

By Senator Brandes

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1                                   A bill to be entitled  
2           An act relating to the Florida Capital Formation Act;  
3           amending s. 20.60, F.S.; deleting the requirement that  
4           the Department of Economic Opportunity manage certain  
5           activities related to the commercialization of  
6           specified products, services, and ideas; specifying  
7           that the Institute for Commercialization of Florida  
8           Technology is not an appropriate direct-support  
9           organization; amending s. 288.9621, F.S.; including s.  
10          288.96255, F.S., in the Florida Capital Formation Act;  
11          amending s. 288.9622, F.S.; revising legislative  
12          intent; amending s. 288.9623, F.S.; defining terms;  
13          amending s. 288.9625, F.S.; redesignating the  
14          Institute for the Commercialization of Public Research  
15          as the Institute for Commercialization of Florida  
16          Technology; deleting provisions regarding the  
17          institute's responsibilities; requiring that the  
18          investment-related affairs of the institute be managed  
19          by the private fund manager and overseen by the board  
20          of directors; restructuring the board of directors and  
21          the selection process for the board of directors;  
22          specifying term limits of the board members under  
23          certain circumstances; requiring the board of  
24          directors to amend the bylaws of the institute under  
25          certain circumstances; providing that a director is  
26          subject to restrictions on certain conflicts of  
27          interest; prohibiting a director from having a  
28          financial interest in certain investments; authorizing  
29          a director to be reimbursed for certain expenses;

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30 granting the institute certain powers; requiring the  
31 institute to indemnify certain persons; delegating  
32 certain duties to the board of directors; revising to  
33 whom the board must provide a copy of the annual  
34 report and who may require and receive supplemental  
35 data relative to the institute's operation; specifying  
36 that certain requirements be met before the private  
37 fund manager is authorized to make an investment in a  
38 company, on behalf of the institute; deleting  
39 provisions relating to certain duties of the  
40 institute; deleting provisions relating to certain  
41 fees charged by the institute and the prohibition on  
42 using capital in support of certain entities;  
43 specifying that the annual report is considered a  
44 public record subject to certain exemptions; revising  
45 the requirements of the institute's annual report;  
46 listing requirements and prohibitions for the private  
47 fund manager; stating the purpose of the institute's  
48 use of the private fund manager; requiring the private  
49 fund manager to assume the management of certain  
50 assets; authorizing the private fund manager to act on  
51 behalf of the institute for certain purposes;  
52 requiring that the private fund manager be paid  
53 certain fees; authorizing the private fund manager to  
54 undertake certain activities on behalf of the  
55 institute; requiring the private fund manager to issue  
56 an annual report to the board of directors by a  
57 specific date; specifying that the annual report is  
58 considered a public record subject to certain

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59 exemptions; requiring that the report contain certain  
60 information; amending s. 288.96255, F.S.; requiring  
61 that certain proceeds be returned to the Florida  
62 Technology Seed Capital Fund after the payment of  
63 certain costs and fees; requiring the institute to  
64 employ a private fund manager; requiring the private  
65 fund manager to perform specific duties; requiring  
66 that the private fund manager receive certain fees and  
67 costs at a specified time; requiring the private fund  
68 manager to use a certain process to evaluate a  
69 proposal; requiring the private fund manager to  
70 consider certain factors when approving a company for  
71 investment; deleting specific requirements for the  
72 investment of funds; authorizing the private fund  
73 manager, in addition to the institute, to perform  
74 certain tasks; amending s. 288.9627, F.S.; conforming  
75 provisions to changes made by this act; providing an  
76 effective date.

77

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

79

80 Section 1. Paragraph (e) of subsection (4) and paragraph  
81 (b) of subsection (9) of section 20.60, Florida Statutes, are  
82 amended to read:

83 20.60 Department of Economic Opportunity; creation; powers  
84 and duties.—

85 (4) The purpose of the department is to assist the Governor  
86 in working with the Legislature, state agencies, business  
87 leaders, and economic development professionals to formulate and

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88 implement coherent and consistent policies and strategies  
89 designed to promote economic opportunities for all Floridians.  
90 To accomplish such purposes, the department shall:

91 (e) Manage the activities of public-private partnerships  
92 and state agencies in order to avoid duplication and promote  
93 coordinated and consistent implementation of programs in areas  
94 including, but not limited to, tourism; international trade and  
95 investment; business recruitment, creation, retention, and  
96 expansion; minority and small business development; rural  
97 community development; ~~commercialization of products, services,~~  
98 ~~or ideas developed in public universities or other public~~  
99 ~~institutions;~~ and the development and promotion of professional  
100 and amateur sporting events.

