





29 shall be paid directly to the board of directors of the  
30 governing corporation; changing the appointing authority  
31 for certain members of the council of scientific advisors;  
32 providing for construction of the act in pari materia with  
33 laws enacted during the Regular Session of the  
34 Legislature; providing an effective date.

35  
36 Be It Enacted by the Legislature of the State of Florida:

37  
38 Section 1. Section 1004.43, Florida Statutes, is amended  
39 to read:

40 1004.43 H. Lee Moffitt Cancer Center and Research  
41 Institute.--There is established the H. Lee Moffitt Cancer  
42 Center and Research Institute at the University of South  
43 Florida.

44 (1) The State Board of Education shall enter into an  
45 agreement for the utilization of the facilities on the campus of  
46 the University of South Florida to be known as the H. Lee  
47 Moffitt Cancer Center and Research Institute, including all  
48 furnishings, equipment, and other chattels used in the operation  
49 of said facilities, with a Florida not-for-profit corporation  
50 organized solely for the purpose of governing and operating the  
51 H. Lee Moffitt Cancer Center and Research Institute. This not-  
52 for-profit corporation, acting as an instrumentality of the  
53 State of Florida, shall govern and operate the H. Lee Moffitt  
54 Cancer Center and Research Institute in accordance with the  
55 terms of the agreement between the State Board of Education and  
56 the not-for-profit corporation. The not-for-profit corporation



57 | may, with the prior approval of the State Board of Education,  
58 | create ~~not-for-profit~~ corporate subsidiaries to fulfill its  
59 | mission. For profit subsidiaries of the not-for-profit  
60 | corporation shall not compete with for profit health care  
61 | providers in the delivery of radiation therapy services to  
62 | patients. The not-for-profit corporation and its subsidiaries  
63 | are authorized to receive, hold, invest, and administer property  
64 | and any moneys received from private, local, state, and federal  
65 | sources, as well as technical and professional income generated  
66 | or derived from practice activities of the institute, for the  
67 | benefit of the institute and the fulfillment of its mission. The  
68 | affairs of the corporation shall be managed by a board of  
69 | directors who shall serve without compensation. The President of  
70 | the University of South Florida and the chair of the State Board  
71 | of Education, or his or her designee, shall be directors of the  
72 | not-for-profit corporation, together with 5 representatives of  
73 | the state universities and no more than 14 nor fewer than 10  
74 | directors who are not medical doctors or state employees. Each  
75 | director shall have only one vote, shall serve a term of 3  
76 | years, and may be reelected to the board. Other than the  
77 | President of the University of South Florida and the chair of  
78 | the State Board of Education, directors shall be elected by a  
79 | majority vote of the board. The chair of the board of directors  
80 | shall be selected by majority vote of the directors.

81 | (2) The State Board of Education shall provide in the  
82 | agreement with the not-for-profit corporation for the following:

83 | (a) Approval of the articles of incorporation of the not-  
84 | for-profit corporation by the State Board of Education.



85 (b) Approval of the articles of incorporation of any not-  
86 for-profit corporate subsidiary created by the not-for-profit  
87 corporation.

88 (c) Utilization of lands, hospital facilities, and  
89 personnel by the not-for-profit corporation and its subsidiaries  
90 for research, education, treatment, prevention, and the early  
91 detection of cancer and for mutually approved teaching and  
92 research programs conducted by the University of South Florida  
93 or other accredited medical schools or research institutes.

94 (d) Preparation of an annual financial audit of the not-  
95 for-profit corporation's accounts and records and the accounts  
96 and records of any subsidiaries to be conducted by an  
97 independent certified public accountant. The annual audit report  
98 shall include a management letter, as defined in s. 11.45, and  
99 shall be submitted to the Auditor General and the State Board of  
100 Education. The State Board of Education, the Auditor General,  
101 and the Office of Program Policy Analysis and Government  
102 Accountability shall have the authority to require and receive  
103 from the not-for-profit corporation and any subsidiaries or from  
104 their independent auditor any detail or supplemental data  
105 relative to the operation of the not-for-profit corporation or  
106 subsidiary.

107 (e) Provision by the not-for-profit corporation and its  
108 subsidiaries of equal employment opportunities to all persons  
109 regardless of race, color, religion, sex, age, or national  
110 origin.

111 (3) The State Board of Education is authorized to secure  
112 comprehensive general liability protection, including



113 professional liability protection, for the not-for-profit  
114 corporation and its subsidiaries pursuant to s. 1004.24. The  
115 not-for-profit corporation and its subsidiaries shall be exempt  
116 from any participation in any property insurance trust fund  
117 established by law, including any property insurance trust fund  
118 established pursuant to chapter 284, so long as the not-for-  
119 profit corporation and its subsidiaries maintain property  
120 insurance protection with comparable or greater coverage limits.

