

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 5 Economic Programs
SPONSOR(S): Commerce Committee, Esposito
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Commerce Committee	16 Y, 3 N, As CS	Walsh	Hamon
2) Ways & Means Committee	16 Y, 6 N	Berg	Aldridge
3) Appropriations Committee			

SUMMARY ANALYSIS

The bill eliminates Enterprise Florida, Inc., (EFI) and provides that all duties, functions, records, pending issues, existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other public funds relating to the programs in EFI are transferred by a type two transfer to the Department of Economic Opportunity (DEO).

The bill provides that VISIT FLORIDA and the Florida Sports Foundation may enter into agreements with DEO to continue any existing programs, activities, duties, or functions necessary for their operation.

The bill provides for the repeal of the following programs and incentives; however, the bill authorizes continuation of payments for existing related commitments:

- Urban High-Crime Area Job Tax Credit Program
- Entertainment industry tax credit
- Capital Investment Tax Credit
- Qualified defense and space flight tax refund
- Qualified target industry businesses tax refund
- Brownfield Redevelopment Bonus Tax Refunds
- High-Impact Sector Performance Grants
- Economic Gardening Programs
- Quick Action Closing Fund
- Innovation Incentive Program
- Florida Small Business Development Center Network
- Scripps Florida Funding Corporation
- Cooperative advertising matching grants program
- Professional Sports Franchise Incentive
- Motorsports Entertainment Complex
- Spring Training Baseball Franchises
- Retention of Spring Training Baseball Franchises
- International Game Fish Association World Center
- Florida Small Business Technology Program
- New Markets Development Program
- Microfinance programs
- Economic Development Transportation Projects
- Office of Film and Entertainment
- Florida Film Advisory Council
- Entertainment industry sales tax exemptions

The Revenue Estimating Conference estimated the total state and local government revenue impact of the bill in Fiscal Year 2023-24 to be \$24.1 million (\$87.3 million recurring). The bill has an indeterminate impact on state expenditures, and no impact on local expenditures. See Fiscal Analysis & Economic Impact Statement.

The bill provides an effective date of July 1, 2023.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Background

Florida's economic development system is multi-faceted and includes public agencies, non-profit corporations, and private entities at the state, regional, and local level. The Legislature created some of these organizations, while others are units of local government or privately formed associations or alliances. Many of the organizations have similar missions (e.g., encouraging economic development and enhancing the state's business climate) and serve the same constituencies (e.g., in- and out-of-state businesses and the state's economic and workforce development communities). The most prominent of these organizations are Enterprise Florida, Inc. (EFI) and the Department of Economic Opportunity (DEO). To achieve their economic development missions, EFI and DEO perform numerous activities and collaborate via contracts as directed by statute.¹

Prior to the creation of EFI, the Department of Commerce and Department of Labor and Employment Security were responsible for the state's economic development activities. In 1996, the Legislature created EFI as a public-private partnership to serve as the state's principal economic development marketing and promotion organization.²

To support the ongoing evolution of the state's economic development system, the 2011 Legislature created DEO, transferring functions from the Agency for Workforce Innovation (AWI), Department of Community Affairs (DCA), and Governor's Office of Tourism, Trade, and Economic Development (OTTED) to the new agency.³ AWI had performed functions related to workforce, unemployment compensation, and early learning services, while DCA was the state's land planning and community development agency. OTTED assisted the Governor in formulating economic development policies and strategies and administered the state's economic programs.⁴

Department of Economic Opportunity

DEO has seven divisions and offices established by statute, four of which carry out DEO's objectives and statutory responsibilities. Three of these divisions are Strategic Business Development, Community Development, and Workforce Services. These divisions help fulfill DEO's statutorily mandated responsibilities, which include, but are not limited to:

- Ensuring that Florida's goals and policies relating to economic development, community planning and development, workforce development, and affordable housing are fully integrated with appropriate implementation strategies;
- Recruiting new businesses to Florida and promoting the expansion of businesses by expediting permitting and location decisions, worker placement and training, and incentive awards;
- Promoting viable, sustainable communities by providing technical assistance and guidance on growth and development issues, grants, and other assistance to local communities;
- Coordinating with state agencies on the processing of state development approvals or permits to minimize the duplication of information provided by the applicant and the time before approval or disapproval; and

¹ OPPAGA, Report No. 16-09, *Agency Review-Enterprise Florida, Inc., and Department of Economic Opportunity*, p.3 (December 2016).

² *Id.* at 7.

³ Chapter 2011-142, Laws of Fla. DEO began operations in October 2011.

⁴ OPPAGA, Report No. 16-09, *supra* n. 1, p.7.

- Managing the activities of public-private partnerships and state agencies in order to avoid duplication and promote coordinated and consistent implementation of various programs.⁵

DEO's Office of Economic Accountability and Transparency was created in 2021.⁶ The Office of Economic Accountability and Transparency is tasked with:

- Overseeing critical objectives and ensuring key objectives are clearly communicated to the public;
- Organizing resources, expertise, data, and research to focus on and solving the complex economic challenges facing the state;
- Providing leadership for priority issues that require integration of policy, managements, and critical objectives from multiple programs and organizations internal and external to DEO;
- Promoting and facilitating key initiatives to address priority economic issues and exploring data and identify opportunities for innovative approaches to address such economic issues; and
- Promoting strategic planning.⁷

Enterprise Florida, Inc.

EFI is a nonprofit corporation established by the Legislature to serve as the state's main economic development organization.⁸ EFI is required to enter into a performance-based contract with DEO, which includes annual measurements of the performance of EFI.⁹ The corporation is responsible for:

- Marketing the state as a pro-business location for new investment and as a tourist destination;
- Advancing international and domestic trade opportunities;
- Providing support to small and minority-owned businesses;
- Assisting, promoting, and enhancing economic opportunities in the state's rural and urban communities;
- Advocating for Florida's military bases and administering defense grants; and
- Promotion and development of professional, amateur, recreational sports, and physical fitness opportunities.¹⁰

EFI has the following duties:

- Responsibly and prudently manage all public and private funds received, and ensure that the use of such funds is in accordance with all applicable laws, bylaws, or contractual requirements;
- Administer certain entities and programs;
- Prepare an annual report;
- Prepare, in conjunction with DEO, an annual incentives report;
- Assist DEO with the development of an annual and a long-range strategic business blueprint for economic development;
- In coordination with CareerSource Florida, Inc., identify education and training programs that will ensure that Florida businesses have access to a skilled and competent workforce necessary to compete successfully in the domestic and global marketplace;
- Submit all proposed contracts with a cost in excess of a specified amount in accordance with the notice and review procedures required in statute;
- Not create or establish any other entity unless authorized by law; and
- Comply with per diem and travel expense provisions.¹¹

⁵ S. 20.60(4), F.S.

⁶ Chapter 2021-25, Laws of Fla.

⁷ S. 20.60 (3)(a), F.S.

⁸ S. 288.901, F.S. Chapter 92-277, Laws of Fla., created EFI, while ch. 96-320, Laws of Fla, established EFI as a public-private partnership.

⁹ S. 20.60(11), F.S., requires DEO to "establish annual performance standards for Enterprise Florida, Inc., CareerSource Florida, Inc., the Florida Tourism Industry Marketing Corporation, and Space Florida and report annually on how these performance measures are being met."

¹⁰ Office of Program Policy Analysis and Governmental Accountability, *Enterprise Florida, Inc.*, <https://oppaga.fl.gov/ProgramSummary/BackPageDetail?programNumber=6112&backPageNumber=03> (last visited Mar. 10, 2023).

¹¹ S. 299.903, F.S.

At a minimum, EFI is required to have divisions related to:

- International Trade and Business Development;
- Business Retention and Recruitment;
- Tourism Marketing;
- Minority Business Development; and
- Sports Industry Development.¹²

EFI is governed by a board of directors, of which the Governor serves as chairperson. The board of directors biennially elects one of its members as vice chairperson.¹³ Including the Governor or his or her designee, the board of directors of EFI is comprised of twenty members: seven from the public sector and twelve from the private sector.¹⁴ The eight members of the board from the public sector include the following: the Governor or the Governor's designee; the Commissioner of Education or his or her designee; the Chief Financial Officer or his or her designee; the Attorney General or his or her designee; the Commissioner of Agriculture or his or her designee; the chairperson of the board of directors for CareerSource Florida, Inc.; the Secretary of State or his or her designee; and the Secretary of Economic Opportunity or his or her designee.¹⁵

Of the twelve members from the private sector, the Governor appoints six¹⁶ and the President of the Senate and Speaker of the Florida House of Representatives each appoint three. Such members are appointed to four year terms and must include at least one director for each of the following areas of expertise:¹⁷ international business; tourism marketing; the space or aerospace industry; managing or financing a minority-owned business; manufacturing; finance and accounting; and sports marketing. In addition, the President of the Senate must appoint a member of the Senate and the Speaker of the House must appoint a member of the House of Representatives, both of which serve as ex officio members.¹⁸ The board must meet at least four times each year, upon the call of the chairperson, at the request of the vice chairperson, or at the request of a majority of the membership. A majority of the total number of current voting members constitutes a quorum.¹⁹

Florida law directs the board of directors to "integrate its efforts in business recruitment and expansion, job creation, marketing the state for tourism and sports, and promoting economic opportunities for minority-owned businesses and promoting economic opportunities for rural and distressed urban communities with those of the department, to create an aggressive, agile, and collaborative effort to reinvigorate the state's economy."²⁰ To that end, Florida law authorizes the Board to:

- Secure funding for its programs and activities from federal, state, local, and private sources and from fees charged for services and published materials;
- Solicit, receive, hold, invest, and administer any grant, payment, or gift of funds or property and make expenditures;
- Make and enter into contracts and other instruments necessary or convenient with its powers and functions;
- Elect or appoint officers, employees, and agents as required for its activities and for its divisions;
- Carry forward any unexpended state appropriations into succeeding fiscal years;
- Create and dissolve advisory councils, working groups, task forces, or other similar organizations, as necessary to carry out its mission;

¹² S. 288.92(1), F.S.

¹³ S. 288.901(4), F.S.

¹⁴ S. 288.901(5), F.S.

¹⁵ *Id.*

¹⁶ Members appointed by the Governor are subject to Senate confirmation. s. 288.901(5)(a), F.S.

¹⁷ S. 288.901(5)(b), F.S.

¹⁸ S. 288.901(7), F.S.

¹⁹ S. 288.901(8), F.S.

²⁰ S. 288.9015(1), F.S.

- Establish an executive committee consisting of the chairperson or a designee, the vice chairperson, and as many additional members of the board of directors as the board deems appropriate (with a minimum of five members);
- Sue and be sued, and appear and defend all actions and proceedings;
- Adopt, use, and alter a common corporate seal for EFI and its divisions;
- Adopt, amend, and repeal bylaws;
- Acquire, enjoy, use, and dispose of patents, copyrights, and trademarks and any licenses, royalties, and other rights or interests;
- Use the state seal when appropriate for standard corporate identity applications; and
- Procure insurance or require bond against any loss in connection with the property of EFI.²¹

As a public-private partnership, EFI is expected to obtain private sector support to help pay for its operational costs. The Legislature provides an annual appropriation to EFI for its operations. According to state law, the agency's legislative appropriations must be matched with private sector support equal to at least 100% of state operational funding.²² Under state law, private sector support includes:

- Cash given directly to EFI for its operations, including contributions from at-large members of the board of directors;
- Cash donations from organizations assisted by EFI's divisions;
- Cash jointly raised by EFI, private local economic development organizations, a group of such organizations, or a statewide private business organization that supports collaborative projects;
- Cash generated by fees charged for products or services of EFI and its divisions by sponsorship of events, missions, programs, and publications; and
- Copayments, stock, warrants, royalties, or other private resources dedicated to EFI or its divisions.²³

In 2016, the Office of Program Policy Analysis and Government Accountability (OPPAGA) published a report indicating that EFI's state funding has always exceeded private sector funding.²⁴ Based on EFI's audited financial statements for Fiscal Year 2021-22, EFI received: \$1,865,000 in private investment contributions; \$1,405,918 in event revenue; and \$1,153,795 in other income.²⁵ EFI's total state appropriation for Fiscal Year 2021-22 was \$14,400,000.²⁶

Division of Tourism Marketing and Florida Tourism Industry Marketing Corporation

EFI's Division of Tourism Marketing is the entity created through statute that interacts and contracts with its direct support organization,²⁷ the Florida Tourism Industry Marketing Corporation. The Florida Tourism Industry Marketing Corporation was created by the legislature in 1996 and is otherwise known by the service mark "VISIT FLORIDA," which operates as a non-profit corporation that serves as Florida's statewide destination marketing organization, representing the state's tourism industry.²⁸ In practice, VISIT FLORIDA (VF) is EFI's Division of Tourism Marketing. The division is staffed by VF, and the staff is not employed by EFI.²⁹

VF's primary responsibilities include:

- Administering domestic and international advertising campaigns;

²¹ S. 288.9015(2), F.S.

²² S. 288.904(2)(a), F.S.

²³ S. 288.904(2)(b), F.S.

²⁴ OPPAGA Report No. 16-09, *supra* n. 1, p. 19.

²⁵ *Enterprise Florida, Inc. and Consolidated Entities, Consolidated Financial Statements*, p.5, available at <https://www.enterpriseflorida.com/about/transparency/> (last visited Mar. 13, 2023).

²⁶ General Appropriations Act of 2022 (HB 5001).

²⁷ "Direct support organization" means a not-for-profit Florida corporation incorporated under the provisions of chapter 617, F.S., and authorized by Florida law to exist as a direct support organization to benefit or provide assistance to a governmental entity. See State of Florida Auditor General, *Audits of Certain Nonprofit Organizations*, Rules of the Auditor General (Jun. 30, 2022), available at https://flauditor.gov/pages/pdf_files/10_700.pdf (last visited Mar. 13, 2023).

²⁸ S. 288.1226, F.S. The fictitious name "VISIT FLORIDA" is registered with the Department of State, registration no. G18000088414.

²⁹ S. 288.923(5), F.S.