101 (9) The executive director shall:

102 (b) Serve as the manager for the state with respect to  
103 contracts with Enterprise Florida, Inc., ~~the Institute for the~~  
104 ~~Commercialization of Public Research,~~ and all applicable direct-  
105 support organizations. To accomplish the provisions of this  
106 section and applicable provisions of chapter 288, and  
107 notwithstanding the provisions of part I of chapter 287, the  
108 director shall enter into specific contracts with Enterprise  
109 Florida, Inc., ~~the Institute for the Commercialization of Public~~  
110 ~~Research,~~ and other appropriate direct-support organizations.  
111 Such contracts may be for multiyear terms and must ~~shall~~ include  
112 specific performance measures for each year. For purposes of  
113 this section, the Florida Tourism Industry Marketing Corporation  
114 and the Institute for Commercialization of Florida Technology  
115 are not ~~is not an~~ appropriate direct-support organizations  
116 ~~organization.~~

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117 Section 2. Section 288.9621, Florida Statutes, is amended  
118 to read:

119 288.9621 Short title.—Sections 288.9621-288.96255 ~~Sections~~  
120 ~~288.9621-288.9625~~ may be cited as the "Florida Capital Formation  
121 Act."

122 Section 3. Section 288.9622, Florida Statutes, is amended  
123 to read:

124 288.9622 Findings and intent.—

125 (1) The Legislature finds and declares that there is a need  
126 to increase the availability of seed capital and early stage  
127 investment ~~venture equity~~ capital for emerging companies in the  
128 state, including, without limitation, businesses ~~enterprises~~ in  
129 life sciences, information technology, advanced manufacturing  
130 processes, aviation and aerospace, and homeland security and  
131 defense, as well as other industries of strategic importance to  
132 this state ~~strategic technologies~~.

133 (2) It is the intent of the Legislature that ss. 288.9621-  
134 288.96255 ~~ss. 288.9621-288.9625~~ serve to mobilize private  
135 investment in a broad variety of ~~venture capital~~ partnerships in  
136 diversified industries and geographies; retain private sector  
137 investment criteria focused on rate of return; allow the use ~~the~~  
138 ~~services~~ of highly qualified private fund managers experienced  
139 in the seed and early stage development industry in this state;  
140 and outline the use, qualifications, and activities of the  
141 private management by a private fund manager of the assets of  
142 the Seed Capital Accelerator Program and the Florida Technology  
143 Seed Capital Fund investment portfolio of the Institute for  
144 Commercialization of Florida Technology ~~venture capital industry~~  
145 ~~regardless of location; facilitate the organization of the~~

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146 ~~Florida Opportunity Fund as an investor in seed and early stage~~  
 147 ~~businesses, infrastructure projects, venture capital funds, and~~  
 148 ~~angel funds; and precipitate capital investment and extensions~~  
 149 ~~of credit to and in the Florida Opportunity Fund.~~

150 (3) It is the intent of the Legislature to mobilize  
 151 investment ~~venture equity~~ capital ~~for investment~~ in such a  
 152 manner as to result in a significant potential to create new  
 153 businesses and jobs in this state which ~~that~~ are based on high  
 154 growth potential technologies, products, or services and which  
 155 ~~that~~ will further diversify the economy of this state.

156 (4) It is the intent of the Legislature to reduce the  
 157 ongoing operational cost and burden of managing the Florida  
 158 Technology Seed Capital Fund and the Seed Capital Accelerator  
 159 Program to this state by engaging a private asset management  
 160 entity in this state which is familiar with the seed and early  
 161 stage investment industry in this state. This entity would be  
 162 responsible for the management of the assets of the Seed Capital  
 163 Accelerator Program and the Florida Technology Seed Capital Fund  
 164 investment portfolio without requiring ongoing budget  
 165 expenditures by this state ~~that an institute be created to~~  
 166 ~~mentor, market, and attract capital to such commercialization~~  
 167 ~~ventures throughout the state.~~

168 Section 4. Section 288.9623, Florida Statutes, is amended  
 169 to read:

170 288.9623 Definitions.—As used in ss. 288.9621-288.9625,  
 171 the term ~~ss. 288.9621-288.9625~~:

172 (1) "Accelerator program" means the Seed Capital  
 173 Accelerator Program managed by the institute.

174 (2) ~~(1)~~ "Board" means the board of directors of the Florida

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175 Opportunity Fund.

176 (3)~~(2)~~ "Fund" means the Florida Opportunity Fund.

