to ensure that there are available funds for clean-up, response, and restoration efforts for future oil spills. The Fund is available to pay compensation for removal costs and damages if a responsible party does not do so and to pay compensation in excess of the responsible parties’ liability.”¹¹

Several members of Congress, the President, and the Secretary of the Navy have recommended that Congress pass legislation that dedicates a significant amount of any civil penalties collected be directed to the areas impacted by the Deepwater Horizon oil spill instead of being placed into the Oil Spill Liability Trust Fund for future purposes. Some proposals recommend that a council be formed to distribute the money, and others additionally propose that some money be given directly to the impacted states. Also, the proposals recommend that the money should be used for economic as well as environmental recovery efforts.¹²

Discussion of this CS/CS’s provisions

Because CS/CS/SB 248 addresses a range of issues, the “Present Situation” and “Effect of Proposed Changes” for each section of the CS/CS will be explained in **Section III** below.

III. Effect of Proposed Changes:

Section 1: Waiver of OTTED Incentive Criteria for Enumerated Programs

Section 1 amends s. 14.2015, F.S., to allow OTTED to waive certain requirements for businesses seeking the enumerated economic incentives in specified counties. Of the incentive programs, or categories of incentive programs, managed by OTTED, ten are eligible for the waiver provision in Section 1 of CS/CS/SB 248.

Present Situation

The Legislature abolished the Florida Department of Commerce in 1996, with the passage of a 182-page bill that revamped Florida’s economic development governance structure, and created or reorganized a number of entities with specialized tasks. One of the new entities was Office of Tourism, Trade, and Economic Development (OTTED),¹³ created under the Governor’s auspices to perform what had been the defunct department’s governance functions. Over the years,

¹⁰ *BP Disputes Size of Spill*, ASSOC. PRESS, Dec. 4, 2010, available at <http://www2.tbo.com/content/2010/dec/04/T2NEWS04-bp-disputes-size-of-spill/news-nationworld/> (last visited Jan. 9, 2011).

¹¹ DEEPWATER HORIZON INCIDENT JOINT INFORMATION CENTER, AMERICA’S GULF COAST: A LONG TERM RECOVERY PLAN AFTER THE DEEPWATER HORIZON OIL SPILL 3, Sept. 2010, <http://www.restorethegulf.gov/sites/default/files/documents/pdf/gulf-recovery-sep-2010.pdf> (last visited Jan. 9, 2011). This document also contains a summary of the provisions of the Clean Water Act and the OPA. (*emphasis added*).

¹² *Id.* at 5; H.R. 6112, 111th Cong. (2010) (limits funds to environmental recovery efforts); and S. 3792, 111th Cong. (2010) (limits funds to environmental recovery efforts). The Congressional bills were filed prior to the release of the Secretary of the Navy’s report.

¹³ Section 14.2015, F.S., is the primary statute citing OTTED’s responsibilities.

OTTED's responsibilities have evolved, but it remains the Governor's lead agency and moderator for economic development oversight.

OTTED's activities include: oversight of rural economic development programs; the film and entertainment incentive program; the enterprise zone program; space and military incentive programs; professional sports incentives; and all of the business incentives available under ch. 288, F.S. It also operates as contract manager in the dispensing of state funds to EFI, Visit Florida, Space Florida, the Florida Sports Foundation, and others. Finally, OTTED dispenses local matching funds from the Economic Development Trust Fund for various incentive programs, including QTI and the high-impact business performance grant.

Rural incentive programs

Florida has 32 rural counties, defined as either having a population not exceeding 75,000 persons, or having no more than 125,000 persons and be adjacent to a county with a population not exceeding 75,000.

OTTED takes the lead in facilitating technical assistance, planning, and financing rural economic development activities. There are four rural financial incentive programs: the Rural Infrastructure Fund; Rural Strategy Grants; the Rural Community Development Revolving Loan Fund; and the Rural Jobs Tax Credit.

The most popular of these rural incentives may be the Rural Infrastructure Fund, which offers three different grants to rural communities for activities involving: feasibility reviews of sites available for business location; feasibility studies and surveys related to expedited permitting for rural projects; and grants to help pay for infrastructure needed by a new or expanding rural business.

In FY 10-11, the Legislature appropriated \$1.1 million for rural infrastructure programs.

Local Government Distressed Area Matching Grant Program

In 2010, the Legislature created this program in chapter 288.0659, F.S. For eligible projects, OTTED provides a 50-50 matching grant to the local government's contribution or \$50,000, whichever is less, to a business that:

- Will create at least 15 jobs; and
- Is either new to Florida, is expanding its operations in Florida, or is planning to leave Florida if it does not receive government incentives.

OTTED will award grants based on the following criteria:

- Whether the local government agrees to expedite its permitting processes for the business;
- The area must suffer from pervasive poverty, unemployment, and "general distress;"
- How much the local government plans to contribute to the business;
- The number of jobs and the wages; and
- The amount of capital investment by the business.

In FY 10-11, the Legislature appropriated \$3 million for this grant program. According to OTTED staff, no local government as of January 11, 2011, has applied.

Economic Development Transportation Fund (commonly referred to as “the Road Fund”)

Section 288.063, F.S., provides state grants to improve transportation access and infrastructure for businesses that are planning to relocate or expand. OTTED awards the grants to local governments where the businesses are located, to contract for the transportation improvements. OTTED considers a number of factors in selecting the projects, including:

- Jobs to be created by the business,
- Wages to be paid, and
- Whether the transportation improvement is necessary to induce the business to locate or expand in a particular community. In FY 10-11, the Legislature appropriated \$20 million for economic development transportation projects, of which \$16.3 million was specifically earmarked, leaving \$3.7 for general projects under OTTED’s discretion.

Brownfield Redevelopment Bonus Refund

This tax-refund program, in s. 288.107, F.S., provides an additional \$2,500 per job refund for certain businesses located in contaminated and abandoned or underused areas. Eligible businesses are either eligible for the QTI program, or have invested \$500,000 in Brownfield areas that don’t require cleanup or invested \$2 million in multi-use business activities.

As with most of these incentive programs, an eligible business must enter into an agreement with OTTED and meet specified requirements before receiving annual refunds.

High-Impact Industry (HIPI) performance grant

Created in s. 288.108, F.S., the HIPI grant program seeks to attract businesses that create highly-skilled, high-wage jobs in Florida and make a substantial capital investment in their operations here. The law does not define “high-impact industry sectors;” instead, OTTED has defined them as: clean energy, life sciences, financial services, corporate headquarters, transportation equipment manufacturing, and semiconductor manufacturing.

Eligible businesses must invest at least a cumulative \$50 million and create at least 50 full-time jobs in Florida within 3 years of its designation. For research and development facilities, the thresholds are a minimum, cumulative investment of \$25 million and the creation of at least 25 full-time jobs.

The HIPI grant is subject to legislative appropriation.

Typically, a business receives half of the grant upon certification by OTTED, and the remaining funds are distributed when the business has commenced full operations and has met the investment and employment requirements. The grant amount is a range based on a business’ levels of investment and job creation.¹⁴ For example, a business that invests \$50 million and creates 50 jobs could receive a grant in an amount between \$500,000 and \$1 million; a business that creates 800 jobs and invests \$800 million could receive a grant between \$10 million and \$12 million.

There was no appropriation for HIPI in FY 10-11.

¹⁴ Section 288.108(3), F.S.

Economic Gardening Programs

The Legislature created the Economic Gardening Technical Assistance and Business Loan programs in 2009 and funded them with an initial \$10 million appropriation. Of that initial appropriation, \$8.5 million was made available for loans and \$1.5 million for technical assistance.

The Economic Gardening Business Loan Pilot Program, in s. 288.1081, F.S., provides low-interest, short-term loans to eligible businesses for working-capital expenses, employee training, and salaries of new employees. It is administered by the Black Business Investment Fund (BBIF) in Orlando. From Oct. 1, 2009, to Sept. 30, 2010, the first year of implementation, the BBIF awarded 29 loans, totaling \$5.74 million, to 27 businesses statewide.¹⁵ About \$2.76 million remains available for loaning by BBIF.

Created in s. 288.1082, F.S., the Economic Gardening Technical Assistance Pilot Program, called GrowFL, is housed at the University of Central Florida's Office of Research & Commercialization, provides eligible companies with training and outreach for their infrastructure, networking, and mentoring needs. In its first year, GrowFL selected 159 businesses that applied for the program for technical assistance.¹⁶ Of those, 57 were manufacturing companies and 55 were in the category of professional, scientific, or technical businesses. The Legislature appropriated an additional \$1 million for FY 10-11 for the technical assistance pilot program.

To participate in GrowFL and in the loan program, a company must be a for-profit, privately held, investment-grade business that:

- employs at least 10 people but not more than 50;
- generates between \$1 million and \$25 million in annual revenue; and
- qualifies for the state tax refund program for qualified target industry businesses under s. 288.106, F.S.

Quick Action Closing (QAC) Fund

QAC was conceived as a discretionary pool of money for the Governor to rapidly respond, after legislative oversight, to business projects interested in relocating to, or expanding within, Florida. QAC funds are often used to "close the deal" with recruited or retained companies.

QAC projects must represent a targeted industry sector; have a positive payback ratio of \$5 in to \$1; pay an average of at least 125 percent of the area or state average private-sector wage; and be supported by the local community in which they plan to locate or expand. Also, the QAC incentive payment must be seen as an inducement to the project's relocation or expansion in Florida.

Per the statute, Enterprise Florida, Inc., reviews and evaluates applications for QAC funding, and forwards its recommendations to OTTED. Next, OTTED's executive director has 22 calendar days to recommend to the Governor approval or disapproval of a project, and to include

¹⁵ FY 2009-2010 report on file with the Senate Community Affairs Committee.

¹⁶ FY 2009-2010 report on file with the Senate Community Affairs Committee.

performance standards for the projects. Section 288.1088(3)(c), F.S., requires the Governor to provide the evaluation of projects recommended for approval to the President of the Senate and the Speaker of the House of Representatives and consult with the President of the Senate and the Speaker of the House of Representatives before giving final approval for a project. Subsequently, at least 14 days before releasing funds for a project, the Executive Office of the Governor must recommend approval of the project and the release of funds by delivering notice of such action pursuant to the legislative consultation and review requirements set forth in s. [216.177](#), F.S.

If the chair or vice chair of the Legislative Budget Commission or the President of the Senate or the Speaker of the House of Representatives, within the 14 day consultation period, advise the Governor, in writing, that releasing funds for the project exceeds the Governor's authority or is contrary to legislative policy, then the Governor must void the release of funds and wait until the LBC or the full Legislature addresses the project. Notwithstanding this process, any QAC project in excess of \$2 million must be approved by the LBC before funds are released.

