

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/CS/SB's 2328 & 2252

SPONSOR: Comprehensive Planning Committee, Commerce, Economic Opportunities, and Consumer Services Committee and Senators Saunders, Miller, and Siplin

SUBJECT: Economic Stimulus

DATE: April 7, 2003                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cibula	Maclure	CM	Fav/Combined CS
2.	Cooper	Yeatman	CP	Fav/CS
3.	_____	_____	FT	_____
4.	_____	_____	ATD	_____
5.	_____	_____	AP	_____
6.	_____	_____	_____	_____

**I. Summary:**

This committee substitute expands the availability of economic development tax incentives and revises laws relating to several of the state’s economic development programs. Specifically, the committee substitute:

- expands the tax exemption for items of business property for use in an enterprise zone to include items priced at \$500 or greater;
- renames the Urban High-Crime Area Job Tax Credit Program as the Designated Urban Job Tax Credit Area Program;
- revises the eligibility criteria for an area to be designated as an urban job tax credit area to include factors other than crime rates;
- expands the types of businesses eligible to receive the capital investment tax credit for new or expanding facilities that create at least 100 new jobs in this state to include businesses that may qualify as a qualified target industry business and export at least 50 percent of their products or services outside of Florida;
- extends the deadline for businesses in the tax refund program for qualified defense contractors that have not received an economic-stimulus exemption by the effective date of this committee substitute to apply for an economic-stimulus exemption;
- extends the deadline for businesses in the tax refund program for qualified target industry businesses that have not received an economic-stimulus exemption by the effective date of this committee substitute to apply for an economic-stimulus exemption;
- authorizes Enterprise Florida, Inc., to provide managerial, technological, scientific, and financial expertise directly to businesses without using a subcontractor; and

- limits the liability of Enterprise Florida, Inc., for loan guarantees and other investments under a technology program to funds within the Florida Technology Research Investment Fund.

This committee substitute substantially amends the following sections of the Florida Statutes: 212.08, 212.097, 220.1895, 220.191, 288.1045, 288.106, and 288.9515. The committee substitute repeals s. 288.9517, F.S., and s. 14, ch. 93-187, L.O.F.

## II. Present Situation:

The state currently employs several economic development incentives to encourage the creation, expansion, and retention of businesses located in the state and to encourage the relocation of businesses to this state. Many of these economic development incentives take the form of a tax benefit.

### **Business Property for Use in an Enterprise Zone**

A sales tax exemption for business property purchased for use in an enterprise zone is one of several tax benefits for businesses located in an enterprise zone. The Florida Enterprise Zone Act of 1994 (act), codified in ss. 290.001-290.016, F.S., was created:

to assist local communities, their residents, and the private sector in creating the proper economic and social environment to induce the investment of private resources in productive business enterprises located in severely distressed areas and to provide jobs for residents of such areas.<sup>1</sup>

Under the act, areas of the state meeting specified criteria, including suffering from pervasive poverty, unemployment, and general distress, have been designated as enterprise zones. According to the Office of Tourism, Trade, and Economic Development (OTTED), there are 47 enterprise zones.

Under s. 212.08(5)(h), F.S., sales tax refunds are available for purchases of business property by businesses located within an enterprise zone, if the business property is used in the enterprise zone and has a sales price of at least \$5,000 per unit. Business property is defined as “recovery property” in s. 168(c) of the Internal Revenue Code of 1954, as amended. The maximum sales tax refund is the lesser of 97 percent of the sales taxes paid by a business or \$5,000. However, if 20 percent or more of the business’s employees are residents of an enterprise zone, the maximum sales tax refund is the lesser of 97 percent of the sales tax paid by the business or \$10,000.<sup>2</sup> No refunds are available unless the amount to be refunded exceeds \$100 in sales tax paid on purchases made within a 60-day time period.<sup>3</sup>

Applications for these sales tax refunds must be made on forms EZ-E and DR-26S available from the Department of Revenue. Form EZ-E requires an applicant for a refund to: attach the invoices for the business property purchased; list the names and addresses of employees; and

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<sup>1</sup> Section 290.003, F.S.