177 (4) "Institute" means the Institute for Commercialization  
178 of Florida Technology.

179 (5) "Investment portfolio" means individual or collective  
180 investment assets held under the technology fund.

181 (6) "Net profits" means the total gross proceeds received  
182 from the sale or liquidation of an asset of the investment  
183 portfolio less any costs, legal fees, professional fees,  
184 consulting fees, government fees, brokerage fees, taxes,  
185 management fees pursuant to s. 288.9625(12)(b), disbursement to  
186 private investors pursuant to s. 288.96255(6), or other fees,  
187 costs, and expenses incurred in the sale or liquidation of any  
188 of the investment portfolio assets.

189 (7) "Portfolio companies" means the companies who are part  
190 of the Florida Technology Seed Capital Fund investment  
191 portfolio.

192 (8) "Private fund manager" means the private entity, or its  
193 designee, selected to manage the investment portfolio on behalf  
194 of the institute.

195 (9) "Technology fund" means the Florida Technology Seed  
196 Capital Fund managed by the institute.

197 Section 5. Section 288.9625, Florida Statutes, is amended  
198 to read:

199 288.9625 Institute for ~~the~~ Commercialization of Florida  
200 Technology Public Research.~~There is established at a public~~  
201 ~~university or research center~~ in this state the Institute for  
202 ~~the~~ Commercialization of Florida Technology Public Research.

203 (1) The institute shall be a nonprofit ~~not-for-profit~~

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204 corporation registered, incorporated, and operated in accordance  
205 with chapter 617.

206 (2) The purpose of the institute is to assist in the  
207 commercialization of products developed by the research and  
208 development activities of an innovation business, including, but  
209 not limited to, those as defined in s. 288.1089; ~~a publicly~~  
210 ~~supported college, university, or research institute; or any~~  
211 ~~other publicly supported organization in this state.~~ The  
212 institute shall fulfill its purpose in the best interests of the  
213 state. The institute:

214 (a) Is a corporation primarily acting as an instrumentality  
215 of the state pursuant to s. 768.28(2), for the purposes of  
216 sovereign immunity;

217 (b) Is not an agency within the meaning of s. 20.03(11);

218 (c) Is subject to the open records and meetings  
219 requirements of s. 24, Art. I of the State Constitution, chapter  
220 119, and s. 286.011;

221 (d) Is not subject to ~~the provisions of~~ chapter 287;

222 (e) Is ~~Shall be~~ governed by the code of ethics for public  
223 officers and employees as set forth in part III of chapter 112;  
224 and

225 (f) May create corporate subsidiaries. †

226 ~~(g) Shall support existing commercialization efforts at~~  
227 ~~state universities; and~~

228 ~~(h) May not supplant, replace, or direct existing~~  
229 ~~technology transfer operations or other commercialization~~  
230 ~~programs, including incubators and accelerators.~~

231 (3) The articles of incorporation of the institute must ~~be~~  
232 ~~approved in a written agreement with the department.~~ The



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233 ~~agreement and the articles of incorporation shall:~~

234 (a) Provide that the institute shall provide equal  
235 employment opportunities for all persons regardless of race,  
236 color, religion, gender, national origin, age, handicap, or  
237 marital status;

238 (b) Provide that the institute is subject to the public  
239 records and meeting requirements of s. 24, Art. I of the State  
240 Constitution;

241 (c) Provide that all officers, directors, and employees of  
242 the institute are ~~shall be~~ governed by the code of ethics for  
243 public officers and employees as set forth in part III of  
244 chapter 112;

245 (d) Provide that members of the board of directors of the  
246 institute are responsible for the prudent use of all public and  
247 private funds and that they will ensure that the use of funds is  
248 in accordance with all applicable laws, bylaws, and contractual  
249 requirements; and

250 (e) Provide that the fiscal year of the institute is from  
251 July 1 to June 30.

252 (4) The investment-related affairs of the institute shall  
253 be managed by the private fund manager, and overseen by a board  
254 of directors who shall serve without compensation. Each director  
255 shall have only one vote. The chair of the board of directors  
256 shall be selected by a majority vote of the directors, a quorum  
257 being present. ~~The board of directors shall consist of the~~  
258 ~~following five members:~~

259 ~~(a) The executive director of the department, or the~~  
260 ~~director's designee.~~

261 ~~(b) The president of the university where the institute is~~

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262 ~~located or the president's designee unless multiple universities~~  
263 ~~jointly sponsor the institute, in which case the presidents of~~  
264 ~~the sponsoring universities shall agree upon a designee.~~

265 (a)(e) The board of directors shall consist of three  
266 directors appointed by the Governor to 3-year staggered terms,  
267 ~~to which the directors may be reappointed.~~

268 (b) If there is any change to the number of directors by an  
269 amendment to the Florida Capital Formation Act:

270 1. The term and service for a director appointed by the  
271 Governor must continue through the end of his or her current  
272 term as of the effective date of the amendment;

273 2. The term and service for a director not appointed by the  
274 Governor and who has served on the board of directors in excess  
275 of 3 years must cease and terminate as of the effective date of  
276 the amendment; and

277 3. The bylaws of the institute shall be amended accordingly  
278 by the board of directors.