In FY 10-11, the Legislature appropriated \$16 million for the QAC program.

Innovation Incentive Program (IIP)

Created in s. 288.1089, F.S., the IIP grant is designed to attract biomedical, innovative technology, alternative energy, and research and development entities to Florida, to diversify the state's economic base with highly skilled, high-wage jobs that energize their communities.

Since 2006, the state has awarded \$449 million, of the \$525 million appropriated, to seven R&D institutes, laboratories, or non-profit corporations.¹⁷ The last legislative appropriation was for \$75 million in FY 10-11, and the funds have not been released to any new projects.

The review process begins with EFI evaluating an applicant's eligibility. EFI recommends applicants to OTTED, which does a further review and makes a recommendation to the Governor. The Governor consults with the Senate President and the Speaker of the House of Representatives on the project, and can release the funds following approval by the LBC.

There are three types of IIP projects:

- R&D projects;
- Innovation Businesses; and
- Alternative and Renewable Energy Projects.

Each has specialized requirements, but all three must:

- pay wages at least 130 percent of the area or statewide average private-sector wage;
- enter into agreements with OTTED specifying performance standards and benchmarks that must be attained before funds are released; and
- reinvest with the state 15 percent of royalties and naming rights, to be deposited in either the Biomedical Research Trust Fund or the Economic Development Trust Fund, whichever is appropriate.

Effect of Proposed Changes

¹⁷ 2010 report on the IIP program, prepared by OTTED, is on file with the Senate Community Affairs Committee.

Section 1 amends s. 14.2015, F.S., to define “disproportionally affected county” as Bay County, Escambia County, Franklin County, Gulf County, Okaloosa County, Santa Rosa County, or Walton County.

The CS/CS gives OTTED the ability to waive any or all job or wage eligibility requirements of ten enumerated programs for a business seeking to relocate from another state to a disproportionally affected county between July 1, 2011 and June 30, 2014, if OTTED determines the waiver is in the best interest of the public for reasons of facilitating economic development, growth, or new employment opportunities. The ten programs are:

- Section 288.063, F.S., contracts for transportation projects/the “Road Fund”;
- Section 288.065, F.S., Rural Community Development Revolving Loan Fund;
- Section 288.0655, F.S., Rural Infrastructure Fund;
- Section 288.0657, F.S., Rural Economic Development Strategy Grants;
- Section 288.0659, F.S., Local Government Distressed Area Matching Grant Program;
- Section 288.107, F.S., Brownfield Redevelopment Bonus Refund;
- Section 288.108, F.S., High-Impact Industry (HIPI) performance grant;
- Section 288.1081, F.S., Economic Gardening Loan and Technical Assistance Programs;
- Section 288.1088, F.S., Quick Action Closing (QAC) Fund; and
- Section 288.1089, F.S., Innovation Incentive grant program.

If the cumulative amount of the state incentives is:

- up to \$5 million then OTTED must file with the Governor a written statement of the conditions and circumstances constituting the reason for the waiver;
- between \$5 and \$10 million then OTTED must file with the Governor, the President of the Senate, and the Speaker of the House a written statement of the conditions and circumstances constituting the reason for the waiver and requesting concurrence within 5 business days (no waiver can be given without concurrence); and
- greater than \$10 million, no waiver is available.

Section 2: Waiver of High Impact Sector Criteria for Capital Investment Tax Credit

Section 2 amends s. 220.191, F.S., to waive, for three years, the Capital Investment Tax Credit requirement that a facility be in a high-impact sector for any otherwise eligible business from another state which locates all or a portion of its business to a Disproportionally Affected County as defined in s. 14.2015, F.S.

Present Situation

Capital Investment Tax Credit (CITC)

The CITC was created by the Legislature in 1998 to attract and grow capital-intensive industries that generally pay high wages. The incentive is an annual credit, provided for up to 20 years, against an eligible business’ corporate income tax. The amount of the annual credit is based on the eligible capital costs associated with a qualifying project. Eligible capital costs include all

expenses incurred in the acquisition, pre-construction and construction activities, installation, and equipping of a project from the beginning of construction through commencement of operations.

To participate in the program, a new or expanding company must apply to Enterprise Florida, Inc., (EFI) the state's business recruitment entity, and be certified by the Governor's Office of Tourism, Trade, and Economic Development (OTTED) prior to the commencement of operations. There are three categories of CITC projects:

- A high-impact business, which:
 - Operates within a “high-impact” industry sector, currently defined in statute as including, but not limited to, aviation, aerospace, automotive, and silicon technology industries,¹⁸ and
 - Creates at least 100 new jobs.
- A business defined as a “qualified target industry” (QTI) pursuant to s. 288.106, F.S., and which is induced by this incentive program to:
 - Create or retain at least 1,000 jobs, of which at least 100 of those jobs are new and which pay an average annual wage of at least 130 percent of the average annual private-sector wage in the state or region, and
 - Make a cumulative capital investment of at least \$100 million after July 1, 2005.
- A new or expanded headquarters facility which:
 - Locates in an enterprise zone or a Brownfield area;
 - Is induced by this incentive program to create at least 1,500 jobs that pay an average wage that is at least 200 percent of the average annual private-sector wage in the state or region; and
 - Makes a cumulative capital investment of at least \$250 million.

Generally, the amount of the annual credit is up to 5 percent of the eligible capital costs generated by a qualifying project, for up to 20 years, except that the QTI businesses in the second category may take the tax credit for a maximum of 5 years.

The annual credit may not exceed a specified percentage of the annual corporate income tax or premium tax liability generated by the project, based on the amount of the company's capital investment. For example, a company that made a minimum capital investment of \$100 million would be able to apply the value of its annual tax credit to erase 100 percent of its tax liability that year.¹⁹

Under no circumstance can the total tax credits awarded exceed the cumulative investment; nor can credits be taken in excess of the tax liability in a given tax year. Also, unused credits may be carried forward for up to 20 years.

¹⁸ ENTERPRISE FLORIDA, INC., 2009 INCENTIVES REPORT: A PROGRESS REPORT ON PROGRAMS FUNDED FROM THE ECONOMIC DEVELOPMENT INCENTIVES ACCOUNT 27 (2009) *available at* http://www.eflorida.com/uploadedFiles/Florida_Knowledge_Center/My_eFlorida_EFI_and_Partners/Floridas_Economic_Perspective/2009%20Incentives%20Report.pdf. (Free registration required.) (last visited Jan. 9, 2011). EFI's 2009 INCENTIVES REPORT lists the industries under this CITC category as semiconductor manufacturing, transportation equipment manufacturing, information technology, life sciences, financial services, corporate headquarters, and clean energy.

¹⁹ Section 220.191(2)(c), F.S., allows the transfer of tax credits earned under this program by a solar panel manufacturing facility that meets specific job creation and salary requirements. This option has not been utilized.

The incentive is an annual credit, provided for up to 20 years, against a company's corporate income tax. The amount of the annual credit is based on the eligible capital costs associated with a qualifying project.

According to DOR, in tax year 2008, \$4.055 million in CITC were claimed on tax returns and \$11.75 million in 2009.²⁰

As of December 2009, there are 16 active CITC projects, which have committed to make total cumulative capital investments of \$2.2 billion in Florida and create 6,520 jobs paying an average annual wage of \$55,076.²¹

Effect of Proposed Changes

Section 2 amends s. 220.191, F.S., to waive the CITC requirement that a facility be in a high-impact sector for any otherwise eligible business from another state which locates all or a portion of its business to a Disproportionally Affected County as defined in s. 14.2015, F.S. This waiver is available for three years between July 1, 2011 and June 30, 2014.

Section 3: Waiver of Criteria for Qualified Target Industry (QTI) Tax Refund Incentive

Section 3 amends s. 288.106, F.S., to authorize OTTED to waive, for three years, any or all wage or local financial support eligibility requirements for a qualified target industry business from another state which locates all or a portion of its business to a Disproportionally Affected County as defined in s. 14.2015, F.S.

Present Situation

Qualified Target Industry (QTI) Tax Refund Incentive Requirements

The QTI Tax Refund Incentive Program²² was created in 1994 as part of a retooling of Florida's economic development efforts. The QTI program was designed to encourage the recruitment or creation of higher-paying, higher-skilled jobs for Floridians, by awarding eligible businesses refunds of certain state or local taxes paid in exchange for creating jobs.

Eight industry sectors have been designated as "targeted industries:" manufacturing; finance and insurance services; wholesale trade; information industries; professional, scientific and technical services; management services; administrative and support services; and clean energy. Within each sector are several specific types of targeted businesses.

The amount of the refund is based on the wages paid, number of jobs created, and where in the state the eligible business chooses to locate or expand, but the basic refund is \$3,000 per employee over the term of the incentive agreement signed by the business and the Governor's Office of Tourism, Trade and Economic Development (OTTED). The per-employee refund amount can be as high as \$11,000, if multiple conditions are met.²³

²⁰ Email from DOR staff to Senate Commerce and Tourism Committee (Dec. 30, 2010) (on file with Senate Commerce and Tourism Committee).

²¹ ENTERPRISE FLORIDA, INC., *supra* note 13, at 28.

²² Section 288.106, F.S.

²³ Section 288.106 (3) (a) and (b), F.S.

The QTI incentive is a refund against seven state taxes and the local ad valorem tax paid by eligible businesses.²⁴ Most commonly, businesses have used the QTI to obtain reimbursements for ad valorem, state sales tax, and state corporate income tax liabilities.

A key feature of the QTI incentive is that the business must agree to pay at least 115 percent of the average private-sector wage of the state, the county or the standard metropolitan area in which the business is or will be located,²⁵ but exceptions may be granted under specific criteria.²⁶ And, typically, a cash or in-kind match is required from the local government, although this can be waived for rural counties or under other circumstances.

As a cash refund, the QTI incentive is paid by OTTED only after the yearly agreement conditions have been met. The duration of a QTI agreement is 3 to 4 years.

As of June 30, 2009,²⁷ some 880 business projects have been recommended for the QTI incentive; 848 have been approved by the former Department of Commerce or OTTED; and 730 have entered into QTI agreements with the state. Of those 730 projects, 260 remain “active,” meaning they are eligible to receive tax refunds through the QTI program. These 260 projects have committed to create 45,043 jobs, paying an average wage of \$44,916.²⁸

As noted above, for FY 10-11, the Legislature appropriated \$12.23 million to OTTED for use as tax refunds to Qualified Defense Contractor and Space Flight Business (QDSC) and Qualified Target Industry (QTI) tax refund program recipients.