<sup>2</sup> Section 212.08(5)(h)5., F.S.

<sup>3</sup> *Id.*

obtain the signature of the enterprise zone coordinator. Form DR-26S requires general business information including: the amount of refund; identification numbers of the applicant; and the collection period of the taxes paid.

During the past several years, sales tax refunds approved by the Department of Revenue for the purchase of business property for use in and by a business located in an enterprise zone were as follows: FY 1997-1998, \$1,288,160; FY 1998-1999, \$1,739,385; FY 1999-2000, \$2,188,606; FY 2000-2001, \$1,911,472; and FY 2001-2002, \$2,813,601.<sup>4</sup>

### **Urban High-Crime Area Job Tax Credit Program**

Under s. 212.097, F.S., certain businesses located in qualified high-crime areas are eligible to receive an urban high-crime area job tax credit for use against corporate or sales taxes. The amount of the tax credit depends upon the severity of the area's crime rate and the number of employees. The \$5 million in annual tax credits available under the program has never been exhausted. According to Enterprise Florida, Inc., it is difficult to persuade businesses to relocate to an area labeled as a "high-crime" area.

### ***Designation of Qualified High-Crime Areas***

Eligible businesses must be located in qualified high-crime areas designated by the Office of Tourism, Trade, and Economic Development (OTTED). OTTED may designate an area as a qualified high-crime area every three years. A county or a municipality, or a county and a municipality together, may apply to OTTED for the designation of an area as a qualified high-crime area after adopting a resolution that:

- (a) Finds that a high-crime area exists in such county or municipality, or in both the county and one or more municipalities, which chronically exhibits extreme and unacceptable levels of poverty, unemployment, physical deterioration, and economic disinvestment;
- (b) Determines that the rehabilitation, conservation, or redevelopment, or a combination thereof, of such a high-crime area is necessary in the interest of the health, safety, and welfare of the residents of such county or municipality, or such county and one or more municipalities; and
- (c) Determines that the revitalization of such a high-crime area can occur if the public sector or private sector can be induced to invest its own resources in productive enterprises that build or rebuild the economic viability of the area.<sup>5</sup>

The application must also include crime statistics for the nominated area.<sup>6</sup>

The areas nominated for designation as a qualified high-crime area are ranked into three tiers based on their crime rates. Tier-one areas have the highest crime rates and the largest tax credit

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<sup>4</sup> Office of Tourism, Trade, and Economic Development, *Florida Enterprise Zone Annual Report October 1, 2001 – September 30, 2002*, p. 6, March 1, 2003.

<sup>5</sup> Section 212.097(6), F.S.

<sup>6</sup> Section 212.097(7), F.S.

per employee. Tier-three areas have the lowest crime rates and the smallest tax credit per employee. OTTED has designated 13 areas as qualified high-crime areas.

**Chart 1 – Qualified High-Crime Areas**

TIER	LOCATION	SIZE
<b>Tier I</b>	Jacksonville	20.00 sq. mi.
	Ocala	4.92 sq. mi.
	Orlando	18.80 sq. mi.
	Palm Beach County	14.25 sq. mi.
	Tampa	16.50 sq. mi.
<b>Tier II</b>	Fort Lauderdale	9.40 sq. mi.
	Miami-Dade County (Carol City, Miami, and Goulds)	18.80 sq. mi.
	Miami-Dade County (Florida City, Homestead, Leisure City, and Naranja)	5.10 sq. mi.
	Pompano Beach	4.82 sq. mi.
	Tallahassee	5.64 sq. mi.
<b>Tier III</b>	Lakeland	3.25 sq. mi.
	Miami-Dade County (Hialeah, Miami, and Opa Locka)	19.30 sq. mi.
	St. Petersburg	16.00 sq. mi.

Source: Office of Tourism, Trade, and Economic Development.

