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 Committee on Appropriations

BILL:	CS/SB 7068
INTRODUCER:	Appropriations Committee and Finance and Tax Committee
SUBJECT:	Tax Administration
DATE:	April 21, 2021 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Bruno	Babin		**FT Submitted as Comm. Bill/Fav**
1.	Babin	Sadberry	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 7068:

- Provides an 8-day "back-to-school" tax holiday from July 31 through August 7, 2021, for certain clothing, school supplies, and personal computers.
- Provides a 10-day "disaster preparedness" tax holiday from May 28 through June 6, 2021, for specified disaster preparedness items.
- Creates a 2-year Internship Tax Credit Program to provide corporate income tax credits to businesses that employ and retain interns.
- Creates the Strong Families Tax Credit Program to provide tax credits to taxpayers that make contributions to certain family counseling charities.
- Increases the property tax exemption for multifamily project property that provides affordable housing from 50 percent to 100 percent.
- Extends the property tax exemption for educational property to certain leaseholds used by schools that teach motion picture production and related activities or services.
- Extends the property tax exemption for educational property to church property used for educational purposes.
- Creates a property tax exemption for municipally-owned motorsport entertainment complexes.
- Extends the application period for certain data centers to obtain a sales and use tax exemption on electricity and tangible personal property from June 30, 2022, to June 30, 2027.
- Clarifies the property tax treatment of property used for exempt and nonexempt purposes.
- Clarifies the property tax treatment of property damaged by calamity or misfortune.

- Allows owners of property to remove joint owners and deceased persons from deeds without reassessing the real property at just value and resetting applicable assessment limitations.
- Repeals Hospital Community Benefit Reporting requirements that take effect January 1, 2022.
- Removes the June 30, 2021, date after which no new businesses can be certified for the Qualified Target Industry Program.
- Clarifies that the modification of an interest rate index in a document upon which documentary stamp tax has already been paid is not subject to additional documentary stamp taxes.
- Removes the penalty for taxpayers who opt to prepay their property taxes in installments but submit their first payment after the due date.
- Provides an alternate method of determining the severance tax rate for titanium dioxide when the current price index cannot be used.
- Creates a process to allow freight forwarding agents to receive a Certificate of Freight Forwarding Agent Address which can be used to avoid payment of sales tax on tangible personal property to be exported.
- Requires dealers to provide records in an electronic format when the dealer currently maintains those records in an electronic format.
- Allows the aggregation of collection reporting periods to determine the degree of criminal offense for the prosecution of failure to remit taxes.

The bill reduces total state and local government revenue by $84.3 million ($34.7 recurring) in Fiscal Year 2021-2022. *See* Section V.

The bill appropriates $208,000 in General Revenue funds to the Department of Revenue to implement the Strong Families Tax Credit program.

The bill takes effect July 1, 2021.

II. Present Situation:

The present situation for each issue is described below in Section III, Effect of Proposed Changes.

III. Effect of Proposed Changes:

Section 1 – Hospital Community Benefit Reporting

Present situation: Florida exempts from property taxation the property of nonprofit hospitals qualified as 501(c)(3) charitable organizations.[1] Under federal law, a 501(c)(3) charitable organization must annually report the amount of community benefit the organization gives to the community. For hospitals, community benefit includes unreimbursed charity care, health research, health education, etc.

[1] Section 196.197, F.S.

In 2020, the Legislature created a process to compare the value of a nonprofit hospital's tax exemption to the value of the hospital's community benefit. If the hospital's tax exemption was more valuable for two consecutive years, the hospital's tax exemption is limited to the value of its community benefit. The process was created in s. 193.019, F.S., and begins January 1, 2022.

Proposed change: The bill repeals s. 193.019, F.S.

Section 2 – Change of Ownership

Present situation: Each year, the Save our Homes assessment limitation limits the assessed value growth of homestead property to 3 percent or less.[2] However, homestead property is reassessed at just value following a change of ownership. A change of ownership is any sale, foreclosure, or transfer of legal or beneficial title. However, Florida law makes a few exceptions. For example, the transfer of property between a husband and wife is not considered a change of ownership.

Proposed change: The bill amends s. 193.155, F.S., to create two additional situations when a change in the ownership of homestead property would not result in the property being reassessed at just value. A change of ownership would not occur when the owner entitled to the homestead exemption is both grantor and grantee, and when one or more other individuals who held title as joint tenants with rights of survivorship with the owner are removed from the title.

The bill also provides that a change of ownership does not occur when:

- Multiple owners hold title as joint tenants with rights of survivorship;
- One or more owners were entitled to an received the homestead exemption on the property;
- The death of one or more owners occurs; and
- Following the transfer, the surviving owner or owners previously entitled to receive the homestead exemption continue to be entitled to and receive the homestead exemption.

Sections 2 through 5 – Property Damaged by Calamity or Misfortune

Present situation: In general, changes, additions, or improvements to real property are assessed at just value as of the first January 1 after they are substantially completed.[3]

However, when property is damaged or destroyed by calamity or misfortune, the property may be repaired or replaced without the change, addition, or improvement being assessed at just value; rather, the change, addition, or improvement is assigned the taxable value and other tax characteristics (i.e. assessment limitation) that the damaged or replaced property had before being damaged or destroyed. This treatment has certain limitations. For instance, the change, addition, or improvement may not exceed 110 percent of the square footage of the property before it was damaged or destroyed.[4] Any square footage greater than 110 percent of the replaced property is assessed at just value. For residential property, the 110 percent limitation does not apply if the change, addition, or improvement is to property no larger than 1,500 square feet.[5]

[2] *See* s. 193.155(1), F.S.
[3] Sections 193.155(4)(a), 193.1554(6)(a), and 193.1555(6)(a), F.S.
[4] Sections 193.155(4)(b), 193.1554(6)(b), and 193.1555(6)(b), F.S.
[5] Section 193.155(4)(b), F.S.

