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A bill to be entitled

An act relating to public records and public meetings exemptions; creating s. 288.145, F.S.; creating an exemption from public records requirements for specified materials, actual and potential trade secrets, patentable material, proprietary information received, generated, ascertained, or discovered during the course of research conducted by or through Scripps Florida, a not-for-profit entity, or a division, subsidiary, affiliate, or entity formed by the Scripps Research Institute to establish a state-of-the-art biomedical research campus in the state, hereinafter referred to as the "grantee," business transactions resulting from such research, and information received from a person from another state or nation or the Federal Government which is otherwise exempt or confidential, held by the grantee or received from the grantee and held by the Scripps Florida Funding Corporation; creating an exemption from public records requirements for information received by the grantee or Scripps Florida Funding Corporation in the performance of its duties and responsibilities and which is otherwise confidential and exempt; creating an exemption from public records requirements for personal identifying information held by the grantee relating to clients of programs created or funded through the grantee and medical or health records relating to patients; creating an exemption from public meetings requirements for portions of meetings of the Scripps Florida Funding Corporation at which confidential and exempt information is presented or discussed; providing for access to confidential and exempt

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31 information by specified agencies; providing that  
 32 specified audits or oversight reports are public records  
 33 when final; creating a public records exemption for audit  
 34 and oversight workpapers and notes; providing for  
 35 retention of workpapers and notes for a specified period;  
 36 providing for future review and repeal; providing a  
 37 statement of public necessity; providing a contingent  
 38 effective date.

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40 Be It Enacted by the Legislature of the State of Florida:

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42 Section 1. Section 288.145, Florida Statutes, is created  
 43 to read:

44 288.145 Scripps Florida Funding Corporation and Scripps  
 45 Florida; public records exemption; public meetings exemption.--

46 (1) The following information held by Scripps Florida, a  
 47 not-for-profit entity, or a division, subsidiary, affiliate, or  
 48 entity formed by the Scripps Research Institute to establish a  
 49 state-of-the-art biomedical research campus in the state,  
 50 hereinafter referred to as the "grantee," as defined in s.  
 51 288.955, or received from the grantee and held by the Scripps  
 52 Florida Funding Corporation as created by s. 288.955, is  
 53 confidential and exempt from the provisions of s. 119.07(1) and  
 54 s. 24(a), Art. I of the State Constitution:

55 (a) Materials that relate to methods of manufacture or  
 56 production, potential trade secrets, patentable material, actual  
 57 trade secrets as defined in s. 688.002, or proprietary  
 58 information received, generated, ascertained, or discovered  
 59 during the course of research conducted by or through the  
 60 grantee, and business transactions resulting from such research.

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61 (b) Any information received from a person from another  
62 state or nation or the Federal Government which is otherwise  
63 exempt or confidential pursuant to the laws of that state or  
64 nation or pursuant to federal law.

65 (2) Any information received by the grantee or Scripps  
66 Florida Funding Corporation in the performance of its duties and  
67 responsibilities which is otherwise confidential and exempt by  
68 law is confidential and exempt from the provisions of s.  
69 119.07(1) and s. 24(a), Art. I of the State Constitution.

70 (3) The following information held by the grantee is  
71 confidential and exempt from the provisions of s. 119.07(1) and  
72 s. 24(a), Art. I of the State Constitution:

73 (a) Personal identifying information relating to clients  
74 of programs created or funded through the grantee.

75 (b) Any medical or health records relating to patients.

76 (4) That portion of a meeting of the Scripps Florida  
77 Funding Corporation at which information is presented or  
78 discussed that is confidential and exempt pursuant to  
79 subsections (1) and (2) is exempt from the provisions of s.  
80 286.011 and s. 24(b), Art. I of the State Constitution.

81 (5) The Auditor General, the Office of Program Policy  
82 Analysis and Government Accountability, and the Office of  
83 Tourism, Trade, and Economic Development, pursuant to their  
84 oversight and auditing functions, shall be given access to all  
85 information made confidential and exempt pursuant to subsections  
86 (1), (2), and (3), upon request and without subpoena, and shall  
87 maintain the confidential and exempt status of the information  
88 so received.

89 (6) Any audit or oversight report generated pursuant to  
90 subsection (5), when final, shall be a public record. The audit

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91 and oversight workpapers and notes are confidential and exempt  
 92 from the provisions of s. 119.07(1) and s. 24(a), Art. I of the  
 93 State Constitution; however, those workpapers necessary to  
 94 support the computations in the final audit report may be made  
 95 available by a majority vote of the Legislative Auditing  
 96 Committee after a public hearing showing proper cause. The audit  
 97 or oversight workpapers and notes shall be retained by the  
 98 entity generating the report until no longer useful, after which  
 99 time the workpapers and notes may be destroyed.