121 (4) In the event that the agreement between the not-for-  
122 profit corporation and the State Board of Education is  
123 terminated for any reason, the State Board of Education shall  
124 resume governance and operation of said facilities.

125 (5) The institute shall be administered by a chief  
126 executive officer who shall serve at the pleasure of the board  
127 of directors of the not-for-profit corporation and who shall  
128 have the following powers and duties subject to the approval of  
129 the board of directors:

130 (a) The chief executive officer shall establish programs  
131 which fulfill the mission of the institute in research,  
132 education, treatment, prevention, and the early detection of  
133 cancer; however, the chief executive officer shall not establish  
134 academic programs for which academic credit is awarded and which  
135 terminate in the conference of a degree without prior approval  
136 of the State Board of Education.

137 (b) The chief executive officer shall have control over  
138 the budget and the dollars appropriated or donated to the  
139 institute from private, local, state, and federal sources, as  
140 well as technical and professional income generated or derived



141 from practice activities of the institute. However, professional  
142 income generated by university faculty from practice activities  
143 at the institute shall be shared between the institute and the  
144 university as determined by the chief executive officer and the  
145 appropriate university dean or vice president.

146 (c) The chief executive officer shall appoint members to  
147 carry out the research, patient care, and educational activities  
148 of the institute and determine compensation, benefits, and terms  
149 of service. Members of the institute shall be eligible to hold  
150 concurrent appointments at affiliated academic institutions.  
151 University faculty shall be eligible to hold concurrent  
152 appointments at the institute.

153 (d) The chief executive officer shall have control over  
154 the use and assignment of space and equipment within the  
155 facilities.

156 (e) The chief executive officer shall have the power to  
157 create the administrative structure necessary to carry out the  
158 mission of the institute.

159 (f) The chief executive officer shall have a reporting  
160 relationship to the Commissioner of Education.

161 (g) The chief executive officer shall provide a copy of  
162 the institute's annual report to the Governor and Cabinet, the  
163 President of the Senate, the Speaker of the House of  
164 Representatives, and the chair of the State Board of Education.

165 (6) The board of directors of the not-for-profit  
166 corporation shall create a council of scientific advisers to the  
167 chief executive officer comprised of leading researchers,  
168 physicians, and scientists. This council shall review programs



169 and recommend research priorities and initiatives so as to  
170 maximize the state's investment in the institute. The council  
171 shall be appointed by the board of directors of the not-for-  
172 profit corporation ~~and shall include five appointees of the~~  
173 ~~State Board of Education~~. Each member of the council shall be  
174 appointed to serve a 2-year term and may be reappointed to the  
175 council.

176 (7) In carrying out the provisions of this section, the  
177 not-for-profit corporation and its subsidiaries are not  
178 "agencies" within the meaning of s. 20.03(11).

179 (8)(a) Records of the not-for-profit corporation and of  
180 its subsidiaries are public records unless made confidential or  
181 exempt by law.

182 (b) Proprietary confidential business information is  
183 confidential and exempt from the provisions of s. 119.07(1) and  
184 s. 24(a), Art. I of the State Constitution. However, the Auditor  
185 General, the Office of Program Policy Analysis and Government  
186 Accountability, and the State Board of Education, pursuant to  
187 their oversight and auditing functions, must be given access to  
188 all proprietary confidential business information upon request  
189 and without subpoena and must maintain the confidentiality of  
190 information so received. As used in this paragraph, the term  
191 "proprietary confidential business information" means  
192 information, regardless of its form or characteristics, which is  
193 owned or controlled by the not-for-profit corporation or its  
194 subsidiaries; is intended to be and is treated by the not-for-  
195 profit corporation or its subsidiaries as private and the  
196 disclosure of which would harm the business operations of the



197 not-for-profit corporation or its subsidiaries; has not been  
198 intentionally disclosed by the corporation or its subsidiaries  
199 unless pursuant to law, an order of a court or administrative  
200 body, a legislative proceeding pursuant to s. 5, Art. III of the  
201 State Constitution, or a private agreement that provides that  
202 the information may be released to the public; and which is  
203 information concerning:

204 1. Internal auditing controls and reports of internal  
205 auditors;

206 2. Matters reasonably encompassed in privileged attorney-  
207 client communications;