Effect of Proposed Changes

Section 3 amends s. 288.106, F.S., to authorize OTTED to waive any or all wage or local financial support eligibility requirements for a qualified target industry business from another state which locates all or a portion of its business to a Disproportionally Affected County as defined in s. 14.2015, F.S., if OTTED determines that it is in the best interest of the public for reasons of facilitating economic development, growth, or new employment opportunities within a Disproportionally Affected County. The waiver is available for three years between July 1, 2011 and June 30, 2014.

A business receiving a waiver under this section may receive a tax refund payment of up to \$6,000 multiplied by the number of jobs specified in the tax refund agreement with OTTED.

²⁴ Section 288.106(3) (d), F.S., lists the eligible taxes as the state corporate income tax, state insurance premium tax, state sales and use tax, state intangibles tax, state emergency and other excise taxes, state communications tax, and ad valorem taxes as defined in s. 220.03(1), F.S.

²⁵ Section 288.106(4) (b)1.a., F.S.

²⁶ Section 288.106(4) (b)1.b., F.S.

²⁷ ENTERPRISE FLORIDA, INC., *supra* note 13, at 13.

²⁸ EFI is using \$39,856 as the average annual statewide private-sector wage, effective Jan. 1, 2011, as the basis for evaluating QTI applications. As a comparison, 115 percent of that is \$45,834. (unpublished chart, on file with the Senate Commerce and Tourism Committee).

Prior to granting the waiver, OTTED must file with the Governor a written statement of the conditions and circumstances constituting the reason for the waiver.

Section 4: Tolling/Extension of Certain Permits and Authorizations

Section 4 creates s. 252.363, F.S., to toll the expiration dates of certain permits and authorizations, and extends by 6 months such permits, in areas where the Governor has declared a state of emergency.

Present Situation

Emergency Orders

A state of emergency is declared by executive order or proclamation of the Governor if she or he finds an emergency has occurred or that an imminent threat of emergency exists. The state of emergency continues until the Governor terminates the state of emergency by executive order or proclamation, but no state of emergency may continue for longer than 60 days unless renewed by the Governor. The Legislature by concurrent resolution may terminate a state of emergency at any time. The declaration of a state of emergency indicates the nature of the emergency, the area or areas threatened, and the conditions which have brought the emergency about or which make possible its termination. An executive order or proclamation disseminated by means calculated to bring its contents to the attention of the general public; and, unless the circumstances attendant upon the emergency prevent or impede such filing, the order or proclamation is filed promptly with the Department of State and in the offices of the county commissioners in the counties to which the order or proclamation applies.

Permit Extensions

According to the Department of Environmental Protection, permits issued by the Department of Environmental Protection or a water management district under part IV of chapter 373 (a.k.a. environmental resource permits or ERP) are typically issued with a 5-year construction period although longer periods may be requested. Requests to extend that period require an application and payment of a processing fee, which for DEP is \$80. Extension requests are generally routinely approved so long as there has been no change in site conditions, other than that associated with permitted work.

Development agreements can be entered into for up to 20 years and extended even longer by agreement between the governing body and the developer.²⁹ Local governments regularly issue a wide variety of development permits and building permits that have varying durations.

Pursuant to ch. 2009-96, L.O.F., certain state and local permits, approvals, and development orders, having an expiration date of September 1, 2008, through January 1, 2012, are extended for 2 years following the date of expiration. A developer must notify the agency or local government by December 31, 2009, in writing with a request to extend the expiration date for 2 years for the following:

- Permits issued by DEP or a WMD;

²⁹ Section 163.3229, F.S.

- Local government permits, including development orders, building permits, zoning permits, subdivision plat approvals, special exceptions, variances, and any other approval affecting the development of land; and
- Development of Regional Impact (DRI) development orders and building permits.

The permit extension language created caveats for certain contingencies. This extension does not apply to:

- U.S. Army Corps of Engineers permits;
- Permit-holders that are not complying with the terms of their permits; or
- Permits that would interfere with court orders.

This section also gives local governments leeway to adjust permit extensions if the extension would result in unsafe or unsanitary conditions.

Ch. 2010-147, L.O.F., provided a 2-year extension similar to ch. 2009-96, L.O.F., except that it:

- Clarified the type of permits eligible;
- Stated that the 2-year extension in this CS/CS is in addition to the 2-year extension in ch. 2009-96, L.O.F.; and
- Gave permit holders until December 31, 2010, to apply for the extension.

Effect of Proposed Changes

Section 252.363, F.S., is created to toll permits during a state of emergency and add an additional 6 months to existing permits. The permit extension only applies within the geographic area for which the declaration of emergency applies.

The permits that are tolled include development orders and building permits. The type of permit covered by this language includes all local government building permits: from permits as small as repaving a driveway to development orders as large as a development of regional impact (the CS/CS explicitly includes build out dates for developments of regional impact), which may have impacts on more than one local government. The language also covers permits issued under part IV of chapter 373, F.S., relating to management and storage of surface waters. These permits are primarily Environmental Resource Permits, but part IV of chapter 323, F.S., includes:

- Permits for the construction or alteration of storm water management systems, dams, impoundments, or reservoirs;
- Dry storage facilities for 10 or more vessels;
- Port conceptual permits;
- Mitigation bank permits;
- Local government infrastructure mitigation permits; and
- Certain surface water and wetland permits.

If a permit holder wants to obtain the benefits of this extension, they will need to notify the permitting authority in writing within 90 days of the termination of the declaration of emergency. This provision gives notice to the permitting authority so that they will know which permits receive the extension.

The extension will not apply to:

- U.S. Army Corps of Engineers permits;
- Permit-holders that are not complying with the terms of their permits; or
- Permits that would interfere with court orders.

The laws, rules, and ordinances in effect at the time the permit is issued will govern the permit unless those laws, rules, or ordinances will create an immediate threat to public health or safety. The CS/CS also reserves to local governments the authority to require permitted properties to be maintained in a safe and sanitary condition.

Section 5: Multi-state Compact Review

Section 5 amends s. 253.02, F.S., to direct the Board of Trustees to evaluate existing multi-state compacts to which Florida is a signatory and recommend to the Legislature if any changes are needed.

Present Situation

Florida is a member of the Emergency Management Assistance Compact (EMAC). In 1992, when Hurricane Andrew devastated Florida, it became apparent that even with the federal emergency response and resources, states would need to call upon one another in times of emergencies. As a result, the Southern Governors' Association (SGA) coordinated with Virginia's Department of Emergency Services to develop a state-to-state mutual aid agreement. The agreement was called the Southern Regional Emergency Management Assistance Compact, which was adopted in 1993. In January 1995, the SGA voted to open membership to any state or territory in the United States that wished to join. The broadened agreement was called the EMAC. In 1996, EMAC became Public Law (PL-104-321) when the U.S. Congress ratified EMAC. All 50 states, Puerto Rico, the U.S. Virgin Islands, Guam, and the District of Columbia have ratified the compact. The Florida Legislature ratified it in 1996, creating part III of chapter 252, F.S.³⁰

The primary purpose of the compact is to provide mutual assistance and sharing of resources during times of natural or manmade disasters, technical hazard, civil emergency aspects of resource shortages, community disorders, insurgency, or enemy attack.³¹ The compact requires each state to make emergency plans and develop interstate procedures, where practical, to better coordinate emergency responses for emergencies.

Section 253.03, F.S., tasks the Governor and Cabinet, sitting as the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees or Board), with acquiring, managing, and disposing of state lands (with certain exceptions including transportation, flood control, and military lands).³²

Effect of Proposed Changes

The CS/CS requires the Board of Trustees to evaluate the adequacy of the existing multistate compact to address the Deepwater Horizon oil spill or similar future events. The Board must determine whether the compact should be modified or another multistate compact developed and

³⁰ Ch. 96-244, L.O.F. (1996).

³¹ Section 252.922(2), F.S.

³² Section 253.03(7) (a), F.S.

entered into. Further, the Board must report its findings to the Legislature by February 1, 2012, and update the report annually for five years thereafter.

Section 6: Creation of a Commission on Oil Spill Coordination

Section 6 creates the Commission on Oil Spill Response Coordination.

Present Situation

The EMAC, discussed in section 5, is a significant tool for intergovernmental coordination. However, there has been concern that federal-state and interstate coordination could be improved.

Effect of Proposed Changes

CS/CS/SB 248 creates the Commission on Oil Spill Response Coordination. It would include a representative for each of the Cabinet members as well as representatives of any state agency that directly and materially responded to the Deepwater Horizon disaster. The commission is tasked with identifying ways in which federal law could be improved with respect to offshore drilling and protection of public health and safety as well as environment and natural resources. The commission would identify whether a Gulf-wide disaster relief fund would have merit and whether there is a need for a unified and uniform advocacy process for damage claims. The commission will evaluate the need for changes to interstate coordination agreements. The commission is given license to address other issues to assess where improvements are needed.

The Board of Trustees of the Internal Improvement Trust Fund shall deliver the report to the President of the Senate, the Speaker of the House of Representatives, the Secretary of Environmental Protection, and the director of OTTED by September 1, 2012.

Section 7: State sales-tax holiday on marine-related purchases in Northwest Florida

Section 7 creates a 3-month-long state sales tax exemption on the purchase of marine vessels and other specified marine-related merchandise in seven Northwest Florida counties from 12:01 a.m., July 1, 2011, through midnight, September 30, 2011.

Present Situation

Ch. 112, F.S., governs the imposition and collection of state sales and use taxes (SUT). The state tax rate is 6 percent on retail sales of most types of tangible personal property, admissions, transient lodging, commercial rentals, and motor vehicles. There are a number of exemptions and exclusions from the state sales tax, specified in various sections of ch. 212, F.S., as well as credits and deductions against sales tax liability. There also is at least one cap on sales tax liability, enacted in 2010: s. 212.05(5), F.S., specifies that “notwithstanding any other provision of this chapter, the maximum amount of tax imposed under this chapter and collected on each sale or use of a boat in this state may not exceed \$18,000.”

In recent years, the Legislature has enacted “sales-tax holidays” of varying durations for “back to school” clothing, classroom supplies, and educational tools, and separately for hurricane-survival supplies. These “holidays” were in effect statewide.

Effect of Proposed Changes

CS/CS/SB 248 attempts to reinvigorate the marine industry and marine-related retailers in Bay, Escambia, Franklin, Gulf, Okaloosa, Santa Rosa, and Walton counties by imposing a 3-month-long “sales-tax holiday” on specified purchases. Eligible purchases are:

- “Commercial vessel” as defined in s. 327.02, F.S.;
- “Recreational vessel” as defined in s. 327.02, F.S.; and
- “Marine equipment,” defined as the following items designed to be used on boats:
 - Radios;
 - Global positioning systems;
 - Radar and sonar devices;
 - Antennae;
 - Boat engines and machine parts designed for boat engines;
 - Bilge pumps;
 - Commercial fishing nets;
 - Life vests and marine safety equipment; and
 - Anchors and anchoring accessories.