- Coordinating domestic and international marketing activities;
- Coordinating marketing efforts with local tourism marketing organizations;
- Managing Florida's four welcome centers;
- Conducting research on tourism and travel trends;
- Administering marketing activities for Veterans Florida;³⁰ and
- Marketing to assist the state following critical events, such as storms.³¹

Through a contractual relationship with the Department of Economic Opportunity (DEO), VF is held to various performance measures and standards. VF's 31-member board of directors is appointed by DEO, in conjunction with EFI, and meets three times a year to provide guidance, input, and insight to VF, and work directly with VF executive staff.³² VF is required to develop a four-year marketing plan³³ for the state which addresses issues such as the continuation of tourism growth in Florida, expansion to new or underrepresented markets, coordination with local and private sector partners on tourism advertising, and emergency response to disasters from a marketing standpoint.³⁴

As a public-private partnership, VF is required to obtain private sector contributions to match public contributions. Eligible matching contributions come from four categories:

- Direct cash contributions;
- Fees for services;
- Cooperative advertising, which is limited to partner expenditures for paid media placement and actual market value of contributed products, air time, and print space; and
- In-kind contributions, which is limited to the actual market value of promotional contributions of partner-supplied benefits or of non-partner supplied airtime or print space.³⁵

Space Florida

Space Florida acts as Florida's point of contact for state aerospace-related activities with federal agencies, the military, state agencies, businesses, and the private sector.³⁶ Space Florida is authorized to purchase or construct facilities, set rates, fees, and charges for the use of facilities, and undertake joint financing with municipalities or private sector entities for any project.³⁷

Space Florida is governed by a 13 member³⁸ independent board of directors (Space Florida Board). The Governor, or the Governor's designee, is a voting member and serves as the chair.³⁹ The 12 appointed private sector members of the EFI board of directors also serve, by default, on the Space Florida Board and are appointed to four-year terms.⁴⁰

Economic Development Incentives

Florida has a number of incentive programs intended to promote economic development in the state. These programs are housed in several different agencies and come in a variety of forms including tax refunds, tax credits, tax exemptions, and cash grants. Businesses interested in expanding or relocating

³⁰ Veterans Florida is a non-profit corporation created by the State of Florida to help military veterans transition to civilian life and to promote Florida's status as the nation's most veteran-friendly state. See Veterans Florida, *About Us*, <https://www.veteransflorida.org/about/> (last visited Mar. 13, 2023).

³¹ Office of Program Policy Analysis and Government Accountability, *Florida Economic Development Program Evaluations – Year 8*, 13 (December 2020), available at <https://oppaga.fl.gov/Documents/Reports/20-08.pdf> (last visited Mar. 10, 2023).

³² *Id.* at 12.

³³ This plan is annual in construction and ongoing in nature. See S. 288.923(4)(c), F.S.

³⁴ S. 288.923(4)(c), F.S.

³⁵ S. 288.1226(6), F.S.

³⁶ S. 331.3011, F.S.

³⁷ S. 331.305, F.S.

³⁸ Six members are appointed by the Governor, three members are appointed by the President of the Senate, and three members are appointed by the Speaker of the House of Representatives. S. 288.901(5)(a)7., F.S.

³⁹ S. 331.3081, F.S.

⁴⁰ S. 288.901(5)(a)8., F.S.

to Florida learn about the state's economic incentive programs through several channels, including EFI and state and local economic development organizations. EFI markets the benefits of doing business in Florida. EFI works to develop leads on businesses, then EFI identifies the specifics of each business's project to determine whether any economic development programs or incentives may be available. If EFI determines that a business is eligible for an economic development award, EFI makes a recommendation to DEO for the project.⁴¹ Businesses can apply for more than one incentive to support their expansion or relocation projects.

Once a company begins the application process, DEO begins the formal due diligence process to determine the business's statutory eligibility and financial standing. Once a business successfully completes the evaluation process, DEO approves the business for an award and issues a certification letter. Businesses that receive an award, except for businesses that receive an award under the Capital Investment Tax Credit, Enterprise Zone, and New Markets Development programs, must enter into contractual agreements with DEO. These agreements include a schedule for meeting performance requirements. DEO must ensure that each business complies with state law and the terms of the agreement. Businesses found to be out of compliance with performance requirements may be subject to penalties (e.g., clawback provisions) or could be terminated from the incentive program.^{42, 43}

⁴¹ DEO, 2021-2022 Annual Incentives Report, p.3. Section 288.907, F.S., requires EFI, in conjunction with DEO, to provide a detailed incentives report quantifying the economic benefits for all the economic development incentive programs marketed by EFI.

⁴² *Id.* at 2.

⁴³ Office of Program Policy Analysis and Government Accountability, *Florida Economic Development Program Evaluations – Year 10, 2* (November 2022), available at <https://oppaga.fl.gov/Documents/Reports/22-06.pdf> (last visited Mar. 13, 2023).

Incentive Type	Description	Overview of Claims Process	Revenue Source
Tax Refunds	Refund of taxes paid	<ul style="list-style-type: none"> - Business pays taxes - State verifies job creation, wages, and tax payments - State issues refund to eligible business 	Annual appropriation
Tax Credits	Credit against taxes owed	<ul style="list-style-type: none"> - State verifies jobs and capital investment (if applicable) - Eligible business claims credits on state taxes after meeting program requirements 	Foregone revenue
Tax Exemptions	Exemption from taxes owed	<ul style="list-style-type: none"> - DOR issues tax exemption permit to business for approved tax- exempt purchases - Business uses permit to make eligible tax- exempt purchases 	Foregone revenue
Grants	Grant with a performance-based agreement	<ul style="list-style-type: none"> - Business achieves performance milestones - State verifies job creation, wages, and capital investment (ass applicable) -State issues payment 	Annual appropriation

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For Fiscal Year 2021-22, DEO reports paying 114 projects, with the total amount of state funds paid coming to \$20,642,994. The confirmed average annual wage of these projects is \$59,986.⁴⁵

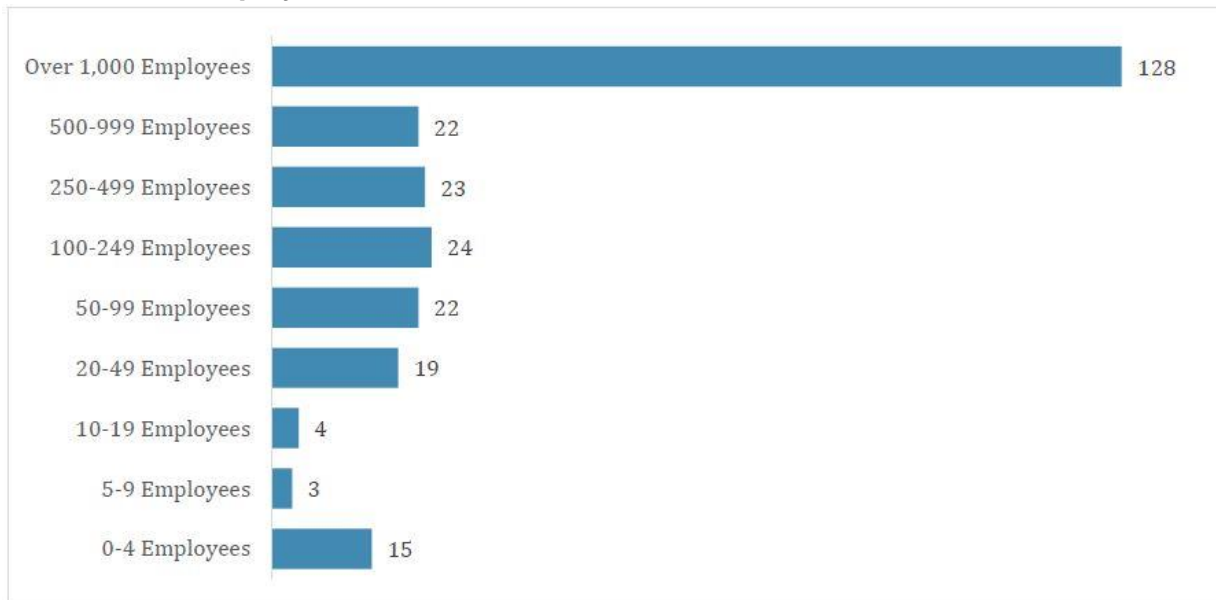
In 2022, OPPAGA published an updated analysis of Florida’s economic development programs. For this report, OPPAGA analyzed incentive payments, revealing that 64% of the 260 projects which received incentive payments were expansions of existing Florida businesses rather than new companies to the state. During the same review period, OPPAGA reported that almost half of incentives were provided to businesses with over 1,000 employees.⁴⁶

⁴⁴ DEO, 2021-2022 Annual Incentives Report, p.2.

⁴⁵ *Id.* at 5.

⁴⁶ Office of Program Policy Analysis and Government Accountability, *Florida Economic Development Program Evaluations – Year 10 supra* n. 43, p.7.

Employment of Businesses that have Received Incentives



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Tax Credits, Tax Refunds, Cash Grants

Qualified Target Industry Tax Refund Program

The Qualified Target Industry (QTI) Tax Refund Program was established in 1995 to attract new high quality, high wage jobs for Floridians.⁴⁸ Tax refunds are made to qualifying, pre-approved businesses creating new jobs within Florida's target industries. All QTI projects include a performance-based contract with the state, which outlines specific milestones that must be achieved and verified by the state prior to payment of refunds. Unless waived by the Department of Economic Opportunity, 20% of the award must come from the local city or county government in which the project is located.⁴⁹

A project must propose to create at least ten new jobs, or in the case of a business expansion, must result in a net increase in employment of at least 10% at that business. The jobs proposed to be created or retained must pay an average annual wage of at least 115% of the average private sector wage in the area where the business is located, or the statewide private sector average wage. The amount of the refund is based on the average wages paid by the business, number of jobs created, and where in the state the eligible business chooses to locate or expand. The minimum tax refund is \$3,000 per employee. Jobs created in rural communities and enterprise zones, as well as those paying higher annual average wages, are eligible for more incentives.

The authority to certify new applicants for the QTI program expired on June 30, 2020, but existing tax refund agreements continue in accordance with the contract terms. Based on current contracts, the anticipated program end date is Fiscal Year 2037-38.⁵⁰

The Office of Economic and Demographic Research (EDR) analyzes the Return on Investment (ROI) of QTI every three years. For 2023, EDR reports that the ROI of the program does not break even at 0.23, however, the state does recover a portion of the cost of the program.⁵¹ Furthermore, EDR indicates that during the review process, DEO discovered a data error that was consistent through all prior review

⁴⁷ *Id.*

⁴⁸ S. 288.061(1), F.S.

⁴⁹ S. 288.106(2)(j), F.S.

⁵⁰ Office of Program Policy Analysis and Government Accountability, *Florida Economic Development Program Evaluations – Year 10 supra* n. 43, p. 1.

⁵¹ Office of Economic and Demographic Research, *Economic Evaluation for Select State Economic Development Incentive Programs*, 20 (February 2023), available at

<http://edr.state.fl.us/Content/returnoninvestment/ROISELECTPROGRAMS2023final.pdf> (last visited Mar. 13, 2023).

periods. EDR analyzed the corrected data sets for prior review periods and published the following chart with updated ROIs for each review period:

Report Year	Old ROI	New ROI
2014	6.40	-0.27
2017	4.40	0.84
2020	4.34	0.66

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Qualified Defense Contractor and Space Flight Tax Refund (QDSC)

In 1996, the Legislature implemented the Qualified Defense Contractor and Space Flight Business Tax Refund Program (QDSC) to create and retain high quality, high wage jobs for Floridians in the defense and space industries.⁵³ Historically, the program was designed to protect the state's defense businesses and jobs from reductions in federal defense spending.⁵⁴ The program provides tax refunds for job creation similar to those awarded through the Qualified Target Industry Tax Refund Program (QTI). However, the programs differ in that tax refunds under the QDSC program are paid for both created and retained jobs. In addition, QDSC program participation is limited to certain defense and space flight contractors, while QTI includes a wider range of industries.⁵⁵ Incentive awards range from \$3,000 to \$8,000 per job.⁵⁶

QDSC tax refunds were provided to qualifying businesses bidding on new competitive contracts or consolidating existing defense or space flight business contracts, converting defense production jobs to nondefense production jobs, or reusing defense-related facilities. A business could not apply for the tax refund after submitting a proposal or deciding to consolidate a defense or space flight contract. Businesses seeking to qualify for the program were required to meet several requirements including deriving not less than 60% of gross receipts in the state from defense or space flight business contracts over the last fiscal year and over the five years preceding the date an application was submitted; creating net new Florida jobs; paying an annual average wage of at least 115% of the average wage in the area where the project was located; and providing a local government resolution of financial support amounting to 20% of the total tax refund.

The QDSC program was a performance-based incentive tied directly to defense or space flight business contracts. Businesses qualified for the program in three ways:

- Contract or subcontract consolidations that resulted in either a 25 percent increase in employment or at least 80 new Florida jobs;
- Defense production conversion projects that resulted in a net increase in nondefense employment at the applicant's facilities in Florida; or
- Reuse projects that resulted in the creation of at least 100 jobs for contracts with a duration of two or more years.⁵⁷

⁵² *Id.*

⁵³ S. 288.1045, F.S.

⁵⁴ The 2008 Legislature amended the program to include space flight businesses (ch. 2008-89, Laws of Fla.).

⁵⁵ According to state law, a program applicant is a business that holds or is a subcontractor under a valid U.S. Department of Defense contract or space flight contract, or a business entity that holds a valid contract for the reuse of a defense-related facility.

⁵⁶ S. 288.1045, F.S. The per-job award increases from the \$3,000 base when wages exceed 150 percent of the area or statewide annual wage, and when projects are located in specified locations. These included a rural county, an Enterprise Zone, or until 6/30/14, in any of the eight counties that were disproportionately affected by the BP Gulf Oil Spill: Bay, Escambia, Franklin, Gulf, Okaloosa, Santa Rosa, Walton and Wakulla Counties. From 7/1/11 through 6/30/14, DEO could waive wage or local financial support eligibility requirements for Disproportionately Affected Counties.

⁵⁷ S. 288.1045, F.S.