279 (c) Upon vacancy, or within 90 days before an anticipated  
280 vacancy by the expiration of a term of a director, the private  
281 fund manager shall submit a list of three eligible nominees,  
282 which may include the incumbent director, to replace the  
283 outgoing director. The board of directors, voting along with the  
284 private fund manager, may appoint a director from the nominee  
285 list or may request and appoint a director from a new list of  
286 three nominees that were not included on the previous list.

287 (d) The persons appointed as replacement directors must  
288 include persons who have expertise in the area of the selection  
289 and supervision of early stage investment managers or in the  
290 fiduciary management of investment funds and other areas of

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291 expertise as considered appropriate.

292 (e) Directors are subject to any restrictions on conflicts  
293 of interest specified in the organizational documents and may  
294 not have a financial interest in any venture capital investment  
295 in any portfolio company.

296 (f) Directors may be reimbursed for all reasonable,  
297 necessary, and actual expenses as determined and approved by the  
298 private fund manager pursuant to s. 112.061.

299 (g) The institute shall have all powers granted under its  
300 organizational documents and shall indemnify its directors and  
301 the private fund manager to the broadest extent permissible  
302 under the laws of this state.

303 (5) The board of directors shall oversee the private fund  
304 manager to ensure consistency with the Florida Capital Formation  
305 Act, to perform those duties as may be delegated to it in the  
306 bylaws of the institute, and to provide a copy of the  
307 institute's annual report to the Governor, the President of the  
308 Senate, and the Speaker of the House of Representatives, and the  
309 president of the university at which the institute is located.

310 (6) The department, the president and the board of trustees  
311 of the university where the institute is located, the Auditor  
312 General, and the Office of Program Policy Analysis and  
313 Government Accountability may require and receive from the  
314 institute or its independent auditor any detail or supplemental  
315 data relative to the operation of the institute.

316 (7) To the extent funds for investment are available in the  
317 technology fund, the private fund manager, on behalf of the  
318 institute, may make an investment in a company or organization  
319 if all of the following requirements are met:

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320           (a) Before providing assistance, the institute accepted ~~To~~  
321 ~~be eligible for assistance,~~ the company or organization  
322 attempting to commercialize its product based on the guidelines  
323 under s. 288.96255(4) ~~must be accepted by the institute before~~  
324 ~~receiving the institute's assistance.~~

325           (b) The company or organization is based in this state  
326 ~~institute shall receive recommendations from any publicly~~  
327 ~~supported organization that a company that is commercializing~~  
328 ~~the research, technology, or patents from a qualifying publicly~~  
329 ~~supported organization should be accepted into the institute.~~

330           (c) ~~The institute shall thereafter review the business~~  
331 ~~plans and technology information of each such recommended~~  
332 ~~company. If accepted, the institute shall mentor the company,~~  
333 ~~develop marketing information on the company, and use its~~  
334 ~~resources to attract capital investment into the company, as~~  
335 ~~well as bring other resources to the company which may foster~~  
336 ~~its effective management, growth, capitalization, technology~~  
337 ~~protection, or marketing or business success.~~

338           ~~(8) The institute shall:~~

339           ~~(a) Maintain a centralized location to showcase companies~~  
340 ~~and their technologies and products;~~

341           ~~(b) Develop an efficient process to inventory and publicize~~  
342 ~~companies and products that have been accepted by the institute~~  
343 ~~for commercialization;~~

344           ~~(c) Routinely communicate with private investors and~~  
345 ~~venture capital organizations regarding the investment~~  
346 ~~opportunities in its showcased companies;~~

347           ~~(d) Facilitate meetings between prospective investors and~~  
348 ~~eligible organizations in the institute;~~

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349 ~~(e) Hire full-time staff who understand relevant~~  
350 ~~technologies needed to market companies to the angel investors~~  
351 ~~and venture capital investment community; and~~

352 ~~(f) Develop cooperative relationships with publicly~~  
353 ~~supported organizations all of which work together to provide~~  
354 ~~resources or special knowledge that is likely to be helpful to~~  
355 ~~institute companies.~~

356 (8) ~~(9)~~ Except as provided under s. 288.96255, the institute  
357 may not develop or accrue any ownership, royalty, patent, or  
358 other such rights over or interest in companies or products in  
359 the institute except in connection with financing provided  
360 directly to client companies and shall maintain the  
361 confidentiality of proprietary information.