While the treatment under current law is relatively clear regarding the main structures on property, such as residences and other buildings, the current statutes are less clear with regard to ancillary improvements such as piers, docks, etc.[6]

Proposed change: The bill clarifies that ancillary improvements may also be repaired or replaced without the change, addition, or improvement being assessed at just value and that the assessment made for repaired or replaced property must be calculated based on the assessed value as of the January 1 immediately before the damage or destruction occurred.

In addition, the changes made by the bill regarding property damaged or destroyed by calamity or misfortune are remedial and clarifying and may not affect any assessment for tax rolls before 2021, unless the assessment is under review by a value adjustment board or a Florida court. For property repaired or replaced prior to 2021 and not assessed as provided by the bill, a property appraiser must recalculate the just and assessed value for each subsequent year so that the 2021 tax roll and subsequent rolls are assessed as provided by the bill.

Sections 6 and 7 – Application of the Property Tax Exemption for Certain Exempt Property

Present situation: The State Constitution allows the Legislature to exempt from ad valorem taxation "such portions of property as are used predominantly for educational, literary, scientific, religious or charitable purposes."[7] To determine whether a property's use qualifies for such exemption, the property appraiser must consider the nature and extent of the qualifying activity compared to other activities or other uses of the property.[8]

Proposed change: The bill clarifies that a property's ad valorem tax exemption granted to those portions of property predominantly used for charitable, religious, scientific, or literary purposes is not affected so long as the predominant use of such property is for such charitable, religious, scientific, or literary purposes.

Section 8 – Affordable Housing Property Tax Exemption

Present situation: Florida provides a 50 percent discount from the amount of ad valorem tax otherwise owed for those portions of property in a multifamily project[9] that serve families meeting the extremely-low-income, very-low-income, or low-income limits specified in s. 420.0004, F.S. Such discount occurs after the 15th completed year of the term of an agreement with the Florida Housing Finance Corporation.[10] Applicants are required to submit an application to the property appraiser by March 1. The discount applies to the assessed value remaining after all other exemptions are granted.

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[6] *See* ss. 193.155(4)(b), 193.1554(6)(b), and 193.1555(6)(b), F.S.
[7] FLA. CONST. art. VII, s. 3(a).
[8] Section 196.196(1), F.S.
[9] Multifamily projects must contain more than 70 units that are used to provide affordable housing to qualify for the discount. *See* s. 196.1978(2)(a)1., F.S.
[10] Section 196.1978(2)(a), F.S.

Proposed change: The bill exempts those portions of property in a multifamily project that provide affordable housing to families meeting the extremely-low-income, very-low-income, or low-income limits specified in s. 420.0004, F.S.

Sections 9 and 10– Educational Institution Property Tax Exemption

Present situation: Florida exempts from ad valorem tax property owned by an educational institution and used exclusively for educational purposes.[11] The exemption applies to any educational institution that uses the property for educational purposes; the institution can be for-profit or private. The exemption has been expanded to include unique ownership situations. For instance, land, buildings, and other improvements used exclusively for educational purposes is deemed to be owned by an educational institution (and therefore exempt) if the entity that owns the land is a nonprofit entity and the land is leased by an educational institution that is a 501(c)(3) entity that provides education limited to kindergarten through grade 8.[12]

An entity, institution, or organization that teaches students to perform services in connection with motion picture production may receive a sales tax exemption for their purchase or lease of tangible personal property or real property. Such institution must have enrolled at least 500 students and conduct classes at a fixed location in this state.[13]

Proposed change: The bill amends s. 196.198, F.S., to provide that land, buildings, and other improvements used exclusively for educational purposes shall be deemed owned by an educational institution if the educational institution that currently uses the land, buildings, and other improvements for educational purposes is an educational institution described under s. 212.0602, F.S, and, under a lease, the educational institution is responsible for any taxes owed and for ongoing maintenance and operational expenses for the land, buildings, and other improvements. The educational institution must receive the full benefit of the exemption. The owner of the property must disclose to the educational institution the full amount of the benefit derived from the exemption and the method for ensuring that the educational institution receives the benefit.

The bill also amends s. 196.198, F.S., to provide that property owned by a house of public worship and used by an educational institution for educational purposes limited to students in preschool through grade 8 shall be exempt. The bill provides that the provisions related to houses of public worship clarifies existing law and applies to actions pending as of July 1, 2021.

Section 11 – Municipally-owned Motorsports Entertainment Complexes

Present situation: All property owned by a municipality and used exclusively by it for municipal or public purposes is exempt from taxation.[14] Generally, all other leasehold interests in municipal property will be subject to tax; however, Florida law exempts municipally-owned property leased to nongovernmental lessees when such lessee performs a governmental, municipal, or

[11] Section 196.198, F.S.
[12] *Id.*
[13] Section 212.0606, F.S.
[14] FLA. CONST. art. VII, s. 3(a)

public purpose or is an organization using the property exclusively for literary, scientific, religious, or charitable purposes.[15]

Proposed change: The bill creates s. 196.199, F.S., to exempt from property tax municipal property used for a motorsports entertainment complex if the municipality is liable for payment of the tax pursuant a lease agreement entered into before January 1, 2020. The provision expires January 1, 2033.

