

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

Prepared By: The Professional Staff of the Governmental Operations Committee

BILL: SB 2778

INTRODUCER: Senator Fasano

SUBJECT: Scripps/Innovation Incentive Program

DATE: April 1, 2008

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pugh	Cooper	CM	<b>Favorable</b>
2.	Rhea	Wilson	GO	<b>Favorable</b>
3.			TA	
4.				
5.				
6.				

**I. Summary:**

SB 2778 addresses a number of issues related to the state’s Innovation program. Briefly, the bill:

- Directs the Scripps Florida Funding Corporation, which oversees the state’s multi-year contract with Scripps Research Institute, to also monitor some aspects of the Innovation Incentive Program created in s. 288.1089, F.S. The corporation is directed to review the performance and progress of the Innovation Incentive Program grant awardees, and prepare an annual report on its findings and any recommendations.
- Amends the Innovation Incentive Program statute, in line with most of the agreements signed to date, to require all future agreements to include a reinvestment component, whereby the state receives between 10 percent and 15 percent of royalties and revenue from royalties and naming rights. Ninety percent of reinvestment funds will be paid into either the Biomedical Research Trust or the Economic Development Trust Fund, whichever is appropriate. The remaining 10 percent will be deposited into the Building Florida’s Future Revolving Loan Guarantee Trust Fund.
- Adds the annual average wage of anticipated non-management and non-research jobs as information to be included in the Innovation Incentive program grant application, and reviewed by Enterprise Florida, Inc. (EFI).
- Limits to 50 percent the amount of Innovation Incentive funds available in a fiscal year to projects representing any one of the following fields: life sciences, aviation, aerospace, alternative energy, robotics, nanotechnology, or information technology.
- Deletes obsolete provisions.

SB 2778 amends ss. 288.955 and 288.1089, F.S.

## II. Present Situation:

### **History of Major Technology Funding in Florida Scripps Research Institute**

In 2003, the Legislature created the Scripps Florida Funding Corporation (corporation),<sup>1</sup> a not-for-profit corporation with a nine-member board that is responsible for contracting with Scripps Research Institute (Scripps) to establish a state-of-the-art biomedical research institute and campus in the state.

The Legislature appropriated \$310 million to the Scripps project; the source of the money was federal economic stimulus funds provided to Florida under the Jobs and Growth Tax Reconciliation Act of 2003. OTTED was the initial recipient of the appropriation, but it later disbursed the funds to the corporation pursuant to a funding agreement. The corporation releases the funds (including interest) to Scripps in amounts based on Scripps' achievement of specified performance benchmarks enumerated in the 20-year agreement.

Originally, the funds were to be disbursed over a 7-year period, but because of delays outside of Scripps' or the state's control related to site selection, the disbursement period has been extended, with the corporation's approval, to 10 years. Undisbursed funds are being invested by the State Board of Administration, and the interest earnings also go to Scripps.

As of July 2007, the corporation has disbursed \$138,423,015 (including about \$6.3 million in interest earnings) to Scripps. Palm Beach County also has invested or committed at least \$200 million to provide Scripps with land, temporary facilities, and permanent laboratory facilities for new operations in the county. Other local entities also have committed funds or in-kind contributions for Scripps.

Under the terms of its agreement, Scripps is required to reinvest \$155 million to \$200 million in the state's Biomedical Research Trust Fund.<sup>2</sup> These funds are expected to come from Scripps' revenues generated from royalties and naming rights. As of July 2007, Scripps has 242 employees. Scripps is operating from the Jupiter campus of Florida International University while its own facilities are being built nearby. The expected completion date of the new facilities is early 2009. Under the terms of its amended agreement, Scripps is required to hire 545 employees within the next 10 years.

### **Centers of Excellence Program**

In 2002, the Legislature passed the "Florida Technology Development Act" that directed the State Board of Education to designate Centers of Excellence at state universities.<sup>3</sup> The purpose of the centers is to stimulate university research and commercialization efforts in high-tech fields. In 2003, the Board of Education designated three centers: the Center of Excellence in Biomedical and Marine Biotechnology at Florida Atlantic University; the Florida Photonics Center of Excellence at the University of Central Florida; and the Center of Excellence in

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<sup>1</sup> Section 288.955, F.S. (Ch. 2003-420, L.O.F.)