The Department of Revenue (DOR) is authorized to adopt emergency rules, pursuant to ss. 120.536(1) and 120.54, F.S., to implement and administer this “sales tax holiday.” Also, DOR will be appropriated an undetermined sum of nonrecurring general revenue to pay its applicable expenses.

Section 8: Strategic Economic Diversification Plan for Disproportionally Affected Counties

Section 8 appropriates \$10 million in recurring revenue to OTTED and Florida’s Great Northwest, Inc., and directs it to use the funds to help develop and implement an economic strategic plan with preference given to programs in disproportionately affected counties.

Present Situation

Florida’s Great Northwest, Inc. is a Florida non-profit corporation founded in 2000. They are a regional economic development organization representing 16 counties in Northwest Florida. The organization is comprised of county and local economic development groups, workforce development boards, community and junior colleges, universities, and private businesses which compose the majority of its organization’s membership. Through the creation of strategic alliances with its public and private partners, Florida’s Great Northwest’s goal is to enrich economic life in Northwest Florida.

Effect of Proposed Changes

CS/CS/SB 248 defines “disproportionally affected county” as Bay County, Escambia County, Franklin County, Gulf County, Okaloosa County, Santa Rosa County, or Walton County.

The CS/CS appropriates \$10 million in recurring state general revenue to OTTED to contract with Florida’s Great Northwest, Inc., to develop and implement an “innovative economic development program” for disproportionately affected counties. The contract between OTTED and Florida’s Great Northwest must require Florida’s Great Northwest to report to OTTED quarterly and to collaborate with educational entities, economic development organizations, local governments, and relevant state agencies to create a program framework and strategy, including specific criteria governing expenditure of funds. Funding preference would be given to disproportionately affected counties and the municipalities therein, if the applicable local government provides for expedited permitting in order to promote:

- Research and development;
- Commercialization of research;
- Economic diversification; and
- Job creation.

Funding preference is also given when these disproportionately affected local governments combine their permitting processes for the purposes described above.

None of the funds may be used for administrative costs of Florida's Great Northwest. The appropriation shall be placed in reserve by the Executive Office of the Governor and may be released as authorized by law or the Legislative Budget Commission (LBC), which means that neither OTTED nor the Governor may approve expenditures of the \$10 million without legislative concurrence.

The legislation does not specify a deadline by which OTTED or Florida's Great Northwest must develop and implement the new program, and the funds are appropriated on a recurring basis (\$10 million is available each year until such authorization is modified by the Legislature).

Section 9: Use of Federal Funds and Other Oil-Spill Related Compensation

Section 9 provides direction on how funds received by the state based on damages caused by the Deepwater Horizon oil spill are to be directed.

Present Situation

The DEP is expending resources to conduct environmental damage assessments from the Deepwater Horizon oil spill. BP has provided the state with \$8 million for environmental damage assessment thus far. If additional oil spill related money is received from BP or the federal government, it will be deposited into the appropriate trust fund, and then spent after legislative authorization is received. Funds received from the federal government or BP for oil spill impacts may have certain caveats related to their use. Not utilizing these funds for these intended uses may jeopardize future fund transfers from these entities to the state.

Effect of Proposed Changes

Section 9 defines "disproportionally affected county" as Bay County, Escambia County, Franklin County, Gulf County, Okaloosa County, Santa Rosa County, or Walton County.

The CS/CS states that any funds received for damages caused by the Deepwater Horizon oil spill shall be deposited into the applicable state trust funds (which means for OTTED, the Economic Development Trust Fund) and expended pursuant to state law or as approved by the LBC.

Seventy five percent of the funds may be used by disproportionately affected counties and twenty five percent may be used by other counties for:

- Scientific research into the impact of the oil spill fisheries and coastal wildlife and vegetation along the shoreline and the development of strategies to implement restoration measures suggested by such research;
- Environmental restoration of coastal areas damaged by the oil spill;
- Economic incentives; and
- Initiatives to expand and diversify the economy of the county.

DEP will be the lead agency for expending funds designated for environmental restoration efforts, while OTTED will take the lead on expending the funds earmarked for economic-development purposes.

Section 10: Submerged-land leases

Section 10 allows holders of leases of sovereignty (state-owned) submerged lands to apply to the state for reimbursement of lease fees paid, under specified circumstances.

Present Situation

Pursuant to s. 253.03 (7), F.S., the Governor and Cabinet sitting as the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) have the responsibility to administer, manage, and dispose of sovereignty lands. As part of this duty, in association with the Department of Environmental Protection (department), the board executes leases for the use of state-owned lands, including sovereignty submerged lands. Chapter 18-21, F.A.C., is the rule that guides the Board of Trustees in fulfilling its responsibility to administer state-owned sovereignty submerged lands for the citizens of Florida.

A sovereignty submerged land leaseholder is required to pay an annual lease fee based on the size of the leased area, or six percent of the revenue generated on the lease area, whichever is greater. The lease fee is due each year on the day the lease was executed. The lease fee includes a six percent transient rental tax and any discretionary sale surtax required in the county where the lease is located.

A leaseholder pays the base fee at the beginning of a lease period and reports the revenue at the end of the lease period; this figure is used to calculate the annual lease payment. If no revenue is generated, only the base fee is required. If the amount of revenue generated requires the leaseholder to pay six percent, the base fee already paid will be credited towards the six percent due. Any outstanding balance must be paid by the leaseholder. Sovereignty submerged land leases from all marinas and docks generated \$11,886,339 in fiscal year 2009-2010.

Pursuant to s. 17.20, F.S, the Department of Environmental Protection (DEP) is required to report any lessee that is not paying fees to the Chief Financial Officer (CFO). The account is then sent to collections by the department's Bureau of Finance and Accounting.

Leaseholders may apply directly for reimbursement from the responsible party for economic losses from the Deepwater Horizon oil Spill. Lease fees can be considered in such applications.

Effect of Proposed Changes

The CS/CS authorizes sovereignty submerged land leaseholders to apply to the DEP for reimbursement or credit of lease fees paid, or for the payment of lease fees by the responsible party or other independent claims process resulting in a credit to the leaseholder. The leaseholder must be in substantial compliance with the terms of the lease and must have received a payment for an economic loss due to the Deepwater Horizon oil spill, which did not include reimbursement of lease fees paid. Reimbursements and credits are limited to fees paid or due during the declared state of emergency in the county where the lease is located. The lessee submits an application, provided online by the DEP, and documentation to the CFO through the DEP. The CFO coordinates claim processing and payment with the responsible party, and the CFO forwards funds to the DEP. The DEP is not required to issue refunds or credits unless reimbursement for such claims is first received from the responsible party. In the event that funds are received that do not adequately cover all process claims for reimbursement or credit, lessees will receive a pro rata share of their claim for the fiscal year in which their claim was processed. The DEP is required to report to the Legislature on the implementation of this section by February 15 each year until 2014. The independently administered claims process officially closes in August 2013. Lease fees, under this section, include associated sales or use taxes.

Title

Section 11 of the CS/CS states that sections 1, 2, 3, 7, 8, and 9 may be cited as the “Oil Spill Recovery Act.”

Effective Date

Section 12 specifies this act shall take effect upon becoming law.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:**General or Local Laws**

Because this CS/CS names certain local governments explicitly, a question might be raised regarding whether this is a general law or a local law. The Florida Constitution imposes special requirements on local laws and prohibits local laws on specified

subjects.³³ If a bill is determined to be a local bill, the notice of intention to seek enactment must be published in the manner provided by general law or the bill must be conditioned to become effective only upon approval by vote of the electors of the area affected.³⁴

The distinction between a local law and a general law is not always clear:

A statute relating to subdivisions of the state or to subjects or to persons or things as a class, based upon proper distinctions and differences that inhere in or are peculiar or appropriate to the class, is a ‘general law’; while a statute relating to particular subdivisions or portions of the state, or to particular places of classified localities, is a ‘local law’ . . .³⁵

“In the enactment of general laws . . . political subdivisions or other governmental entities may be classified only on a basis reasonably related to the subject of the law.”³⁶ A general law operates uniformly, not because it operates on every person in the state, but because every person brought within the circumstances that the law provides for is fairly and equally affected by it.³⁷ Even though the conditions of the subject on which a statute operates do not exist in all parts of the state, the law may be general and of uniform operation if it operates uniformly on the specified subject and conditions wherever they exist in the state.³⁸ Thus, a statute relating to a subdivision of the state, based on proper distinctions and differences that inhere in or are peculiar or appropriate to a class, is a general law.³⁹ This bill relates to the Deepwater Horizon oil spill. The bill names those counties that have been disproportionately affected by the spill.

Separation of Powers - Nondelegation Doctrine

Sections 1 and 3 of the CS/CS allow OTTED to waive any or all requirements of certain of its programs with certain restrictions. Allowing OTTED to waive its own legislatively created requirements may raise a separation of powers question. The Florida Constitution provides that no person belonging to one branch of the government may exercise any power belonging to the other branches.⁴⁰ Because the Legislature has the sole authority and responsibility to make laws, the Legislature may not delegate its power to others. However, an administrative agency has some degree of flexibility in administering a legislatively articulated policy.⁴¹ The nondelegation doctrine states that a law that delegates authority to an agency must contain sufficient standards or guidelines in order to enable the agency, as well as the courts, to determine whether the agency is properly

³³ Art. III, §§ 11 & 12, Fla. Const. (including the prohibition that there be no local law pertaining to the assessment or collection of taxes for state or county purposes).

³⁴ Art III, § 10, Fla. Const.

³⁵ *State ex rel. Buford v. Daniel*, 99 So. 804 (Fla. 1924).

³⁶ Art. III, § 11(b), Fla. Const.

³⁷ *Department of Legal Affairs v. Sanford-Orlando Kennel Club, Inc.*, 434 So. 2d 879 (Fla. 1983); *State v. Leavins*, 599 So. 2d 1326 (Fla. 1st DCA 1992).

³⁸ *State ex rel. Landis v. Harris*, 163 So. 237 (Fla. 1934).

³⁹ *Department of Business Regulation v. Classic Mile, Inc.*, 541 So. 2d 1155 (Fla. 1989); *Department of Legal Affairs v. Sanford-Orlando Kennel Club, Inc.*, 434 So. 2d 879 (Fla. 1983).

⁴⁰ Art. II, § 3, Fla. Const.