Section 12 – Prepayment of Property Tax by Installment Method

Present Situation: Taxpayers are generally allowed to prepay property taxes in installments and to receive discounts on the first three of those payments. If the taxpayer elects to prepay his or her taxes, but is late with the first payment, the tax collector may either accept or not accept the first installment of the prepayment if made prior to July 31. If the tax collector chooses to accept the first installment then the discount is lost and the payment must be accompanied by a 5 percent penalty. If the tax collector chooses not to accept the late first installment, the taxpayer is not eligible to participate in the prepayment program for that tax year.

Proposed Change: The bill amends s. 197.222, F.S., to specify that tax collectors must accept late payments of a first installment if made prior to July 31 and removes the 5 percent penalty.

Section 13 – Documentary Stamp Tax on Interest Rate Index Changes

Present situation: The London Interbank Offered Rate (LIBOR) is an interest rate benchmark (reference rate) calculated daily from an average of estimated borrowing rates submitted by certain international banks.[16] LIBOR is the primary reference rate used in setting interest rates for adjustable rate mortgages, asset-backed securities, municipal bonds, credit default swaps, private student loans, and other types of debt.[17] LIBOR's regulator, the Financial Control Authority of the United Kingdom (FCA), indicated that LIBOR is expected to cease after the end of 2021.[18] The Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation are recommending that banks cease entering into new contracts that use LIBOR as a reference rate by 2021.[19] According to the United States Securities and Exchange Commission, many legacy contracts have interest rate

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[15] Section 196.199(2)(a) and (c), F.S.

[16] Forbes, What Is Libor And Why Is It Being Abandoned? (December 16, 2020), https://www.forbes.com/advisor/investing/what-is-libor/ (last visited April 1, 2021).

[17] Consumer Finance Protection Bureau, *You Might Have Heard That LIBOR is Going Away. Here's What You Need to Know About LIBOR and Adjustable-Rate Loans* (October 17, 2019), https://www.consumerfinance.gov/about-us/blog/libor-going-away-heres-what-you-need-know-about-libor-and-adjustable-rate-loans/ (last visited April 14, 2021).

[18] Financial Conduct Authority, *Transition From LIBOR* (Jan. 19, 2021). https://www.fca.org.uk/markets/libor (last visited April 14, 2021).

[19] Board of Governors of the Federal Reserve System et al., *Statement on LIBOR Transition* (November 30, 2020), https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20201130a1.pdf (last visited April 14, 2021).

provisions referencing LIBOR that, when drafted, did not contemplate the permanent discontinuation of LIBOR.[20]

Florida imposes a documentary stamp tax on notes and other written obligations to pay money executed, signed, or delivered in Florida and on mortgages, liens, and other evidences of indebtedness filed or recorded in Florida.[21] Renewals of previously taxed documents are also subject to the documentary stamp tax unless an exception or exemption applies.[22] Documents on which documentary stamp tax were paid and which use LIBOR as a reference rate may require modification to use a different reference rate.

Proposed change: The bill amends s. 201.08, F.S., to specify that a modification of an original document, on which the documentary stamp tax was previously paid, for the sole purpose of changing the interest rate due to the discontinuation of an index to which the original interest rate is referenced is not a renewal and is not subject to documentary stamp tax.

Sections 14, 21, 23 through 26, and 29 through 31 – Strong Families Tax Credit

Present situation: Florida currently does not offer tax credits relating to child welfare.

Proposed change: The bill creates s. 402.62, F.S., the Strong Families Tax Credit, which provides tax credits against various Florida taxes to businesses that make monetary contributions to certain eligible charitable organizations that provide services focused on child welfare and well-being. The structure of the Strong Families Tax Credit is modeled after the existing Florida Tax Credit Scholarship Program, providing credits against severance taxes on oil and gas production; the self-accrued sales tax liability of direct pay permit holders; the state corporate income tax; alcoholic beverage taxes; or the insurance premium tax.

The bill specifies requirements for an eligible charitable organization, which must be an s. 501(c)(3) organization under the Internal Revenue Code, must be a Florida entity with its principal office in Florida, and must provide services to:

- Prevent child abuse, neglect, abandonment, or exploitation;
- Assist fathers in learning and improving parenting skills or to engage absent fathers in being more engaged in their children's lives;
- Provide books to the homes of children eligible for a free or reduced-price meal program or those testing below grade level in kindergarten through fifth grade;
- Assist families who have children with a chronic illness or a physical, intellectual, developmental, or emotional disability; or
- Provide workforce development services to families of children eligible for a free or reduced-price meal program.

An eligible charitable organization cannot:

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[20] United States Securities and Exchange Commission, *Staff Statement on LIBOR Transition*, Division of Corporation Finance, Division of Investment Management, Division of Trading and Markets, and Office of the Chief Accountant, July 12, 2019, *available at* https://www.sec.gov/news/public-statement/libor-transition (last visited April 14, 2021).

[21] Section 201.08(1), F.S.

[22] Section 201.08(1)(a) and (b), F.S., specifies the documents that are taxable as well as "for each renewal of the same."

- Provide, pay for, or provide coverage for abortions, or
- Receive more than 50 percent of its total annual revenue from the Department of Children and Families (DCF), either directly or indirectly in the prior fiscal year.