<sup>2</sup> Created in s. 20.435(1)(h), F.S., the Biomedical Research Trust Fund receives a portion of the tobacco settlement dollars. The James and Esther King Biomedical Research Program and the William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program are funded by the Biomedical Research Trust Fund.

<sup>3</sup> Chapter 2002-265, L.O.F.

Regenerative Health Biotechnology at the University of Florida. Each center received \$10 million from the state to fund its activities.

In 2006, the Legislature provided \$30 million for an expanded Centers of Excellence Program,<sup>4</sup> now designed to foster and promote the research required to develop commercially-promising, advanced, and innovative science and technology and to transfer those discoveries to commercial sectors. The law established the Florida Technology, Research, and Scholarship Board within the Board of Governors of the State University System to recommend to the Board of Governors methods for implementing and administering the Centers of Excellence Program. In November 2006, the Board of Governors disbursed the entire amount to five universities to advance various research projects: Florida Atlantic University, Florida State University, the University of Central Florida, the University of Florida (which received two separate grants), and the University of South Florida. The research ranges from nanotechnology to alternative energy.

In 2007, the Legislature provided \$100 million for additional Centers of Excellence Programs. The Florida Technology, Research, and Scholarship Board is in the process of reviewing and ranking a number of proposals from universities.

#### **Creation of Innovation Incentive Grant Program**

In 2006, the Legislature created the Innovation Incentive Program.<sup>5</sup> The purpose of the program is to provide resources for certain types of significant economic development projects, including the location in, or expansion of, research and development entities and innovation businesses in Florida.

While OTTED oversees the Innovation Incentive Program and enters into the ultimate agreements with the grant recipients,<sup>6</sup> EFI, the state's private economic development entity, is directed to evaluate the grant seekers' proposals and recommend to OTTED which entities should receive the grants and whether waiver of certain requirements is merited.<sup>7</sup>

The criteria used by EFI are detailed in the statute. Prospective businesses must submit an application that includes information about the type of business activity they are involved in, the number of employees they expect to hire, the amount of investment they intend to make in the operation, and why the incentive grant is needed.

The applicants also must meet the criteria of either a "research and development project" or an "innovation business project." Both are defined in the statute. A requirement common to both types of applicants is a one-to-one match in financial commitment from the local community where they plan to locate.

OTTED, in consultation with EFI, may negotiate the amount of the grant to be awarded to an eligible applicant<sup>8</sup> and, later, review whether the entity is meeting the agreement's benchmarks.

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<sup>4</sup> Chapter 2006-58, L.O.F.

<sup>5</sup> Chapter 2006-55, L.O.F.

<sup>6</sup> Section 288.1089, F.S.

<sup>7</sup> Section 288.1089(4) and(5), F.S.

<sup>8</sup> Section 288.1089(6), F.S.

The Governor must consult with the President of the Senate and the Speaker of the House of Representatives before approving the grant award, and can release the funds with the approval of the Legislative Budget Commission.<sup>9</sup> Despite the wording of the statute, the funds are not actually “released” to a grant recipient. More accurately, the funds are designated or set aside for the recipient in OTTED’s Economic Development Trust Fund, and are awarded in amounts tied to the recipient’s attainment of job-creation and other benchmarks in its contractual agreement with OTTED.

After the funds are released, OTTED and the applicant must enter into an agreement that sets forth the conditions for payment of the incentive funds. The agreement must include: the total amount of funds awarded; the performance measures that the applicant must meet, including such as net new jobs, average wages, and total investment; schedule of payments; and sanctions for failing to meet the performance measures, including clawbacks. All of the current contracts are for 20-year terms.