⁴¹ *B.H. v. State*, 645 So. 2d 987, 46 A.L.R.5th 877 (Fla. 1994).

carrying out the Legislature's intent.⁴² Here, the Legislature has specified requirements for OTTED economic development programs. The Legislature is attempting to give OTTED more flexibility to assist businesses in disproportionately affected local governments in response to the DWH oil spill. The Legislature has placed restrictions on the ability of OTTED to use the waiver. The primary restrictions are:

- caps on the amount of funds that can be obtained under the waiver;
- the applicant must be a business moving from another state to a disproportionately affected county;
- the business must relocate between July 1, 2011, and June 30, 2014; and
- OTTED determines that it is in the best interest of the public for reasons of facilitating economic development, growth, or new employment opportunities within a Disproportionally Affected County.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The three-month sales tax holiday for marine-related purchases in seven Northwest Florida counties would reduce the collections to the State Treasury and to local governments. The Revenue Estimating Impact Conference met on January 24, 2011 to analyze this provision, and estimates that the holiday will reduce overall state general revenue collections by approximately \$2.0 million in FY 2010-11 and \$15.2 million in FY 2011-12, and will reduce local revenues by approximately \$300,000 in FY 2010-11 and \$2.1 million in FY 2011-12.

On February 3, 2011, the Revenue Estimating Impact Conference analyzed the provision relating to the Capital Investment Tax Credit which provides a waiver, between July 1, 2011 and June 30, 2014, of the eligibility requirement that the facility be in a high-impact sector for any otherwise eligible business from another state which locates all or a portion of its business to a Disproportionally Affected County as defined in s. 14.2015, F.S. The conference adopted an estimate which assumes staggered entry of 18 investments over the three year window consisting of three at \$100 million, six at \$50 million and nine at \$25 million. For FY 2011-12, a cash impact on revenues of \$0 was adopted, but an annualized impact on General Revenue of -\$4.4 million was adopted. The annualized negative \$4.4 million GR impact means that future predicted revenue losses within a five-year window require that the official General Revenue Outlook reflect a loss of \$4.4 million in *recurring* revenue for FY 2011-12 but an increase of \$4.4 million in *nonrecurring* revenue. The first actual cash loss on revenues is estimated to occur in FY 2014-15 in the amount of \$1.5 million General Revenue.

To the extent that OTTED waives requirements for the tax credit and refund programs addressed in this CS/CS, if the businesses would not otherwise be qualified for such programs, there will be a corresponding negative impact on tax revenues.

⁴² *Department of Ins. v. Southeast Volusia Hosp. Dist.*, 438 So. 2d 815 (Fla. 1983); *Coca-Cola Co., Food Division, Polk County v. State, Dept. of Citrus*, 406 So. 2d 1079 (Fla. 1981).

While lease fees also generate tax revenue for the state and local governments, the impact of this bill will be revenue neutral because refunds or credits will be paid from monies collected from the responsible party.

B. Private Sector Impact:

Indeterminate. To the extent that changes to existing economic-development incentives in sections 1, 2 and 3 of the CS/CS persuade non-Florida businesses to relocate to the specified counties within the next two years, then those businesses' employee costs will be less and their corporate tax liabilities will be smaller.

Also, if CS/CS/SB 248 stimulates the Northwest Florida economy as proponents intend, then more businesses in that area may return to economic health or even expand, rehiring laid-off employees or adding new jobs, and make business-related purchases, ultimately triggering more economic activity.

A refund or credit of submerged land lease fees may ease the financial hardship on leaseholders of sovereignty submerged lands that suffered economic losses from the Deepwater Horizon oil spill. Larger docking facilities and marinas may receive significant refunds or credits if funds can be recovered from the responsible party.

C. Government Sector Impact:

DOR and OTTED have responsibilities under several provisions of CS/CS/SB 248 that will increase their workloads.

For the multistate compact, the costs for staff time to conduct the evaluation and report the findings to the Legislature are unknown but are expected to be met with existing resources.

According to the Department of Environmental Protection, it is anticipated that approximately \$2,470,718 could be requested from the responsible party through the CFO for payment to the DEP. This estimate is based on Emergency Order (EO) 4/30/10 - 8/28/10 and EO 10/28/10. The costs for staff time to administer the application and reimbursement program are unknown at this time but are expected to be met with existing resources. The Chief Financial Officer (CFO) will also experience some minor workload increase.

The CS/CS contains \$10 million in recurring general revenue appropriation to OTTED.

To the extent that OTTED waives requirements for the grant and refund programs addressed in this CS/CS, if the businesses would not otherwise be qualified for such programs, there will be a corresponding increase in the funds required for these programs, subject to appropriation.

VI. Technical Deficiencies:

None.

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 Community Affairs on January 11, 2011:

The CS defines “disproportionally affected county” as Bay County, Escambia County, Franklin County, Gulf County, Okaloosa County, Santa Rosa County, or Walton County. This is a change from the bill because section 1 of the bill only referred to Bay County, Escambia County, Franklin County, and Gulf County.

Rather than amending OTTED’s program requirements (sections 1, 4, & 5 of the original bill), section 1 of the CS gives OTTED the ability to waive all requirement of any of its programs for a business seeking to relocate from another state to a disproportionately affected county between July 1, 2011 and June 30, 2014.

If the cumulative amount of the state incentives is:

- up to \$5 million then OTTED must file with the Governor a written statement of the conditions and circumstances constituting the reason for the waiver;
- between \$5 and \$10 million then OTTED must file with the Governor, the President of the Senate, and the Speaker of the House a written statement of the conditions and circumstances constituting the reason for the waiver and requesting concurrence within 5 business days (no waiver can be given without concurrence); and
- greater than \$10 million, no waiver is available.

The CS moves back the dates of the sales tax holiday.

The CS differs from the bill in that it specifically assigns Florida’s Great Northwest, Inc., responsibility to develop and implement the \$10 million dollar fund. In the CS the funds are recurring, whereas in the original bill the funds were not recurring.

CS/CS by Budget Subcommittee on Transportation, Tourism and Economic Development Appropriations on January 27, 2011:

The CS/CS limits the programs for which OTTED may waive job, wage and other specified eligibility requirements to those economic development incentive programs enumerated in sections 1 and 3 of the CS/CS. These programs are:

- contracts for transportation projects/the “Road Fund”;
- Rural Community Development Revolving Loan Fund;
- Rural Infrastructure Fund;
- Rural Economic Development Strategy Grants;
- Local Government Distressed Area Matching Grant Program;
- Brownfield Redevelopment Bonus Refund;

- High-Impact Industry (HIPI) performance grant;
- Economic Gardening Loan and Technical Assistance Programs;
- Quick Action Closing (QAC) Fund;
- Innovation Incentive grant program; and
- Qualified Target Industry Tax Refund

The Qualified Target Industry Tax Refund is limited to a tax refund payment of up to \$6,000 multiplied by the number of jobs specified in the tax refund agreement with OTTED.

For the Capital Investment Tax Credit, the CS/CS also provides a waiver, between July 1, 2011 and June 30, 2014, of the eligibility requirement that the facility be in a high-impact sector for any otherwise eligible business from another state which locates all or a portion of its business to a Disproportionally Affected County as defined in s. 14.2015, F.S.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/11/2011	.	
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The Committee on Budget (Gaetz) recommended the following:

Senate Amendment (with title amendment)

Delete lines 304 - 363
and insert:

Section 8. (1) For purposes of this section, the term "Disproportionally Affected County" means Bay County, Escambia County, Franklin County, Gulf County, Okaloosa County, Santa Rosa County, or Walton County.

(2) There is appropriated for the 2011-2012 fiscal year the sum of \$10 million in recurring funds from the General Revenue Fund to the Office of Tourism, Trade, and Economic Development. The Office of Tourism, Trade, and Economic Development shall use these funds to execute a \$10 million contract with Florida's



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14 Great Northwest, Inc., or with an affiliated entity established
15 to support oil spill recovery efforts in the seven
16 Disproportionally Affected Counties, for the charitable purpose
17 of developing and implementing an innovative economic
18 development program for promoting research and development,
19 commercialization of research, economic diversification, and job
20 creation in a Disproportionally Affected County.

21 (3) The contract between the Office of Tourism, Trade, and
22 Economic Development and Florida's Great Northwest, Inc., or
23 such affiliated entity shall, at a minimum, require Florida's
24 Great Northwest Inc., or such affiliated entity to report
25 quarterly to the Office of Tourism, Trade, and Economic
26 Development and to collaborate with educational entities,
27 economic development organizations, local governments, and
28 relevant state agencies to create a program framework and
29 strategy, including specific criteria governing the expenditure
30 of funds. The criteria for the expenditure of funds shall, at a
31 minimum, require a funding preference for any Disproportionally
32 Affected County and any municipality within a Disproportionally
33 Affected County which provides for expedited permitting in order
34 to promote research and development, commercialization of
35 research, economic diversification, and job creation within
36 their respective jurisdictions. The criteria for the expenditure
37 of funds shall, at a minimum, also require a funding preference
38 for any Disproportionally Affected County and any municipality
39 within a Disproportionally Affected County which combines its
40 permitting processes and expedites permitting in order to
41 promote research and development, commercialization of research,
42 economic diversification, and job creation within their



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43 respective jurisdictions.

44 (4) None of the funds appropriated in this section may be
45 used for administrative costs of Florida's Great Northwest,
46 Inc., or such affiliated entity.

47

48

49 ===== T I T L E A M E N D M E N T =====

50 And the title is amended as follows:

51 Delete lines 41 - 47

52 and insert:

53 for future expiration;



327722

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/11/2011	.	
	.	
	.	
	.	

The Committee on Budget (Montford) recommended the following:

Senate Amendment

Delete line 93
and insert:
Rosa County, Walton County, or Wakulla County.

Delete line 277
and insert:
Santa Rosa County, Walton County, and Wakulla County. The
Governor shall select

Delete line 308
and insert:



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14 County, Okaloosa County, Santa Rosa County, Walton County, or
15 Wakulla County

16
17 Delete line 329
18 and insert:

19 Rosa County, Walton County, or Wakulla County.

20
21 Delete line 371

22 and insert:

23 Rosa County, Walton County, or Wakulla County.

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 Budget Committee

BILL: SB 298

INTRODUCER: Senator Alexander

SUBJECT: Municipal Governing Body Meetings

DATE: March 7, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Yeatman	Yeatman	CA	Favorable
2.	DeLoach	DeLoach	BGA	Favorable
3.	DeLoach	Meyer, C.	BC	Favorable
4.				
5.				
6.				

I. Summary:

The bill authorizes the governing bodies of certain municipalities to hold meetings within five miles of their exterior jurisdictional boundary.

This bill creates section 166.0213 of the Florida Statutes.