The bill specifies procedures and requirements for organizations to apply with the DCF, requires eligible charitable organizations to conduct criminal history background screening on all volunteers and staff working directly with children in any program funded by eligible contributions, requires the organizations to spend 100 percent of eligible contributions for the services listed above, and requires the organizations to submit annual audit reports to the DCF. The bill specifies requirements and procedures for, and limitations on, receiving, using, or transferring the tax credits, including applying with the Department of Revenue. Relating to the created state corporate income tax credit, the bill amends:

- Section 220.02, F.S., to specify the order in which the state corporate income tax credit is applied in relation to other corporate income tax credits;
- Section 220.13, F.S., to require a taxpayer to add claimed state corporate income tax credit amounts back to its taxable income, which prevents the taxpayer from claiming the amount as both a credit and a deduction; and
- Section 220.186, F.S., to specify that the Strong Families Tax Credit is not included in the calculation of the Florida alternative minimum tax credit.

The tax credit is capped at $5 million in each state fiscal year.

Section 15 – Titanium Dioxide Severance Tax Rate

Present situation: Florida imposes a tax on the severance of heavy minerals from the soils or waters of this state for commercial use. The heavy minerals tax rate is calculated each year based on the producer price index for titanium dioxide published by the U.S. Bureau of Labor Statistics. Due to a lack of data, this index is no longer created.[23] The Department of Revenue is permitted to adopt a comparable index by rule. However, the department is unable to identify a comparable index.

Proposed change: The bill amends s. 211.3106, F.S., to specify that if the producer price index is discontinued or cannot be calculated and if there is no comparable index, then the tax rate from the immediately preceding year must be used.

Sections 16 and 22 – Certificate of Forwarding Agent Address

Present situation: Tangible personal property delivered by the seller to a licensed exporter or common carrier for export outside Florida is not subject to sales tax.[24]

Certain forwarding agents receive tangible personal property at their place of business within Florida, consolidate the property for shipment, and deliver the property to a common carrier for shipment outside Florida. These transactions are exempt from sales tax under current law.

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[23] U.S. Bureau of Labor Statistics, *Producer Price Index by Industry: Synthetic Dye and Pigment Manufacturing: Titanium Dioxide, Composite and Pure (DISCONTINUED) [PCU32513032513011]*, retrieved from FRED, Federal Reserve Bank of St. Louis; https://fred.stlouisfed.org/series/PCU32513032513011 (last visited April 14, 2021).
[24] Section 212.06(5)(a)1., F.S.

However, the original vendor delivering the property to the Florida address frequently charges tax for these purchases as verifying the tax-exempt status can be difficult.

Proposed change: Generally, the bill amends s. 212.13, F.S., to create a process that allows forwarding agents to receive a certificate that can be provided to vendors to document the exempt nature of sales for export.

The bill defines the following terms:

- "Certificate" means a Florida Certificate of Forwarding Agent Address.
- "Facilitating" means preparation for or arranging for export.
- "Forwarding agent" means a person or business whose principal business activity is facilitating for compensation the export of property owned by other persons.
- "NAICS" means those classifications contained in the North American Industry Classification System as published in 2007 by the Office of Management and Budget, Executive Office of the President.

A forwarding agent engaged in international export may apply to the Department of Revenue for a Certificate of Forwarding Agent address. The application must include specified information concerning the forwarding agent's location and export activities. Each certificate expires five years after issue and requires the forwarding agent to update the application if material changes to the information contained in the application occur.

The bill amends s. 212.06, F.S., to add a forwarding agent who has received a Certificate of Forwarding Agent Address as a defined "dealer."

The bill specifies recordkeeping requirements and requires that records be stored in an electronic format.

The bill directs the department to verify that forwarding agents who possess a certificate are actively engaged in facilitating export of property. The bill also provides that the certificate cannot be used to fraudulently avoid sales tax and gives the department the authority to revoke certificates. The bill further provides that fraudulent activity is subject to liability for the tax and civil and criminal penalties.

The bill provides that a certificate may be accepted by a dealer in lieu of collecting and remitting sales tax. It further directs the department to create an online system for verification of certificates.

Section 17 – Data Center Sales Tax Exemption

Present situation: Data centers provide a central location for a business to house all of the necessary computer hardware—servers, server racks, cables and other infrastructure, and cooling components—and computer software required to organize, process, store and disseminate large amounts of data. Currently, approximately 111 data centers and colocation data centers are located in Florida.[25] The majority of data centers located in Florida are in South Florida, Orlando, Tampa, and Jacksonville.[26] Currently, Florida exempts from the sales and use tax electricity used by a data center and the property purchased, rented, or leased by a data center's owners and tenants when used to construct, maintain, and operate computer server equipment at a data center. The data center's owners and tenants must make a cumulative capital investment of $150 million and the data center must have at least 15 megawatts of total power capacity and at least 1 megawatt of power capacity dedicated to each individual owner and tenant of the data center. Additionally, a datacenter must meet the requisite investment requirements no later than June 30, 2022, must submit to subsequent periodic review by the department to assure continued qualification, and is subject to revenue claw back provisions if it improperly utilizes the tax exemption.

Proposed change: The bill extends the ability to participate in the exemption from June 30, 2022, to June 30, 2027.

Section 18 – Sales Tax Exemption for Independent Living Items

Present situation: Sales and use tax applies to sales of tangible personal property, unless exempted. Florida currently does not exempt sales of items that assist in independent living.

Proposed change: The bill amends s. 212.08(5), F.S., to exempt from sales tax bed transfer handles selling for $60 or less; bed rails selling for $110 or less; grab bars selling for $100 or less; and shower seats selling for $100 or less. However, the exemption does not apply to purchases made by businesses, including medical institutions and assisted living facilities.