208 3. Contracts for managed-care arrangements, including  
209 preferred provider organization contracts, health maintenance  
210 organization contracts, and exclusive provider organization  
211 contracts, and any documents directly relating to the  
212 negotiation, performance, and implementation of any such  
213 contracts for managed-care arrangements;

214 4. Bids or other contractual data, banking records, and  
215 credit agreements the disclosure of which would impair the  
216 efforts of the not-for-profit corporation or its subsidiaries to  
217 contract for goods or services on favorable terms;

218 5. Information relating to private contractual data, the  
219 disclosure of which would impair the competitive interest of the  
220 provider of the information;

221 6. Corporate officer and employee personnel information;

222 7. Information relating to the proceedings and records of  
223 credentialing panels and committees and of the governing board





224 of the not-for-profit corporation or its subsidiaries relating  
225 to credentialing;

226 8. Minutes of meetings of the governing board of the not-  
227 for-profit corporation and its subsidiaries, except minutes of  
228 meetings open to the public pursuant to subsection (9);

229 9. Information that reveals plans for marketing services  
230 that the corporation or its subsidiaries reasonably expect to be  
231 provided by competitors;

232 10. Trade secrets as defined in s. 688.002, including  
233 reimbursement methodologies or rates; or

234 11. The identity of donors or prospective donors of  
235 property who wish to remain anonymous or any information  
236 identifying such donors or prospective donors. The anonymity of  
237 these donors or prospective donors must be maintained in the  
238 auditor's report.

239

240 As used in this paragraph, the term "managed care" means systems  
241 or techniques generally used by third-party payors or their  
242 agents to affect access to and control payment for health care  
243 services. Managed-care techniques most often include one or more  
244 of the following: prior, concurrent, and retrospective review of  
245 the medical necessity and appropriateness of services or site of  
246 services; contracts with selected health care providers;  
247 financial incentives or disincentives related to the use of  
248 specific providers, services, or service sites; controlled  
249 access to and coordination of services by a case manager; and  
250 payor efforts to identify treatment alternatives and modify  
251 benefit restrictions for high-cost patient care.



252 (9) Meetings of the governing board of the not-for-profit  
 253 corporation and meetings of the subsidiaries of the not-for-  
 254 profit corporation at which the expenditure of dollars  
 255 appropriated to the not-for-profit corporation by the state are  
 256 discussed or reported must remain open to the public in  
 257 accordance with s. 286.011 and s. 24(b), Art. I of the State  
 258 Constitution, unless made confidential or exempt by law. Other  
 259 meetings of the governing board of the not-for-profit  
 260 corporation and of the subsidiaries of the not-for-profit  
 261 corporation are exempt from s. 286.011 and s. 24(b), Art. I of  
 262 the State Constitution.

263 (10) In addition to the continuing appropriation to the  
 264 institute provided in s. 210.20(2), any appropriation to the  
 265 institute provided in a general appropriations act shall be paid  
 266 directly to the board of directors of the not-for-profit  
 267 corporation by warrant drawn by the Chief Financial Officer from  
 268 the State Treasury.

269 Section 2. Section 1004.445, Florida Statutes, is amended  
 270 to read:

271 1004.445 Johnnie Bryars Byrd, Sr., Florida Alzheimer's  
 272 Center and Research Institute.--

273 (1) ~~Effective July 1, 2002,~~ The Johnnie Bryars Byrd, Sr.,  
 274 ~~Florida~~ Alzheimer's Center and Research Institute is established  
 275 at the University of South Florida.

276 (2)(a) The State Board of Education shall enter into an  
 277 agreement for the utilization of the facilities on the campus of  
 278 the University of South Florida to be known as the Johnnie B.  
 279 Byrd, Sr., Florida Alzheimer's Center and Research Institute,



280 including all furnishings, equipment, and other chattels used in  
281 the operation of those facilities, with a Florida not-for-profit  
282 corporation organized solely for the purpose of governing and  
283 operating the Johnnie Bryars Byrd, Sr., Florida Alzheimer's  
284 Center and Research Institute. This not-for-profit corporation,  
285 acting as an instrumentality of the state, shall govern and  
286 operate the Johnnie Bryars Byrd, Sr., Florida Alzheimer's Center  
287 and Research Institute in accordance with the terms of the  
288 agreement between the State Board of Education and the not-for-  
289 profit corporation. The not-for-profit corporation may, with the  
290 prior approval of the State Board of Education, create ~~not-for-~~  
291 ~~profit~~ corporate subsidiaries to fulfill its mission. The not-  
292 for-profit corporation and its subsidiaries are authorized to  
293 receive, hold, invest, and administer property and any moneys  
294 acquired from private, local, state, and federal sources, as  
295 well as technical and professional income generated or derived  
296 from practice activities of the institute, for the benefit of  
297 the institute and the fulfillment of its mission.