A recent OPPAGA report recommends that the Legislature consider eliminating or modifying the QDSC program, given that the program expired in 2014 and no businesses remain in the program.⁵⁸

Brownfield Redevelopment Bonus Refund

The Brownfield Redevelopment Bonus Refund was established in 1997 to improve economic activity in designated Brownfield areas.⁵⁹ These areas are designated by the respective community for the presence or perceived presence of economic blight or environmental contamination. Legislation passed in 2013 changed the Brownfield Redevelopment Bonus Tax Refund requirements so that projects only qualify if the project is either on a parcel designated as a Brownfield site or on any real property abutting the Brownfield site within a Brownfield area. Prior to 2013, projects qualified if the development was simply within a Brownfield area.

As with the QTI and QDSC programs, the Brownfield program requires 20 percent of the award to come from the local government. These incentives are grant programs, subject to annual appropriations. The Brownfield Redevelopment Bonus Refund allows eligible businesses to claim an additional \$2,500 tax refund per employee for each new Florida job created in a Brownfield area eligible for bonus refunds.

Eligible businesses include: certified QTI businesses; businesses that can demonstrate a fixed capital investment of at least \$2 million in mixed-use business activities, including multiunit housing, commercial, retail, and industrial in brownfield areas eligible for bonus refunds, and that provides benefits to its employees.

As with other programs, the Brownfield program requires performance-based contracts and specific milestones to be met in order for a project to receive awards.

Because DEO can no longer approve a qualified target industry business to be eligible for tax refunds after DEO's authority to certify applicants expired on June 30, 2020, DEO may also not currently approve such business under the Brownfield Redevelopment Bonus Program.⁶⁰

EDR's most recent analysis of the Brownfield program reflects an ROI of -0.89, indicating that for the review period the State lost all of its investment and incurred additional costs.⁶¹ This number reflects a decrease from the 2020 review, when EDR reported an ROI of 1.51 for the program.⁶²

Urban High-Crime Area Job Tax Credit Program

In 1997, the Legislature created the program to encourage job creation in certain urban high-crime areas. The Urban High-Crime Area Job Tax Credit Program provides job tax credits to businesses that are in specified industries and are located in designated urban areas of the state.⁶³ Businesses can use the credits to reduce sales and use tax or corporate income tax liability.

Eligible industries include agriculture, forestry, and fishing; manufacturing; retail; public warehousing and storage; hotels and other lodging places; research and development; motion picture production and allied services; public golf courses; amusement parks, and call centers or similar customer service operations that service multistate or international markets.⁶⁴

⁵⁸ Office of Program Policy Analysis and Government Accountability, *Florida Economic Development Program Evaluations – Year 9, 7* (December 2021), available at <https://oppaga.fl.gov/Documents/Reports/21-09.pdf> (last visited Mar. 13, 2023).

⁵⁹ S. 288.107, F.S.

⁶⁰ Office of Program Policy Analysis and Government Accountability, *Florida Economic Development Program Evaluations – Year 10 supra* n. 43, p. 14.

⁶¹ Office of Economic and Demographic Research, *Economic Evaluation for Select State Economic Development Incentive Programs supra* n. 51, p.22.

⁶² *Id.* at 5.

⁶³ S. 212.097, F.S.

⁶⁴ S. 212.097(1)(a), F.S.

DEO is responsible for determining whether areas nominated by local governments are eligible for designation as a high-crime area.⁶⁵ Every third year, the department is statutorily required to rank and tier nominated areas according to five criteria:⁶⁶

- Highest arrest rates within the geographic area for violent crime and for such other crimes as drug sale, drug possession, prostitution, vandalism, and civil disturbances.
- Highest reported crime volume and rate of specific property crimes such as business and residential burglary, motor vehicle theft, and vandalism.
- Highest percentage of reported index crimes that are violent in nature.
- Highest overall index crime volume for the area.
- Highest overall index crime rate for the geographic area.

Designated urban high-crime areas are ranked into three tiers. There is no threshold level of crime that qualifies or disqualifies an area for designation as an urban high-crime area; instead, nominees ranked 1 to 5 are tier one, those ranked 6 to 10 are tier two, and those ranked 11 to 15 are tier three. The tax credit amount awarded to an eligible business varies depending on the tier ranking of the area in which the business is located, whether the business is new or existing, and the number of qualified employees. A qualified employee must work for an eligible business at least 36 hours per week for at least three months.⁶⁷

Tier	Eligibility Requirements	Credit Amount
Tier 1	<ul style="list-style-type: none"> • New business – At least 10 qualified employees • Existing business – At least 5 qualified employees 	\$1,500 per employee
Tier 2	<ul style="list-style-type: none"> • New business – At least 20 qualified employees • Existing business – At least 10 qualified employees 	\$1,000 per employee
Tier 3	<ul style="list-style-type: none"> • New business – At least 30 qualified employees • Existing business – At least 15 qualified employees 	\$500 per employee

⁶⁸

The maximum credit amount that may be approved during any calendar year is \$5 million, of which \$1 million shall be exclusively reserved for tier-one areas.⁶⁹ The Department of Revenue, in conjunction with the Department of Economic Opportunity, shall notify the governing bodies in areas designated as urban high-crime areas when the \$5 million maximum amount has been reached. Applications must be considered for approval in the order in which they are received without regard to whether the credit is for a new or existing business. This limitation applies to the value of the credit as contained in approved applications. Approved credits may be carried forward up to 12 months for sales tax purposes⁷⁰ and up to 5 years for corporate income tax purposes.⁷¹

Between 2014 and 2022, a handful of businesses accounted for over 90% of the approved tax credits. Universal City Development Partners, LTD (i.e., Universal Studios) received the most approved credits

⁶⁵ OPPAGA, Research Memorandum, Urban High-Crime Area Job Tax Credit Program, p. 1 (January 5, 2015). The local government must provide DEO the (a) overall index crime rate for the geographic area; (b) overall index crime volume for the area; (c) percentage of reported index crimes that are violent in nature; (d) reported crime volume and rate of specific property crimes such as business and residential burglary, motor vehicle theft, and vandalism; and (e) arrest rates within the geographic area for violent crime and for such other crimes as drug sale, drug possession, prostitution, disorderly conduct, vandalism, and other public-order offenses.

⁶⁶ *Id.*

⁶⁷ *Id.* at 2.

⁶⁸ S. 212.097(2)-(3), F.S.

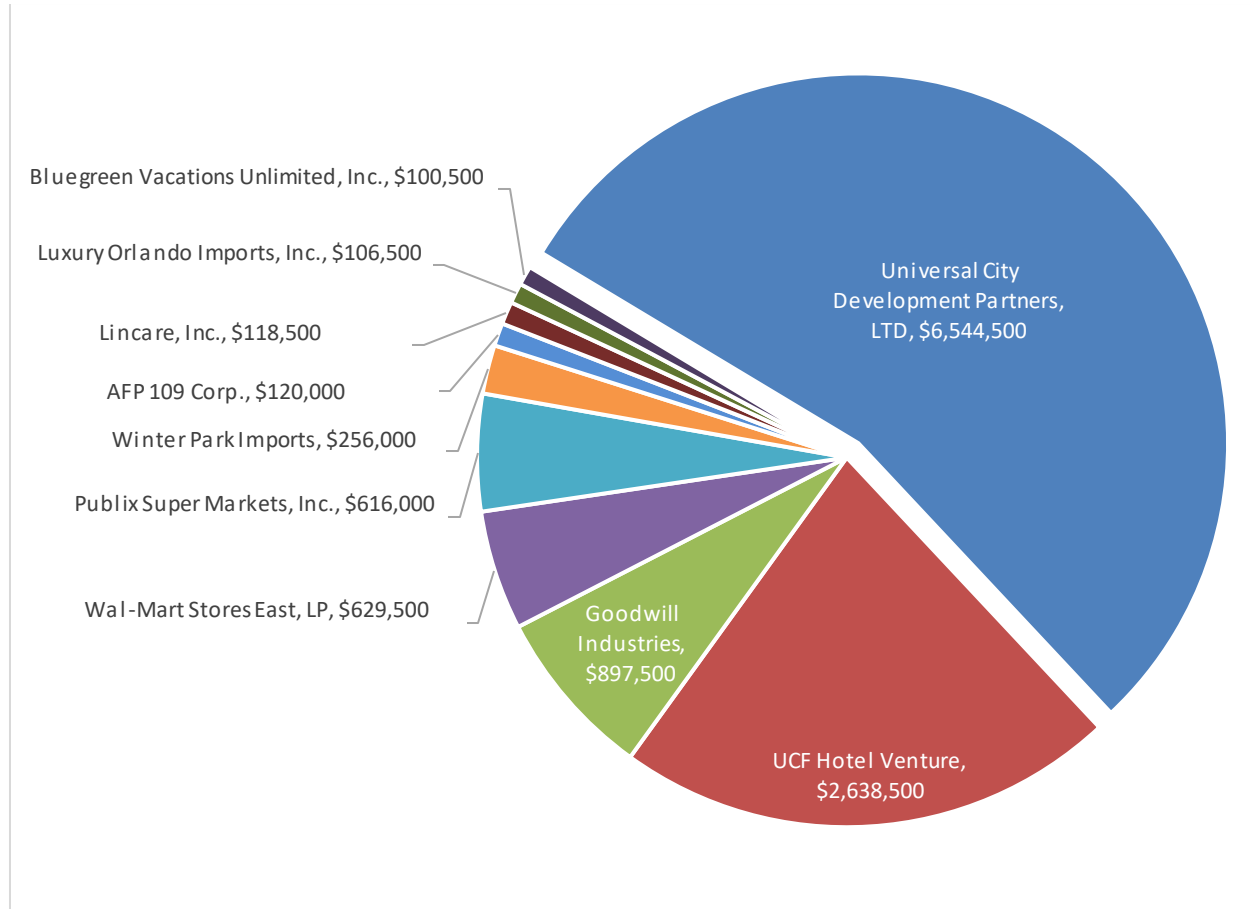
⁶⁹ S. 212.097(10)(c), F.S.

⁷⁰ S. 212.097(12), F.S.

⁷¹ S. 220.1895, F.S.

at over \$6.5 million (54% of the tax credits approved).⁷² The top ten companies account for the majority of the tax credits, as follows:⁷³

Top Ten Approved Urban High-Crime Area Job Tax Credits From 2014 Through 2022



Capital Investment Tax Credit

The Capital Investment Tax Credit (CITC) is designed to attract and grow capital-intensive industries in Florida.⁷⁴ Eligible projects must be in designated high-impact portions of certain sectors, determined by DEO, including clean energy, life sciences, financial services, information technology, semi-conductors, transportation equipment manufacturing, or advanced manufacturing. Corporate headquarters facilities are also eligible.⁷⁵ The annual credit can be provided for up to twenty years against corporate income tax liability. DEO reported that \$61,179,087 in tax credits were claimed in 2021, and \$70,111,200 were claimed in 2020.⁷⁶

To apply for the CITC, a business must meet cumulative capital investment requirements, among other criteria. For the purposes of the CITC tax credit “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.⁷⁷

⁷² Email from Emily Leventhal, Staff Director, Office of Program Policy Analysis & Government Accountability, RE: Completed chart enclosed (Mar. 15, 2023).

⁷³ *Id.*

⁷⁴ S. 220.191, F.S.

⁷⁵ DEO, 2021-2022 Annual Incentives Report, p. 39.

⁷⁶ *Id.* at 34.

⁷⁷ S. 220.191(1)(b), F.S.

EDR projects the ROI for the CITC program at -0.48, which indicates that the State loses all of its investment and incurs additional costs.⁷⁸

New Markets Development Program

In 2009, the Legislature passed the New Markets Development Program Act (NMDP).⁷⁹ The program, which is modeled after the federal New Markets Tax Credit Program, allows taxpayers to earn credits against specified taxes by making qualified investments in qualified community development entities that, in turn, invest in businesses in low-income communities to create and retain jobs in such communities.⁸⁰

Qualified community development entities apply to DEO for approval of a proposed investment as a qualified investment.⁸¹ A qualified community development entity is a federally-certified Community Development Entity, which has entered into an allocation agreement with the U.S. Department of Treasury with respect to tax credits and is authorized under the allocation agreement to serve Florida businesses.⁸² A qualified investment is an equity investment in, or a long-term debt security issued by, a qualified community development entity that is issued solely in exchange for cash and is approved by DEO.⁸³ Often, the equity investor will make its investment with the help of a loan.⁸⁴

The applications, which DEO reviews and approves on a first-come first-serve basis,⁸⁵ must include the following:

- the name, address, and tax identification number of the qualified community development entity;
- proof of certification as a qualified community development entity under 26 U.S.C. s. 45D;
- a copy of an allocation agreement executed by the qualified community development entity, or its controlling entity, and the Community Development Financial Institutions Fund, which authorizes the entity to serve businesses in this state;
- a verified statement by the chief executive officer of the entity that the allocation agreement remains in effect;
- a description of the proposed amount, structure, and purchaser of an equity investment or long-term debt security;
- the name and tax identification number of any person authorized to claim a tax credit earned as a result of the purchase of the proposed qualified investment;
- a detailed explanation of the proposed use of the proceeds from a proposed qualified investment;
- a nonrefundable application fee of \$1,000, payable to the department; and
- a statement that the entity will invest only in the industries designated by the department.⁸⁶

Once DEO has approved the qualified investment, the taxpayer is eligible to receive tax credits, and the qualified community development entities can invest the proceeds received from the qualified investment in a qualified active low-income community business (up to \$10 million per qualified active low-income community business).⁸⁷ A qualified active low-income community business is a business that, among other requirements, derives at least 50% of its total gross income from within a low-income

⁷⁸ Office of Economic and Demographic Research, *Economic Evaluation for Select State Economic Development Incentive Programs* *supra* n. 51, p.5.

⁷⁹ Ch. 2009-50, Laws of Fla.

⁸⁰ S. 288.9912, F.S.

⁸¹ S. 288.9914, F.S.

⁸² S. 288.9913(6), F.S.

⁸³ S. 288.9913(7), F.S.

⁸⁴ The loan allows the taxpayer to make a larger investment, to in turn receive a greater amount of tax credits through the program. Current law does not dictate where the loan must come from. Accordingly, the loan may come from an affiliate of the qualified active low income community business.