Section 19 – Electronic Records/Sales Tax Audit

Present situation: Sales and use tax dealers are required to maintain certain records and make those records available to the Department of Revenue for inspection during reasonable hours at the dealer's place of business.[27] Many dealers maintain records in an electronic format. However, the department has encountered dealers who refuse to share their records without a physical visit. Due to the pandemic, physical visits are limited.

It is unknown how many dealers keep their records in an electronic format. However, the department provided that approximately 85 percent of dealers file their taxes electronically.

Proposed change: The bill amends s. 212.13(2), F.S., to require dealers to provide electronic records, when requested by the department, if the dealer already maintains the records in an electronic format. The bill removes language referencing a physical visit requirement from s. 212.13(2), F.S.

[25] Data Center Map, *Colocation Florida*, https://www.datacentermap.com/usa/florida/ (last visited April 14, 2021).
[26] *Id.*
[27] Section 212.13(2), F.S.

Section 20 – Theft of State Funds

Present situation: When a dealer collects sales tax from customers but fails to remit those taxes to the state, the dealer can be prosecuted for theft of sales tax.[28] These prosecutions often involve multiple collection periods for which the dealer has collected but failed to remit taxes. Aggregation of collection periods is not specifically provided for in sales tax law. However, the general theft statute in Florida does allow the aggregation of amounts stolen from a similar course of conduct.[29]

Proposed change: The bill amends s. 212.15(2), F.S., providing specific authority for aggregation of collection reporting periods to determine the degree of criminal offense for the prosecution of failure to remit taxes, mirroring the construction of the general theft statute.

Sections 23, 24, and 27 – Internship Tax Credit

Present situation: Florida currently does not offer tax credits relating to student internships.

Proposed change: The bill creates s. 220.198, F.S., the Florida Internship Tax Credit Program, which authorizes a state corporate income tax credit of $2,000 for each student intern employed by a qualified business, up to a maximum of $10,000 in any taxable year, for taxable years beginning on or after January 1, 2022.

The bill amends s. 220.02, F.S., to specify the order in which the credit is applied in relation to other corporate income tax credits. The bill amends s. 220.13, F.S., to require a taxpayer to add claimed credit amounts back to its taxable income, which prevents the taxpayer from claiming the amount as both a credit and a deduction.

The bill defines a "student intern" as a person who has completed at least 60 credit hours at a state university or a Florida College System institution, regardless of whether the student intern receives course credit for the internship; a person who is enrolled in a career center operated by a school district under s. 1001.44, F.S., or a charter technical career center; or any graduate student enrolled at a state university. The bill defines "full time" as at least 30 hours per week. The bill defines a "qualified business" as a business that is in existence and has been continuously operating for at least three years.

The bill authorizes a qualified business to receive a credit against Florida corporate income tax liability in the amount of $2,000 per student intern employed by the qualified business. Under the bill, a business would qualify to receive the tax credit if:

- The business employed at least one student in an internship in which the student worked full time for at least nine consecutive weeks, and the qualified business provides the department documentation evidencing each internship claimed.
- At the start of an internship, each student intern provides the qualified business with verification by the student intern's state university, Florida College System institution, career center operated by a school district under s. 1001.44, F.S., or charter technical career center

[28] Section 212.15(2), F.S.
[29] Section 812.012(10)(c), F.S.

that the student intern is enrolled and maintains a minimum grade point average of 2.0 on a 4.0 scale, if applicable. The qualified business may accept a letter from the applicable educational institution stating that the student intern is enrolled as evidence that the student meets these requirements.

- The qualified business provides the department documentation for the current taxable year to show that at least 20 percent of the business's full-time employees were previously employed by that business as student interns, or the business:
  - For the three prior years on average, employed ten or fewer full-time employees;
  - Previously hired at least one student intern; and
  - For the current taxable year, employs on a full-time basis at least one employee who was previously employed by the business as a student intern.

The bill establishes a maximum credit of $10,000 in any taxable year and authorizes a qualified business to carry forward any unused portion of the tax credit for up to two taxable years. The combined total amount of tax credits which may be granted is capped at $2.5 million in each of state Fiscal Years 2021-2022 and 2022-2023. The department must approve the tax credit prior to the taxpayer taking the credit on a return, and must approve credits on a first-come, first-served basis.

The bill authorizes the Department of Revenue to adopt rules governing the manner and form of applications for the tax credit and establishing qualification requirements for the tax credit.

Sections 28 – Qualified Target Industry Businesses Tax Refund Program

Present situation: The Qualified Target Industry (QTI) Tax Refund Program was created by the Legislature in 1994 to encourage the creation and retention of high-quality, high-wage jobs by providing a state grant equal to the amount paid for certain state and local taxes[30] to eligible businesses creating jobs in certain target industries.[31] The amount of the tax refund awarded through the program is determined by, among other factors, the number of jobs created by, the average annual wages paid by, and the location of, the eligible business.[32] As of June 30, 2020, no additional applicants may be certified under the program; existing agreements made prior to this date will continue in effect according to their terms.[33]

In order to be eligible to receive a grant, a business must apply to be certified as a QTI business with the Department of Economic Opportunity (DEO). Businesses must be engaged in one of Florida's target industries as identified by the DEO and Enterprise Florida, Inc.[34] The current qualified target industries are aviation and aerospace; corporate headquarters; clean technology;

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[30] Tax refunds may be claimed for the following taxes paid: sales and use taxes, corporate income taxes, insurance premium taxes, intangible personal property taxes, excise taxes, ad valorem taxes, certain state communication services taxes, excise taxes on documents. *See* s. 288.106(3)(d), F.S.