**Tax Credit Amount**

The tax credit available to a new business in a qualified high-crime area depends upon the number of employees and tier ranking of the qualified high-crime area as follows:

A new eligible business in a tier-one qualified high-crime area which has at least 10 qualified employees on the date of application shall receive a \$1,500 tax credit for each such employee. A new eligible business in a tier-two qualified high-crime area which has at least 20 qualified employees on the date of application shall receive a \$1,000 tax credit for each such employee. A new eligible business in a tier-three qualified high-crime area which has at least 30 qualified employees on the date of application shall receive a \$500 tax credit for each such employee.<sup>7</sup>

Existing businesses in a qualified high-crime area are eligible for a tax credit in an amount that depends upon the number of new employees and the tier ranking of the qualified high-crime area as follows:

An existing eligible business in a tier-one qualified high-crime area which on the date of application has at least 5 more qualified employees than it had 1 year prior to its date of application shall receive a \$1,500 tax credit for each such additional employee. An existing eligible business in a tier-two qualified high-crime area which on the date of application has at least 10 more qualified employees than it had 1 year prior to its date of application shall receive a \$1,000 credit for each such additional employee. An existing business in a tier-three qualified high-

<sup>7</sup> Section 212.097(2), F.S.

crime area which on the date of application has at least 15 more qualified employees than it had 1 year prior to its date of application shall receive a \$500 tax credit for each such additional employee. An existing eligible business may apply for the credit under this subsection no more than once in any 12-month period.<sup>8</sup>

A business that received a tax credit under the program as a new business may apply for an additional tax credit one year after its initial application for a tax credit as an existing business. The tax credits available to new and existing businesses increase \$500 for each new employee who is a welfare transition program participant.<sup>9</sup> The amount of tax credits that may be approved per year under the program is \$5 million. The tax credits actually used in 2001 and 2002 were \$2,486,500 and \$2,673,500, respectively.<sup>10</sup>

A tax credit under the Urban High-Crime Area Jobs Tax Credit program may not be sold or transferred, but may be used on a subsequent tax return 12 months after the tax credit is approved by the Department of Revenue.<sup>11</sup>

### **Capital Investment Tax Credit**

Section 220.191, F.S., provides for the Capital Investment Tax Credit (CITC) Program to allow a “qualifying business” that establishes a “qualifying project” in this state to receive an annual credit against the corporate income tax liability or the premium tax liability generated by the project. The term “qualifying project” is defined as a new or expanding facility in this state which creates at least 100 new jobs in this state and is in one of the high-impact sectors identified by Enterprise Florida, Inc., and certified by the Office of Tourism, Trade, and Economic Development pursuant to s. 288.108(6), F.S., including, but not limited to, aviation, aerospace, automotive, and silicon technology industries. High-impact businesses are a subset of businesses that qualify for designation or are designated as a qualified target industry business under the Qualified Target Industry Tax Refund Program codified in s. 288.106, F.S.

An annual credit is granted to any qualifying business in an amount equal to 5 percent of the eligible capital costs generated by a qualifying project, for a period not to exceed 20 years beginning with the commencement of operations of the project. The term “eligible capital costs” is defined as all expenses incurred by a qualifying business in connection with the acquisition, construction, installation, and equipping of a qualifying project during the period from the beginning of construction of the project to the commencement of operations. Eligible capital costs do not include the cost of any property previously owned or leased by a qualifying business. The sum of all tax credits provided for a qualifying project cannot exceed 100 percent of the eligible capital costs of the project. Tax credits cannot be carried forward or backward by any qualifying business with respect to a subsequent or prior year.

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<sup>8</sup> Section 212.097(3), F.S.

<sup>9</sup> Section 212.097(4), F.S.

<sup>10</sup> Office of Tourism, Trade, Economic Development, *Urban Job Tax Credit Program Summary*.

<sup>11</sup> Section 212.097(12), F.S.

