

1 A bill to be entitled
2 An act relating to public records and meetings;
3 creating s. 288.9551, F.S.; creating an
4 exemption from public records and public
5 meetings requirements for certain information
6 held by the Scripps Florida Funding Corporation
7 or the Office of Tourism, Trade, and Economic
8 Development; creating an exemption from public
9 records requirements for specified research
10 materials and actual and potential trade
11 secrets; creating an exemption from public
12 records requirements for other proprietary
13 business information; creating an exemption for
14 information made confidential under the laws of
15 other states or nations or pursuant to federal
16 law; creating an exemption from public meetings
17 requirements for meetings of the governing
18 board of directors of the Scripps Florida
19 Funding Corporation and the Office of Tourism,
20 Trade and Economic Development at which exempt
21 records are presented or discussed; providing
22 access to exempt or confidential information
23 under specified circumstances; providing a
24 penalty; providing for future review and
25 repeal; providing a statement of public
26 necessity; providing a contingent effective
27 date.

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29 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Section 288.9551, Florida Statutes, is
2 created to read:

3 288.9551 Exemptions from public records and meetings
4 requirements; Scripps Florida Funding Corporation, The Scripps
5 Research Institute or grantee, and the Office of Tourism,
6 Trade, and Economic Development.--

7 (1) As used in this section, the term "grantee" has
8 the same meaning ascribed in s. 288.955.

9 (2) The following information held by the Scripps
10 Florida Funding Corporation or the Office of Tourism, Trade,
11 and Economic Development under s. 288.955 is confidential and
12 exempt from s. 24, Art. I of the State Constitution and s.
13 119.07(1):

14 (a) Materials that relate to methods of manufacture or
15 production, potential trade secrets, patentable material,
16 actual trade secrets as defined in s. 688.002, or proprietary
17 information received, generated, ascertained, or discovered by
18 or through the grantee or The Scripps Research Institute.

19 (b) Agreements and proposals to receive funding,
20 including grant applications; however, those portions of such
21 agreements and proposals to receive funding, including grant
22 applications, that do not contain information made exempt by
23 paragraph (a) of this subsection, shall not be confidential
24 and exempt upon issuance of the report that is made after the
25 conclusion of the project for which funding was provided. The
26 exemption created in this paragraph specifically excludes any
27 agreement by the Scripps Florida Funding Corporation to
28 release funds to The Scripps Research Institute or grantee.

29 (c) Materials that relate to the recruitment of
30 scientists and researchers; and the identity of donors or
31 potential donors.

1 (d) Any information received from a person or another
2 state or nation or the Federal Government which is otherwise
3 confidential or exempt pursuant to that state's or nation's
4 laws or pursuant to federal law.

5 (e) Personal identifying information of individuals
6 who participate in human trials or experiments.

7 (f) Any medical or health records relating to
8 participants in clinical trials.

9 (3) That portion of a meeting of the board of
10 directors of the Scripps Florida Funding Corporation or the
11 Office of Tourism, Trade and Economic Development at which
12 information is presented or discussed which is confidential
13 and exempt under subsection (2) is closed to the public and
14 exempt from s. 24(b), Art. I of the State Constitution and s.
15 286.011.

16 (4) Any records generated during those portions of the
17 board meetings which are closed to the public under subsection
18 (3), such as minutes, tape recordings, videotapes,
19 transcriptions, or notes are confidential and exempt from s.
20 24, Art. I of the State Constitution and s. 119.07(1).

21 (5) Public employees shall be permitted to inspect and
22 copy records or information that is made exempt and
23 confidential under this section exclusively for the
24 performance of their public duties. Public employees receiving
25 this exempt and confidential information must maintain the
26 confidentiality of the information. Any such public employee
27 receiving confidential information who violates this
28 subsection commits a misdemeanor of the first degree,
29 punishable as provided by s. 775.082 or s. 775.083.

