

1                                   A bill to be entitled  
2           An act relating to public records and public meetings;  
3           creating s. 1004.055, F.S.; creating an exemption from  
4           public records requirements for certain records held  
5           by a state university or Florida College System  
6           institution which identify detection, investigation,  
7           or response practices for suspected or confirmed  
8           information technology security incidents; creating an  
9           exemption from public records requirements for certain  
10          portions of risk assessments, evaluations, external  
11          and internal audits, and other reports of a  
12          university's or institution's information technology  
13          security program; creating an exemption from public  
14          meetings requirements for portions of public meetings  
15          which would reveal such data and information;  
16          providing an exemption from public records  
17          requirements for a specified period for the recording  
18          and transcript of a closed meeting; authorizing  
19          disclosure of confidential and exempt information to  
20          certain agencies and officers; defining the term  
21          "external audit"; providing retroactive application;  
22          providing for future legislative review and repeal of  
23          the exemptions; providing statements of public  
24          necessity; providing a directive to the Division of  
25          Law Revision and Information; providing an effective

26 | date.

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28 | Be It Enacted by the Legislature of the State of Florida:

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30 | Section 1. Section 1004.055, Florida Statutes, is created  
31 | to read:

32 | 1004.055 Security of data and information technology in  
33 | state postsecondary education institutions.-

34 | (1) All of the following data or information from  
35 | technology systems owned, contracted, or maintained by a state  
36 | university or a Florida College System institution are  
37 | confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
38 | of the State Constitution:

39 | (a) Records held by the university or institution which  
40 | identify detection, investigation, or response practices for  
41 | suspected or confirmed information technology security  
42 | incidents, including suspected or confirmed breaches, if the  
43 | disclosure of such records would facilitate unauthorized access  
44 | to or unauthorized modification, disclosure, or destruction of:

45 | 1. Data or information, whether physical or virtual; or

46 | 2. Information technology resources, which include:

47 | a. Information relating to the security of the  
48 | university's or institution's technologies, processes, and  
49 | practices designed to protect networks, computers, data  
50 | processing software, and data from attack, damage, or

51 unauthorized access; or  
52 b. Security information, whether physical or virtual,  
53 which relates to the university's or institution's existing or  
54 proposed information technology systems.

55 (b) Those portions of risk assessments, evaluations,  
56 external and internal audits, and other reports of the  
57 university's or institution's information technology security  
58 program for its data, information, and information technology  
59 resources which are held by the university or institution, if  
60 the disclosure of such records would facilitate unauthorized  
61 access to or unauthorized modification, disclosure, or  
62 destruction of:

63 1. Data or information, whether physical or virtual; or

64 2. Information technology resources, which include:

65 a. Information relating to the security of the  
66 university's or institution's technologies, processes, and  
67 practices designed to protect networks, computers, data  
68 processing software, and data from attack, damage, or  
69 unauthorized access; or

70 b. Security information, whether physical or virtual,  
71 which relates to the university's or institution's existing or  
72 proposed information technology systems.

73 (2) Those portions of a public meeting as specified in s.  
74 286.011 which would reveal data and information described in  
75 subsection (1) are exempt from s. 286.011 and s. 24(b), Art. 1

76 | of the State Constitution. An exempt portion of the meeting may  
77 | not be off the record. All exempt portions of such a meeting  
78 | must be recorded and transcribed. The recording and transcript  
79 | of the meeting must remain confidential and exempt from  
80 | disclosure under s. 119.07(1) and s. 24(a), Art. 1 of the State  
81 | Constitution unless a court of competent jurisdiction, following  
82 | an in camera review, determines that the meeting was not  
83 | restricted to the discussion of data and information made  
84 | confidential and exempt by this section. In the event of such a  
85 | judicial determination, only that portion of the transcript  
86 | which reveals nonexempt data and information may be disclosed.

87 | (3) The records and portions of public meeting recordings  
88 | and transcripts described in subsections (1) and (2) must be  
89 | available to the Auditor General and the Cybercrime Office of  
90 | the Department of Law Enforcement; for a state university, the  
91 | Board of Governors; and, for a Florida College System  
92 | institution, the State Board of Education. Such records and  
93 | portions of meetings, recordings, and transcripts may be made  
94 | available to a state or federal agency for security purposes or  
95 | in furtherance of the agency's official duties. For purposes of  
96 | this section, "external audit" means an audit that is conducted  
97 | by an entity other than the state university or Florida College  
98 | System institution that is the subject of the audit.

99 | (4) The exemptions listed in this section apply to such  
100 | records or portions of public meetings, recordings, and

101 transcripts held by the university or institution before, on, or  
102 after the effective date of this act.

103 (5) This section is subject to the Open Government Sunset  
104 Review Act in accordance with s. 119.15 and shall stand repealed  
105 on October 2, 2022, unless reviewed and saved from repeal  
106 through reenactment by the Legislature.

107 Section 2. (1) (a) The Legislature finds that it is a  
108 public necessity that records held by a state university or  
109 Florida College System institution which identify detection,  
110 investigation, or response practices for suspected or confirmed  
111 information technology security incidents, including suspected  
112 or confirmed breaches, be made confidential and exempt from s.  
113 119.07(1), Florida Statutes, and s. 24(a), Article I of the  
114 State Constitution if the disclosure of such records would  
115 facilitate unauthorized access to or unauthorized modification,  
116 disclosure, or destruction of:

117 1. Data or information, whether physical or virtual; or

118 2. Information technology resources, which include:

119 a. Information relating to the security of the  
120 university's or institution's technologies, processes, and  
121 practices designed to protect networks, computers, data  
122 processing software, and data from attack, damage, or  
123 unauthorized access; or

124 b. Security information, whether physical or virtual,  
125 which relates to the university's or institution's existing or

126 proposed information technology systems.