I. Present Situation:

The Florida Constitution grants local governments broad home rule authority. Specifically, municipalities have those governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform their functions and provide services, and exercise any power for municipal purposes, except as otherwise provided by law.¹ However, the Florida Constitution states that annexation of unincorporated territory, merger of municipalities, and exercise of extra-territorial powers by municipalities shall be as provided by general or special law.² Similarly, s. 166.021, F.S., gives municipalities home rule powers with the following exceptions: annexation, merger, exercise of extraterritorial power, and subjects prohibited by the federal, state, or county constitution or law.

A number of situations have arisen where small municipalities have not had the proper facilities available to act as a temporary city hall where the local government can hold public meetings. Statutory and constitutional analyses, along with multiple attorney general opinions, indicate that

¹ Art. VIII, s. 2(b), Fla. Const.; *see also* s. 166.021, F.S.

² Art. VIII, s. 2(c), Fla. Const.

there is no statutory authorization to hold public meetings outside of the jurisdiction.³ “[I]n the absence of such statutory authorization, acts and proceedings at meetings held outside the municipal jurisdiction are void unless such actions are statutorily authorized.”⁴

II. Effect of Proposed Changes:

The bill creates s. 166.0213, F.S. This section provides municipalities with a population of 500 or fewer residents with the authority to hold meeting within five miles of the exterior jurisdictional boundary of the municipality at a time and place prescribed by ordinance or resolution.

III. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Article I, section 24(b) of the Florida Constitution, and s. 286.011, F.S., known as the Sunshine Law, specify the requirements for open meetings. Open meetings are defined as any meeting of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, at which official acts are to be taken. No resolution, rule, or formal action shall be considered binding unless it is taken or made at an open meeting.⁵

At least one public meeting 100 miles from the relevant jurisdiction has been held to be a violation of the Sunshine Laws because it was decided that affected citizens were not given reasonable opportunity to attend.⁶ Because the bill only authorizes meetings within five miles of the jurisdiction, it likely still affords citizens a reasonable opportunity to attend and is likely consistent with the constitutional and statutory requirements for public meetings.

C. Trust Funds Restrictions:

None.

IV. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

³ Art. VIII, s. 2(c), Fla. Const.; s. 166.021, F.S., Op. Att’y Gen. Fla 2008-01 (2008); Op. Att’y Gen. Fla 2003-03 (2003); Op. Att’y Gen. Fla 75-139 (1975); *see also County of Okeechobee v. Florida Nat. Bank*, 150 So. 124, 126 (Fla. 1933).

⁴ Op. Att’y Gen. Fla 2008-01 (2008).

⁵ Section 286.011, F.S.

⁶ *Rhea v. School Bd. of Alachua County*, 636 So.2d 1383 (Fla. 1st DCA 1994).

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

V. Technical Deficiencies:

None.

VI. Related Issues:

None.

VII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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 Budget Committee

BILL: SB 1012

INTRODUCER: Budget Subcommittee on Criminal & Civil Justice Appropriations

SUBJECT: State Attorneys Revenue Trust Fund/Justice Administrative Commission

DATE: February 11, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hendon	Meyer	BC	Favorable
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill re-creates the State Attorneys Revenue Trust Fund within the Justice Administrative Commission without modification, and repeals the provisions that would have terminated the trust fund. The trust fund receives revenues from the Article V traffic assessment authorized in s. 318.18, F.S., the worthless check diversion program authorized in s. 832.08, F.S., and the cost of prosecution assessment authorized under s. 938.27, F.S. This bill repeals s. 27.367(2), Florida Statutes. The bill would become effective July 1, 2011.

II. Present Situation:

Currently, the State Attorneys Revenue Trust Fund within the Justice Administrative Commission is scheduled to be terminated on July 1, 2012. Article III, Section 19(f) of the Florida Constitution requires the termination of all state trust funds within four years of their initial creation, unless exempt by the Constitution or operation of law. The trust fund receives revenues from the Article V traffic assessment authorized in s. 318.18, F.S., the worthless check diversion program authorized in s. 832.08, F.S., and the cost of prosecution assessment authorized under s. 938.27, F.S. For the current year, the legislature has appropriated \$33.2 million from this trust fund.

III. Effect of Proposed Changes:

This bill re-creates the trust fund without modification.

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:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill has no fiscal impact on state agencies or state funds, on local governments as a whole or on the private sector. It simply re-creates, without modification, an existing state trust fund and continues the current use of the fund.

VI. Technical Deficiencies:

None.

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.)

None.

B. Amendments:

None.

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 Budget Committee

BILL: SB 1014

INTRODUCER: Budget Subcommittee on Criminal & Civil Justice Appropriations

SUBJECT: Public Defenders Revenue Trust Fund/Justice Administrative Commission

DATE: February 11, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hendon	Meyer	BC	Favorable
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill re-creates the Public Defenders Revenue Trust Fund within the Justice Administrative Commission without modification, and repeals the provisions that would have terminated the trust fund. The trust fund receives revenues from the Article V traffic assessment authorized in s. 318.18, F.S. This bill repeals s. 27.61(2), Florida Statutes. The bill would become effective July 1, 2011.

II. Present Situation:

Currently, the Public Defenders Revenue Trust Fund within the Justice Administrative Commission is scheduled to be terminated on July 1, 2012. Article III, Section 19(f) of the Florida Constitution requires the termination of all state trust funds within four years of their initial creation, unless exempt by the Constitution or operation of law. The trust fund receives revenues from the Article V traffic assessment authorized in s. 318.18, F.S. Funds credited to this trust fund consist of fees from traffic tickets and from cost of defense judgments for persons receiving the services of a public defender. For the current year, the legislature has appropriated \$4.8 million from this trust fund.

III. Effect of Proposed Changes:

This bill re-creates the trust fund without modification.

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:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill has no fiscal impact on state agencies or state funds, on local governments as a whole or on the private sector. It simply re-creates, without modification, an existing state trust fund and continues the current use of the fund.

VI. Technical Deficiencies:

None.

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.)

None.

B. Amendments:

None.

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 Budget Committee

BILL: SB 1016

INTRODUCER: Budget Subcommittee on Criminal & Civil Justice Appropriations

SUBJECT: Indigent Civil Defense Trust Fund/Justice Administrative Commission

DATE: February 11, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hendon	Meyer	BC	Favorable
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill re-creates the Indigent Civil Defense Trust Fund within the Justice Administrative Commission without modification, and repeals the provisions that would have terminated the trust fund. This bill repeals s. 27.5111(2), Florida Statutes. The bill would become effective July 1, 2011.

II. Present Situation:

Currently, the Indigent Civil Defense Trust Fund within the Justice Administrative Commission is scheduled to be terminated on July 1, 2012. Article III, Section 19(f) of the Florida Constitution requires the termination of all state trust funds within four years of their initial creation, unless exempt by the Constitution or operation of law. The trust fund receives revenues from fees paid for services provided by the regional conflict counsel for representation of indigent parents in dependency proceedings as authorized in s. 57.082, F.S. For the current year, the legislature has appropriated \$871,975 from this trust fund.

III. Effect of Proposed Changes:

This bill re-creates the trust fund without modification.

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:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill has no fiscal impact on state agencies or state funds, on local governments as a whole or on the private sector. It simply re-creates, without modification, an existing state trust fund and continues the current use of the fund.

VI. Technical Deficiencies:

None.

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.)

None.

B. Amendments:

None.

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 Budget Committee

BILL: SB 1018

INTRODUCER: Budget Subcommittee on Criminal & Civil Justice Appropriations

SUBJECT: State Courts Revenue Trust Fund/State Courts System

DATE: February 14, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hendon	Meyer	BC	Favorable
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill re-creates the State Courts Revenue Trust Fund within the State Courts System without modification, and repeals the provisions that would have terminated the trust fund. This bill repeals s. 29.22(2), Florida Statutes. The bill would become effective July 1, 2011.

II. Present Situation:

Currently, the State Courts Revenue Trust Fund within the State Courts System is scheduled to be terminated on July 1, 2012. Article III, Section 19(f) of the Florida Constitution requires the termination of all state trust funds within four years of their initial creation, unless exempt by the Constitution or operation of law. Funds credited to this trust fund consist of court filing fees and traffic fees and fines authorized under ss. 28.2401, 28.241, 318.14, 318.18, 318.21, F.S. to support the operations of the state court system. For the current year, the legislature has appropriated \$370 million from this trust fund.

III. Effect of Proposed Changes:

This bill re-creates the trust fund without modification.

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:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill has no fiscal impact on state agencies or state funds, on local governments as a whole or on the private sector. It simply re-creates, without modification, an existing state trust fund and continues the current use of the fund.

VI. Technical Deficiencies:

None.

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.)

None.

B. Amendments:

None.

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 Budget Committee

BILL: SB 1020

INTRODUCER: Budget Subcommittee on Criminal & Civil Justice Appropriations

SUBJECT: Federal Grants Trust Fund/Department of Legal Affairs

DATE: February 14, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sneed	Meyer	BC	Favorable
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill re-creates the Federal Grants Trust Fund within the Department of Legal Affairs without modification, and repeals the provisions that would have terminated the trust fund. This bill repeals s. 20.112(3), Florida Statutes. The bill would become effective July 1, 2011.

II. Present Situation:

Currently, the Federal Grants Trust Fund within the Department of Legal Affairs is scheduled to be terminated on July 1, 2012. Article III, Section 19(f) of the Florida Constitution requires the termination of all state trust funds within four years of their initial creation, unless exempt by the Constitution or operation of law. This trust fund was created for use as a depository for funds to be used for allowable grant activities funded by restricted program revenues from federal sources. Funds credited to this trust fund consist of grants and funding from the federal government, and cash advances from other trust funds. For the current year, the legislature has appropriated \$52.6 million from this trust fund.

III. Effect of Proposed Changes:

This bill re-creates the trust fund without modification.

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:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill has no fiscal impact on state agencies or state funds, on local governments as a whole or on the private sector. It simply re-creates, without modification, an existing state trust fund and continues the current use of the fund.

VI. Technical Deficiencies:

None.

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.)

None.

B. Amendments:

None.

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 Budget Committee

BILL: SB 1022

INTRODUCER: Budget Subcommittee on Criminal & Civil Justice Appropriations

SUBJECT: Operating Trust Fund/Department of Legal Affairs

DATE: February 14, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sneed	Meyer	BC	Favorable
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill re-creates the Operating Trust Fund within the Department of Legal Affairs without modification, and repeals the provisions that would have terminated the trust fund. This bill repeals s. 20.111(3), Florida Statutes. The bill would become effective July 1, 2011.

