

**By** the Committees on Appropriations; and Commerce and Tourism;  
and Senator Brandes

576-04130-18

20181314c2

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; specifying that the institute is not  
17      subject to control, supervision, or direction by the  
18      department; deleting provisions regarding the  
19      institute's responsibilities; requiring that the  
20      investment-related affairs of the institute be managed  
21      by the private fund manager and overseen by the board  
22      of directors; restructuring the board of directors and  
23      the selection process for the board of directors;  
24      specifying term limits of the board members under  
25      certain circumstances; requiring the board of  
26      directors to amend the bylaws of the institute under  
27      certain circumstances; providing that a director is  
28      subject to restrictions on certain conflicts of  
29      interest; prohibiting a director from having a

576-04130-18

20181314c2

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

576-04130-18

20181314c2

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

79

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

81

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

85 20.60 Department of Economic Opportunity; creation; powers  
86 and duties.—

87 (4) The purpose of the department is to assist the Governor

576-04130-18

20181314c2

88 in working with the Legislature, state agencies, business  
89 leaders, and economic development professionals to formulate and  
90 implement coherent and consistent policies and strategies  
91 designed to promote economic opportunities for all Floridians.  
92 To accomplish such purposes, the department shall:

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

103 (9) The executive director shall:

104 (b) Serve as the manager for the state with respect to  
105 contracts with Enterprise Florida, Inc., ~~the Institute for the~~  
106 ~~Commercialization of Public Research,~~ and all applicable direct-  
107 support organizations. To accomplish the provisions of this  
108 section and applicable provisions of chapter 288, and  
109 notwithstanding the provisions of part I of chapter 287, the  
110 director shall enter into specific contracts with Enterprise  
111 Florida, Inc., ~~the Institute for the Commercialization of Public~~  
112 ~~Research,~~ and other appropriate direct-support organizations.  
113 Such contracts may be for multiyear terms and must ~~shall~~ include  
114 specific performance measures for each year. For purposes of  
115 this section, the Florida Tourism Industry Marketing Corporation  
116 and the Institute for Commercialization of Florida Technology

576-04130-18

20181314c2

117 ~~are not is not an~~ appropriate direct-support organizations  
118 organization.

119 Section 2. Section 288.9621, Florida Statutes, is amended  
120 to read:

121 288.9621 Short title.—Sections 288.9621-288.96255 ~~Sections~~  
122 ~~288.9621-288.9625~~ may be cited as the "Florida Capital Formation  
123 Act."

124 Section 3. Section 288.9622, Florida Statutes, is amended  
125 to read:

126 288.9622 Findings and intent.—

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

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

576-04130-18

20181314c2

146 Capital Fund investment portfolio of the Institute for  
147 Commercialization of Florida Technology ~~venture capital industry~~  
148 ~~regardless of location~~; facilitate the organization of the  
149 Florida Opportunity Fund as an investor in seed and early stage  
150 businesses, infrastructure projects, venture capital funds, and  
151 angel funds; and precipitate capital investment and extensions  
152 of credit to and in the Florida Opportunity Fund.

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

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

171 Section 4. Section 288.9623, Florida Statutes, is amended  
172 to read:

173 288.9623 Definitions.—As used in ss. 288.9621-288.9625,  
174 the term ~~ss. 288.9621-288.9625:~~

576-04130-18

20181314c2

175 (1) "Accelerator program" means the Seed Capital  
176 Accelerator Program managed by the institute.

177 (2)~~(1)~~ "Board" means the board of directors of the Florida  
178 Opportunity Fund.

179 (3)~~(2)~~ "Fund" means the Florida Opportunity Fund.

180 (4) "Institute" means the Institute for Commercialization  
181 of Florida Technology.

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

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

192 (7) "Portfolio companies" means the companies who are part  
193 of the Florida Technology Seed Capital Fund investment  
194 portfolio.