30 (6) The Scripps Research Institute or grantee as
31 defined in s. 288.955, is a private, not-for-profit entity and

1 as such is not subject to ch. 119 or s. 286.011. If a court
2 nonetheless determines that The Scripps Research Institute or
3 grantee is acting on behalf of an agency, by virtue of its
4 contract under s. 288.955, or otherwise, such that it is
5 subject to s. 24, Art. I of the State Constitution and s.
6 119.07(1) and s. 286.011, the exemptions from the public
7 records and meetings requirements provided by this section
8 shall apply equally to the same records and meetings when held
9 by The Scripps Research Institute or grantee.

10 (7) At the time that any record or information made
11 confidential and exempt by this section, or portion thereof,
12 is legally available or subject to public disclosure for any
13 other reason, that record or information, or portion thereof,
14 shall no longer be confidential and exempt and shall be made
15 available for inspection and copying.

16 (8) This section is subject to the Open Government
17 Sunset Review Act of 1995 in accordance with s. 119.15 and
18 shall stand repealed on October 2, 2009, unless reviewed and
19 saved from repeal through reenactment by the Legislature.

20 Section 2. (1) The Legislature finds that it is a
21 public necessity that certain records held by the Scripps
22 Florida Funding Corporation or the Office of Tourism, Trade,
23 and Economic Development which contain proprietary business
24 and scientific information be made confidential and exempt
25 from public disclosure. The Legislature also finds that, if a
26 court determines that The Scripps Research Institute or
27 grantee, which are private, not-for-profit entities, are
28 acting on behalf of an agency, it is a public necessity that
29 the exemptions created in this act apply to the same documents
30 and meetings when held by The Scripps Research Institute or
31 grantee. The Legislature finds that the economic development

1 of the state is greatly enhanced by the diversification of the
2 industries that are located in the state. In an effort that
3 will greatly benefit the state through economic stimulation,
4 the diversification of industries in the state, and job
5 creation, the Legislature has created the Scripps Florida
6 Funding Corporation to provide a substantial capital
7 investment to attract and assist a private, nonprofit research
8 organization that promotes research and development in the
9 science of biotechnology to develop the means to predict,
10 prevent, treat, or cure diseases that affect Floridians and
11 others.

12 (2) In particular, the Legislature has authorized the
13 release, under the terms specified in section 288.955, Florida
14 Statutes, of an appropriation of \$310 million to The Scripps
15 Research Institute or a grantee as defined in section 288.955,
16 Florida Statutes, to establish a new research facility in
17 Florida, to create new jobs, and to reinvest in a Florida
18 state trust fund a significant portion of the foregoing
19 appropriation from the net proceeds of certain grants to
20 research activities it conducts in Florida, and, in
21 cooperation with the economic development agencies of the
22 state and the state university system, to seek to create new
23 business and academic opportunities in this state. The
24 Legislature finds that the ability of these entities to
25 conduct meaningful scientific research and meet their
26 obligations will be significantly impaired if certain
27 proprietary business information or scientific research as
28 discussed and defined in this act is not made confidential and
29 exempt from public disclosure. Specifically, the Legislature
30 finds that it is a public necessity to make exempt and
31 confidential proprietary business information or scientific

1 research that relates to methods of manufacture or production,
2 potential trade secrets, patentable material, actual trade
3 secrets as defined in section 688.002, Florida Statutes, or
4 proprietary information received, generated, ascertained, or
5 discovered by or through The Scripps Research Institute or the
6 grantee because the disclosure of this information would
7 negate the benefit expected by exposing valuable proprietary
8 work to competitors. Disclosure of this information would
9 create an unfair competitive advantage for competitors and
10 others in receipt of the information and would adversely
11 impact The Scripps Research Institute or grantee by negatively
12 affecting the revenues generated by its research. In turn,
13 this would negatively affect the financial and other
14 substantial interests of the state, its economy, and the
15 academic community.