The annual tax credit granted under the CITC Program shall not exceed the following percentages of the annual corporate income tax liability or the premium tax liability generated by or arising out of a qualifying project:

- One hundred percent for a qualifying project which results in a cumulative capital investment of at least \$100 million.<sup>12</sup>
- Seventy-five percent for a qualifying project which results in a cumulative capital investment of at least \$50 million but less than \$100 million.
- Fifty percent for a qualifying project which results in a cumulative capital investment of at least \$25 million but less than \$50 million.

A qualifying project which results in a cumulative capital investment of less than \$25 million is not eligible for the capital investment tax credit.

### **Tax Refund Program for Qualified Defense Contractors**

Finding that high technology jobs in the state were threatened by downsizing in the national defense budget, the Legislature during a special session in 1993 created a tax refund program designed to facilitate the employment of Florida citizens by defense contractors. The Qualified Defense Contractor Tax Refund Program (QDC Program) authorized tax refunds to a certified contractor that: (1) secured a new Department of Defense (DOD) contract; (2) consolidated an existing DOD contract in Florida; (3) converted defense production jobs to non-defense production jobs; or (4) contracted for the reuse of a defense-related facility.<sup>13</sup> The program was repealed effective December 1, 1994.<sup>14</sup>

In 1996, the QDC Program was re-created and codified in s. 288.1045, F.S.<sup>15</sup> In order to participate in the program and be eligible to receive tax refunds, a business must apply to OTTED for certification. The statute prescribes information that must be submitted by a defense contractor in order to be certified.<sup>16</sup> The QDC Program features a local financial support component, under which an eligible business must secure a resolution adopted by county government which recommends the project and which indicates that the necessary commitments of local financial support for the business exist. Local financial support means funding from local sources, public or private, which is equal to 20 percent of the annual tax refund for a qualified business.<sup>17</sup>

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<sup>12</sup> The term "cumulative capital investment" is defined as the total capital investment in land, buildings, and equipment made in connection with a qualifying project during the period from the beginning of construction of the project to the commencement of operations.

<sup>13</sup> Section 288.104, F.S., (1994 Supp.).

<sup>14</sup> The Legislature had specified that the program would be repealed effective December 1, 1994, if no qualified applicant had entered into a valid new DOD contract or begun consolidation of an existing DOD contract, which was expected to result in the employment of at least 1,000 full-time employees. Because this condition was not satisfied by a single qualified applicant, the statute stood repealed.

<sup>15</sup> See s. 1, ch. 96-348, L.O.F.

<sup>16</sup> Section 288.1045(3), F.S.

<sup>17</sup> Section 288.1045(1)(o) and (3), F.S.

Approved applicants enter into an agreement with OTTED and may receive refunds based on the payment of sales and use taxes, corporate income taxes, intangible personal property taxes, emergency excise taxes, excise taxes on documents, and ad valorem taxes. Tax refunds generally are paid to a participating business over a period of several years. A qualified applicant may not be qualified for any project to receive more than \$5,000 times the number of jobs provided for in the tax refund agreement.

A QDC Program business's compliance with the terms and conditions of its tax refund agreement with OTTED is a condition precedent for the receipt of a tax refund each year.<sup>18</sup> The failure to comply with the terms and conditions of the tax refund agreement results in the loss of eligibility for receipt of all tax refunds previously authorized and the revocation by the director of OTTED of the certification of the business entity as a QDC Program business. However, s. 288.1045(5)(g), F.S., provides for a prorated tax refund, less a 5-percent penalty, for a QDC Program business that proves it has achieved at least 80 percent of its projected employment goal and pays at least 90 percent of the average wage specified in its tax refund agreement. Alternatively, a qualified defense contractor that fails to achieve its contractual obligations may remain in the QDC program if it receives an economic-stimulus exemption. A qualified defense contractor is eligible for an economic-stimulus exemption if its failure to comply with its contractual obligations with OTTED is the result of negative economic conditions in the defense industry or the result of terrorism. The qualified defense contractor must also submit a request for an economic-stimulus exemption to OTTED in lieu of any tax refund claim scheduled to be submitted between January 2, 2001, and June 30, 2003.