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

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

200 Section 5. Section 288.9625, Florida Statutes, is amended  
201 to read:

202 288.9625 Institute for ~~the~~ Commercialization of Florida  
203 Technology Public Research. ~~There is established a public~~

576-04130-18

20181314c2

204 ~~university or research center in this state the Institute for~~  
205 ~~the Commercialization of Public Research.~~

206 (1) The institute ~~is shall be~~ a nonprofit not-for-profit  
207 corporation registered, incorporated, and operated in accordance  
208 with chapter 617. The institute is not subject to control,  
209 supervision, or direction by the department in any manner,  
210 including, but not limited to, personnel, purchasing,  
211 transactions involving real or personal property, and budgetary  
212 matters.

213 (2) The purpose of the institute is to assist in the  
214 commercialization of products developed by the research and  
215 development activities of an innovation business, including, but  
216 not limited to, those ~~as defined in s. 288.1089; a publicly~~  
217 ~~supported college, university, or research institute; or any~~  
218 ~~other publicly supported organization in this state.~~ The  
219 institute shall fulfill its purpose in the best interests of the  
220 state. The institute:

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

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

225 (c) Is subject to the open records and meetings  
226 requirements of s. 24, Art. I of the State Constitution, chapter  
227 119, and s. 286.011;

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

229 (e) Is ~~shall be~~ governed by the code of ethics for public  
230 officers and employees as set forth in part III of chapter 112;  
231 and

232 (f) May create corporate subsidiaries.†



576-04130-18

20181314c2

233 ~~(g) Shall support existing commercialization efforts at~~  
234 ~~state universities; and~~

235 ~~(h) May not supplant, replace, or direct existing~~  
236 ~~technology transfer operations or other commercialization~~  
237 ~~programs, including incubators and accelerators.~~

238 (3) The articles of incorporation of the institute must ~~be~~  
239 ~~approved in a written agreement with the department. The~~  
240 ~~agreement and the articles of incorporation shall:~~

241 (a) Provide that the institute shall provide equal  
242 employment opportunities for all persons regardless of race,  
243 color, religion, gender, national origin, age, handicap, or  
244 marital status;

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

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

252 (d) Provide that members of the board of directors of the  
253 institute are responsible for the prudent use of all public and  
254 private funds and that they will ensure that the use of funds is  
255 in accordance with all applicable laws, bylaws, and contractual  
256 requirements; and

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

259 (4) The investment-related affairs of the institute shall  
260 be managed by the private fund manager, and overseen by a board  
261 of directors who shall serve without compensation. Each director

576-04130-18

20181314c2

262 shall have only one vote. The chair of the board of directors  
263 shall be selected by a majority vote of the directors, a quorum  
264 being present. ~~The board of directors shall consist of the~~  
265 ~~following five members:~~

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

268 ~~(b) The president of the university where the institute is~~  
269 ~~located or the president's designee unless multiple universities~~  
270 ~~jointly sponsor the institute, in which case the presidents of~~  
271 ~~the sponsoring universities shall agree upon a designee.~~

272 (a) (e) The board of directors shall consist of three  
273 directors appointed pursuant to the procedures and requirements  
274 of this section by the Governor to 3-year staggered terms, to  
275 which the directors may be reappointed.

276 (b) For any director appointed before July 1, 2018, the  
277 term of service for that director may continue through the end  
278 of his or her current term. The vacancy created by the  
279 expiration of such term must be filled pursuant to the  
280 procedures and requirements of this section.

281 (c) The bylaws of the institute shall be amended  
282 accordingly by the board of directors to reflect the  
283 requirements of this section.

284 (d) Upon vacancy, or within 90 days before an anticipated  
285 vacancy by the expiration of a term of a director, the private  
286 fund manager shall submit a list of three eligible nominees,  
287 which may include the incumbent director, to replace the  
288 outgoing director. The board of directors, voting along with the  
289 private fund manager, may appoint a director from the nominee  
290 list or may request and appoint a director from a new list of

576-04130-18

20181314c2

291 three nominees that were not included on the previous list.

292 (e) The persons appointed as replacement directors must  
293 include persons who have expertise in the area of the selection  
294 and supervision of early stage investment managers or in the  
295 fiduciary management of investment funds and other areas of  
296 expertise as considered appropriate.

297 (f) Directors are subject to any restrictions on conflicts  
298 of interest specified in the organizational documents and may  
299 not have a financial interest in any venture capital investment  
300 in any portfolio company.