362 ~~(10) The institute may not charge for services provided to~~  
363 ~~state universities and affiliated organizations, community~~  
364 ~~colleges, or state agencies; however, the institute may deliver~~  
365 ~~and charge for services to private companies and affiliated~~  
366 ~~organizations if providing a service does not interfere with the~~  
367 ~~core mission of the institute. The institute may not use its~~  
368 ~~capital in support of private companies or affiliated~~  
369 ~~organizations whose products were not developed by research and~~  
370 ~~development activities of a publicly supported college,~~  
371 ~~university, or research institute, or any other organization.~~

372 (9) ~~(11)~~ By December 1 of each year, the institute shall  
373 issue an annual report concerning its activities to the  
374 Governor, the President of the Senate, and the Speaker of the  
375 House of Representatives. The annual report shall be considered  
376 a public record, as provided in paragraph (3) (b), subject to any  
377 appropriate exemptions under s. 288.9627. The annual report must

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378 ~~shall~~ include the following:

379 (a) Information on any assistance provided by the institute  
380 to an innovation business, as defined in s. 288.1089; ~~a publicly~~  
381 ~~supported college, university, or research institute; or any~~  
382 ~~other publicly supported organization in the state.~~

383 (b) A description of the benefits to this state resulting  
384 from the institute, including the number of businesses created,  
385 associated industries started, the number of jobs created, and  
386 the growth of related projects.

387 (c) Independently audited financial statements, including  
388 statements that show receipts and expenditures during the  
389 preceding fiscal year for personnel, management fees,  
390 administration, and operational costs of the institute.

391 (10) The private fund manager:

392 (a) Must be a for-profit limited liability company or a  
393 for-profit corporation formed, governed, and operated in  
394 accordance with chapter 605 or chapter 607, respectively.

395 (b) Shall conduct activities on behalf of the institute  
396 which are consistent with the purposes set forth in this  
397 section.

398 (c) Must have expertise and experience in the management  
399 and operation of early stage companies in this state.

400 (d) Must have experience with investment in early stage  
401 ventures in this state and have a working knowledge and  
402 understanding of the investment portfolio and the relevant  
403 industries of the portfolio companies in this state.

404 (e) Shall employ personnel and professionals who have  
405 knowledge of the investment portfolio and portfolio companies of  
406 the institute, as well as financial, technical, and business

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407 expertise to manage the technology fund activity.

408 (f) May not be a public corporation or instrumentality of  
409 the state.

410 (g) Is not a corporation primarily acting as an  
411 instrumentality of the state pursuant to s. 768.28(2), for the  
412 purposes of sovereign immunity.

413 (h) Is not an agency within the meaning of s. 20.03(11).

414 (i) Is not subject to chapter 287.

415 (j) May not be governed by the code of ethics for public  
416 officers and employees as set forth in part III of chapter 112.

417 (11) The purpose of the institute's use of a private fund  
418 manager is to alleviate the state's burden of the continued and  
419 future operational and management costs related to the  
420 technology fund and accelerator program, while allowing the  
421 institute, through the activities of the private fund manager,  
422 to continue to foster greater private-sector investment funding,  
423 to encourage seed-stage investments in startup and early stage  
424 companies, and to advise companies about how to restructure  
425 existing management, operations, product development, or service  
426 development to attract advantageous business opportunities.

427 (12) The private fund manager shall assume the management  
428 of the assets of the accelerator program and the technology fund  
429 investment portfolios associated with the institute.

430 (a) The private fund manager has the authority on behalf of  
431 the institute to:

432 1. Negotiate investment, sale, and liquidation terms with  
433 portfolio and nonportfolio companies;

434 2. Develop and execute contracts, or amendments thereto,  
435 with portfolio and nonportfolio companies;

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436 3. Seek new qualified companies for the investment of funds  
437 from the technology fund;

438 4. Receive, on behalf of the institute, investment capital  
439 from the sale or liquidation of any portion of the investment  
440 portfolio, loan proceeds, or other investment returns, and remit  
441 such capital, proceeds, and returns to the technology fund  
442 pursuant to s. 288.96255, except as otherwise provided in this  
443 section and s. 288.96255; and

444 5. Perform additional duties set forth in s. 288.96255.