127 (b) Such records must be made confidential and exempt for  
128 the following reasons:

129 1. Records held by a state university or Florida College  
130 System institution which identify information technology  
131 detection, investigation, or response practices for suspected or  
132 confirmed information technology security incidents or breaches  
133 are likely to be used in the investigation of the incident or  
134 breach. The release of such information could impede the  
135 investigation and impair the ability of reviewing entities to  
136 effectively and efficiently execute their investigative duties.  
137 In addition, the release of such information before an active  
138 investigation is completed could jeopardize the ongoing  
139 investigation.

140 2. An investigation of an information technology security  
141 incident or breach is likely to result in the gathering of  
142 sensitive personal information, including identification  
143 numbers, personal financial and health information, and  
144 educational records exempt from disclosure under the Family  
145 Educational Rights and Privacy Act, 20 U.S.C. s. 1232g, and ss.  
146 1002.225 and 1006.52, Florida Statutes. Such information could  
147 be used to commit identity theft or other crimes. In addition,  
148 release of such information could subject possible victims of  
149 the security incident or breach to further harm.

150 3. Disclosure of a record, including a computer forensic

151 analysis, or other information that would reveal weaknesses in a  
152 state university's or Florida College System institution's data  
153 security could compromise that security in the future if such  
154 information were available upon conclusion of an investigation  
155 or once an investigation ceased to be active.

156 4. Such records are likely to contain proprietary  
157 information about the security of the system at issue. The  
158 disclosure of such information could result in the  
159 identification of vulnerabilities and further breaches of that  
160 system. In addition, the release of such information could give  
161 business competitors an unfair advantage and weaken the security  
162 technology supplier supplying the proprietary information in the  
163 marketplace.

164 5. The disclosure of such records could potentially  
165 compromise the confidentiality, integrity, and availability of  
166 state university and Florida College System institution data and  
167 information technology resources, which would significantly  
168 impair the administration of vital educational programs. It is  
169 necessary that this information be made confidential in order to  
170 protect the technology systems, resources, and data of the  
171 universities and institutions. The Legislature further finds  
172 that this public records exemption be given retroactive  
173 application because it is remedial in nature.

174 (2) (a) The Legislature also finds that it is a public  
175 necessity that portions of risk assessments, evaluations,

176 external and internal audits, and other reports of a state  
177 university's or Florida College System institution's information  
178 technology security program for its data, information, and  
179 information technology resources which are held by the  
180 university or institution be made confidential and exempt from  
181 s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the  
182 State Constitution if the disclosure of such portions of records  
183 would facilitate unauthorized access to or the unauthorized  
184 modification, disclosure, or destruction of:

185 1. Data or information, whether physical or virtual; or

186 2. Information technology resources, which include:

187 a. Information relating to the security of the  
188 university's or institution's technologies, processes, and  
189 practices designed to protect networks, computers, data  
190 processing software, and data from attack, damage, or  
191 unauthorized access; or

192 b. Security information, whether physical or virtual,  
193 which relates to the university's or institution's existing or  
194 proposed information technology systems.

195 (b) The Legislature finds that it may be valuable,  
196 prudent, or critical to a state university or Florida College  
197 System institution to have an independent entity conduct a risk  
198 assessment, an audit, or an evaluation or complete a report of  
199 the university's or institution's information technology program  
200 or related systems. Such documents would likely include an

201 analysis of the university's or institution's current  
202 information technology program or systems which could clearly  
203 identify vulnerabilities or gaps in current systems or processes  
204 and propose recommendations to remedy identified  
205 vulnerabilities.

206 (3) (a) The Legislature further finds that it is a public  
207 necessity that those portions of a public meeting which could  
208 reveal information described in subsections (1) and (2) be made  
209 exempt from s. 286.011, Florida Statutes, and s. 24(b), Article  
210 I of the State Constitution. It is necessary that such meetings  
211 be made exempt from the open meetings requirements in order to  
212 protect institutional information technology systems, resources,  
213 and data. The information disclosed during portions of meetings  
214 would clearly identify a state university's or Florida College  
215 System institution's information technology systems and its  
216 vulnerabilities. This disclosure would jeopardize the  
217 information technology security of the institution and  
218 compromise the integrity and availability of state university or  
219 Florida College System institution data and information  
220 technology resources, which would significantly impair the  
221 administration of educational programs.

222 (b) The Legislature further finds that it is a public  
223 necessity that the recording and transcript of those portions of  
224 meetings specified in paragraph (a) be made confidential and  
225 exempt from s. 119.07(1), Florida Statutes, and s. 24(a),

226 Article I of the State Constitution unless a court determines  
227 that the meeting was not restricted to the discussion of data  
228 and information made confidential and exempt by this act. It is  
229 necessary that the resulting recordings and transcripts be made  
230 confidential and exempt from the public record requirements in  
231 order to protect institutional information technology systems,  
232 resources, and data. The disclosure of such recordings and  
233 transcripts would clearly identify a state university's or  
234 Florida College System institution's information technology  
235 systems and its vulnerabilities. This disclosure would  
236 jeopardize the information technology security of the  
237 institution and compromise the integrity and availability of  
238 state university or Florida College System institution data and  
239 information technology resources, which would significantly  
240 impair the administration of educational programs.

241 (c) The Legislature further finds that this public meeting  
242 and public records exemption must be given retroactive  
243 application because it is remedial in nature.

244 Section 3. The Division of Law Revision and Information is  
245 directed to replace the phrase "the effective date of this act"  
246 wherever it occurs in this act with the date this act becomes a  
247 law.

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