⁸⁵ S. 288.9914(3), F.S.

⁸⁶ S. 288.9914(2), F.S.

⁸⁷ S. 288.9915, F.S.

community.⁸⁸ A low-income community means a population census tract within the state with a particular poverty rate or average median family income (depending on where the tract is).⁸⁹

Taxpayers that make a qualified investment in qualified community development entities may receive tax credits against the corporate income tax found in s. 220.11, F.S. or the insurance premium tax found in s. 624.509, F.S. The taxpayer may not claim the credit in the first two years after the investment. In year three after the investment, the credit is worth 7% of the qualified investment, and from the fourth year through the seventh year the credit is worth 8%.⁹⁰ As in the federal program, over seven years the credit totals 39% of the total qualified investment in the qualified community development entity. Therefore, a taxpayer with qualified investments approved for both the federal and state programs could receive 78% of the purchase price of the investment in tax credits over seven years.

Any unused portion of the tax credit may be carried forward for up to five future tax years.⁹¹ The department may not approve a cumulative amount of qualified investments that may result in the claim of more than \$216.34 million in tax credits during the existence of the program or more than \$36.6 million in tax credits in a single state fiscal year.⁹² DEO reports that the statutory limitation on credits that could be issued was reached in, and no new credits have been issued since, fiscal year 2014-2015.⁹³

Qualified community development entities must follow certain time limits relating to qualified investment applications and issuance:⁹⁴

- The department must approve or deny an application for a proposed investment to become a qualified investment within thirty days after receipt. If the department intends to deny an application, the department must inform the applicant of the basis of the proposed denial. The applicant then has fifteen days after it receives such notice to submit a revised application to the department. The department must issue a final order approving or denying the revised application within thirty days after receipt of the revised application.
- A qualified community development entity must issue a qualified investment in exchange for cash within sixty days after it receives the order approving an investment as a qualified investment.
- A qualified community development entity must provide the department with evidence of the receipt of the cash they received in exchange for the qualified investment within thirty business days after receipt.
- Within thirty days after a credit allowance date, a qualified community development entity that has issued a qualified investment shall submit extensive information to the department relating to all investments they made in qualified active low-income community businesses since the last credit allowance date.

Section 288.9918, F.S., requires qualified community development entities that have issued a qualified investment to submit an annual report to the department by January 31 after the end of each year that includes a “credit allowance date,” or date on which a qualified investment is made and the six subsequent anniversaries of that date. In addition, by April 30 after the end of each year that includes a credit allowance date, each qualified community development entity shall submit to the department annual financial statements for the preceding tax year, audited by an independent certified public accountant.⁹⁵

Section 288.9922, F.S., provides that the New Markets Development Program expired on December 31, 2022.

⁸⁸ S. 288.9913(5), F.S.

⁸⁹ S. 288.9913(3), F.S.

⁹⁰ See s. 288.9916(1), F.S.

⁹¹ S. 288.9916(1)(c), F.S.

⁹² S. 288.9914(3)(c), F.S.

⁹³ DEO, 2016-2017 Annual Incentives Report, p. 11.

⁹⁴ S. 288.9914(3), F.S.

⁹⁵ S. 288.9918(2), F.S.

The ROI for the New Markets Development Program is -0.98, indicating that the state lost all of its investment in the program and incurred additional costs.⁹⁶

High-Impact Sector Performance Incentive

The High Impact Performance Incentive (HIPI)⁹⁷ grant program is designed to spur capital investment and job creation in designated portions of high-impact sectors including clean energy, life sciences, financial services, information technology, silicon technology, transportation equipment manufacturing, or a corporate headquarters facility.⁹⁸ This performance-based cash award is paid in two equal installments, one upon commencement of operations and the other upon commencement of full operations.⁹⁹ The program has an annual cap of \$30 million for scheduled performance grant payments.¹⁰⁰ This program authorizes the recapture of funds if a business fails to meet its contractual performance requirements. Currently, the DEO “certifies” a qualified high impact business for program participation.

An “eligible high-impact business” is a business in one of the high-impact sectors identified by EFI, and certified by DEO, which is making a cumulative investment in the state of at least \$50 million and creating at least fifty new full-time equivalent jobs, or a research and development facility making a cumulative investment of at least \$25 million and creating at least twenty-five new full-time equivalent jobs. Such investment and employment must be achieved in a period not to exceed three years after the date the business is certified as a qualified high-impact business.¹⁰¹

DEO reviews the application before the business has made a decision to locate or expand a facility in this state. The business must provide the following information:

- A complete description of the type of facility, business operations, and product or service associated with the project.
- The number of full-time equivalent jobs that will be created by the project and the average annual wage of those jobs.
- The cumulative amount of investment to be dedicated to this project within three years.
- A statement concerning any special impacts the facility is expected to stimulate in the sector, the state, or regional economy and in state universities and community colleges.
- A statement concerning the role the grant will play in the decision of the applicant business to locate or expand in this state.
- Any additional information requested by the department.¹⁰²

Amounts of the awards vary based on certain guidelines used by DEO in conjunction with other relevant applicant impact and cost information and analysis. The awards can range anywhere from \$500,000 for a cumulative investment of \$50 million and creating 50 jobs to \$12 million for a cumulative investment of \$800 million and creating 800 jobs.¹⁰³

Within ten business days after DEO receives the submitted High-Impact Sector Performance Incentive application, the executive director of DEO must approve or disapprove the application and issue a letter of certification which includes a justification of that decision, unless the business requests an extension of that time. DEO has the authority to grant awards to qualifying High-Impact Sector Performance Incentive projects without approval by the Governor or Legislative Budget Commission (LBC).¹⁰⁴

⁹⁶ Office of Economic and Demographic Research, *Economic Evaluation for Select State Economic Development Incentive Programs* *supra* n. 51, p.5.

⁹⁷ S. 288.108, F.S.

⁹⁸ DEO, 2021-2022 Annual Incentives Report, p. 38.

⁹⁹ *Id.*

¹⁰⁰ S. 288.108(4)(a), F.S.

¹⁰¹ S. 288.108(2)(c), F.S.

¹⁰² S. 288.108(5), F.S.

¹⁰³ S. 288.108(3)(b), F.S.

¹⁰⁴ S. 288.108(3)-(5), F.S.

For Fiscal Year 2021-22, DEO reports that it did not receive any applications for the HIPI program, thus, no applications were approved and no agreements were executed.¹⁰⁵

EDR reports an ROI of -0.79 for the HIPI Program, which mean that the State lost all of its investment and incurred additional costs.¹⁰⁶

Quick Action Closing Fund

The Quick Action Closing Fund (QAC) was created in 1999 as a discretionary “deal closing” tool in highly competitive negotiations where the state’s traditional incentives are not enough to compel a business to relocate, initiate, or expand a project in Florida.¹⁰⁷ The program was created in reaction to the announcement that the space shuttle program was being discontinued by NASA with expected job losses that would negatively impact families, companies, the state, and regional economies.¹⁰⁸

Under current law, in order to be eligible for QAC funds a project must meet the following criteria:

- Be in a qualified target industry;
- Have a positive economic benefit ratio of at least 5 to 1;
- Pay an average annual wage of at least 125 percent of the area-wide or statewide private sector average wage; and
- Be supported by the local community in which the project is to be located.¹⁰⁹

DEO and EFI jointly review applications¹¹⁰ and determine the eligibility of each project. Waiver of the criteria may be considered under the following criteria:

- Based on extraordinary circumstances;
- In order to mitigate the impact of the conclusion of the space shuttle program; or
- In rural areas of opportunity if the project would significantly benefit the local or regional economy.¹¹¹

DEO is required to evaluate proposals for high-impact business facilities based on the following:

- a description of the type of facility or infrastructure, its operations, and the product or service associated with the facility;
- the number of full-time equivalent jobs that will be created by the facility and the total estimated average annual wages of those jobs;
- the cumulative amount of capital investment to be made in the facility;
- a statement of any special impacts the facility is expected to stimulate in a particular business sector in the state or region or in the state’s universities or colleges;
- a statement of the role the award will play in the decision of the company to locate or expand in the state; and
- a report evaluating the quality and value of the company submitting the proposal.¹¹²

Within seven business days of evaluating a project, DEO must recommend to the Governor that a project be approved or disapproved for an award. The Governor is authorized to award projects less than \$2 million without Legislative approval. For project awards between \$2 million and \$5 million, the Governor must provide a written description and evaluation of a project award to the chair and vice chair of the LBC at least ten days prior to giving final approval for a project award. Project awards over \$5 million must be approved by the LBC prior to funds being released. Following approval, DEO is required to enter into a contract with the business which specifies the conditions for payment of

¹⁰⁵ DEO, 2021-2022 Annual Incentives Report, p. 9.

¹⁰⁶ Office of Economic and Demographic Research, *Economic Evaluation for Select State Economic Development Incentive Programs supra* n. 51, p.5.

¹⁰⁷ S. 288.1088, F.S.

¹⁰⁸ S. 288.1088(1)(b), F.S.

¹⁰⁹ S. 288.1088(2), F.S.

¹¹⁰ S. 288.061, F.S.

¹¹¹ S. 288.1088(2), F.S.

¹¹² S. 288.1088(3), F.S.

funds.¹¹³ The contract must include the total amount of funds awarded, the performance conditions for the project,¹¹⁴ a baseline of current service with a measure of enhanced capability following the project, methodology for measuring performance, the schedule of payments, and sanctions for failure to meet performance conditions.¹¹⁵

The program is funded by a specific annual appropriation, and has no cap. DEO reports that the Quick Action Closing Fund was last funded in 2015-16. Additionally, the report stated that DEO did not receive any applications for the program.¹¹⁶

Innovation Incentive Program

The Innovation Incentive Program (IIP)¹¹⁷ was established in 2006 to provide financial resources so that the state can “respond expeditiously to extraordinary economic opportunities and to compete effectively for high-value research and development, innovation business, and alternative and renewal energy projects.” To be eligible for consideration to receive an IIP award, an innovation business, a research and development entity, or an alternative and renewable energy company must submit a written application to DEO before making a decision to locate new operations in the state or expand an existing operation in the state.

To qualify for review by DEO, the applicant must establish that the jobs created by the project must pay an estimated annual wage of at least 130% of the average private sector wage and state awards must be matched by local sources. IIP performance contracts also include a reinvestment requirement, obliging recipients to remit a portion of their royalty revenue back to the state for reinvestment.¹¹⁸

DEO is authorized to waive the average wage requirement and the one-to-one match from the local community at the request of EFI, for a project located in a rural area, a brownfield area, or an enterprise zone, when the merits of the individual project or the specific circumstances in the community in relationship to the project warrant such action.

DEO must make a recommendation to the Governor to approve or deny an Innovation Incentive Program award. If the project is recommended, DEO must include in their recommendation proposed performance conditions that the applicant must meet in order to obtain incentive funds and any other conditions that are required to be met before the receipt of any incentive funds. The Governor must approve or deny the award based on the valuation and recommendation received from DEO, and consult with the President of the Senate and the Speaker of the House of Representatives prior to approving an award. The funds may not be released until the award has been reviewed and approved by the LBC.¹¹⁹

Upon approval, DEO and the award recipient must enter into an agreement that specifies the amount of the award, the performance conditions and measures, and a schedule of payments and sanctions for failure to comply with performance conditions, including claw back provisions. Agreements signed on or after July 1, 2009, must also include, among other things, provisions related to job creation, reinvestment of royalty revenues, reporting requirements, and a process for amending the agreement.¹²⁰

¹¹³ S. 288.1088(3)(d), F.S.

¹¹⁴ Performance conditions include net new employment in the state, average salary, and total capital investment. See s. 288.1088(3)(d), F.S.

¹¹⁵ S. 288.1088(3)(d), F.S.

¹¹⁶ DEO, 2021-2022 Annual Incentives Report, p. 9.

¹¹⁷ S. 288.1089, F.S.

¹¹⁸ Office of Program Policy Analysis and Government Accountability, *Florida Economic Development Program Evaluations – Year 10 supra* n. 43, p. 18.

¹¹⁹ S. 288.1089(7), F.S.

¹²⁰ S. 288.1089(8), F.S.

DEO has not received an appropriation for the program since Fiscal Year 2011-12, and the last approved grant under the IIP was at that time.¹²¹

Cooperative Matching Grants Program

Under current law, EFI is authorized to administer a cooperative matching grants program to expend funds and enter into contracts with local governments and nonprofit corporations for the purpose of promoting the tourism advantages of the state.¹²² The total annual allocation of funds for the program may not be more than \$40,000, and each grant award is limited to \$2,500. Each grant award must be matched by nonstate funds.¹²³ EFI is required to conduct an annual competitive selection process for the grants and make recommendations to DEO regarding potential grant recipients, however, DEO has ultimate approval authority for the grant program.¹²⁴

Sports Programs

Florida Sports Foundation

EFI is responsible for assisting and marketing professional and amateur sports teams and sporting events in Florida and is required to create a division to carry out such responsibility.¹²⁵ The Florida Sports Foundation, Inc. (FSF) is a 501(c)(3) non-profit corporation, serving as the official sports promotion and development organization for the State of Florida. It is charged with the promotion and development of professional, amateur, and recreational sports, physical fitness opportunities, and assisting communities and host organizations in attracting major and minor sports events to help produce a thriving Florida sports industry and environment.

The 1989, the Legislature provided that the Office of Tourism, Trade, and Economic Development (OTTED) could authorize a “direct support organization” to assist the office with a number of sports related responsibilities. The direct-support organization that ultimately fulfilled such role was the FSF.

In 2011, when Florida lawmakers reorganized certain governmental agencies to create the Department of Economic Opportunity (which, among other responsibilities, took over the operations of OTTED), the statute providing for the direct support organization (s. 288.1229, F.S.) was repealed.¹²⁶ EFI continued as the official sports promotion and development organization for the state and the FSF is currently housed within EFI and serves as EFI’s Division of Sports Industry Development. The FSF’s stated mission is to:

- Provide grants to support sporting events that bring out-of-state visitors to Florida;
- Produce and distribute annual golf, fishing and boating, and baseball spring training guides for both in-state and out-of-state tourists; and
- Organize the annual Sunshine State Games, an Olympic-style festival for Floridians of all ages, and the Florida Senior Games State Championships for senior athletes, age 50 and over.¹²⁷

International Game Fish Association World Center

The International Game Fish Association (IGFA) is a nonprofit organization founded in 1939 that focuses on the conservation of game fish and the promotion of responsible and ethical angling practices. The association is currently headquartered in Dania Beach, Florida.