445 (b) The private fund manager shall be paid reasonable fees  
446 consistent with industry fund management practices and  
447 consisting of:

448 1. An operational management fee, including the  
449 reimbursement of expenses, paid from the proceeds of the  
450 repayment of loans from the accelerator program or other  
451 capital, proceeds, and returns available in the technology fund;

452 2. A portfolio fee paid from the proceeds of each sale or  
453 liquidation of assets or portions of the assets of the  
454 investment portfolio; and

455 3. A closing fee paid from the investment amount paid by  
456 the technology fund to a company at the closing of each  
457 investment.

458 (13) The private fund manager may undertake the following  
459 activities on behalf of the institute:

460 (a) Mentor, assist with the development of marketing  
461 information, and assist with attracting capital investment, as  
462 well as bring other resources to the company which may foster  
463 its effective management, growth, capitalization, technology  
464 protection, or marketing or business success;



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465 (b) Communicate with private investors and venture capital  
466 organizations regarding investment opportunities in the  
467 portfolio companies of the technology fund and accelerator  
468 program;

469 (c) Facilitate meetings between prospective investors and  
470 the companies; and

471 (d) Develop cooperative relationships with publicly  
472 supported organizations that work together to provide resources  
473 or special knowledge likely to be helpful to portfolio  
474 companies.

475 (14) By November 1 of each year, the private fund manager  
476 shall issue an annual report to the board of directors of the  
477 institute concerning the activities the private fund manager  
478 conducted which relate to existing accelerator program and  
479 technology fund investments in order for the board to be in  
480 compliance with its report obligations under subsection (9). The  
481 annual report provided by the private fund manager shall be  
482 considered a public record, as provided in paragraph (3)(b),  
483 subject to any appropriate exemptions under s. 288.9627. The  
484 annual report, at a minimum, must include:

485 (a) A description of the benefits to this state resulting  
486 from the assets of the accelerator program and technology fund,  
487 including the number of jobs created, the amount of capital the  
488 companies raised, and other benefits relating to increased  
489 research expenditures and company growth.

490 (b) Independently audited financial statements related to  
491 the receipt and calculation of the net profits of the investment  
492 portfolio.

493 Section 6. Subsection (1) and subsections (3) through (7)

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494 of section 288.96255, Florida Statutes, are amended to read:

495 288.96255 Florida Technology Seed Capital Fund; creation;  
496 duties.—

497 (1) The Institute for ~~the~~ Commercialization of Florida  
498 Technology Public Research shall create the Florida Technology  
499 Seed Capital Fund as a corporate subsidiary. The purpose of the  
500 technology fund is to foster greater private-sector investment  
501 funding, to encourage seed-stage investments in start-up  
502 companies, and to advise companies about how to restructure  
503 existing management, operation, or production to attract  
504 advantageous business opportunities. The net profits of the  
505 proceeds of each sale or liquidation of assets or portions of  
506 the assets of the investment portfolio must a sale of the equity  
507 held by the fund shall be returned to the technology fund for  
508 reinvestment after payment of the applicable costs, professional  
509 fees, expenses, fees pursuant to s. 288.9625(12)(b), and  
510 disbursement to private investors pursuant to paragraph (6)(e).

511 (3) The institute shall employ a private fund manager  
512 pursuant to s. 288.9625 professionals who have both technical  
513 and business expertise to manage the investment portfolio and  
514 technology fund activity. The private fund manager institute  
515 shall establish an investor advisory board comprised of venture  
516 capital professionals and early stage investors from this and  
517 other states who shall advise the institute and guide the fund  
518 management of the technology fund and make funding  
519 recommendations, provided that capital for investment is  
520 available in the technology fund. The private fund manager shall  
521 receive reasonable fees consistent with industry practices for  
522 performing due diligence and an investment closing fee paid out

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523 of the technology fund at the closing of each investment in  
524 addition to reasonable attorney fees, other fees prescribed in  
525 s. 288.9625(12) (b), and other costs in connection with making an  
526 investment. ~~Administrative costs paid out of the fund shall be~~  
527 ~~determined by the investor advisory board.~~

528 (4) The private fund manager institute shall use a thorough  
529 and detailed process that is modeled after investment industry  
530 practices ~~the best practices of the investment industry~~ to  
531 evaluate a proposal. In order to approve a company for  
532 investment, the private fund manager, on behalf of the  
533 institute, must consider if:

534 (a) The company has a strong intellectual property  
535 position, a capable management team, readily identifiable paths  
536 to market or commercialization, significant job-growth  
537 potential, the ability to provide other sources of capital to  
538 leverage the state's investment, and the potential to attract  
539 additional funding;

540 (b) The private fund manager has had an opportunity to  
541 complete due diligence to its satisfaction ~~company has been~~  
542 ~~identified by a publicly funded research institution;~~

543 (c) The ~~start-up~~ company is a target industry business as  
544 defined in s. 288.106(2); and

545 (d) ~~The company has been identified by~~ An approved private-  
546 sector lead investor who has demonstrated due diligence typical  
547 of start-up investments in evaluating the potential of the  
548 company has identified the company.; ~~and~~

549 ~~(e) The advisory board and fund manager have reviewed the~~  
550 ~~company's proposal and recommended it.~~

551 (5) ~~(a)~~ Seed Funds from the technology fund may be invested

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552 if the institute approves a company and the initial seed-stage  
553 investment. ~~The initial seed-stage investment must be at least~~  
554 ~~\$50,000, but no more than \$300,000. The initial seed-stage~~  
555 ~~investment requires a one-to-one, private sector match of~~  
556 ~~investment.~~

557 ~~(b) Additional seed funds may be invested in a company if~~  
558 ~~approved by the institute. The cumulative total of investment in~~  
559 ~~a single company may not exceed \$500,000. Any additional~~  
560 ~~investment amount requires a two-to-one, private sector match of~~  
561 ~~investment.~~

562 (6) The institute or private fund manager may:

563 (a) Provide a company with value-added support services in  
564 the areas of business plan development and strategy, the  
565 preparation of investor presentations, and other critical areas  
566 identified by the private fund manager ~~institute~~ to increase its  
567 chances for long-term viability and success;

568 (b) Encourage appropriate investment funds to become  
569 preapproved to match investment funds;

570 (c) Market the attractiveness of the state as an early-  
571 stage investment location; ~~and~~

572 (d) Collaborate with state economic-development  
573 organizations, national associations of seed and angel funds,  
574 and other innovation-based associations to create an enhanced  
575 state entrepreneurial ecosystem; ~~and.~~

576 (e) Transfer any portion of the assets of the investment  
577 portfolio, on behalf of the institute, into a private fund or  
578 special purpose vehicle, receive additional private investment  
579 in the private fund or special purpose vehicle, manage the  
580 private fund or special purpose vehicle, and distribute to the

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581 technology fund and the private investors the respective pro  
582 rata portion of any net profits from the sale or liquidation of  
583 the assets of such private fund or special purpose vehicle.

584 ~~(7) The institute shall annually evaluate the activities~~  
585 ~~and results of the funding, taking into consideration that seed~~  
586 ~~investment horizons span from 3 to 7 years.~~

587 Section 7. Section 288.9627, Florida Statutes, is amended  
588 to read:

589 288.9627 Exemptions from public records and public meetings  
590 requirements for the Institute for ~~the~~ Commercialization of  
591 Florida Technology Public Research.—

592 (1) DEFINITIONS.—As used in this section, the term:

593 (a) "Institute for ~~the~~ Commercialization of Florida  
594 Technology Public Research" or "institute" means the institute  
595 established by s. 288.9625.

596 (b)1. "Proprietary confidential business information" means  
597 information that has been designated by the proprietor when  
598 provided to the institute as information that is owned or  
599 controlled by a proprietor; that is intended to be and is  
600 treated by the proprietor as private, the disclosure of which  
601 would harm the business operations of the proprietor and has not  
602 been intentionally disclosed by the proprietor unless pursuant  
603 to a private agreement that provides that the information will  
604 not be released to the public except as required by law or legal  
605 process, or pursuant to law or an order of a court or  
606 administrative body; and that concerns:

607 a. Trade secrets as defined in s. 688.002.

608 b. Financial statements and internal or external auditor  
609 reports of a proprietor corporation, partnership, or person

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610 requesting confidentiality under this statute, unless publicly  
611 released by the proprietor.

612 c. Meeting materials related to financial, operating,  
613 investment, or marketing information of the proprietor  
614 corporation, partnership, or person.

615 d. Information concerning private investors in the  
616 proprietor corporation, partnership, or person.

617 2. "Proprietary confidential business information" does not  
618 include:

619 a. The identity and primary address of the proprietor's  
620 principals.

621 b. The dollar amount and date of the financial commitment  
622 or contribution made by the institute.

623 c. The dollar amount, on a fiscal-year-end basis, of cash  
624 repayments or other fungible distributions received by the  
625 institute from each proprietor.