301 (g) Directors may be reimbursed for all reasonable,  
302 necessary, and actual expenses as determined and approved by the  
303 private fund manager pursuant to s. 112.061.

304 (h) The institute shall have all powers granted under its  
305 organizational documents and shall indemnify its directors and  
306 the private fund manager to the broadest extent permissible  
307 under the laws of this state.

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

315 ~~(6) The department, the president and the board of trustees~~  
316 ~~of the university where the institute is located, the Auditor~~  
317 ~~General, and the Office of Program Policy Analysis and~~  
318 ~~Government Accountability may require and receive from the~~  
319 ~~institute or its independent auditor any detail or supplemental~~

576-04130-18

20181314c2

320 data relative to the operation of the institute.

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

325 (a) Before providing assistance, the institute accepted ~~To~~  
326 ~~be eligible for assistance,~~ the company or organization  
327 attempting to commercialize its product based on the guidelines  
328 under s. 288.96255(4) must be accepted by the institute before  
329 receiving the institute's assistance.

330 (b) The company or organization is based in this state  
331 ~~institute shall receive recommendations from any publicly~~  
332 ~~supported organization that a company that is commercializing~~  
333 ~~the research, technology, or patents from a qualifying publicly~~  
334 ~~supported organization should be accepted into the institute.~~

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

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

344 ~~(a) Maintain a centralized location to showcase companies~~  
345 ~~and their technologies and products;~~

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

576-04130-18

20181314c2

349 ~~(c) Routinely communicate with private investors and~~  
350 ~~venture capital organizations regarding the investment~~  
351 ~~opportunities in its showcased companies;~~

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

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

357 ~~(f) Develop cooperative relationships with publicly~~  
358 ~~supported organizations all of which work together to provide~~  
359 ~~resources or special knowledge that is likely to be helpful to~~  
360 ~~institute companies.~~

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

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

377 (9) ~~(11)~~ By December 1 of each year, the institute shall

576-04130-18

20181314c2

378 issue an annual report concerning its activities to the  
379 Governor, the President of the Senate, and the Speaker of the  
380 House of Representatives. The annual report shall be considered  
381 a public record, as provided in paragraph (3) (b), subject to any  
382 appropriate exemptions under s. 288.9627. The annual report must  
383 ~~shall~~ include the following:

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

388 (b) A description of the benefits to this state resulting  
389 from the institute, including the number of businesses created,  
390 associated industries started, the number of jobs created, and  
391 the growth of related projects.

392 (c) Independently audited financial statements, including  
393 statements that show receipts and expenditures during the  
394 preceding fiscal year for personnel, management fees,  
395 administration, and operational costs of the institute.

396 (10) The private fund manager:

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

400 (b) Shall conduct activities on behalf of the institute  
401 which are consistent with the purposes set forth in this  
402 section.

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

405 (d) Must have experience with investment in early stage  
406 ventures in this state and have a working knowledge and

576-04130-18

20181314c2

407 understanding of the investment portfolio and the relevant  
408 industries of the portfolio companies in this state.

409 (e) Shall employ personnel and professionals who have  
410 knowledge of the investment portfolio and portfolio companies of  
411 the institute, as well as financial, technical, and business  
412 expertise to manage the technology fund activity.

413 (f) May not be a public corporation or instrumentality of  
414 the state.

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

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

419 (i) Is not subject to chapter 287.

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

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

432 (12) The private fund manager shall assume the management  
433 of the assets of the accelerator program and the technology fund  
434 investment portfolios associated with the institute.

435 (a) The private fund manager has the authority on behalf of

576-04130-18

20181314c2

436 the institute to:

437 1. Negotiate investment, sale, and liquidation terms with  
438 portfolio and nonportfolio companies;

439 2. Develop and execute contracts, or amendments thereto,  
440 with portfolio and nonportfolio companies;

441 3. Seek new qualified companies for the investment of funds  
442 from the technology fund;

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

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

450 (b) The private fund manager shall be paid reasonable fees  
451 consistent with industry fund management practices and  
452 consisting of:

453 1. An operational management fee, including the  
454 reimbursement of expenses, paid from the proceeds of the  
455 repayment of loans from the accelerator program or other  
456 capital, proceeds, and returns available in the technology fund;

457 2. A portfolio fee paid from the proceeds of each sale or  
458 liquidation of assets or portions of the assets of the  
459 investment portfolio; and

460 3. A closing fee paid from the investment amount paid by  
461 the technology fund to a company at the closing of each  
462 investment.