### **Tax Refund Program for Qualified Target Industry Businesses**

The Qualified Target Industry Tax Refund Program (QTI Program), s. 288.106, F.S., is one of the state's economic development incentives. Under the program, eligible businesses may receive refunds of previously paid taxes, based upon the creation of jobs at a certain salary level.

Eligible businesses must be in an industry that meets the following criteria:

1. Future growth.--Industry forecasts should indicate strong expectation for future growth in both employment and output, according to the most recent available data. Special consideration should be given to Florida's growing access to international markets or to replacing imports.
2. Stability.--The industry should not be subject to periodic layoffs, whether due to seasonality or sensitivity to volatile economic variables such as weather. The industry should also be relatively resistant to recession, so that the demand for products of this industry is not necessarily subject to decline during an economic downturn.
3. High wage.--The industry should pay relatively high wages compared to statewide or area averages.
4. Market and resource independent.--The location of industry businesses should not be dependent on Florida markets or resources as indicated by industry analysis.

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<sup>18</sup> Section 288.1045(4)(b), F.S.

5. Industrial base diversification and strengthening.--The industry should contribute toward expanding or diversifying the state's or area's economic base, as indicated by analysis of employment and output shares compared to national and regional trends. Special consideration should be given to industries that strengthen regional economies by adding value to basic products or building regional industrial clusters as indicated by industry analysis.

6. Economic benefits.--The industry should have strong positive impacts on or benefits to the state and regional economies.<sup>19</sup>

Businesses that may qualify as a qualified target industry business and thus be approved to receive tax refunds must be engaged in one of the following activities: manufacturing; financial and insurance services; wholesale trade; information industries; professional technical, scientific, and technical services; management services; and administrative and support services.<sup>20</sup>

Section 288.106(4), F.S., requires each QTI Program business to enter into a written agreement with OTTED concerning the business's participation in the program. Compliance with the terms and conditions of a tax refund agreement is a condition precedent for the receipt of a tax refund each year. The failure to comply with the terms and conditions of the tax refund agreement results in the loss of eligibility for receipt of all tax refunds previously authorized and the revocation by the director of OTTED of the certification of the business entity as a qualified target industry business. However, s. 288.106(5)(d), F.S., provides for a prorated tax refund, less a 5-percent penalty, for a QTI Program business that proves it has achieved at least 80 percent of its job creation goal and 90 percent of the average wage specified in its agreement with OTTED. Additionally, the 2002 Legislature amended s. 288.106(4)(b), F.S., to enable certain businesses to remain in the QTI Program after failing to meet their contractual obligations. Such businesses may remain in the QTI Program if they apply for an economic-stimulus exemption from their contractual obligations due to negative economic conditions or terrorism, in lieu of a tax refund claim that was scheduled to be submitted between January 2, 2001, and June 30, 2003.

Section 288.106(7), F.S., provides for a repeal of s. 288.106, F.S., on June 30, 2004.

### **Authorized Technology Development Programs**

According to a report by the Office of Program Policy and Analysis and Government Accountability,<sup>21</sup> the Legislature in 1993 authorized the Enterprise Florida Innovation Partnership to establish several technology commercialization and transfer programs.<sup>22</sup> Under the authority granted by s. 288.9515(5), F.S., the partnership created regional innovation and commercialization centers, which were intended to help entrepreneurs bring new high

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<sup>19</sup> Section 288.106(1)(o), F.S.

<sup>20</sup> Enterprise Florida, Inc., *Qualified Target Industry (QTI) Tax Refund Target Industries*, revised November 25, 2002.

<sup>21</sup> Office of Program Policy and Analysis and Government Accountability, *Statutes Authorizing Technology Commercialization and Development Initiatives Should be Re-Enacted*, Report No. 02-59, November 2002.