626 d. The dollar amount, if any, of the total management fees  
627 and costs paid on an annual fiscal-year-end basis by the  
628 institute.

629 (c) "Proprietor" means a corporation, partnership, or  
630 person that has applied for or received assistance, financial or  
631 otherwise, from the institute and that controls or owns the  
632 proprietary confidential business information.

633 (2) PUBLIC RECORDS EXEMPTION.—

634 (a) The following records held by the institute are  
635 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
636 of the State Constitution:

637 1. Materials that relate to methods of manufacture or  
638 production, potential trade secrets, or patentable material

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639 received, generated, ascertained, or discovered during the  
640 course of research or through research projects conducted by  
641 universities and other publicly supported organizations in this  
642 state and that are provided to the institute by a proprietor.

643 2. Information that would identify an investor or potential  
644 investor who desires to remain anonymous in projects reviewed by  
645 the institute for assistance.

646 3. Any information received from a person from another  
647 state or nation or the Federal Government which is otherwise  
648 confidential or exempt pursuant to the laws of that state or  
649 nation or pursuant to federal law.

650 4. Proprietary confidential business information for 7  
651 years after the termination of the institute's financial  
652 commitment to the company.

653 (b) At the time any record made confidential and exempt by  
654 this subsection, or portion thereof, is legally available or  
655 subject to public disclosure for any other reason, that record,  
656 or portion thereof, shall no longer be confidential and exempt  
657 and shall be made available for inspection and copying.

658 (3) PUBLIC MEETINGS EXEMPTION.—

659 (a) That portion of a meeting of the institute's board of  
660 directors at which information is discussed which is  
661 confidential and exempt under subsection (2) is exempt from s.  
662 286.011 and s. 24(b), Art. I of the State Constitution.

663 (b) Any exempt portion of a meeting shall be recorded and  
664 transcribed. The board of directors shall record the times of  
665 commencement and termination of the meeting, all discussion and  
666 proceedings, the names of all persons present at any time, and  
667 the names of all persons speaking. An exempt portion of any

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668 meeting may not be off the record.

669 (c) A transcript and minutes of exempt portions of meetings  
670 are confidential and exempt from s. 119.07(1) and s. 24(a), Art.  
671 I of the State Constitution.

672 (4) REQUEST TO INSPECT OR COPY A RECORD.—

673 (a) Records made confidential and exempt by this section  
674 may be released, upon written request, to a governmental entity  
675 in the performance of its official duties and responsibilities.

676 (b) Notwithstanding the provisions of paragraph (2)(a), a  
677 request to inspect or copy a public record that contains  
678 proprietary confidential business information shall be granted  
679 if the proprietor of the information fails, within a reasonable  
680 period of time after the request is received by the institute,  
681 to verify the following to the institute through a written  
682 declaration in the manner provided by s. 92.525:

683 1. That the requested record contains proprietary  
684 confidential business information and the specific location of  
685 such information within the record;

686 2. If the proprietary confidential business information is  
687 a trade secret, a verification that it is a trade secret as  
688 defined in s. 688.002;

689 3. That the proprietary confidential business information  
690 is intended to be and is treated by the proprietor as private,  
691 is the subject of efforts of the proprietor to maintain its  
692 privacy, and is not readily ascertainable or publicly available  
693 from any other source; and

694 4. That the disclosure of the proprietary confidential  
695 business information to the public would harm the business  
696 operations of the proprietor.



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697 (c)1. Any person may petition a court of competent  
698 jurisdiction for an order for the public release of those  
699 portions of any record made confidential and exempt by  
700 subsection (2).

701 2. Any action under this subsection must be brought in Palm  
702 Beach County or Alachua County, and the petition or other  
703 initial pleading shall be served on the institute and, if  
704 determinable upon diligent inquiry, on the proprietor of the  
705 information sought to be released.

706 3. In any order for the public release of a record under  
707 this subsection, the court shall make a finding that:

708 a. The record or portion thereof is not a trade secret as  
709 defined in s. 688.002;

710 b. A compelling public interest is served by the release of  
711 the record or portions thereof which exceed the public necessity  
712 for maintaining the confidentiality of such record; and

713 c. The release of the record will not cause damage to or  
714 adversely affect the interests of the proprietor of the released  
715 information, other private persons or business entities, or the  
716 institute.

717 (5) PENALTIES.—Any person who willfully and knowingly  
718 violates this section commits a misdemeanor of the first degree,  
719 punishable as provided in s. 775.082 or s. 775.083.

720 Section 8. This act shall take effect July 1, 2018.