[31] Section 288.106(1), F.S.

[32] Section 288.106(3)(b), F.S.

[33] Section 288.106(9), F.S.

[34] Section 288.106(2)(q), F.S. Every three years, beginning January 1, 2011, the DEO must consult with EFI, economic development organizations, the State University System, local governments, employee and employer organizations, market analysts, and economists to review and revise the list of target industries. Target industries are determined according to criteria found in statute.

defense and homeland security; financial and professional services; global logistics and trade; information technology; life sciences; manufacturing; and research and development.[35]

A business applying for certification as a QTI business generally must meet certain job creation and minimum average wage requirements and receive a local funding match, paid by public or private sources, equal to 20 percent of the annual tax refund. QTI businesses are eligible to receive a tax refund equal to $3,000 per newly created job. If a business is located in a rural community or an enterprise zone, the amount is increased to $6,000 per created job. QTI businesses may also receive certain additional tax refund payments based on meeting certain average annual wage or local financial support thresholds or other specified requirements.[36]

A qualified target industry business cannot receive more than $1.5 million in any fiscal year, or more than $2.5 million in any fiscal year if the business is located in an enterprise zone.[37] The total state share of payments under the QTI Tax Refund Program plus under the qualified defense contractor and space flight business tax refund program[38] may not exceed $35 million.[39]

In Fiscal Year 2019-2020, the last fiscal year during which applicants could be certified under the program, 7,890 jobs were created by 159 businesses actively participating in the program. The total number of jobs created exceeded the number of total new jobs expected to be created by 3,068.[40]

Proposed change: The bill repeals s. 288.106(9), F.S., which prohibits the certification of applicants after June 30, 2020. In effect, the bill permanently reauthorizes the QTI program.

Section 32 – "Back-to-School" Sales Tax Exemption

Present situation: Florida has enacted a "back-to-school" sales tax holiday 19 times since 1998. The Florida Residents' Tax Relief Act of 1998 established Florida's first tax holiday, during which clothing purchases of $50 or less were exempt from tax.[41] Backpacks were added to the tax holiday in 1999 and school supplies were added in 2001. In 2013, the Legislature expanded the exemption to include personal computers and related accessories selling for $750 or less, purchased for noncommercial home or personal use. The duration of "back-to-school" sales tax holidays has varied from three to ten days. The type and value of exempt items have also varied.

Florida's 75 school district began the 2020-21 school year between August 10 and August 31, 2020.[42]

[35] Florida Department of Economic Opportunity, *2020 Incentives Report*, 12, *available at* http://floridajobs.org/docs/default-source/reports-and-legislation/2019-2020-annual-incentives-report-final.pdf?sfvrsn=af674ab0_2 (last visited April 14, 2021).
[36] Section 288.106(3)(b), F.S.
[37] Section 288.106(3)(c), F.S.
[38] Section 288.1045, F.S.
[39] Section 288.095(3)(a), F.S.
[40] *Supra* note 38, at 7-8.
[41] Chapter 98-341, Laws of Fla.
[42] Florida Department of Education, *PK-12 Public School Data Publications and Reports, School District Calendars, available at* http://www.fldoe.org/accountability/data-sys/edu-info-accountability-services/pk-12-public-school-data-pubs-reports/index.stml (last visited April 14, 2021).

Proposed change: The bill establishes an 8-day period, from July 31 to August 7, 2021, during which time the following items that cost $60 or less are exempt from the state sales tax and county discretionary sales surtaxes:

- Clothing (defined as an "article of wearing apparel intended to be worn on or about the human body," but excluding watches, watchbands, jewelry, umbrellas, and handkerchiefs);
- Footwear (excluding skis, swim fins, roller blades, and skates);
- Wallets; and
- Bags (including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags).

The bill also exempts various "school supplies" that cost $15 or less per item and the first $1,000 of the sales price of personal computers and related accessories purchased for noncommercial home or personal use. This would include tablets, laptops, monitors, input devices, and non-recreational software. Cell phones and furniture, and devices or software intended primarily for recreational use, are not exempted.

The exemptions provided for in the "back-to-school" holiday do not apply to the following:

- Sales within a theme park or entertainment complex, as defined in s. 509.013(9), F.S.;
- Sales within a public lodging establishment, as defined in s. 509.013(4), F.S.; and
- Sales within an airport, as defined in s. 330.27(2), F.S.

A dealer may choose not to participate in the sales tax holiday if less than 5 percent of the dealer's gross sales of tangible personal property in the prior calendar year are comprised of items that would be exempt under the bill. If a dealer chooses not to participate in the tax holiday, the dealer must, by July 24, 2021, notify the Department of Revenue in writing of its election to collect sales tax during the holiday and must post a copy of that notice in a conspicuous location at its place of business. The department is authorized to adopt emergency rules to implement the provisions of the tax holidays.

Section 33 – Sales Tax Exemption for Items Related to Disaster Preparedness

Present situation: Florida has enacted a "disaster preparedness" sales tax holiday seven times since 2006, exempting specified items in preparation for the Atlantic hurricane season that officially begins June 1 of each year. The types and values of exempted items have varied, and the length of the exemption periods has varied from 3 to 12 days.