¹²¹ Office of Program Policy Analysis and Government Accountability, *Florida Economic Development Program Evaluations – Year 10 supra* n. 43, p. 1.

¹²² S. 288.017(1), F.S.

¹²³ S. 288.017(2), F.S.

¹²⁴ S. 288.017(3), F.S.

¹²⁵ Ss. 288.901 and 288.9015, F.S.

¹²⁶ Ch. 2011-142, Laws of Fla.

¹²⁷ Florida Sports Foundation, *ABOUT US*, <https://playinflorida.com/about-us/> (last visited Mar. 13, 2023).

In 1996, the Florida Legislature created a funding program for the IGFA to build and maintain its “World Center” facility in Florida.¹²⁸ The program required the IGFA to apply for and receive certification from DEO, which the IGFA accomplished in February, 2000.¹²⁹

IGFA received funding after initially meeting the following requirements:

- The IGFA World Center must be the only fishing museum, hall of fame, and international administrative headquarters in the U.S. recognized by the IGFA, and that one or more private sector entities committed to donate to the IGFA land upon which the facility will operate;
- IGFA is a nonprofit Florida corporation that has contracted to construct and operate the facility;
- The municipality or county (if located in an unincorporated area) in which the facility is located has passed a resolution that states the facility serves a public purpose;
- There are existing projections that the facility and co-located privately-owned facilities will attract an attendance of more than 1.8 million annually;
- There is an independent analysis which demonstrates that the amount of sales tax generated by sales at the facility will at least equal \$1 million annually;
- There are existing projections that the project will attract more than 300,000 out-of-state visitors annually;
- The applicant has submitted an agreement to provide \$500,000 annually in national and international media promotion of the facility during the period of time that it receives state funds;
- Documentation exists that demonstrates the applicant has provided, or is capable of providing, more than one-half of the cost related to the improvements and the development of the facility; and
- The application for certification is signed by senior officials of the IFGA and is notarized according to state law.¹³⁰

In addition, Florida law required the World Center to be recertified every ten years by demonstrating that it was open, continued to be the only international administrative headquarters, fishing museum, and hall of fame in the country recognized by the IGFA, and was meeting at least one of the minimum projections established at the time of original certification: 300,000 annual visitors or \$1 million in annual sales tax revenue.¹³¹

Upon the granting of certification, the Department of Revenue distributed a lump sum payment of \$999,996 to the IGFA and \$83,333 per month thereafter for up to 168 months (for a total of \$13,999,944). The state made its last disbursement to the facility in February 2014.¹³²

Professional Sports Franchise Program

Authorized by the Legislature in 1988, the Professional Sports Franchise incentive is the state’s funding mechanism to attract and retain pro sport franchises in Florida. Since 1991, qualified/certified applicants are eligible for up to \$2 million annually for 30 years. These dollars are pledged with other local government resources to secure bonds to fund the acquisition, construction, reconstruction or renovation of pro sport facilities.¹³³

State law provides certification and state funding for new or retained professional sports franchises in Florida to pay for acquiring, constructing, reconstructing, or renovating facilities. DEO is responsible for screening and certifying applicants for state funding, and the FSF provides access to information about the program.

“New professional sports franchise” means a professional sports franchise that was not based in this state before April 1, 1987. “Retained professional sports franchise” means a professional sports

¹²⁸ Ch. 96-415, Laws of Fla.

¹²⁹ OPPAGA, Report No. 15-01, Economic Development Program Evaluations-Year 2, at 52 (Jan. 1, 2015).

¹³⁰ S. 288.1169(2), F.S.

¹³¹ *Id.*

¹³² OPPAGA, Report No. 15-01 *supra* n. 125, p. 52.

¹³³ S. 288.1162, F.S.

franchise that has had a league-authorized location in this state on or before December 31, 1976, and has continuously remained at that location, and has never been located at a facility that has been previously certified under any provision of this section.¹³⁴

Before certifying an applicant as a facility for a new or retained professional sports franchise, DEO must determine that:

- A “unit of local government” as defined in s. 218.369, F.S., is responsible for the construction, management, or operation of the professional sports franchise facility or holds title to the property on which the professional sports franchise facility is located.
- The applicant has a verified copy of a signed agreement with a new professional sports franchise for the use of the facility for a term of at least 10 years, or in the case of a retained professional sports franchise, an agreement for use of the facility for a term of at least 20 years.
- The applicant has a verified copy of the approval from the governing authority of the league in which the new professional sports franchise exists authorizing the location of the professional sports franchise in this state after April 1, 1987, or in the case of a retained professional sports franchise, verified evidence that it has had a league-authorized location in this state on or before December 31, 1976. As used in this section, the term “league” means the National League or the American League of Major League Baseball, the National Basketball Association, the National Football League, or the National Hockey League.
- The applicant has projections, verified by DEO, which demonstrate that the new or retained professional sports franchise will attract a paid attendance of more than 300,000 annually.
- The applicant has an independent analysis or study, verified by DEO, which demonstrates that the amount of the revenues generated by the taxes imposed under chapter 212 with respect to the use and operation of the professional sports franchise facility will equal or exceed \$2 million annually.
- The municipality in which the facility for a new or retained professional sports franchise is located, or the county if the facility for a new or retained professional sports franchise is located in an unincorporated area, has certified by resolution after a public hearing that the application serves a public purpose.
- The applicant has demonstrated that it has provided, is capable of providing, or has financial or other commitments to provide more than one-half of the costs incurred or related to the improvement and development of the facility.
- An applicant previously certified under any provision of this section who has received funding under such certification is not eligible for an additional certification.¹³⁵

No more than eight facilities can be certified as facilities for a new professional sports franchise or as facilities for a retained professional sports franchise, including in the total any facilities certified by the former Department of Commerce before July 1, 1996, and no more than one certification may be granted for any facility.¹³⁶

Currently, under s. 218.64(3), F.S., counties may use up to \$3 million annually of the local government half-cent sales tax allocated to that county for a number of purposes, including, as specified in s. 218.64(3)(a), F.S., “funding a certified applicant as a facility for a new or retained professional sports franchise under s. 288.1162, F.S., or a certified applicant as defined in s. 288.11621, F.S., for a facility for a spring training franchise.”¹³⁷

Under s. 212.20(6)(b), F.S., DEO distributes:

- \$166,667 monthly to each applicant certified as a facility for a new or retained professional sports franchise pursuant to s. 288.1162, F.S., and
- Up to \$41,667 monthly to each certified applicant as defined in s. 288.11621, F.S., for a facility for a spring training franchise.¹³⁸

¹³⁴ S. 288.1162(3), F.S.

¹³⁵ S. 288.1162(4), F.S.

¹³⁶ S. 288.1162(6), F.S.

¹³⁷ S. 218.64(3), F.S.

¹³⁸ S. 212.20(6)(a), F.S.

Distributions begin 60 days after such certification and continue for not more than 30 years, except as otherwise provided in s. 288.11621, F.S. An applicant certified as a facility for a new or retained professional sports franchise may use funds provided under s. 212.20, F.S., only for the public purpose of paying for the acquisition, construction, reconstruction, or renovation of a facility for a new or retained professional sports franchise to pay or pledge for the payment of debt service on, or to fund debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to, bonds issued for the acquisition, construction, reconstruction, or renovation of such facility or for the reimbursement of such costs or the refinancing of bonds issued for such purposes.¹³⁹

EDR reports that the Professional Sports Facilities Incentive Program has a projected ROI of 0.75. For every dollar spent through the incentive, the state of Florida received 75 cents in tax revenue.¹⁴⁰

Spring Training Baseball Franchise Program

The Spring Training Baseball Franchise incentive is the state's funding mechanism to attract and retain facilities for Major League Baseball (MLB) spring training in Florida. Qualified applicants are eligible for up to \$500,000 annually for up to 30 years. These dollars are typically pledged with designated Tourist Development Tax revenue and other local government resources to secure bonds to fund the acquisition, construction, reconstruction or renovation of spring training facilities.

In 1991, the law establishing incentives to attract professional franchises to the state was significantly revised and expanded to include an incentive for spring training baseball franchises. Certification criteria for the spring training franchise incentive included a commitment by the franchise to use the facility for fifteen years, projections for paid attendance (at least 50,000 annually), demonstration of the financial capability to provide more than one-half of the costs incurred or related to the improvement or development of the facility, proof that the facility was located within 20 miles of an interstate or other limited-access highway system, and a requirement that the county levy a four-percent Tourist Development Tax, with 87.5% of the proceeds dedicated for the construction of the complex.¹⁴¹ This law also limited the total number of awards for both the professional sports franchises and new spring training franchises to six, and prohibited facilities from receiving more than one award.

In 1999, the Legislature extended the use of the Professional Sports and Additional Professional Sports Tourist Development Taxes to fund debt service on spring training franchise facilities.¹⁴² At that point, no local governments had applied for the incentive. In 2000, the law was amended to limit the incentive to "retained" rather than "new" spring training franchises; delete the requirement that the facility be located within 20 miles of an interstate or other limited-access highway system; establish ranking criteria for awards;¹⁴³ and limit the awards to publicly-owned facilities, authorized for in-state relocations.¹⁴⁴

In 2006, the number of authorized awards for spring training facilities was expanded to ten, with the imposition of additional certification criteria. Counties were authorized to use up to \$2 million of their local option half-cent sales tax revenues annually to fund facilities for new or retained professional sports franchises and facilities for retained spring training franchises.¹⁴⁵ Finally, the scope of the incentive was expanded in 2010, to include any spring training franchise rather than only "retained" spring training franchises.¹⁴⁶

¹³⁹ S. 288.1162(5), F.S.

¹⁴⁰ Office of Economic and Demographic Research, *Return on Investment for the Florida Sports Foundation Grants and Related Programs*, 18 (January 2021), available at <http://edr.state.fl.us/Content/returnoninvestment/SportsGrantsandPrograms2021.pdf> (last visited Mar. 26, 2023).

¹⁴¹ Ch. 91-274, Laws of Fla.

¹⁴² Ch. 99-287, Laws of Fla.

¹⁴³ EDR, *Return on Investment for the Florida Sports Foundation Grants and Related Programs*, p. 21. (January 2015).

¹⁴⁴ Ch. 2000-186, Laws of Fla.

¹⁴⁵ Ch. 2006-262, Laws of Fla.

¹⁴⁶ Ch. 2010-140, Laws of Fla. (with provisions relating to the spring training incentive were transferred from s. 288.1162 to newly created s. 288.11621, F.S.)

Currently, under s. 218.64(3), F.S., counties may use up to \$3 million annually of the local government half-cent sales tax allocated to that county for a number of purposes, including, as specified in s. 218.64(3)(a), F.S., “funding a certified applicant as a facility for a new or retained professional sports franchise under s. 288.1162, F.S., or a certified applicant as defined in s. 288.11621, F.S., for a facility for a spring training franchise.”¹⁴⁷

Before certifying an applicant to receive state funding for a facility for a spring training franchise, DEO must verify that:

- The applicant is responsible for the acquisition, construction, management, or operation of the facility for a spring training franchise or holds title to the property on which the facility for a spring training franchise is located.
- The applicant has a certified copy of a signed agreement with a spring training franchise for the use of the facility for a term of at least 20 years. The agreement also must require the franchise to reimburse the state for state funds expended by an applicant under this section if the franchise relocates before the agreement expires. The agreement may be contingent on an award of funds under this section and other conditions precedent.
- The applicant has made a financial commitment to provide 50 percent or more of the funds required by an agreement for the acquisition, construction, or renovation of the facility for a spring training franchise. The commitment may be contingent upon an award of funds under this section and other conditions precedent.
- The applicant demonstrates that the facility for a spring training franchise will attract a paid attendance of at least 50,000 annually to the spring training games.
- The facility for a spring training franchise is located in a county that levies a tourist development tax under s. 125.0104.¹⁴⁸

Each applicant certified since July 1, 2010, enters into an agreement that:

- Specifies the amount of the state incentive funding to be distributed.
- States the criteria that the certified applicant must meet in order to remain certified.
- States that the certified applicant is subject to decertification if the certified applicant fails to comply with this section or the agreement.
- States that DEO may recover state incentive funds if the certified applicant is decertified.
- Specifies information that the certified applicant must report to DEO.
- Includes any provision deemed prudent by DEO.¹⁴⁹

A certified applicant may use funds provided under s. 212.20(6)(d)(6)(b), F.S., to:

- Serve the public purpose of acquiring, constructing, reconstructing, or renovating a facility for a spring training franchise.
- Pay or pledge for the payment of debt service on, or to fund debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect thereto, bonds issued for the acquisition, construction, reconstruction, or renovation of such facility, or for the reimbursement of such costs or the refinancing of bonds issued for such purposes.
- Assist in the relocation of a spring training franchise from one unit of local government to another only if the governing board of the current host local government by a majority vote agrees to relocation.¹⁵⁰

Additionally, state funds awarded to a certified applicant for a facility for a spring training franchise may not be used to subsidize facilities that are privately owned, maintained, and used only by a spring training franchise.¹⁵¹ The expenditure of state funds distributed to a certified applicant, must begin within 48 months after the initial receipt of the state funds, with the additional requirement of the

¹⁴⁷ S. 218.64(3), F.S.

¹⁴⁸ S. 288.11621(2)(a), F.S.

¹⁴⁹ S. 288.11621(2)(c), F.S.

¹⁵⁰ S. 288.11621(3)(a), F.S.