In fiscal year 2006-2007, the Legislature appropriated \$200 million in non-recurring general revenue to OTTED’s Economic Development Trust Fund for this Innovation Incentive Program. In the subsequent months, \$155.255 million was designated for Burnham Institute for Medical Research; \$24.73 million was designated for Torrey Pines; and \$20 million was designated for SRI International in St. Petersburg.

The following 2007-2008 fiscal year, the Legislature appropriated \$250 million for this program. Proviso language in the fiscal year 2007-2008 General Appropriations Act set aside \$80 million of that amount to the University of Miami’s new Institute of Human Genomics. In December 2008, Senate President Ken Pruitt and Governor Charlie Crist announced a \$93 million commitment to the Max Planck Bio-Imaging Institute.

**Highlights of Scripps and Official Innovation Incentive Projects<sup>10</sup>**

last updated March 17, 2008

Entity	State Funding Committed	State Funding Released	Local/Other Match	Jobs Required by Agreement/ Jobs as of March 2008
Scripps	\$310 million	\$149.9 million, plus \$8.4 million interest	At least \$200 million	545/242
Burnham	\$155.255 million	\$51.440 million	\$155.5 million	303/28
Torrey Pines	\$24.728 million	\$11.272 million	\$71.52 million	189/19
SRI	\$20 million	\$11.4 million	at least \$30 million	160/64
UM - IHG	\$80 million	\$20 million	at least \$100 million in private philanthropy has been identified	296/98

<sup>9</sup> Section 288.1089(7), F.S.

<sup>10</sup> The Oregon Health and Sciences University’s Vaccine and Gene Therapy Institute has an unofficial commitment for \$60 million in Innovation Incentive Program grant funds, and the city of Port St. Lucie has unofficially committed \$53 million. See [http://www.ohsu.edu/vgti/news\\_florida.htm](http://www.ohsu.edu/vgti/news_florida.htm).

Entity	State Funding Committed	State Funding Released	Local/Other Match	Jobs Required by Agreement/ Jobs as of March 2008
Scripps	\$310 million	\$149.9 million, plus \$8.4 million interest	At least \$200 million	545/242
Max Planck	\$93 million	None	At least \$86.9 million	No Contract Yet

### **Recipients of Innovation Incentive Program Grants**

#### *Burnham Institute for Medical Research*

In October 2006, La Jolla, California-based Burnham Research Laboratories entered into an agreement with OTTED to establish an independent research lab in Orange County. Burnham Florida intends to conduct cancer research, diabetes and obesity research, and pharmaceutical testing.

Designated for Burnham is \$155.255 million in state Innovation Incentive Program grant funds. An equal amount has been committed by local governments and private entities, including Orange County and Orlando, the University of Central Florida and University of Florida, and a private donation of land, valued at \$13.5 million, for its permanent facilities. Burnham's agreement is modeled after Scripps', except that there is no requirement for Burnham to return to the state a percentage of any royalties it may earn from commercialization of its discoveries.

Burnham currently is operating out of an Orlando-area blood bank, and has nine employees. It is expected to open its permanent facility in early 2009 at the planned Villages of Lake Nona development. This mixed-use development will have residential and commercial properties, as well as a medical cluster of schools, hospitals, and a research facility.

#### *Torrey Pines Institute for Molecular Studies*

In November 2006, the La Jolla, California-based Torrey Pines Institute for Molecular Studies entered into an agreement with OTTED to establish an independent research lab in St. Lucie County. Torrey Pines intends to move its headquarters to Port St. Lucie and most of its current employees within the next 2 years; its founder and president, Dr. Richard Houghten, already has moved to Florida and brought his key staff.

Torrey Pines Florida currently has 19 employees working in temporary laboratories at the Harbor Branch Oceanographic Institute in Fort Pierce.

Torrey Pines' expertise is developing methodologies that can quickly test the effectiveness of compounds in treating diseases. Its work is highly technical, and complementary to the pure research of a Scripps or Burnham.