<sup>22</sup> The Legislature established the Enterprise Florida Innovation Partnership in 1993 as a public-private partnership charged with fostering the growth of small and midsize high technology manufacturers and increasing the number of high technology jobs in Florida. In 1996, the Innovation Partnership was renamed the Enterprise Florida Technology Development Board and brought under the umbrella of Enterprise Florida, Inc., the state's primary economic development organization. The Technology Development Board was eliminated as a separate entity within Enterprise Florida, Inc., in 1999.



technology products to the market. Six innovation and commercialization centers were initially established in Gainesville, Jacksonville, Orlando, Palm Beach, Tallahassee, and Tampa.

The innovation and commercialization centers are no longer affiliated with Enterprise Florida, Inc. They were formally separated from Enterprise Florida, Inc., in 1999. During that year, the Governor vetoed state funding for these entities. A 1998 report by the Office of Program Policy Analysis and Government Accountability noted that some of the centers were on the verge of becoming financially self-supporting and these centers would continue to operate if state funding was eliminated.<sup>23</sup> Presently, three innovation and commercialization centers are still operating. These centers receive no state funding and no longer have contractual or funding relationships with Enterprise Florida, Inc.

Under the authority granted by s. 288.9515(1)(a)-(f), F.S., the partnership established the Florida Manufacturing Technology Center, which was created to assist small to medium-sized manufacturers in using off-the-shelf technologies and methods to improve their efficiency and operations. The center was separated from Enterprise Florida, Inc., in 1999 following the Governor's veto of state funding for this entity. The center (now operating as the Florida Manufacturing Extension Partnership) is funded by the U.S. Department of Commerce's National Institute of Standards and Technology.

Section 288.9515(3) and (4), F.S., created the Florida Technology Investment Research Fund. It was established to partner with the private sector and the state's research universities to develop marketable technologies. The fund was to invest in projects that had potential to generate marketable products beneficial to the state's economy.

Enterprise Florida, Inc., still administers the Florida Technology Research Investment Fund. It presently administers contracts with 14 entities that were disbursed a total of \$2,403,871 from the fund during fiscal years 1997-98 and 1998-99. The fund's balance as of June 30, 2002, was \$717,287.

Section 288.9515, F.S., which authorizes Enterprise Florida, Inc., to establish technology commercialization and development programs, will be repealed December 31, 2003, unless reenacted by the Legislature.<sup>24</sup> If the Legislature allows statutory provisions creating the Florida Technology Research Investment Fund to be repealed, any rights or interests in the fund vest in the state under the control of the State Board of Administration.<sup>25</sup>

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<sup>23</sup> Office of Program Policy Analysis and Government Accountability, *Review of the Technology Board of Enterprise Florida, Inc.*, Report No. 98-30, December 1998.

<sup>24</sup> Section 14, ch. 93-187, L.O.F.

<sup>25</sup> OPPAGA, *supra* note 21, p. 3.

### III. Effect of Proposed Changes:

Each section of the committee substitute revises laws relating to one of the state's economic development programs.

**Section 1** expands the tax exemption from sales and use taxes for items of business property for use in an enterprise zone. Under the committee substitute, the items with a sales price of \$500 or greater, instead of \$5,000 or greater, will be exempt from sales and use taxes.

**Section 2** of the committee substitute renames and revises the Urban High-Crime Area Job Tax Credit Program. The program is renamed the "Designated Urban Job Tax Credit Area Program," deleting references to high crime.

The revised program increases the types of businesses that may be eligible for tax credits by including businesses which are in an eligible industry under the state's tax refund program for qualified target industry businesses. Under the revised program, there are no more tiers in which designated high-crime areas are ranked based on their crime rates. Instead, businesses located in any area designated under the revised program will receive a tax credit based solely on the number of its employees.

Under the committee substitute, qualified new businesses within a designated urban job tax credit area with at least 10 employees may receive a tax credit in the amount of \$1,000 for each employee. Existing businesses that hire at least 10 additional employees in the year prior to applying for a tax credit may receive a tax credit in the amount of \$1,000 for each of its additional employees. The committee substitute retains provisions of the existing program increasing the amount of the tax credit by \$500 for each new employee who is a welfare transition program participant.