100 Section 2. Section 288.145, Florida Statutes, is subject  
 101 to the Open Government Sunset Review Act of 1995 in accordance  
 102 with s. 119.15, Florida Statutes, and shall stand repealed on  
 103 October 2, 2009, unless reviewed and saved from repeal through  
 104 reenactment by the Legislature.

105 Section 3. The Legislature finds that it is a public  
 106 necessity that certain information held by Scripps Florida, a  
 107 not-for-profit entity, or a division, subsidiary, affiliate, or  
 108 entity formed by the Scripps Research Institute to establish a  
 109 state-of-the-art biomedical research campus in the state,  
 110 hereinafter referred to as the "grantee," as defined in s.  
 111 288.955, Florida Statutes, or received from the grantee and held  
 112 by the Scripps Florida Funding Corporation as created in s.  
 113 288.955, Florida Statutes, which information is proprietary  
 114 confidential business information, be held confidential and  
 115 exempt from public records requirements. Materials and  
 116 information held by the grantee or obtained from the grantee and  
 117 held by the corporation concerning methods of manufacture or  
 118 production, actual or potential trade secrets, patentable  
 119 materials, or proprietary information received, generated,  
 120 ascertained, or discovered during the course of research

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121 conducted by or through the grantee, and business transactions  
122 resulting from such research, must be held confidential and  
123 exempt from public records requirements because the disclosure  
124 of such information would create an unfair competitive advantage  
125 for the person receiving such information. Such an advantage  
126 would adversely impact the grantee. If confidential and exempt  
127 information regarding research in progress were released  
128 pursuant to a public records request, others would be allowed to  
129 derive benefit from the research without compensation or  
130 reimbursement to the grantee. The Legislature further finds that  
131 information obtained by the grantee or the corporation from a  
132 person in another state or nation or the Federal Government  
133 which is otherwise exempt or confidential pursuant to the laws  
134 of that state or nation or pursuant to federal law should remain  
135 exempt or confidential because the highly confidential nature of  
136 research necessitates that the grantee or corporation be  
137 authorized to maintain the status of such information it  
138 receives. Without the exemptions provided for in this act, the  
139 disclosure of confidential and exempt information would place  
140 the grantee on an unequal footing in the marketplace as compared  
141 with other research competitors whose information is kept  
142 confidential and exempt. The Legislature finds that disclosure  
143 of confidential and exempt information would adversely impact  
144 the grantee's fulfilling the mission of research. It is further  
145 a public necessity that the grantee and the corporation have the  
146 same confidential protections for other information received in  
147 the performance of their duties and responsibilities, which is  
148 otherwise confidential and exempt by law, in order to put the  
149 grantee on an equal footing with other public research  
150 institutes and to ensure that the grantee has similar

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151 opportunities for success as its other research competitors. The  
 152 Legislature further finds that it is a public necessity that  
 153 personal, medical, or health information held by the grantee  
 154 concerning clients or patients of the grantee be made  
 155 confidential and exempt from public disclosure because access to  
 156 such information would be an unwarranted invasion of the  
 157 client's or patient's right to privacy. Also, misuse of such  
 158 sensitive personal, medical, or health information could be  
 159 detrimental to the health, safety, or welfare of the client or  
 160 patient. The Legislature further finds that it is a public  
 161 necessity that portions of meetings of the corporation at which  
 162 confidential and exempt information is presented or discussed be  
 163 exempt from public meetings requirements in order to allow the  
 164 corporation to maintain the confidential and exempt status of  
 165 that information and to prevent an unfair competitive advantage  
 166 for the persons receiving this information. Moreover, disclosing  
 167 information made confidential and exempt pursuant to the  
 168 corporation's public records exemption via an open meeting  
 169 defeats the purpose of the public records exemption. The  
 170 Legislature also finds that it is a public necessity that  
 171 information obtained from the grantee and the corporation and  
 172 held by the Auditor General, the Office of Program Policy  
 173 Analysis and Government Accountability, and the Office of  
 174 Tourism, Trade, and Economic Development be confidential and  
 175 exempt from public disclosure because of the highly confidential  
 176 nature of research. Release of such information would place the  
 177 grantee on an unequal footing in the marketplace as compared  
 178 with other private research competitors whose information is  
 179 kept confidential and exempt. Finally, the Legislature finds  
 180 that it is a public necessity that audit or oversight workpapers

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181 and notes obtained by the grantee and held by the Auditor  
182 General, the Office of Program Policy Analysis and Government  
183 Accountability, and the Office of Tourism, Trade, and Economic  
184 Development be confidential and exempt from public disclosure  
185 because such workpapers and notes are incomplete and could be  
186 misleading. Release of inaccurate or incomplete information  
187 could be detrimental to the grantee or the Scripps Florida  
188 Funding Corporation.

189       Section 4. This act shall take effect upon becoming a law  
190 if HB 1-E or similar legislation is adopted in the same  
191 legislative session or an extension thereof and becomes law.