16 (3) The Legislature also finds that it is a public
17 necessity to make exempt and confidential agreements and
18 proposals to receive funding, including grant applications,
19 until after the conclusion of the project and the issuance of
20 a report, while maintaining the exemption for proprietary
21 information provided for in s. 288.9551(2)(a) in those
22 agreements and grant applications. If these records are not
23 protected during the application process and during the time
24 work on the project is ongoing, the grantee would be at a
25 competitive disadvantage in competing for those funds.
26 Further, it is a public necessity to make exempt and
27 confidential materials that relate to the recruitment of
28 scientists and researchers. If this information is not
29 protected, it could adversely affect the ability of the
30 grantee to attract the highest quality scientists and
31 researchers to The Scripps Research Institute or grantee by

1 permitting competitors to determine what the terms of
2 employment negotiations for scientists and researchers are and
3 to outbid The Scripps Research Institute or grantee. This
4 would adversely affect the program and defeat its purpose.
5 Furthermore, oversight and accountability for hiring of
6 scientists and researchers is maintained through the
7 requirement in s. 288.955 that reports on average
8 compensation, numbers and types of personnel be provided to
9 the Scripps Florida Funding Corporation or the Office of
10 Tourism, Trade and Economic Development.

11 (4) The Legislature also finds that it is a public
12 necessity to protect the identity of donors and potential
13 donors to The Scripps Research Institute or grantee because
14 some donors wish to remain anonymous and if their identity is
15 not protected they would not make donations. Such donations
16 provide additional funding for research and may provide
17 additional reinvestment funds to the state. Thus, the identity
18 of the donors must be protected in order to enhance and ensure
19 the continuation of such funding and donations.

20 (5) The Legislature also finds that it is a public
21 necessity to make confidential and exempt from public
22 disclosure any information received from a person, another
23 state, the Federal Government, or another nation which is
24 confidential or exempt from disclosure pursuant to the laws of
25 that state, nation, or the Federal Government. Failure to
26 protect such information would inhibit scientific research by
27 The Scripps Research Institute or grantee because other
28 persons, states, the Federal Government, or nations could be
29 unwilling to share information and research if it could be
30 released. Without protecting such information, The Scripps
31 Research Institute or grantee would be on an unequal footing

1 in the biomedical industry as compared with research
2 competitors that are not required to disclose confidential and
3 exempt information, and thus operate to the economic detriment
4 of the State.

5 (6) The Legislature also finds that it is a public
6 necessity to make confidential and exempt from public
7 disclosure personal identifying information of individuals who
8 participate in human trials or experiments and any medical or
9 health records relating to patients, participants, or clients
10 which are held by the Scripps Florida Funding Corporation, The
11 Scripps Research Institute or grantee, or the Office of
12 Tourism, Trade, and Economic Development. Compilation of this
13 information is necessary to conduct scientific research but
14 could be damaging to those persons who have volunteered or
15 otherwise agreed to participate. Such persons might be denied
16 health insurance, suffer employment discrimination, and
17 experience other personal problems and embarrassment if this
18 highly sensitive and personal information were to be made
19 public. If potential volunteers, patients, or clients feared
20 that such consequences could be suffered by participating in
21 human trials and other scientific research, they might refuse
22 to participate, which would adversely affect biomedical
23 research by The Scripps Research Institute or grantee and
24 place those entities on an unequal footing with other research
25 institutes that protect this information, and thus operate to
26 the economic detriment of the state.

27 (7) Similarly, the Legislature finds that the ability
28 of The Scripps Research Institute or grantee to conduct
29 meaningful scientific research and meet its obligations under
30 section 288.955, Florida Statutes, will be impaired
31 significantly if meetings held by the Scripps Florida Funding

1 Corporation, The Scripps Research Institute or grantee, or the
2 Office of Tourism, Trade, and Economic Development at which
3 the records and information made confidential and exempt from
4 public disclosure by this act are discussed are not closed.
5 Failure to protect that portion of meetings during which such
6 protected records and information are discussed would defeat
7 the exemption created by this act. Further, the Legislature
8 finds that records generated during those portions of meetings
9 which are closed, and the minutes, tape recordings,
10 videotapes, transcriptions, or notes, must be protected for
11 the same reasons that those portions of the meetings are
12 closed.

13 (8) The Legislature also finds that, given the size of
14 the appropriation made to facilitate this program, the state
15 has a substantial financial interest in the success of this
16 program.

17 Section 3. This act shall take effect on the same date
18 that Senate Bill 6-E, or similar legislation takes effect, if
19 such legislation is enacted in the same legislative session,
20 or an extension thereof, and becomes law.

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