II. Present Situation:

Currently, the Operating Trust Fund within the Department of Legal Affairs is scheduled to be terminated on July 1, 2012. Article III, Section 19(f) of the Florida Constitution requires the termination of all state trust funds within four years of their initial creation, unless exempt by the Constitution or operation of law. This trust fund was created for use as a depository for funds to be used for program operations funded by program revenues. Trust fund receipts primarily consist of fines, forfeitures, and judgments in actions involving violations of state laws. The funds are used to support the program activities of the Office of Statewide Prosecution and the Medicaid Fraud Control Unit. For the current year, the legislature has appropriated \$5.7 million from this trust fund.

III. Effect of Proposed Changes:

This bill re-creates the trust fund without modification.

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:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill has no fiscal impact on state agencies or state funds, on local governments as a whole or on the private sector. It simply re-creates, without modification, an existing state trust fund and continues the current use of the fund.

VI. Technical Deficiencies:

None.

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.)

None.

B. Amendments:

None.

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 Budget Committee

BILL: SB 1024
 INTRODUCER: Budget Subcommittee on Criminal & Civil Justice Appropriations
 SUBJECT: Federal Grants Trust Fund/Department of Juvenile Justice
 DATE: February 14, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sadberry	Meyer	BC	Favorable
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill re-creates the Federal Grants Trust Fund within the Department of Juvenile Justice without modification, and repeals the provisions that would have terminated the trust fund. This bill amends s. 20.3161, Florida Statutes. The bill would become effective July 1, 2011.

II. Present Situation:

Article III, Section 19(f) of the Florida Constitution requires the termination of all state trust funds within four years of their initial creation, unless exempt by the Constitution or operation of law. The Federal Grants Trust Fund within the Department of Juvenile Justice will terminate on July 1, 2012.

The Federal Grants Trust Fund was created to allow the Department of Juvenile Justice to receive federal grants and other grants awarded for specifically identified purposes. Funds that are credited to the trust fund shall consist of grants and funding from the Federal Government, interest earnings, and cash advances from other trusts funds.

III. Effect of Proposed Changes:

This bill re-creates the trust fund without modification.

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:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill has no fiscal impact on state agencies or state funds, on local government as a whole or on the private sector. It simply re-creates, without modification, an existing state trust fund and continues the current use of the fund.

VI. Technical Deficiencies:

None.

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.)

None.

B. Amendments:

None.

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 Budget Committee

BILL: SB 1026

INTRODUCER: Budget Subcommittee on Education Pre-K-12 Appropriations

SUBJECT: Operating Trust Fund/Department of Education

DATE: February 14, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hamon	Meyer	BC	Favorable
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill re-creates the Operating Trust Fund, FLAIR number 48-2-510, within the Department of Education.

This bill repeals the following subsection of the Florida Statutes: 1001.281 (4).

II. Present Situation:

In accordance with Section 19(f)(2), Article III of the State Constitution, the Operating Trust Fund shall, unless terminated sooner, be terminated on July 1, 2012. Before its scheduled termination, the trust fund shall be reviewed as provided in s. 215.3206 (1) and (2), Florida Statutes.

The Operating Trust Fund is used as a depository for funds to be used for program operations funded by program revenues, as provided in s. 1001.281, Florida Statutes. Moneys to be credited to the trust fund include, but are not limited to, revenues received from fees for General Equivalency Diploma (GED) testing and the leasing of available time for the state's satellite transponder resources. The revenue for this fund for the 2010-11 fiscal year is \$1,538,201.

III. Effect of Proposed Changes:

The effect of this bill is to re-create the Operating Trust Fund effective July 1, 2011, based on a review as required in Section 215.3206 (1) and (2), Florida Statutes, to be used as provided in Section 1001.281, Florida Statutes.

Other Potential Implications:**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

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.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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 Budget Committee

BILL: SB 1028

INTRODUCER: Budget Subcommittee on Education Pre-K-12 Appropriations

SUBJECT: Administrative Trust Fund/Department of Education

DATE: February 14, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hamon	Meyer	BC	Favorable
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill re-creates the Administrative Trust Fund, FLAIR number 48-2-021, within the Department of Education.

This bill repeals the following subsection of the Florida Statutes: 1001.282 (4).

II. Present Situation:

In accordance with Section 19(f)(2), Article III of the State Constitution, the Administrative Trust Fund shall, unless terminated sooner, be terminated on July 1, 2012. Before its scheduled termination, the trust fund shall be reviewed as provided in s. 215.3206 (1) and (2), Florida Statutes.

The Administrative Trust Fund is used as a depository for funds to be used for management activities that are department-wide in nature and funded by indirect cost earnings or assessments against trust funds, as provided in s. 1001.282, Florida Statutes. Moneys to be credited to the trust fund include indirect cost reimbursements from grantors, administrative assessments against trust funds, interest earnings, and other appropriate administrative fees. The revenue for the 2010-2011 fiscal year for this fund is \$10,912,479.

III. Effect of Proposed Changes:

The effect of this bill is to re-create the Administrative Trust Fund effective July 1, 2011, based on a review as required in Section 215.3206 (1) and (2), Florida Statutes, to be used as provided in Section 1001.282, Florida Statutes.

Other Potential Implications:**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

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.)

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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 Budget Committee

BILL: SB 1030

INTRODUCER: Budget Subcommittee on General Government Appropriations

SUBJECT: Trust Fund/Department of Financial Services

DATE: March 11, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Frederick	Meyer, C.	BC	Favorable
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Section 215.3206, Florida Statutes, requires a legislative review of each of the trust funds in an agency subject to the four year review cycle. This bill provides for termination of the State Treasury Escrow Trust Fund and the Employee Refund Clearing Trust Fund within the Department of Financial Services.

This bill takes effect on July 1, 2011.

This bill does not substantially amend, create, or repeal any of the Florida Statutes.

II. Present Situation:

Review of trust funds is required by s. 215.3208, F.S., and s. 19(f), Art.III of the State Constitution. The Legislature, through the legislative budget instructions, has placed agencies on a review cycle to facilitate the review and recreation of trust funds. An analysis of the trust funds under the jurisdiction of the General Government Appropriations Subcommittee resulted in the following findings.

The State Treasury Escrow Trust Fund, FLAIR number 43-2-194, was historically used to hold escrow monies related to the transactions of state agencies. The trust fund provided accounts for assets held by the state in a trustee capacity as agent or fiduciary, thereby eliminating the need for costly private escrow accounts. The department has not used this trust fund in recent years. Currently, the Treasury Cash Deposit Trust Fund is being utilized to provide this service.

The Employee Refund Clearing Trust Fund, FLAIR number 43-2-194, was originally used as a clearing account for the deposit of salary overpayment refunds received from state employees until these funds could be transferred back to the fund of its original disbursement. The need for the Employee Refund Clearing Trust Fund was eliminated more than ten years ago as a result of the implementation of new processes for salary refunds. State agencies currently utilize the Bureau of State Payrolls on-line system for processing salary refunds.

The State Treasury Escrow Trust Fund and the Employee Clearing Trust Fund are currently inactive, and the department has requested termination of these trust funds.

III. Effect of Proposed Changes:

This bill terminates the State Treasury Escrow Trust Fund, FLAIR number 43-2-622, and the Employee Refund Clearing Trust Fund, FLAIR number 43-2-194, within the Department of Financial Services, which are obsolete.

The bill provides an effective date of July 1, 2011.

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:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The termination of the State Treasury Escrow Trust Fund and the Employee Refund Clearing Trust Fund will not affect state operations. By eliminating obsolete trust funds, these changes will provide more consistency across state agencies and improve compliance with the Governmental Accounting Standards Board Statement 34.

VI. Technical Deficiencies:

None.

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.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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 Budget Committee

BILL: SB 1032

INTRODUCER: Budget Subcommittee on General Government Appropriations

SUBJECT: Federal Grants Trust Fund/Department of Environmental Protection

DATE: March 11, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pigott	Meyer, C.	BC	Favorable
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill re-creates the Federal Grants Trust Fund, FLAIR number 37-2-261, within the Department of Environmental Protection without modification. The trust fund serves as a repository for funds to be used for allowable grant activities funded by restricted program revenues from federal sources. The re-creation of this fund is effective beginning July 1, 2011.

This bill repeals section 20.25501(3), Florida Statutes.

II. Present Situation:

Section 19(f)(2), Article III of the State Constitution requires the termination of all state trust funds no later than four years after their initial creation unless re-created or exempted from termination by the State Constitution or operation of law. Section 20.25501, F.S., creates the Federal Grants Trust Fund within the Department of Environmental Protection. The revenue sources for this trust fund are grants and funding from the federal government, interest earnings, and cash advances from other trust funds.

The Federal Grants Trust Fund will terminate on July 1, 2012, if no action is taken by the legislature to re-create the fund. Re-creation requires a three-fifths vote of the membership of each house of the legislature.

III. Effect of Proposed Changes:

The bill re-creates the Federal Grants Trust Fund within the Department of Environmental Protection without modification, effective July 1, 2011.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

Pursuant to s. 19(f)(1), Article III of the Florida Constitution, re-creation of the Federal Grants Trust Fund must pass by a three-fifths vote of the membership of each house of the Legislature.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill has no fiscal impact on state agencies or state funds, on local governments as a whole or on the private sector. It simply re-creates, without modification, an existing state trust fund and continues the current use of the fund.

VI. Technical Deficiencies:

None.

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.)

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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 Budget Committee

BILL: SB 1034

INTRODUCER: Budget Subcommittee on General Government Appropriations

SUBJECT: Federal Grants Trust Fund/Department of Revenue

DATE: March 11, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Blizzard	Meyer, C.	BC	Favorable
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill re-creates the Federal Grants Trust Fund, FLAIR number 73-2-261, within the Department of Revenue without modification. The trust fund was established to be used for allowable grant activities funded by restricted program revenues. Funds credited to the Federal Grants Trust Fund consist of grants and funding from the federal government, interest earnings, and cash advances from other trust funds. The re-creation of this fund is effective beginning July 1, 2011.

This bill repeals section 215.197(3), Florida Statutes.

II. Present Situation:

Section 19(f), Art. III of the State Constitution requires the termination of all state trust funds no later than four years after their initial creation unless re-created or exempted from termination by the State Constitution or operation of law. Section 215.197, F.S., creates the Federal Grants Trust Fund within the Department of Revenue. The Federal Grants Trust Fund serves as a depository for funds to be used for allowable grant activities funded by restricted program revenues from federal sources. Funds credited to the Federal Grants Trust Fund consist of grants and funding from the federal government, interest earnings, and cash advances from other trust funds.