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



576-04130-18

20181314c2

465 (a) Mentor, assist with the development of marketing  
466 information, and assist with attracting capital investment, as  
467 well as bring other resources to the company which may foster  
468 its effective management, growth, capitalization, technology  
469 protection, or marketing or business success;

470 (b) Communicate with private investors and venture capital  
471 organizations regarding investment opportunities in the  
472 portfolio companies of the technology fund and accelerator  
473 program;

474 (c) Facilitate meetings between prospective investors and  
475 the companies; and

476 (d) Develop cooperative relationships with publicly  
477 supported organizations that work together to provide resources  
478 or special knowledge likely to be helpful to portfolio  
479 companies.

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

490 (a) A description of the benefits to this state resulting  
491 from the assets of the accelerator program and technology fund,  
492 including the number of jobs created, the amount of capital the  
493 companies raised, and other benefits relating to increased

576-04130-18

20181314c2

494 research expenditures and company growth.

495 (b) Independently audited financial statements related to  
496 the receipt and calculation of the net profits of the investment  
497 portfolio.

498 Section 6. Subsection (1) and subsections (3) through (7)  
499 of section 288.96255, Florida Statutes, are amended to read:

500 288.96255 Florida Technology Seed Capital Fund; creation;  
501 duties.-

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

516 (3) The institute shall employ a private fund manager  
517 pursuant to s. 288.9625 professionals who have both technical  
518 and business expertise to manage the investment portfolio and  
519 technology fund activity. The private fund manager institute  
520 shall establish an investor advisory board comprised of venture  
521 capital professionals and early-stage investors from this and  
522 other states who shall advise the institute and guide the fund

576-04130-18

20181314c2

523 management of the technology fund and make funding  
524 recommendations, provided that capital for investment is  
525 available in the technology fund. The private fund manager shall  
526 receive reasonable fees consistent with industry practices for  
527 performing due diligence and an investment closing fee paid out  
528 of the technology fund at the closing of each investment in  
529 addition to reasonable attorney fees, other fees prescribed in  
530 s. 288.9625(12)(b), and other costs in connection with making an  
531 investment. Administrative costs paid out of the fund shall be  
532 determined by the investor advisory board.

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

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

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

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

550 (d) ~~The company has been identified by~~ An approved private-  
551 sector lead investor who has demonstrated due diligence typical

576-04130-18

20181314c2

552 of start-up investments in evaluating the potential of the  
553 company has identified the company.; ~~and~~

554 ~~(c) The advisory board and fund manager have reviewed the~~  
555 ~~company's proposal and recommended it.~~

556 (5) ~~(a) Seed Funds~~ from the technology fund may be invested  
557 if the institute approves a company and the initial seed-stage  
558 investment. ~~The initial seed-stage investment must be at least~~  
559 ~~\$50,000, but no more than \$300,000. The initial seed-stage~~  
560 ~~investment requires a one-to-one, private sector match of~~  
561 ~~investment.~~

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

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

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

573 (b) Encourage appropriate investment funds to become  
574 preapproved to match investment funds;

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

577 (d) Collaborate with state economic-development  
578 organizations, national associations of seed and angel funds,  
579 and other innovation-based associations to create an enhanced  
580 state entrepreneurial ecosystem; and.

576-04130-18

20181314c2

581       (e) Transfer any portion of the assets of the investment  
582 portfolio, on behalf of the institute, into a private fund or  
583 special purpose vehicle, receive additional private investment  
584 in the private fund or special purpose vehicle, manage the  
585 private fund or special purpose vehicle, and distribute to the  
586 technology fund and the private investors the respective pro  
587 rata portion of any net profits from the sale or liquidation of  
588 the assets of such private fund or special purpose vehicle.