¹⁵¹ S. 288.11621(3)(b), F.S.

construction of, or capital improvements to, a spring training facility being completed within 24 months after the project's commencement.¹⁵²

EDR reports that the Spring Training Baseball Franchise Incentive program has a projected ROI of 0.54. For every dollar spent on the program, the state of Florida received 54 cents in tax revenue.¹⁵³

Major League Baseball Spring Training Retention Program

Section 288.11631, F.S., authorizes local governments that partner with a spring training baseball franchise to apply for certification from DEO to receive state distributions for the purpose of renovating or constructing a spring training baseball facility.¹⁵⁴

Certified applicants receive a distribution from state sales tax revenue of up to \$83,333 per month for 20 years for a facility used by a single spring training franchise facility or up to \$166,667 per month for 25 years for a facility used by more than one spring training franchise.¹⁵⁵ The amount of state incentive funding per certified applicant may not exceed \$20 million if the applicant's facility is used by one franchise and \$50 million if the applicant's facility is used by more than one franchise.¹⁵⁶

Section 288.11631, F.S., which became law in 2013, mostly mirrors the provisions of s. 288.11621, F.S. The differences between the sections include:

- The agreement must be for a minimum of the length of the term of the bonds issued for the construction or renovation of the facility, or if no such bonds are issued, at least 20 years.
- A new agreement may not be signed unless the previous agreement, if any, is within 4 years of expiring.
- There is no limit to the number of applicants which may be certified.
- The net increase in recreational areas represented by the facility is not considered in the evaluation process.
- The amount of state funding provided in the agreement between the applicant and DEO may not exceed \$20 million, or if the applicant hosts 2 or more franchises, \$50 million.
- Funds provided as a result of certification under this section may not be used to acquire or reconstruct a facility, or to assist a franchise in moving from one local government to another.

Motorsports Entertainment Complex

The motor sports entertainment complex incentive provides funding for the construction or expansion of motor sports entertainment complexes. A motorsports entertainment complex is a closed course racing facility.¹⁵⁷ DEO screens applications for the program. Before certifying an applicant, DEO must determine that:

- A unit of local government holds title to the land on which the motorsports entertainment complex is located or holds title to the motorsports entertainment complex.
- The municipality in which the motorsports entertainment complex is located, or the county if the complex is located in an unincorporated area, has certified by resolution that the complex serves a public purpose.¹⁵⁸

An applicant certified as a motorsports entertainment complex may receive funding from the local government half-cent sales tax pursuant to s. 218.64, F.S. Similar to other sports programs, counties may use up to \$3 million annually of the local government half-cent sales tax allocated to that county for a number of purposes, including a motor sports entertainment complex.¹⁵⁹ Funding for each

¹⁵² S. 288.11621(3)(d)(3), F.S.

¹⁵³ Office of Economic and Demographic Research, *Return on Investment for the Florida Sports Foundation Grants and Related Programs*, *supra* n. 140, p.21.

¹⁵⁴ S. 288.11631(1)-(2), F.S.

¹⁵⁵ S. 212.20(6)(d)(6)(e), F.S.

¹⁵⁶ S. 288.11631(2)(c), F.S.

¹⁵⁷ S. 288.1171(1), F.S.

¹⁵⁸ S. 288.1171(3), F.S.

¹⁵⁹ S. 218.64(3), F.S.

motorsport complex shall begin 60 days after certification and shall continue for not more than 30 years.¹⁶⁰

Per OPPAGA's most recent review of the sports related economic development programs, the Motorsports Entertainment Complex has not had any applicants or funds dispersed since the program's inception.¹⁶¹

Florida Sports Specialty License Plates

Florida law authorizes the Legislature to create "specialty" license plates that are available to any owner or lessee of a motor vehicle willing to pay an annual fee.¹⁶² The collected fees are distributed by the Department of Highway Safety and Motor Vehicles (DMSMV) to statutorily designated organizations in support of a particular cause or charity. With respect to specialty license plates related to sports, the DHSMV distributes collected fees to EFI, which in turn administers the fees as statutorily directed. Currently, such sports-related specialty license plates include the following:

- the Florida United States Olympic Committee license plate;
- Florida Professional Sports Team license plates;
- the Florida Golf license plate;
- the Florida NASCAR license plate; and
- the Florida Tennis license plate.

Entertainment Industry Incentives

Office of Film and Entertainment

The Office of Film and Entertainment (OFE) within the DEO develops, markets, promotes, and provides services to Florida's entertainment industry, including serving as a liaison between the industry and government entities and facilitating access to filming locations.¹⁶³ The Commissioner of Film and Entertainment is selected through a national search and must meet certain qualifications. The OFE is assisted by the Florida Film and Entertainment Advisory Council (council), which is composed of seventeen members, of which seven members are appointed by the Governor, and five members each are appointed by the President of the Senate and the Speaker of the House of Representatives.¹⁶⁴

The OFE gathers statistical information related to the state's entertainment industry; provides information and services to businesses, communities, organizations, and individuals engaged in entertainment industry activities; administers field offices outside the state; and coordinates with regional offices maintained by counties and regions of the state. The OFE is also required to develop a five-year strategic plan to guide its activities, which is updated on an annual basis and aligns with the DEO's Strategic Plan for Economic Development. The OFE's mission is to build, support, and market the entertainment industry in Florida.

Entertainment Industry Incentive Programs

In 2003, the Legislature created the Entertainment Industry Financial Incentive Program,¹⁶⁵ which is a six-year program that began July 1, 2010, and the program expired on July 1, 2016. The program provided tax credits for qualified expenditures related to filming and production activities in Florida.

¹⁶⁰ *Id.*

¹⁶¹ Office of Program Policy Analysis and Government Accountability, *Florida Economic Development Program Evaluations – Year 8 supra* n. 31, p. 35.

¹⁶² S. 320.08058, F.S.

¹⁶³ S. 288.1251, F.S.; see also Florida Office of Film & Entertainment, <http://filminflorida.com/> (last visited Mar. 13, 2023).

¹⁶⁴ S. 288.1252, F.S.

¹⁶⁵ S. 288.1254, F.S. See ch. 2003-81, Laws of Fla. In 2010, the incentive program was changed from a cash reimbursement type program to the current form. See ch. 2010-147, Laws of Fla.

These tax credits could be applied against the corporate income tax or sales and use taxes. Additionally, these tax credits could be transferred or sold one time.¹⁶⁶

Over the six-year period, a total of \$296 million in tax credits were authorized. Annual limitations for tax credits were set at:

- \$53.5 million in Fiscal Year 2010-11;
- \$74.5 million in Fiscal Year 2011-12; and
- \$42 million in each Fiscal Year 2012-13, 2013-14, 2014-15, and 2015-16.¹⁶⁷

Entertainment industry qualified production companies are eligible for several exemptions from taxes under ch. 212, F.S. A qualified production company can obtain a certificate to avoid paying tax at the point of sale, rather than claiming a refund after paying the tax.¹⁶⁸ Qualified production companies are exempt from paying sales or use tax for the following:

- *Lease or rental of real property* that is used as an integral part of an activity or service performed directly in connection with the production of a qualified motion picture (the term “activity or service” includes photography, casting, location scouting, and designing sets).¹⁶⁹
- *Fabrication labor* when a producer uses his or her own equipment and personnel to produce a qualified motion picture.¹⁷⁰
- *Purchase or lease of motion picture and video equipment and sound recording equipment* used in Florida for motion picture or television production or for the production of master tapes or master records.¹⁷¹
- *Sale, lease, storage, or use of blank master tapes, records, films, and video tapes.*¹⁷²

The OFE reviews and approves applications for the exemptions and the Department of Revenue (DOR) issues certificates of exemption to the production companies.

Other Programs

Economic Gardening

In 2009, the Florida Legislature created the “Economic Gardening Technical Assistance Pilot Program” and “Economic Gardening Business Loan Pilot Program” to stimulate investment in Florida’s economy by providing technical assistance and loans to expanding businesses in the state, respectively.¹⁷³

The technical assistance program provides an avenue through which eligible companies can receive counseling services, access to technology and information, marketing services and advice, business management support, and other similar services.¹⁷⁴ To carry out the program, DEO contracted with the University of Central Florida (UCF), which in turn established the Florida Economic Gardening Institute or “GrowFL.”¹⁷⁵

To be eligible for assistance through GrowFL, a business must be a for-profit, privately held, investment-grade business that:

- employs at least ten persons but not more than fifty persons;
- has maintained its principal place of business in the state for at least the previous two years;
- generates at least \$1 million but not more than \$25 million in annual revenue;

¹⁶⁶ Also, tax credits may be relinquished to the Department of Revenue for 90% of the amount of the relinquished tax credit.

¹⁶⁷ S. 288.1254(7), F.S. In 2012, an additional year was added to the program. See s. 15, Ch. 2012-32, Laws of Fla.

¹⁶⁸ S. 288.1258, F.S.

¹⁶⁹ S. 212.031(1)(a)(9), F.S.

¹⁷⁰ Section 212.06(1)(b), F.S., provides a definition of the term “qualified motion picture” for purposes of ch. 212, F.S.

¹⁷¹ S. 212.08(5)(f), F.S.

¹⁷² S. 212.08(12), F.S.

¹⁷³ Ss. 288.1081 and 288.1082, F.S.

¹⁷⁴ S. 288.1082(2), F.S.

¹⁷⁵ DEO, 2015- 2016 Annual Incentives Report Page, p. 19.

- qualifies for the tax refund program for qualified target industry businesses under s. 288.106, F.S.; and
- has increased both its number of full-time equivalent employees in this State and its gross revenues during three of the previous five years.¹⁷⁶

The loan program expired on July 1, 2016.¹⁷⁷

Microfinance Loan Guarantee Program

The Microfinance Loan Guarantee Program is designed to stimulate access to credit for entrepreneurs and small businesses by providing guarantees for loans made to eligible entrepreneurs and small businesses. Microloan guarantees may be used for any allowable business purpose such as startup costs, working capital, and the acquisition of materials, supplies, furniture, fixtures, and equipment. Loan guarantees cannot exceed 50 percent of the total loan amount, and are limited to loans that range between \$50,000 and \$250,000.¹⁷⁸

Economic Development Transportation Projects

The Economic Development Transportation Projects (Road Fund) is a grant fund administered by the Department of Transportation (DOT). Section 339.2821, F.S., provides for DOT, in consultation with DEO and EFI, to make and approve expenditures and contract with governmental bodies¹⁷⁹ for the direct costs of transportation projects.¹⁸⁰

DOT, in consultation with DEO, reviews each transportation project for approval and funding. Transportation projects must be deemed “necessary to facilitate the economic development and growth of the state”¹⁸¹ and the review must consider:

- The cost per job created or retained considering the amount of transportation funds requested;
- The average hourly rate of wages for jobs created;
- The reliance on any program as an inducement for determining the transportation project’s location;
- The amount of capital investment to be made by a business;
- The demonstrated local commitment;
- The location of the transportation project in an enterprise zone as designated in s. 290.0055, F.S.;
- The location of the transportation project in a spaceport territory as defined in s. 331.304, F.S.;
- The unemployment rate of the surrounding area; and
- The poverty rate of the community.¹⁸²

DOT must approve a transportation project if it determines that the project will:

- Attract new employment opportunities to the state or expand or retain employment in existing companies operating within the state.
- Allow for the construction or expansion of a state or federal correctional facility in a county having a population of 75,000 or fewer which creates new employment opportunities or expands or retains employment in the county.¹⁸³

¹⁷⁶ S. 288.1082(4), F.S.

¹⁷⁷ S. 288.1081(10), F.S.

¹⁷⁸ S. 288.9935, F.S.

¹⁷⁹ Section 339.2821(1)(b)2., F.S. defines “Governmental body” as an instrumentality of the state or a county, municipality, district, authority, board, or commission, or an agency thereof, within which jurisdiction the transportation project is located and which is responsible to the department for the transportation project. Section 339.2821(2), F.S. provides that Space Florida may serve as the governmental body or as the contracting agency for a project within a spaceport territory.

¹⁸⁰ S. 339.2821, F.S.

¹⁸¹ S. 339.2821(1)(b)2., F.S.

¹⁸² S. 339.2821(2), F.S.

¹⁸³ S. 339.2821(3)(a), F.S.

The Road Fund is funded by the State Transportation Trust Fund.¹⁸⁴ The amount appropriated for this transfer varies from year to year. In 2012, the Legislature moved oversight of the fund from the DEO to DOT.

Funds for approved transportation projects may be used for expenses that are necessary for building new, or improving existing, transportation facilities, as well as administrative costs and equipment purchases specified in the contract. Funds may not be expended for the relocation of a business from one community to another community within the state unless DOT determines that, without the relocation, the business will move outside the state or determines that the business has a compelling economic reason for the relocation, such as creating additional jobs.¹⁸⁵ Approved projects are terminated if construction does not begin within four years after the date of the initial grant award.

The Florida Small Business Development Center Network

The Florida Small Business Development Center Network (network) provides oversight and coordination of entrepreneurial and business development services to support economic development in Florida by assisting entrepreneurs at every stage of the business life cycle.¹⁸⁶ The network was codified in Florida law in response to a federal program established by the U.S. Congress, which provides funding to small business development centers hosted by institutions of higher education.

The network must maintain a statewide advisory board, which represents various segments and industries of the economy in Florida, brings knowledge and skills that enhance the board's collective knowledge of small business assistance needs. The advisory board is formed to advise, counsel, and confer with the network's statewide director on matters pertaining to the operation of the network.¹⁸⁷ The Florida network consist of centers in nine different regions, with centers hosted at institutes of higher education throughout the state. Actual program services are delivered through regional centers. These centers provide professional expertise, tools, and information to small businesses to support business decisions in a complex and ever-changing marketplace.

Florida Small Business Technology Growth Program

Florida Small Business Technology Growth Program (SBTGP) is a subset of EFI that provides financial assistance to businesses in this state having high job growth and emerging technology potential and fewer than 100 employees.¹⁸⁸ SBTGP and its associated nonprofit¹⁸⁹ are under the guidance of EFI. EFI must establish and monitor a separate small business technology growth account in the Florida Technology Research Investment Fund for the Florida SBTGP. This fund consists of appropriations by the Legislature, proceeds of any collateral used to secure such assistance, transfers, fees assessed for providing or processing such financial assistance, grants, interest earnings, and earnings on financial assistance.