The Federal Grants Trust Fund will terminate on July 1, 2012, if no action is taken by the legislature to re-create the fund. Re-creation requires a three-fifths vote of the membership of each house of the legislature.

III. Effect of Proposed Changes:

This bill re-creates the Federal Grants Trust Fund within the Department of Revenue without modification prior to the scheduled termination date of July 1, 2012.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

Pursuant to s. 19(f)(1), Article III of the Florida Constitution, re-creation of the Federal Grants Trust Fund must pass by a three-fifths vote of the membership of each house of the Legislature.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill has no fiscal impact on state agencies or state funds, on local governments as a whole, or on the private sector. It simply re-creates, without modification, an existing state trust fund and continues the current use of the fund.

VI. Technical Deficiencies:

None.

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.)

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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 Budget Committee

BILL: SB 1036

INTRODUCER: Budget Subcommittee on General Government Appropriations

SUBJECT: Operations Trust Fund/Department of Revenue

DATE: March 11, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Blizzard	Meyer, C.	BC	Favorable
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill re-creates and renames the Operations Trust Fund, FLAIR number 73-2-510, within the Department of Revenue. The Operations Trust Fund is renamed the Operating Trust Fund. This trust fund serves as a depository for funds to be used for program operations funded by program revenues. The re-creation and renaming of this fund is effective beginning July 1, 2011.

This bill repeals section 215.198, Florida Statutes.

II. Present Situation:

Section 19(f), Art. III of the State Constitution requires the termination of all state trust funds no later than four years after their initial creation unless re-created or exempted from termination by the State Constitution or operation of law. Section 215.198, F.S., creates the Operations Trust Fund within the Department of Revenue. The Operations Trust Fund serves as a depository for funds to be used for program operations funded by program revenues.

The Operations Trust Fund will terminate on July 1, 2012, if no action is taken by the legislature to re-create. Re-creation requires a three-fifths vote of the membership of each house of the legislature.

III. Effect of Proposed Changes:

The Operations Trust Fund within the Department of Revenue will be re-created and renamed the Operating Trust Fund prior to the scheduled termination date of July 1, 2012. This bill re-

creates and renames the trust fund to reflect the fund name in the legislative budgeting system. The purpose of the fund is not modified.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

Pursuant to s. 19(f), Article III of the Florida Constitution, re-creation of the Operations Trust Fund must pass by a three-fifths vote of the membership of each house of the Legislature.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill has no fiscal impact on state agencies or state funds, on local governments as a whole or on the private sector. It simply re-creates and renames an existing state trust fund and continues the current use of the fund.

VI. Technical Deficiencies:

None.

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.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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 Budget Committee

BILL: SB 1038
 INTRODUCER: Budget Subcommittee on General Government Appropriations
 SUBJECT: Federal Grants Trust Fund/Department of Financial Services
 DATE: March 11, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Frederick	Meyer, C.	BC	Favorable
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill creates the Federal Grants Trust Fund within the Department of Financial Services, effective July 1, 2011. This trust fund is established to be used for allowable grant activities funded by restricted program revenues. Funds that will be credited to the Federal Grants Trust Fund will consist of grants and funding from the federal government, interest earnings, and cash advances from other trust funds.

This bill creates section 17.67, Florida Statutes.

II. Present Situation:

Section 19(f), Art. III of the State Constitution requires that every trust fund be created by a three-fifths vote of the membership in each house of the legislature in a separate bill for the sole purpose of creating that trust fund. The constitution also provides that all newly created trust funds terminate not more than four years after the initial creation unless re-created.

In order to meet accounting standards established by the Government Accounting Standards Board, s. 215.32, F.S., requires that agencies have trust funds for day-to-day operations. One of the required trust funds is a federal grants trust fund. The department currently does not have a federal grants trust fund. Currently, federal funds are deposited into the Administrative Trust Fund. The creation of this trust fund complies with s. 215.32, F.S.

III. Effect of Proposed Changes:

The creation of this trust fund will allow the department to separately account for funds from grants and funding from the federal government, interest earnings, and cash advances from other trust funds. The department will use this trust fund as a repository for funds to be used for allowable grant activities funded by restricted program revenues from federal sources.

The creation of this trust fund will align agency account with the requirements of s. 215.32, F.S.

The trust fund will terminate in four years, on July 1, 2015, pursuant to s. 19(f)(2), Art. III of the State Constitution, unless terminated sooner or re-created by the Legislature.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

This bill, creating a new trust fund, must pass by a three-fifths vote of the membership of each house of the legislature to become law pursuant to s. 19(f)(2), Art. III of the State Constitution.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:**C. Government Sector Impact:**

Creation of the Federal Grants Trust Fund within the department will allow for improved segregation of funds and accounting records.

VI. Technical Deficiencies:

None.

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.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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 Budget Committee

BILL: SB 1040

INTRODUCER: Budget Subcommittee on General Government Appropriations

SUBJECT: Florida Drug, Device, and Cosmetic Trust Fund/Department of Business and Professional Regulation

DATE: March 11, 2011 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Frederick	Meyer, C.	BC	Favorable
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill creates the Florida Drug, Device, and Cosmetic Trust Fund within the Department of Business and Professional Regulation. This trust fund is established to be used for activities relating to the regulation and administration of the Florida Drug and Cosmetic Act as authorized by section 499.002, F.S. Funds to be credited to the Florida Drug, Device, and Cosmetic Trust Fund will consist of funds collected for licenses, fees, interest earnings, and permits.

This bill substantially amends section 455.116, Florida Statutes.

This bill creates section 499.0031, Florida Statutes.

II. Present Situation:

Section 19 (f), Art.III of the State Constitution requires that every trust fund be created by a three-fifths vote of the membership in each house of the Legislature in a separate bill for the sole purpose of creating that trust fund. The Constitution also provides that all newly created trust funds terminate not more than four years after the initial creation unless re-created.

Chapter 499, F.S., known as the Florida Drug and Cosmetic Act, was enacted in 1982. Section 499.057, F.S., authorized the creation of the Florida Drug, Device, and Cosmetic Trust Fund. Section 499.79, F.S., provided that all fees collected for licenses and permits required under the act be deposited into the trust fund for administration of the act. Since 2006, the Division of Medical Quality Assurance within the Department of Health has been responsible for administering the provisions of the act.

Section 27 of ch. 210-161, L.O.F., transferred the administration of ch. 499, F.S., from the Department of Health to the Department of Business and Professional Regulation, effective October 1, 2011.

III. Effect of Proposed Changes:

This bill creates the Florida Drug, Device, and Cosmetic Trust Fund within the Department of Business and Professional Regulation. This trust fund is established to be used for activities relating to the regulation and administration of the Florida Drug and Cosmetic Act as authorized by section 499.002, F.S. Funds to be credited to the Florida Drug, Device, and Cosmetic Trust Fund will consist of funds collected for licenses, fees, interest earnings, and permits.

The trust fund will terminate in four years, on July 1, 2015, pursuant to s. 19 (f)(2), Art. III of the State Constitution, unless terminated sooner or re-created by the Legislature.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

This bill, creating a new trust fund, must pass by a three-fifths vote of the membership of each house of the legislature to become law pursuant to s. 19(f)(2), Art. III of the State Constitution.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Creation of the Florida Drug, Device, and Cosmetic Trust Fund within the department will allow the department to administer funds to be used for activities relating to the regulation and administration of the Florida Drug and Cosmetic Act.

VI. Technical Deficiencies:

None.

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.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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 Budget Committee

BILL: SB 1042
INTRODUCER: Budget Subcommittee on Transportation, Tourism, and Economic Development
SUBJECT: Federal Grants Trust Fund/Highway Safety and Motor Vehicles
DATE: February 14, 2011 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carey	Meyer	BC	Favorable
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill re-creates the Federal Grants Trust Fund, FLAIR number 76-2-261, within the Department of Highway Safety and Motor Vehicles. This trust fund serves as a repository of grants and funding from the Federal Government, interest earnings, and cash advances from other trust funds. Re-creation is effective beginning July 1, 2011 prior to the scheduled termination date of July 1, 2012.

This bill repeals the section 20.241(3) of the Florida Statutes.

II. Present Situation:

Article III, section 19(f) of the Florida Constitution requires the termination of all state trust funds no later than four years after their initial creation unless re-created or exempted from termination by the Florida Constitution or operation of law. Section 20.241, F.S., creates the Federal Grants Trust Fund within the Department of Highway Safety and Motor Vehicles. The Federal Grants Trust Fund serves as a repository of grants and funding from the Federal Government, interest earnings, and cash advances from other trust funds.

The Federal Grants Trust Fund will terminate on July 1, 2012, if no action is taken by the legislature to re-create. Re-creation requires a three-fifths vote of the membership of each house of the legislature.

III. Effect of Proposed Changes:

The Federal Grants Trust Fund within the Department of Highway Safety and Motor Vehicles will be re-created prior to the scheduled termination date of July 1, 2012. This bill re-creates the trust fund without modification.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

Pursuant to s. 19(f), Article III of the Florida Constitution, re-creation of the Federal Grants Trust must pass by a three-fifths vote of the membership of each house of the legislature.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill has no fiscal impact

VI. Technical Deficiencies:

None.

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.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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 Budget Committee

BILL: SB 1044

INTRODUCER: Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations

SUBJECT: Internal Registration Clearing Trust Fund/Highway Safety and Motor Vehicles

DATE: February 14, 2011 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carey	Meyer	BC	Favorable
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill terminates the International Registration Clearing Trust Fund, FLAIR number 76-2-410 within the Department of Highway Safety and Motor Vehicles effective July 1, 2011. Remaining balances in, and all revenues of, the trust fund shall be transferred to the General Revenue Fund.

This bill repeals chapter 2004-235, section 2(4)(a), Laws of Florida.

II. Present Situation:

The International Registration Clearing Trust Fund within the Department of Highway Safety and Motor Vehicles is exempt from termination pursuant to Article III, Section 19(f)(3) of the Florida Constitution. The Department of Highway Safety and Motor Vehicles currently deposits revenue from vehicle registration fees in the Motor Vehicle License Clearing Trust and recommends the termination of the International Registration Clearing Trust Fund.

III. Effect of Proposed Changes:

The International Registration Clearing Trust Fund within the Department of Highway Safety and Motor Vehicles will be terminated effective July 1, 2011. Any remaining balances in, and all revenues of, the trust fund shall be transferred to the General Revenue Fund.

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:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

There will be no fiscal impact resulting from the termination of the International Registration Clearing Trust Fund. There is no fund balance and apportioned vehicle registration fees are currently deposited in the Motor Vehicle License Clearing Trust Fund for distribution.

VI. Technical Deficiencies:

None.

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.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