The revised program in s. 212.097(1)(e), F.S., however, continues to authorize OTTED to rank areas that are nominated to be included within the program every three years. Because there are no more tiers in which areas under the program are ranked, the purpose of the provision of the committee substitute directing OTTED to rank nominated areas every three years is unclear.

Under the committee substitute, OTTED "shall" designate 30 areas as designated urban job tax credit areas. In order for an area to be eligible for designation, however, it must first be nominated by a county or a municipality, or by a county and a municipality. There is no requirement for counties or municipalities to nominate areas for designation. As such, the Legislature may wish to amend the committee substitute to provide that OTTED "may designate up to 30" areas. The areas designated by OTTED must be the 30 highest distress areas applying for designation as a designated urban job tax credit area.

Because the committee substitute in s. 212.097(1)(e), F.S., establishes new criteria for an area to be designated as a designated urban job tax credit area, it appears that areas currently designated as qualified high-crime areas will have to re-apply to OTTED to be designated as a designated urban job tax credit area. The committee substitute, however, contains no provision expressly stating whether existing qualified high-crime areas automatically become designated urban job tax credit areas.

The revised program continues to require that areas applying for designation be nominated by a resolution of a county or a municipality, or by a county and a municipality. The type of documentation that must support an application for designation, however, is revised and increased. This supporting documentation must show that the nominated area meets: specific income characteristics indicating widespread poverty; specific education characteristics; specific crime statistics indicating that the area has a higher crime rate than in the state as a whole; and residential and commercial property related statistics indicating that the area is economically distressed.

The size of a nominated area may range from up to 3 square miles to 20 square miles depending upon the population within the area. Nominated areas must be near the central business district of a city but not include the central business district unless the poverty rate for each census geographic block group in the district is 30 percent or greater.

The committee substitute in s. 212.097(16), F.S., authorizes an eligible business to transfer unused credits. According to Enterprise Florida, Inc., this will enable a business, particularly a new business, to raise needed cash by selling its tax credits to another business.

**Section 3** of the committee substitute conforms s. 220.1895, F.S., to reflect that the Urban High-Crime Area Job Tax Credit Program has been renamed as Designated Urban Job Tax Credit Area Program. Section 3 also deletes an obsolete requirement for OTTED to make a report to the Governor and Legislature by February 1, 2000.

**Section 4** amends the definition of a “qualifying project” eligible to receive a capital investment tax credit to include facilities that are eligible for designation as a qualified target industry business and export at least 50 percent of their products or services outside of the state. Businesses that do not export at least 50 percent of their products or services outside of the state will no longer be authorized to apply to be a new participant in the Capital Investment Tax Credit Program.

**Section 5** of the committee substitute modifies the definition of “Department of Defense contract” in the Qualified Defense Contractor Tax Refund Program to include contracts for products or services for homeland security use. Under the revised definition, eligible contracts may be made with the U.S. Department of Homeland Security.

Section 5 of the committee substitute also extends the period for which qualified defense contractors that fail to comply with their contractual obligations with OTTED may apply for an economic-stimulus exemption. To receive the exemption, the failure to comply with contractual obligations with OTTED must be the result of negative economic conditions in the defense industry or the result of terrorism. A qualified defense contractor must also submit the request for an economic-stimulus exemption to OTTED in lieu of any tax refund claim scheduled to be submitted after January 1, 2001, and before June 30, 2004. Approval of the exemption will enable a business to remain in the defense contractor tax refund program. A qualified defense contractor will be ineligible to apply for an additional exemption if it has received an economic stimulus exemption prior to the effective date of the committee substitute.

**Section 6** of the committee substitute revises the criteria that OTTED and Enterprise Florida, Inc., are directed to use to identify a “target industry business” under the Qualified Target Industry Tax Refund Program, emphasizing certain defense and homeland security industries.