Set aside for Torrey Pines is \$24.728 million in Innovative Incentive Program grant funds. The local community has committed \$71.52 million to the project<sup>11</sup> – more than the required one-to-one match. Among the local commitments are: \$40 million by the city of Port St. Lucie

<sup>11</sup> Email from Sara Misselhorn, dated 8/13/07. On file with the Commerce Committee.

for buildings and equipment; \$10 million in working capital from St. Lucie County; and land valued at \$15 million donated by a private contributor that will be the site of Torrey Pines' permanent facilities. Florida Atlantic University also has made a \$6.5 million, in-kind donation that includes the value of temporary facilities and the use of graduate assistants.

OTTED's agreement with Torrey Pines is modeled after the Scripps' agreement, and includes a provision for Torrey Pines to return to the state a percentage of any royalties it may earn from commercialization of any new research. Torrey Pines is required to employ 189 workers by the end of 2017.

*SRI International-St. Petersburg*

In November 2006, the California-based SRI International<sup>12</sup> entered into a 20-year agreement with OTTED to open a Florida facility focusing on marine technology research and development. Its main operations are located temporarily at the University of South Florida's St. Petersburg campus, but it expects to move into permanent facilities by March 2009 at the Port of St. Petersburg.

SRI is an independent, nonprofit research institute that performs research and development for government agencies, commercial businesses, foundations, and other organizations. Among its first projects in Florida was the August 2007 deployment of a prototype buoy-mounted, ocean wave-powered generator in Tampa Bay. The project is part of a program sponsored by a Japanese company focused on development and deployment of wave-powered generators around the world that operate on a renewable energy source.

Set aside for SRI is \$20 million in Innovation Incentive Program funds. The local government and other commitments total \$30 million, including \$5 million each from the City of St. Petersburg and Pinellas County, a \$5 million grant from the Florida Seaport Transportation and Economic Development program, and \$15 million in-kind from the University of South Florida that includes facilities.

The SRI agreement is modeled after the Scripps agreement, and includes a provision for SRI to return to the state a percentage of any royalties it may earn from commercialization of any new research.

*University of Miami's Institute of Human Genomics*

The Institute of Human Genomics (the institute) was awarded an \$80 million Innovation Incentive Program grant pursuant to proviso in the 2007-2008 General Appropriations Act. To date, \$20 million in state funds has been released, with the signing of an agreement between the institute and OTTED last year.

University of Miami officials date the Institute's origin as Dec. 1, 2006, when its director started work. As of Aug. 30, 2007, the institute has 98 employees, and is operating out of temporary laboratories on the UM campus. Several of the Institute's key faculty members, and its director,

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<sup>12</sup> SRI International originated in 1946 as the "Stanford Research Institute," and was a part of Stanford University. In 1970, it became independent of the university, and changed its name to SRI International.

were recruited from outside of Florida, and brought \$40 million in National Institutes of Health research grants with them when they relocated here.

The institute's permanent facilities are under construction on campus, and are expected to be completed by the third quarter of 2008.

The institute's faculty and researchers hope to use information learned through the Human Genome Project, which "mapped" nearly all human genes, to create gene-based treatments or cures for afflictions such as Alzheimer's, cancer, and diabetes. Several of the Institute scientists were involved in the recent landmark discovery of a genetic link to multiple sclerosis.

The institute also is one of four research facilities in the United States that is receiving federal funding for a Hispanic Family Community Health Project, and is one of three facilities in the world with gene-sequencing equipment.

The institute's agreement is very similar in content and format to that of the Scripps contract, and includes a provision for the Institute to return to the state a percentage of any royalties it may earn from commercialization of any new research.

#### *Max Planck Institute of Bio-Imaging*

The newest of the Innovation Incentive program awardees, the Max Planck Institute is a spin-off from the German company that has been an international leader in bio-imaging. The institute plans to locate at FAU's Jupiter campus, near Scripps, later this year. At full strength, the institute is expected to have about 150 researchers from around the world. The state funds match the nearly \$97 million, over 10 years, committed by Palm Beach County. OTTED and EFI are in the early stages of negotiating the state's agreement with the institute.