Scripps Florida Funding Corporation

The Scripps Florida Funding Corporation is a non-profit created by the Legislature to receive, hold, invest, administer, and disburse legislatively appropriated funds to Scripps Florida. Scripps Florida is an institute in Florida that the Scripps Research Institute planned to open to create a biotech hub in Palm Beach County. The facility was going to focus on conducting biomedical research related to AIDS, Alzheimer's disease, cancer, diabetes, hepatitis C, and Schizophrenia.¹⁹⁰ Scripps received \$310 million

¹⁸⁴ S. 339.08(1)(f), F.S.

¹⁸⁵ S. 339.2821(3)(c), F.S.

¹⁸⁶ S. 288.001, F.S.

¹⁸⁷ S. 288.001(4), F.S.

¹⁸⁸ S. 288.95155, F.S.

¹⁸⁹ S. 288.9519, F.S.

¹⁹⁰ OPPAGA, Report No. 09-36, *Scripps Florida Funding Corporation Complies with Requirements and Should be Continued*, p.1-2 (October 2009).

from the state and \$269 million from Palm Beach County to build its campus.¹⁹¹ Scripps opened in 2009 on land adjacent to Florida Atlantic University. However, the biotech village promised by Scripps on a nearby 70 acres of land bought by Palm Beach County was never built. Instead the land was turned over to the Scripps Research Institute in May of 2021 for just \$1. The University of Florida recently purchased the three buildings previously built by the Scripps Research Institute and the accompanying vacant land.¹⁹²

International Offices Program

Section 288.012, F.S., establishes the International Offices Program to promote foreign direct investment. Current law authorizes DEO to contract with EFI to carry out the program.¹⁹³ EFI maintains 18 international offices locations in 15 different countries.¹⁹⁴

EFI utilizes the international offices to: identify potential opportunities for investment in Florida; promote Florida for foreign direct investment; facilitate partnerships with local suppliers and distributors; and provide market specific information to Florida businesses.¹⁹⁵ A recent study by OPPAGA indicates that during the review period, EFI's international offices reported generating \$333.8 million in foreign direct investment from 121 projects.¹⁹⁶

Florida International Trade and Promotion Trust Fund

The Florida International Trade and Promotion Trust Fund¹⁹⁷ is administered by DEO for the operation of EFI and for the operation of Florida international offices under s. 288.012, F.S. The Florida International Trade and Promotion Trust Fund receives 4.25% of the state's rental car surcharge tax.¹⁹⁸

Return on Investment

The Legislature has directed the Office of Economic and Demographic Research (EDR) and the Office of Program Policy Analysis and Government Accountability (OPPAGA) to analyze and evaluate 21 state economic development incentive programs on a recurring three-year schedule.¹⁹⁹

As part of their evaluation, EDR calculates the state's ROI in addition to reporting the impact on the key economic variables. In their most recent report, EDR reviewed the following programs:

- The Capital Investment Tax Credit (CITC) established under s. 220.191, F.S.;
- The Qualified Target Industry Tax Refund (QTI) established under s. 288.106, F.S.;
- The Brownfield Redevelopment Bonus Refund (BFR) established under s. 288.107, F.S.;
- High-Impact Business Performance Grants (HIPI) established under s. 288.108, F.S.;
- The Quick Action Closing Fund (QACF) established under s. 288.1088, F.S.;
- The Innovation Incentive Program (IIP) established under s. 288.1089, F.S.;
- Enterprise Zone Program (EZ) incentives established under ss. 212.08(5) and (15), F.S.; and
- The New Markets Development Program established under ss. 288.991-288.9922, F.S.

¹⁹¹ Katherine Kokal, *UF will take over Jupiter Scripps campus, 70 acres nearby. Check out the price tag*, The Palm Beach Post (Jan. 12, 2022), available at <https://www.palmbeachpost.com/story/news/local/pbgardens/2022/01/18/scripps-sells-palm-beach-county-research-campus-university-florida/9198371002/> (last visited Mar. 15, 2023).

¹⁹² *Id.*

¹⁹³ S. 288.012(6), F.S.

¹⁹⁴ Office of Program Policy Analysis and Government Accountability, *Florida Economic Development Program Evaluations – Year 9 supra* n. 58, p. 80.

¹⁹⁵ *Id.* at 81.

¹⁹⁶ *Id.* at 85.

¹⁹⁷ S. 288.826, F.S.

¹⁹⁸ S. 212.0606(3)(a), F.S.

¹⁹⁹ S. 288.0001, F.S.

Return On Investment Analyses
Conducted by the Office of Economic and Demographic Research

Ranked Incentives and Investments	Working ROI*	3rd 3-yr ROUND	2nd 3-yr ROUND	1st 3-yr ROUND	STATUS
Economic Evaluation of Florida's Investment in Beaches	5.4				More than Breaks Even (State makes money from the investment)
International Offices Program	4.4	4.4	4.3	4.0	
Florida Sports Foundation Grant Program	4.3	4.3	4.8	4.7*	
VISIT FLORIDA Advertising	3.3	3.3	2.2	3.2	
Transportation: Seaports Program Area	2.7				
Transportation: Aviation Program Area	1.7				
Quick Action Closing Fund (QACF)	0.84	0.84	0.60	1.10	Does Not Break Even (however, the State recovers a portion of the cost)
Professional Sports Franchise Incentive	0.75	0.75	0.32	0.30	
Spring Training Baseball Franchise Incentive	0.54	0.54	0.22	0.11	
Entertainment Industry Sales Tax Exemption (STE)	0.49	0.49	0.58	0.54	
Qualified Target Industry (QTI)—all years have been revised	0.23	0.66	0.84	-0.27	
Transportation: Roads & Highways	0.19				
Microfinance Loan Program	0.15				
Professional Golf Hall of Fame Facility Incentive	0.15	0.15	0.12	-0.08	
Innovation Incentive Program (IIP)	0.10	n/a	0.10	0.20	
Microfinance Guarantee Program	0.08				
Entertainment Industry Financial Incentives Program (Tax Credit or FTC)	0.07	0.07	0.18	0.43	
Urban High-Crime Area Job Tax Credit	0.07				
Quick Response Training Program (QRT)	0.06	0.06	0.19	0.09	
Transportation: Public Transit	0.05				
Export Assistance Program	0.04	0.04	1.05	1.85	
Veterans Florida Entrepreneurship Program**	0.04				
Transportation: Rails	0.02				
Enterprise Zones***	-0.05				State Loses All of Its Investment (plus incurs additional costs)
International Game Fish Association World Center Facility Incentive	-0.09				
Capital Investment Tax Credit (CITC)—all years have been revised	-0.58	-0.22	-0.49	n/a	
High-Impact Sector Performance Grant (HIP)	-0.79	-0.85	0.05	0.70	
Brownfield	-0.89	1.5	1.7	1.1	
New Markets Development Program	-0.98	-0.79	0.18	n/a	

NOTES:

*All Incentives and Investments are ranked by using the last ROI that could be calculated—in some cases, the 4th Round. Two initiatives had to reach back to reviews from prior years.

**The Veterans Florida Workforce Training Grant Program was also reviewed, but no ROI was calculated.

***The Enterprise Zone Program has effectively sunset; the ROI was calculated in 2015.

Effect of Proposed Changes

The bill eliminates EFI and provides that all duties, functions, records, pending issues, existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other public funds relating to the programs in EFI are transferred by a type two transfer to DEO.

The bill provides that VF may enter into an agreement with DEO to continue any existing program, activity, duty, or function necessary for operation of the corporation and that any funds held in trust for the corporation may be used for the purpose for which the funds were received.

Under the bill, the Florida Sports Foundation may enter into an agreement with DEO to continue any existing program, activity, duty, or function necessary for operation of the foundation and that any funds held in trust for the foundation may be used for the purpose for which the funds were received.

The bill removes DEO's ability to contract with EFI to administer the international offices program and moves the international offices program to DEO.

The bill removes the board of directors of EFI from the Space Florida board of directors, and outlines a new method by which Space Florida board of directors members are appointed.

The bill provides for the repeal of the following programs and incentives:

- Urban High-Crime Area Job Tax Credit Program
- Entertainment industry tax credit
- Capital Investment Tax Credit
- Qualified defense contractor and space flight business tax refund program
- Qualified target industry businesses tax refund
- Brownfield redevelopment bonus tax refunds
- High-impact sector performance grants

- Economic Gardening Business Loan Pilot Program
- Economic Gardening Technical Assistance Pilot Program
- Quick Action Closing Fund
- Innovation Incentive Program
- Professional sports franchise incentive
- Motorsports Entertainment Complex
- Spring training baseball franchises
- Retention of spring training baseball franchises
- International Game Fish Association World Center Facility
- Florida Small Business Technology Growth Program
- New Markets Development Program
- Microfinance Loan Program
- Microfinance Guarantee Program
- Economic Development Transportation Projects

In accordance with these repeals, the bill provides that no new or additional applications, certifications, contracts, agreements, or awards will be made, approved, issued, or executed. All certifications are rescinded except for those certified applicants or projects that continue to meet the criteria in effect before July 1, 2023. Existing contracts and agreements for these repealed programs and incentives will continue in full force and effect in accordance with the statutory requirements in effect when the contract or agreement was executed or last modified.

Furthermore, the bill eliminates provisions related to the following programs and incentives:

- Office of Film and Entertainment
- Florida Film Advisory Council
- Entertainment industry sales tax exemptions
- Cooperative advertising matching grants program
- Florida Small Business Development Center Network²⁰⁰
- Scripps Florida Funding Corporation

The bill removes the language referencing EFI in the International Trade and Promotion Trust Fund, and likewise updates language throughout the Florida Statutes consistent with the repeals and changes in the bill.

The bill provides an effective date of July 1, 2023.

B. SECTION DIRECTORY:

Section 1: Amends s. 11.45, F.S., by deleting language referring to EFI.

Section 2: Amends s. 14.32, F.S., by deleting language referring to EFI.

Section 3: Amends s. 15.18, F.S., by deleting language referring to EFI.

Section 4: Amends s. 15.182, F.S., by deleting provisions relating to Department of State consulting EFI.

Section 5: Amends s. 20.435, F.S., by deleting cross reference.

Section 6: Amends s. 20.60, F.S., by deleting provisions relating to EFI and provisions relating to the economic gardening business loan program.

Section 7: Repeals s. 20.601, F.S., relating to a requirement that DEO conducts an annual report on EFI.

Section 8: Provides for the transfer of function, records, pending issues, existing contracts, administrative rules, and unexpected balances to be transferred; permits the Florida Sports Foundation to enter into an agreement with Department of Economic Opportunity.

Section 9: Provides that no new or additional applications shall be approved for specified programs.

Section 10: Amends s.125.0104, F.S., by adding new definition and deleting a definition referencing the professional sports franchises program and deleting a cross reference.

²⁰⁰ While the bill does repeal the Florida statute regarding the Florida Small Business Development Center Network, the bill does not prohibit the SBDC from continuing to operate in the state.

Section 11: Amends s. 159.803, F.S., by deleting a provision relating to Qualified Target Industry Tax Refund Program.

Section 12: Amends s. 166.231, F.S., by updating a cross reference relating to Enterprise Zones benefits.

Section 13: Amends s. 189.033, F.S., by adding a new definition and deletes reference to Qualified Target Industry Tax Refund Program.

Section 14: Renumbers and amends s. 196.012, F.S., by moving the definition for "Target industry business"; moving cross reference.

Section 15: Amends s. 196.101, F.S., by updating cross reference.

Section 16: Amends s. 196.121, F.S., by updating cross reference.

Section 17: Amends s. 196.198, F.S., by deleting provision relating to sales tax exemption repealed under Section 23 of the bill.

Section 18: Amends s. 196.1995, F.S., by updating cross references.

Section 19: Amends s. 194.3181, F.S., by updating cross references.

Section 20: Amends s. 197.319, F.S., by updating cross reference.

Section 21: Amends s. 212.02, F.S., by updating cross reference.

Section 22: Amends s. 212.031, F.S., by deleting language pertaining to a tax exemption repealed in Section 23 of the bill.

Section 23: Amends s. 212.06, F.S., by removing a tax exemption for fabrication labor for a "qualified motion picture".

Section 24: Repeals s. 212.0602, F.S., by repealing a tax exemption for certain educational institutions that purchase materials and equipment, or lease of real property, to teach students about film production.

Section 25: Amends s. 212.08, F.S., by repealing a sales, rental, use, consumption, and storage tax exemption on motion picture or video equipment used in a motion picture or television production; by updating cross reference; deleting provision relating to EFI; deletes provision relating to Department of Economic Opportunity's Division of Strategic Business Development; repealing partial tax exemption for master tapes, records, films, or video tapes.

Section 26: Repeals s. 212.097, F.S., relating to Urban High-Crime Area Job Tax Credit Program.

Section 27: Amends s. 212.098, F.S., by deleting provision relating to Qualified Target Industry Tax Refund Program.

Section 28: Amends s. 212.20, F.S., by updating references to repealed sections; deleting provision relating to International Game Fish Association World Center facility.

Section 29: Amends 218.61, F.S., by deleting provision relating to professional sports franchise and motorsport entertainment complex.

Section 30: Amends s. 218.64, F.S. by updating references to repealed sections; deleting provision relating to the professional sports franchises.

Section 31: Amends s. 220.02, F.S., by updating language referencing repealed sections.

Section 32: Amends s. 220.13, F.S., by deleting provision relating to New Markets Development Program.

Section 33: Amends s. 220.183, F.S., by updating cross reference.

Section 34: Amends s. 220.1895, F.S., by deleting provisions relating to the Urban High-Crime Tax Credit.

Section 35: Repeals s. 220.1899, F.S., relating to the Entertainment Industry Tax Credit.

Section 36: Repeals s. 220.191, F.S., relating to the Capital investment Tax Credit.

Section 37: Amends s. 220.194, F.S., by updating cross references.

Section 38: Amends s. 220.196, F.S., by moving definition for "Target industry business"; updating cross references.

Section 39: Amends s. 272.11, F.S., by replacing language referencing EFI with language referencing Department of Economic Opportunity.

Section 40: Amends s. 287.0947, F.S., by replacing language referencing EFI with language referencing Department of Economic Opportunity.

Section 41: Amends s. 287.137, F.S., by replacing language referencing EFI with language referencing Department of Economic Opportunity.