298 (b)1. The affairs of the not-for-profit corporation shall  
299 be managed by a board of directors who shall serve without  
300 compensation. The board of directors shall consist of the  
301 President of the University of South Florida and the chair of  
302 the State Board of Education, or their designees, 5  
303 representatives of the state universities, and no fewer than 9  
304 nor more than 14 representatives of the public who are neither  
305 medical doctors nor state employees. Each director who is a  
306 representative of a state university or of the public shall be  
307 appointed to serve a term of 3 years. The chair of the board of



308 directors shall be selected by a majority vote of the directors.  
 309 Each director shall have only one vote.

310 2. The initial board of directors shall consist of the  
 311 President of the University of South Florida and the chair of  
 312 the State Board of Education, or their designees; the five  
 313 university representatives, of whom one shall be appointed by  
 314 the Governor, two by the President of the Senate, and two by the  
 315 Speaker of the House of Representatives; and nine public  
 316 representatives, of whom three shall be appointed by the  
 317 Governor, three by the President of the Senate, and three by the  
 318 Speaker of the House of Representatives. Upon the expiration of  
 319 the terms of the initial appointed directors, all directors  
 320 subject to 3-year terms of office under this paragraph shall be  
 321 appointed by a majority vote of the directors and the board may  
 322 be expanded to include additional public representative  
 323 directors up to the maximum number allowed. Any vacancy in  
 324 office shall be filled for the remainder of the term by majority  
 325 vote of the directors. Any director may be reappointed.

326 (3) The State Board of Education shall provide in the  
 327 agreement with the not-for-profit corporation for the following:

328 (a) Approval by the State Board of Education of the  
 329 articles of incorporation of the not-for-profit corporation.

330 (b) Approval by the State Board of Education of the  
 331 articles of incorporation of any not-for-profit corporate  
 332 subsidiary created by the not-for-profit corporation.

333 (c) Utilization of lands, ~~hospital~~ facilities, and  
 334 personnel by the not-for-profit corporation and its subsidiaries  
 335 for research, education, treatment, prevention, and the early



336 detection of Alzheimer's disease and for mutually approved  
337 teaching and research programs conducted by the University of  
338 South Florida or other accredited medical schools or research  
339 institutes.

340 (d) Preparation of an annual postaudit of the not-for-  
341 profit corporation's financial accounts and the financial  
342 accounts of any subsidiaries to be conducted by an independent  
343 certified public accountant. The annual audit report shall  
344 include management letters and shall be submitted to the Auditor  
345 General and the State Board of Education for review. The State  
346 Board of Education, the Auditor General, and the Office of  
347 Program Policy Analysis and Government Accountability shall have  
348 the authority to require and receive from the not-for-profit  
349 corporation and any subsidiaries, or from their independent  
350 auditor, any detail or supplemental data relative to the  
351 operation of the not-for-profit corporation or subsidiary.

352 (e) Provision by the not-for-profit corporation and its  
353 subsidiaries of equal employment opportunities for all persons  
354 regardless of race, color, religion, gender, age, or national  
355 origin.

356 (4) The State Board of Education is authorized to secure  
357 comprehensive general liability protection, including  
358 professional liability protection, for the not-for-profit  
359 corporation and its subsidiaries, pursuant to s. 1004.24. The  
360 not-for-profit corporation and its subsidiaries shall be exempt  
361 from any participation in any property insurance trust fund  
362 established by law, including any property insurance trust fund  
363 established pursuant to chapter 284, so long as the not-for-



364 profit corporation and its subsidiaries maintain property  
365 insurance protection with comparable or greater coverage limits.

366 (5) In the event that the agreement between the not-for-  
367 profit corporation and the State Board of Education is  
368 terminated for any reason, the State Board of Education shall  
369 assume governance and operation of the facilities.

370 (6) The institute shall be administered by a chief  
371 executive officer, who shall be appointed by and serve at the  
372 pleasure of the board of directors of the not-for-profit  
373 corporation, and who shall exercise the following powers and  
374 duties, subject to the approval of the board of directors:

375 (a) The chief executive officer shall establish programs  
376 that fulfill the mission of the institute in research,  
377 education, treatment, prevention, and early detection of  
378 Alzheimer's disease; however, the chief executive officer may  
379 not establish academic programs for which academic credit is  
380 awarded and which culminate in the conferring of a degree,  
381 without prior approval of the State Board of Education.