### **III. Effect of Proposed Changes:**

Section 1 amends s. 288.955, F.S., to broaden the Scripps Florida Funding Corporation's responsibilities to include some oversight of Innovation Incentive Program grant recipients. The new responsibilities are:

- Review of the business plans, quarterly and annual reports, and audits of companies that have received Innovation Incentive Program grants.
- Prepare an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, due Jan. 10 of each year, beginning in 2009.
- Invite Innovation Incentive Program grant recipients to appear at corporation's board meetings to present progress reports on their activities.

The annual report must, at a minimum, include:

- An assessment of the progress made by each Innovation Incentive grant recipient in terms of achieving the agreement objectives, benchmarks, and performance standards, and a discussion of all relevant factors related to the recipient's progress.
- A review of the previous fiscal year's compliance and financial audits and any other records prepared by an independent CPA.

- Any recommended legislative changes, or administrative improvements that may be undertaken by the Executive Office of the Governor.

This section also restructures the existing s. 288.955, F.S., as necessary, to improve clarity and deletes obsolete provisions, including the process for initial appointments to the Scripps board and deadlines for the signing of the original agreement with the Scripps Research Institute.

Section 2 amends s. 288.1089, F.S., to make a number of changes to the Innovation Incentive program. It defines the terms “corporation,” “naming opportunities,” and “net royalty revenues,” which are new to s. 288.1089, F.S.

A major addition to the existing law is the requirement that the agreement between OTTED and the grant awardee include a reinvestment provision, whereby the grant awardee returns a small portion of revenues earned through its activities to the state. The reinvestment will be between 10 percent and 15 percent of the awardee’s naming rights and net royalties, including revenues from spin-off companies and revenues from the sale of stock received through its patentable inventions, methods, processes, or discoveries, either made or practiced using its Florida facilities or Florida-based employees, in whole or in part, and to which the awardee becomes entitled to during the 20 years following the effective date of its agreement with OTTED.

The reinvestment payments to the state commence no later than 6 months after the grant awardee has received its final disbursement of grant funds from the state, under the terms of the agreement. The reinvestment funds shall be deposited in either the Biomedical Research Trust (or its successor) if they are contributed by an awardee that specializes in biomedical or life sciences research, or in the Economic Development Trust Fund (or its successor) for contributions from all other awardees. However, 10 percent of each reinvestment payment shall be deposited in the Building Florida’s Future Revolving Loan Guarantee Fund for its specified purposes.<sup>13</sup>

This section also:

- Adds the “average annual wage of non-management, non-research jobs” to the information that must be provided by a company in its Innovation Incentive grant application to OTTED, and which must be evaluated by EFI.
- Clarifies the application approval process, by specifying that the Executive Office of the Governor can release Innovation Incentive grant funds upon review and approval by the Legislative Budget Commission.
- Limits to 50 percent of the total Innovation Incentive grant appropriation the amount that may be awarded in any fiscal year to projects in certain industries. Those industries are life sciences, aviation, aerospace, alternative energy, robotics, nanotechnology, or information technology. The intent of this provision is to avoid the appearance that the program is weighted toward any one industry.
- Specifies that the provisions currently in law pertaining to what must be included in the Innovation Incentive agreement are simply the minimum requirements.

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<sup>13</sup> The Building Florida’s Future Revolving Loan Guarantee Trust Fund is proposed in 2008 legislation, SB 2712.

- Requires that the performance conditions stated in the agreement must be, at least, the same level as required for an applicant to qualify for consideration of an Innovation Incentive grant.
- Adds several requirements to the agreement between the awardee and OTTED. Awardees must establish internship programs or other educational opportunities for students and teachers; submit to OTTED and EFI quarterly and annual reports related to the awardees' activities and performance; and submit to OTTED an annual accounting of the expenditure of grant funds. Also, the agreement must include a process for amending it.

This section also deletes obsolete language, such as development of a set of business ethics standards by 2006.

Section 3 specifies that this act shall take effect upon becoming law.

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**IV. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**V. Technical Deficiencies:**

None.

**VI. Related Issues:**

None.

**VII. Additional Information:**

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

None.

- B. **Amendments:**

None.

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

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