The Florida Division of Emergency Management recommends having a disaster supply kit with items such as a battery operated radio, flashlight, batteries, and first-aid kit to last for a minimum of 7 days.[43]

Proposed change: The bill establishes a 10-day sales tax holiday, from May 28 to June 6, 2021, for specified items related to disaster preparedness. During the holiday, the following items are exempt from the state sales tax and county discretionary sales surtaxes:

- A portable self-powered light source selling for $20 or less;

[43] Florida Division of Emergency Management, *Plan & Prepare: Disaster Supply Kit, available at* https://www.floridadisaster.org/planprepare/hurricane-supply-checklist/ (last visited April 14, 2021).

- A portable self-powered radio, two-way radio, or weather band radio selling for $50 or less;
- A tarpaulin or other flexible waterproof sheeting selling for $50 or less;
- A ground anchor system or tie-down kit selling for $50 or less;
- A gas or diesel fuel tank selling for $25 or less;
- A package of AAA-cell, AA-cell, C-cell, D-cell, 6-volt, or 9-volt batteries, excluding automobile and boat batteries, selling for $30 or less;
- A nonelectric food storage cooler selling for $30 or less;
- A portable generator that is used to provide light or communications or preserve food in the event of a power outage selling for $750 or less; and
- Reusable ice selling for $10 or less.

The exemptions provided for in this sales tax holiday do not apply to the following sales:
- Sales within a theme park or entertainment complex, as defined in s. 509.013(9), F.S.;
- Sales within a public lodging establishment, as defined in s. 509.013(4), F.S.; and
- Sales within an airport, as defined in s. 330.27(2), F.S.

The Department of Revenue is authorized to adopt emergency rules to implement the provisions of the tax holidays.

Sections 34 through 37 reenact provisions to incorporate amendments made by this act.

Section 38 authorizes the Department of Revenue to adopt emergency rules to implement the Strong Families Tax Credit and the Internship Tax Credits.

Section 39 appropriates $208,000 in nonrecurring funds from the General Revenue Fund to the Department of Revenue to implement the Strong Families Tax Credit.

Section 40 requires the Florida Institute for Child Welfare to analyze the use of funding provided by the Strong Families Tax Credit and to provide a report to the Governor, President of the Senate, and Speaker of the House by October 31, 2025.

Section 41 provides for severability.

Section 42 provides that the bill is effective on July 1, 2021, except as otherwise provided.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds or limits their ability to raise revenue or receive state tax revenue.

Subsection (b) of Article VII, s. 18 of the Florida Constitution provides that, except upon approval by each house of the Legislature by two-thirds vote of its membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate. However, the mandates requirements do not apply to laws having an insignificant fiscal impact[44,45] which for Fiscal Year 2021-2022, is forecast at $2.2 million or less.[46]

The Revenue Estimating Conference determined that the bill will reduce the authority that counties have to raise revenue from the local option sales tax by $8.9 million in Fiscal Year 2021-2022. The bill also reduces local government revenues from ad valorem taxes by $8.8 million. Therefore, the mandates provision may apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

The bill does not create or raise state taxes or fees. Therefore, the requirements of Art. VII, s. 19 of the State Constitution do not apply

E. Other Constitutional Issues:

Florida exempts all property owned by a municipality and used exclusively by it for municipal or public purposes.[47] "Governmental, municipal, or public purpose" has been defined to include, in relevant part:

> "the use by a lessee, licensee, or management company of real property or a portion thereof as a convention center, visitor center, sports facility with permanent seating, concert hall, arena, stadium, park, or beach is deemed a use that serves a governmental, municipal, or public purpose or function when access to the property is open to the general public with or without a charge for admission."[48]

However, the Florida Supreme Court in *Sebring*[49] affirmed the Second District Court of Appeal's opinion[50] that the above provision is unconstitutional and "would have created

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[44] FLA. CONST. art. VII, s. 18(d).
[45] An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year multiplied by $0.10. *See* Florida Senate Committee on Community Affairs, Interim Report 2012-115: Insignificant Impact at p. 1, (September 2011), available at http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf (last visited April 14, 2021).
[46] Based on the Demographic Estimating Conference's April 1, 2021, estimated population, adopted on March 3, 2021,. The conference packet is *available* at http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf (last visited April 14, 2021).
[47] FLA. CONST. art. VII, s. 3(a).
[48] Section 196.012(6), F.S.
[49] *Sebring Airport Authority v. McIntyre*, 783 So.2d 238 (Fla. 2001)
[50] *Sebring Airport Authority v. McIntyre*, 718 So.2d 296 (Fla. 2d DCA 1998)

an ad valorem tax exemption for situations where private enterprise leases governmental property to be utilized for profit-making endeavors….”[51] To the extent that provisions of the bill granting an exemption to municipal property rely on such property meeting a public purpose as described in s. 196.012(6), F.S., the provisions may raise constitutional questions.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill reduces revenues in Fiscal Year 2021-2022 by $84.3 million ($34.7 million recurring); General Revenue Fund receipts are reduced by $59.8 million ($9.0 million recurring), state trust fund receipts are reduced by an amount less than $50,000, and local government revenue is reduced by $24.5 million ($25.7 million recurring), as displayed in the table below.

Total tax reductions are represented by the sum of the recurring impacts (reflecting the annual value of permanent tax cuts when fully implemented) and the pure nonrecurring impacts (reflecting temporary tax reductions). The total tax reduction of $110.5 million is the sum of $34.7 million (recurring), and $75.8 million (pure nonrecurring in Fiscal Year 2021-2022, excluding appropriations).

[51] *Sebring*, *supra* note 49, at 240.