Section 42: Amends s. 288.0001, F.S., by deleting EDR review for programs that are repealed.

Section 43: Repeals s. 288.001, F.S., relating to the Florida Small Business Development Center Network.

Section 44: Amends s. 288.012, F.S., by moving program to Department of Economic Opportunity; deleting ability to contract with EFI.

Section 45: Repeals s. 288.017, F.S., relating to the cooperative advertising matching grants program.

Section 46: Amends s. 288.018, F.S., by deleting provision relating to Department of Economic Opportunity contracting with EFI.

Section 47: Amends s. 288.047, F.S., by deleting provisions relating to EFI.

Section 48: Amends s. 288.061, F.S., by deleting language pertaining to Department of Economic Opportunity's Division of Strategic Business Development and EFI; updating cross reference.

Section 49: Amends s. 288.0655, F.S., by updating cross reference; deleting language pertaining to EFI; removes out of date requirement for Economic Opportunity to reevaluate guidelines criteria for the Rural Infrastructure Fund.

Section 50: Amends s. 288.0656, F.S., by deleting language referring to EFI, the Qualified Target Industry Tax Refund, and the brownfield redevelopment refund.

Section 51: Amends s. 288.0658, F.S., by deleting language referring to EFI.

Section 52: Amends s. 288.075, F.S., by language referring to the Qualified defense contractor and space flight business tax refund program.

Section 53: Amends s. 288.076, F.S., by moving definitions from repealed sections; deletes language related to the Quick Action Closing Fund and Qualified target industry businesses.

Section 54: Amends s. 288.095, F.S., by updating language to reflect repealed sections; places limit on when the Economic Development Incentives Account may be used to pay tax refunds under repealed sections.

Section 55: Amends s. 288.101, F.S., by deleting language referencing EFI; deleting provision relating to the Herbert Hoover Dike; updating cross reference.

Section 56: Repeals s. 288.1045, F.S., relating to the qualified defense contractor and space flight business tax refund program.

Section 57: Repeals s. 288.106, F.S., relating to the retention of Major League Baseball spring training baseball franchises.

Section 58: Repeals s. 288.107, F.S., relating to the Brownfield redevelopment bonus refunds.

Section 59: Repeals s. 288.108, F.S., relating to the High-Impact Sector Performance Grants.

Section 60: Repeals s. 288.1081, F.S., relating to the Economic Gardening Business Loan Pilot Program.

Section 61: Repeals s. 288.1082, F.S., relating to the Economic Gardening Technical Assistance Pilot Program.

Section 62: Repeals s. 288.1088, F.S., relating to the Quick Action Closing Fund.

Section 63: Repeals s. 288.1089, F.S., relating to the Innovation Incentive Program

Section 64: Amends s. 288.111, F.S., by deleting language referring to EFI.

Section 65: Repeals s. 288.1162, F.S., relating to the professional sports franchises.

Section 66: Repeals s. 288.11621, F.S., relating to the spring training baseball franchises.

Section 67: Repeals s. 288.11631, F.S., relating to the retention of Major League Baseball spring training baseball franchises.

Section 68: Repeals s. 288.1169, F.S., relating to the International Game Fish Association World Center facility.

Section 69: Repeals s. 288.1171, F.S., relating to the Motorsports entertainment complex.

Section 70: Amends s. 288.122, F.S., by replacing language referencing EFI with language referencing Department of Economic Opportunity.

Section 71: Amends s. 288.1226, F.S., by replacing language referencing EFI with language referencing Department of Economic Opportunity.

Section 72: Amends s. 288.12265, F.S., by deleting language referring to EFI; reallocates Welcome Center duties from EFI to VF.

Section 73: Repeals s. 288.125, F.S., relating to the definition of "entertainment industry".

Section 74: Repeals s. 288.1251, F.S., relating to the Office of Film and Entertainment.

Section 75: Repeals s. 288.1252, F.S., relating to the Florida Film and Entertainment Advisory Council.

Section 76: Repeals s. 288.1253, F.S., relating to the travel and entertainment expenses provision for Office of Film and Film Advisory Council.

Section 77: Repeals s. 288.1254, F.S., relating to the Entertainment industry financial incentive program.

Section 78: Repeals s. 288.1258, F.S., relating to the Entertainment industry qualified production companies tax exemption.

Section 79: Amends s. 288.7015, F.S., deletes language referring to EFI.

Section 80: Amends s. 288.706, F.S., deletes language referring to EFI.

Section 81: Amends s. 288.773, F.S., by replacing language referencing EFI with language referencing Department of Economic Opportunity.

Section 82: Amends s. 288.776, F.S., by replacing language referencing EFI with language referencing Department of Economic Opportunity.

Section 83: Amends s. 288.7771, F.S., by replacing language referencing EFI with language referencing Department of Economic Opportunity.

Section 84: Amends s. 288.816, F.S., by replacing language referencing EFI with language referencing Department of Economic Opportunity.

Section 85: Amends s. 288.826, F.S., removes EFI as a beneficiary of the trust fund.

Section 86: Repeals s. 288.901, F.S., relating to EFI.

Section 87: Repeals s.288.9015, F.S., relating to EFI.

Section 88: Repeals s. 288.903, F.S., relating to EFI.

Section 89: Repeals s. 288.904, F.S., relating to EFI.

Section 90: Repeals s. 288.905, F.S., relating to EFI.

Section 91: Repeals s. 288.906, F.S., relating to EFI.

Section 92: Amends s. 288.907, F.S., moves annual incentives report requirement; assigns report only to DEO; deletes language referring to EFI.

Section 93: Repeals s. 288.911, F.S., relating to an EFI requirement.

Section 94: Amends s. 288.912, F.S., moving reporting requirement for counties and municipalities; deleting language relating to EFI.

Section 95: Repeals s. 288.92, F.S., relating to divisions of EFI.

Section 96: Amends s. 288.923, F.S., deleting language referring to EFI and moving divisions to DEO.

Section 97: Repeals s. 288.95155, F.S., relating to the Florida Small Business Technology Growth Program.

Section 98: Repeals s. 288.9519, F.S., relating to the Florida Small Business Technology Growth Program.

Section 99: Repeals s. 288.9520, F.S., relating to the Florida Small Business Technology Growth Program.

Section 100: Repeals s. 288.955, F.S., relating to the Scripps Florida Funding Corporation.

Section 101: Amends s. 288.9603, F.S., replacing language referencing EFI with language referencing DEO.

Section 102: Amends s. 288.6905, F.S., replacing language referencing EFI with language referencing DEO.

Section 103: Amends s. 288.9614, F.S., replacing language referencing EFI with language referencing DEO.

Section 104: Amends s. 288.9624, F.S., replacing language referencing EFI with language referencing DEO; Directing that the board of the fund shall be appointed by the Governor.

Section 105: Amends s. 288.96255, F.S., updating cross references.

Section 106: Amends s. 288.980, F.S., relating to the New Market Development Program.

Section 107: Repeals s. 288.991, F.S., relating to the New Market Development Program.

Section 108: Repeals s. 288.9912, F.S., relating to the New Market Development Program.

Section 109: Repeals s. 288.9913, F.S., relating to the New Market Development Program.

Section 110: Repeals s. 288.9914, F.S., relating to the New Market Development Program.

Section 111: Repeals s. 288.9915, F.S., relating to the New Market Development Program.

Section 112: Repeals s. 288.9916, F.S., relating to the New Market Development Program.

Section 113: Repeals s. 288.9917, F.S., relating to the New Market Development Program.

Section 114: Repeals s. 288.9918, F.S., relating to the New Market Development Program.

Section 115: Repeals s. 288.9919, F.S., relating to the New Market Development Program.

Section 116: Repeals s. 288.9920, F.S., relating to the New Market Development Program.

Section 117: Repeals s. 288.9921, F.S., relating to the New Market Development Program.

Section 118: Repeals s. 288.9922, F.S., relating to the New Market Development Program.

Section 119: Repeals s. 288.993, F.S., relating to the Microfinance Loan Program.

Section 120: Repeals s. 288.9932, F.S., relating to the Microfinance Loan Program.

Section 121: Repeals s. 288.9932, F.S., relating to the Microfinance Loan Program.
Section 122: Repeals s. 288.9933, F.S., relating to the Microfinance Loan Program.
Section 123: Repeals s. 288.9934, F.S., relating to the Microfinance Loan Program.
Section 124: Repeals s. 288.9935, F.S., relating to the Microfinance Loan Program.
Section 125: Repeals s. 288.9936, F.S., relating to the Microfinance Loan Program.
Section 126: Repeals s. 288.9937, F.S., relating to the Microfinance Loan Program.
Section 127: Amends s. 288.9961, F.S., deleting language referring to EFI.
Section 128: Amends s. 290.0056, F.S., updating cross references.
Section 129: Amends s. 290.0065, F.S., deleting language referring to EFI and the Department of Revenue.
Section 130: Amends s. 290.00677, F.S., deleting cross references and moves definition of "rural community."
Section 131: Amends s. 290.007, F.S., updating cross references.
Section 132: Amends s. 290.053, F.S., deleting language referring to EFI.
Section 133: Amends s. 295.22, F.S., deleting language referring to EFI and "target industry business."
Section 134: Amends s. 320.08058, F.S., updating cross references.
Section 135: Amends s. 331.3051, F.S., deleting language referring to EFI.
Section 136: Amends s. 331.3081, F.S., deleting language referring to EFI and how the Space Florida Board is constructed.
Section 137: Amends s. 339.08, F.S., deleting language referring to Economic Development Transportation Projects.
Section 138: Repeals s. 339.2821, F.S., relating to Economic Development Transportation Projects.
Section 139: Amends s. 376.82, F.S., deleting language referring to Brownfield.
Section 140: Amends s. 377.703, F.S., deleting language referring to EFI.
Section 141: Amends s. 377.804, F.S., deleting language referring to EFI.
Section 142: Amends s. 377.809, F.S., deleting language related to multiple programs repealed by the bill; updating cross references.
Section 143: Amends s. 380.0657, F.S., deleting language related to multiple programs repealed by the bill.
Section 144: Amends s. 401.23, F.S., updating cross references.
Section 145: Amends s. 403.7032, F.S., deleting language referring to EFI.
Section 146: Amends s. 403.973, F.S., deleting language referring to DEO and the Innovation Incentive Program.
Section 147: Amends s. 443.091, F.S., deleting language referring to EFI.
Section 148: Amends s. 445.004, F.S., deleting language referring to EFI; updating cross references.
Section 149: Amends s. 445.045, F.S., deleting language referring to EFI.
Section 150: Amends s. 446.44, F.S., deleting language referring to EFI.
Section 151: Amends s. 465.003, F.S., updating cross references.
Section 152: Amends s. 477.0135, F.S., deleting a cross reference.
Section 153: Amends s. 570.81, F.S., deleting language referring to EFI.
Section 154: Amends s. 570.85, F.S., deleting language referring to EFI.
Section 155: Amends s. 624.5105, F.S., updating cross references.
Section 156: Amends s. 625.3255, F.S., repealing ability of insurers to invest in any capital participation instrument.
Section 157: Amends s. 657.042, F.S., repealing ability of any credit unions to invest in any capital participation instrument
Section 158: Amends s. 658.67, F.S., repealing ability of any banks or trust companies to invest in any capital participation instrument.
Section 159: Amends s. 1004.015, F.S., deleting language referring to EFI.
Section 160: Amends s. 1004.65, F.S., deleting language referring to EFI.
Section 161: Amends s. 1004.78, F.S., replacing language referencing EFI with language referencing DEO.
Section 162: Amends s. 1011.76, F.S., deleting language referring to EFI.
Section 163: Amends s. 1011.94, F.S., updating a cross reference.
Section 164: Provides an effective date of July 1, 2023.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS section.

2. Expenditures:

Indeterminate. The elimination of certain programs and incentives will reduce current and future state expenditures. The exact reduction will depend on the state budget process.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See FISCAL COMMENTS section.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate.

D. FISCAL COMMENTS:

The total state and local revenue impact of the bill in FY 2023-24 is \$24.1 million (\$87.3 million recurring), of which \$19.1 million (\$81.6 million recurring) is on General Revenue, an insignificant amount is on state trust funds, and \$5 million (\$5.7 million recurring) is on local government revenues (see table below).

Fiscal Year 2023-24 Estimated Revenue Impacts (Millions of \$)								
House Bill 5	2023-24							
	General Revenue		Trust Fund		Local		Total	
	Cash	Recur	1st Year	Recur	1st Year	Recur	1st Year	Recur
New Markets Tax Credit	-	-	-	-	-	-	-	-
Capital Investment Tax Credit	-	60.70	-	-	-	-	-	60.70
International Game Fish Association	-	-	-	-	-	-	-	-
Entertainment Industry Sales Tax Exemption	18.90	20.60	*	*	5.00	5.50	23.90	26.10
Urban High Crime Area Tax Credit	-	-	-	-	-	-	-	-
Entertainment Industry Film Tax Credit	-	-	-	-	-	-	-	-
Professional Sports Franchises	-	-	-	-	-	-	-	-
Motorsports Complexes	-	-	-	-	-	-	-	-
Rural Job Tax Credit	*	*	*	*	*	*	*	*
Entertainment Industry Sales Tax Exemption – Film Schools	0.20	0.30	*	*	-	0.20	0.20	0.50
FY 2023-24 Total	19.10	81.60	-	-	5.00	5.70	24.10	87.30

(*) Impact less than \$100,000.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

Article VII, Section 19 of the Florida Constitution requires a supermajority vote to impose or raise a tax or fee. Under this provision, raise means “to decrease or eliminate a state tax or fee exemption or credit.” Article VII, Section 19 also requires that any bill attempting to impose or raise a tax or fee “must be contained in a separate bill the contains no other subject.” The bill repeals multiple state tax exemptions and credits; therefore, certain additional legislative action may be required.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 17, 2023, the Commerce Committee adopted two amendments and reported the bill favorably as a committee substitute. The amendments correct cross references by replacing language referring to Enterprise Florida, Inc., with language referring to the Department of Economic Opportunity.

This analysis is drafted to the committee substitute as passed by the Commerce Committee.