Section 6 of the committee substitute also extends the period for which qualified target industry businesses that fail to comply with their contractual obligations with OTTED may apply for an economic-stimulus exemption. To receive the exemption, the failure to comply with contractual obligations with OTTED must be the result of negative economic conditions in a business’s industry or the result of terrorism. A qualified target industry business must also submit the request for an economic-stimulus exemption to OTTED in lieu of any tax refund claim scheduled to be submitted after January 1, 2001, and before June 30, 2004. Approval of the exemption will enable a business to remain in the Qualified Target Industry Tax Refund Program. A qualified target industry business will be ineligible to apply for an additional exemption if it has received an economic stimulus exemption prior to the effective date of the committee substitute.

**Section 7** of the committee substitute authorizes Enterprise Florida, Inc., to provide managerial, technological, scientific, and financial expertise directly to businesses without using a subcontractor.

Section 7 of committee substitute also substantially revises s. 288.9515(4)(b), F.S., to provide that funds within the Florida Technology Research Investment Fund are continuously appropriated for investments in technologies that may have the potential for commercial success. These investments may take the form of loan guarantees, letter of credit guarantees, cash reserves for loan and letter of credit guarantees, payments of claims pursuant to contracts for guarantees, subordinated loans, loans with warrants, royalty investments, equity investments, and other contractual arrangements. Claims that may be made against the fund or Enterprise Florida, Inc., as the result of investments of the fund are payable solely from the fund. In addition, the committee substitute specifies that the state is not pledging its credit or taxing power.

Additionally, s. 288.9515(4)(c), F.S., authorizes the operating expenses of the Florida Technology Research Investment Fund and the Florida Small Business Technology Growth Program to be no more than \$175,000 or 5 percent of the earnings on investment of moneys in the fund plus 5 percent of the revenues generated by the Florida Small Business Technology Growth Program under s. 288.95155, F.S.

Lastly, Enterprise Florida, Inc., is directed to facilitate private investment in technology start-up businesses.

**Section 8** of the committee substitute repeals s. 288.9517, F.S., which authorizes the Auditor General and the Office of Program Policy Analysis and Government Accountability (OPPAGA) to audit the technology development board or its programs. This audit authority is redundant with the authority of the Auditor General and OPPAGA to conduct audits codified elsewhere in Florida law.

**Section 9** of the committee substitute repeals s. 14, ch. 93-187, L.O.F., which provides for the repeal of s. 288.9515, F.S., on December 31, 2003. As a result, s. 288.9515, F.S., will remain in effect until the Legislature chooses to repeal it.

**Section 10** of the committee substitute provides that the committee substitute takes effect July 1, 2003.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

Sections of this committee substitute that were also contained in SB 2252 and HB 809 were reviewed by the Revenue Impact Conference on March 28, 2003. The findings of the Revenue Impact Conference are listed in the table below.

<u>Fiscal Year 2003-2004</u>								
Issue/Fund	General Revenue		Trust		Local		Total	
	1st Year	Recurring	1st Year	Recurring	1st Year	Recurring	1st Year	Recurring
Urban Jobs Tax Credit	\$ (0.3)	\$ (0.6)	(*)	(*)	(*)	(*)	\$ (0.3)	\$ (0.6)
EZ Business Property	\$ (0.6)	\$ (1.2)	(*)	(*)	\$ (0.1)	\$ (0.3)	\$ (0.7)	\$ (1.5)
Capital Investment Tax Credit	\$ (0.5)	\$ (7.9)	0.0	0.0	0.0	0.0	\$ (0.5)	\$ (7.9)

\* Insignificant (less than \$50,000)

B. Private Sector Impact:

Businesses located in an enterprise zone will pay less sales tax on certain items of business property.

By removing the high-crime label from a program to support urban areas, urban areas may be viewed more favorably as areas suitable for economic development. By allowing tax credits under the designated urban job tax credit program to be transferred, new businesses may have additional access to cash when relocating to certain urban areas.

**C. Government Sector Impact:**

The Office of Tourism, Trade, and Economic Development may have to process additional applications for tax credits.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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