	Issues	General Revenue 1st Yr.	General Revenue Recur.	State Trust Funds 1st Yr.	State Trust Funds Recur.	Local/Other 1st Yr.	Local/Other Recur.	Total 1st Yr.	Total Recur.
1	Sales Tax: Back-to-School Sales Tax Holiday-8 days; 60/15/ first $1k	(44.9)	-	(*)	-	(13.5)	-	(58.4)	-
2	Sales Tax: Disaster Holiday-10 days	(6.0)		(*)		(1.8)		(7.8)	
3	Sales Tax: Independent Living Items	(1.2)	(2.9)	(*)	(*)	(0.4)	(0.9)	(1.6)	(3.8)
4	Sales Tax: Data Center Extension	-	(1.1)	-	(*)	-	(0.3)	-	(1.4)
5	Ad Valorem: Affordable Housing 50% to 100%	-	-	-	-	-	(22.8)	-	(22.8)
6	Ad Valorem: Education Exemption - Media Production Educational	-	-	-	-	(0.6)	(0.6)	(0.6)	(0.6)
7	Ad Valorem: Motorsports Entertainment Complexes	-	-	-	-	(0.6)	(0.6)	(0.6)	(0.6)
8	Ad Valorem: Houses of Worship/Educational Property	-	-	-	-	(7.6)	(0.5)	(7.6)	(0.5)
9	Ad Valorem: Nonprofit Taxation	-	-	-	-	-	+/- ins.	-	+/- ins.
10	Ad Valorem: Change of Ownership/Calamity and Misfortune	-	-	-	-	(**)	(**)	(**)	(**)
11	Ad Valorem: Hospitals Community Benefit Reporting	-	-	-	-	-	(**)	-	(**)
12	Various: Tax Refund Program for Qualified Target Industry Businesses	-	-	-	-	-	-	-	-
13	Doc. Stamp: Documentary Stamp Tax Exemption--LIBOR	(**)	(**)	(**)	(**)	-	-	(**)	(**)
14	Corp. Inc. Tax: Internship Tax Credit Program	(2.5)	-	-	-	-	-	(2.5)	-
15	Various Taxes: Strong Families Tax Credit	(5.0)	(5.0)	-	-	-	-	(5.0)	(5.0)
16	DOR Tax Administration Concepts								
17	Installment plan penalties	-	-	-	-	-	0/(*)	-	0/(*)
18	Appropriations: Strong Families Tax Credit (21-22)	(0.2)	-	-	-	-	-	(0.2)	-
	2021-22	**(59.8)**	**(9.0)**	**(*)**	**(*)**	**(24.5)**	**(25.7)**	**(84.3)**	**(34.7)**

Pure Nonrecurring = **(75.8)**
Recurring + Pure Nonrecurring (2) = **(110.5)**

(*) Impact less than $50,000; (**) Impact is indeterminate; (+/- ins) Impact is insignificant and will be positive or negative.
(1) Ad valorem tax impacts assume current rates.
(2) Recurring tax cut total (excl. appropriations) = -$34.7 million
Pure nonrecurring tax cuts in FY 2021-22 = -$75.8 million
-$110.5 million

Appropriations Detail - The $208,000 in general revenue appropriations included in the bill is to implement the Strong Families Tax Credit.

B. Private Sector Impact:

The bill provides for an 8-day sales tax holiday for purchases of certain priced clothing, school supplies, and personal computers; a 10-day sales tax holiday for purchases of various items relating to disaster preparedness; a sales tax exemption for independent living items; property tax exemptions for affordable housing and certain education facilities; a tax credit program to incentivize the hiring of interns; and a tax credit program to incentivize donations to organizations that provide services focused on child welfare and well-being.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends the following sections of the Florida Statutes: 192.001, 193.019, 193.155, 193.1554, 193.1555, 196.196, 196.1978, 196.198, 196.199, 197.222, 201.08, 211.3106, 212.06, 212.08, 212.13, 212.15, 213.053, 220.02, 220.13, 220.186, and 288.106.

The bill creates the following sections of the Florida Statutes: 211.0252, 212.1833, 220.1876, 220.198, 402.62, 561.1212, and 624.51056.

The bill reenacts the following sections of the Florida Statutes: 192.0105, 193.1557, 212.07, and 212.08.

The bill creates seven undesignated sections of Florida law.

IX. Additional Information:

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

CS by Appropriations on April 19, 2021:
The committee substitute:
- Provides an 8-day “back-to-school” tax holiday.
- Provides a 10-day “disaster preparedness” tax holiday.
- Creates a 2-year Internship Tax Credit Program.
- Creates the Strong Families Tax Credit Program.
- Increases the property tax exemption for certain affordable housing property.
- Extends the property tax exemption for educational property to certain leaseholds and certain church property used for educational purposes.
- Creates a property tax exemption for municipally owned motorsport complexes.
- Extends the application period for the data center sales tax exemption.

- Clarifies the property tax treatment of property used for exempt purposes.
- Clarifies the property tax treatment of property damaged by calamity or misfortune.
- Allows property owners to remove joint owners and deceased persons from deeds without reassessing the property.
- Repeals Hospital Community Benefit Reporting requirements.
- Allows new businesses to qualify for the Qualified Target Industry Program.
- Clarifies that the modification of an interest rate index in certain documents is not subject to additional documentary stamp taxes.
- Removes the penalty for taxpayers who opt to prepay their property taxes.
- Provides an alternate method of determining the severance tax rate for titanium dioxide.
- Creates a process for freight forwarders to document exempt exported sales.
- Requires dealers to provide records in an electronic format when available.
- Allows the aggregation of collection reporting periods to determine the degree of criminal offense for the prosecution of failure to remit taxes.

B. Amendments:

None.