382 (b) The chief executive officer shall have control over  
383 the budget and the moneys appropriated or donated to the  
384 institute from private, local, state, and federal sources, as  
385 well as technical and professional income generated or derived  
386 from practice activities of the institute. However, professional  
387 income generated by university faculty from practice activities  
388 at the institute shall be shared between the institute and the  
389 university as determined by the chief executive officer and the  
390 appropriate university dean or vice president.



391 (c) The chief executive officer shall appoint  
392 representatives of the institute to carry out the research,  
393 patient care, and educational activities of the institute and  
394 establish the compensation, benefits, and terms of service of  
395 such representatives. Representatives of the institute shall be  
396 eligible to hold concurrent appointments at affiliated academic  
397 institutions. University faculty shall be eligible to hold  
398 concurrent appointments at the institute.

399 (d) The chief executive officer shall have control over  
400 the use and assignment of space and equipment within the  
401 facilities.

402 (e) The chief executive officer shall have the power to  
403 create the administrative structure necessary to carry out the  
404 mission of the institute.

405 (f) The chief executive officer shall have a reporting  
406 relationship to the Commissioner of Education.

407 (g) The chief executive officer shall provide a copy of  
408 the institute's annual report to the Governor and Cabinet, the  
409 President of the Senate, the Speaker of the House of  
410 Representatives, and the chair of the State Board of Education.

411 (7) The board of directors of the not-for-profit  
412 corporation shall create a council of scientific advisers to the  
413 chief executive officer comprised of leading researchers,  
414 physicians, and scientists. The council shall review programs  
415 and recommend research priorities and initiatives to maximize  
416 the state's investment in the institute. The members of the  
417 council shall be appointed by the board of directors of the not-  
418 for-profit corporation, ~~except for five members who shall be~~



419 ~~appointed by the State Board of Education.~~ Each member of the  
420 council shall be appointed to serve a 2-year term and may be  
421 reappointed to the council.

422 (8) In carrying out the provisions of this section, the  
423 not-for-profit corporation and its subsidiaries are not agencies  
424 within the meaning of s. 20.03(11).

425 (9) The following information is confidential and exempt  
426 from the provisions of s. 119.07(1) and s. 24, Art. I of the  
427 State Constitution:

428 (a) Personal identifying information relating to clients  
429 of programs created or funded through the Johnnie Bryars Byrd,  
430 Sr., Florida Alzheimer's Center and Research Institute which is  
431 held by the institute, University of South Florida, or State  
432 Board of Education or by persons who provide services to clients  
433 of programs created or funded through contracts with the Johnnie  
434 Bryars Byrd, Sr., Florida Alzheimer's Center and Research  
435 Institute;

436 (b) Any medical or health records relating to patients  
437 which may be created or received by the institute;

438 (c) Materials that relate to methods of manufacture or  
439 production, potential trade secrets, potentially patentable  
440 material, actual trade secrets as defined in s. 688.002, or  
441 proprietary information received, generated, ascertained, or  
442 discovered during the course of research conducted by or through  
443 the institute and business transactions resulting from such  
444 research;

445 (d) The identity of a donor or prospective donor to the  
446 Johnnie Bryars Byrd, Sr., Florida Alzheimer's Center and





447 Research Institute who wishes to remain anonymous, and all  
448 information identifying such donor or prospective donor;

449 (e) Any information received by the institute in the  
450 performance of its duties and responsibilities which is  
451 otherwise confidential and exempt by law; and

452 (f) Any information received by the institute from a  
453 person from another state or nation or the Federal Government  
454 which is otherwise confidential or exempt pursuant to that  
455 state's or nation's laws or pursuant to federal law.

456

457 Any governmental entity that demonstrates a need to access such  
458 confidential and exempt information in order to perform its  
459 duties and responsibilities shall have access to such  
460 information and shall otherwise keep such information  
461 confidential and exempt. This section is subject to the Open  
462 Government Sunset Review Act of 1995 in accordance with s.  
463 119.15 and shall stand repealed on October 2, 2006, unless  
464 reviewed and saved from repeal through reenactment by the  
465 Legislature.

466 (10) Any appropriation to the institute provided in a  
467 general appropriations act shall be paid directly to the board  
468 of directors of the not-for-profit corporation by warrant drawn  
469 by the Chief Financial Officer from the State Treasury.

470 Section 3. If any law amended by this act was also amended  
471 by a law enacted at the 2003 Regular Session of the Legislature,  
472 such laws shall be construed as if they had been enacted at the  
473 same session of the Legislature, and full effect shall be given  
474 to each if possible.



HB 0031A

2003

475

Section 4. This act shall take effect upon becoming a law.