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

592       Section 7. Section 288.9627, Florida Statutes, is amended  
593 to read:

594       288.9627 Exemptions from public records and public meetings  
595 requirements for the Institute for ~~the~~ Commercialization of  
596 Florida Technology Public Research.-

597       (1) DEFINITIONS.-As used in this section, the term:

598       (a) "Institute for ~~the~~ Commercialization of Florida  
599 Technology Public Research" or "institute" means the institute  
600 established by s. 288.9625.

601       (b)1. "Proprietary confidential business information" means  
602 information that has been designated by the proprietor when  
603 provided to the institute as information that is owned or  
604 controlled by a proprietor; that is intended to be and is  
605 treated by the proprietor as private, the disclosure of which  
606 would harm the business operations of the proprietor and has not  
607 been intentionally disclosed by the proprietor unless pursuant  
608 to a private agreement that provides that the information will  
609 not be released to the public except as required by law or legal

576-04130-18

20181314c2

610 process, or pursuant to law or an order of a court or  
611 administrative body; and that concerns:

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

613 b. Financial statements and internal or external auditor  
614 reports of a proprietor corporation, partnership, or person  
615 requesting confidentiality under this statute, unless publicly  
616 released by the proprietor.

617 c. Meeting materials related to financial, operating,  
618 investment, or marketing information of the proprietor  
619 corporation, partnership, or person.

620 d. Information concerning private investors in the  
621 proprietor corporation, partnership, or person.

622 2. "Proprietary confidential business information" does not  
623 include:

624 a. The identity and primary address of the proprietor's  
625 principals.

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

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

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

634 (c) "Proprietor" means a corporation, partnership, or  
635 person that has applied for or received assistance, financial or  
636 otherwise, from the institute and that controls or owns the  
637 proprietary confidential business information.

638 (2) PUBLIC RECORDS EXEMPTION.—

576-04130-18

20181314c2

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

642 1. Materials that relate to methods of manufacture or  
643 production, potential trade secrets, or patentable material  
644 received, generated, ascertained, or discovered during the  
645 course of research or through research projects conducted by  
646 universities and other publicly supported organizations in this  
647 state and that are provided to the institute by a proprietor.

648 2. Information that would identify an investor or potential  
649 investor who desires to remain anonymous in projects reviewed by  
650 the institute for assistance.

651 3. Any information received from a person from another  
652 state or nation or the Federal Government which is otherwise  
653 confidential or exempt pursuant to the laws of that state or  
654 nation or pursuant to federal law.

655 4. Proprietary confidential business information for 7  
656 years after the termination of the institute's financial  
657 commitment to the company.

658 (b) At the time any record made confidential and exempt by  
659 this subsection, or portion thereof, is legally available or  
660 subject to public disclosure for any other reason, that record,  
661 or portion thereof, shall no longer be confidential and exempt  
662 and shall be made available for inspection and copying.

663 (3) PUBLIC MEETINGS EXEMPTION.—

664 (a) That portion of a meeting of the institute's board of  
665 directors at which information is discussed which is  
666 confidential and exempt under subsection (2) is exempt from s.  
667 286.011 and s. 24(b), Art. I of the State Constitution.

576-04130-18

20181314c2

668 (b) Any exempt portion of a meeting shall be recorded and  
669 transcribed. The board of directors shall record the times of  
670 commencement and termination of the meeting, all discussion and  
671 proceedings, the names of all persons present at any time, and  
672 the names of all persons speaking. An exempt portion of any  
673 meeting may not be off the record.

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

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

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

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

688 1. That the requested record contains proprietary  
689 confidential business information and the specific location of  
690 such information within the record;

691 2. If the proprietary confidential business information is  
692 a trade secret, a verification that it is a trade secret as  
693 defined in s. 688.002;

694 3. That the proprietary confidential business information  
695 is intended to be and is treated by the proprietor as private,  
696 is the subject of efforts of the proprietor to maintain its



576-04130-18

20181314c2

697 privacy, and is not readily ascertainable or publicly available  
698 from any other source; and

699 4. That the disclosure of the proprietary confidential  
700 business information to the public would harm the business  
701 operations of the proprietor.

702 (c)1. Any person may petition a court of competent  
703 jurisdiction for an order for the public release of those  
704 portions of any record made confidential and exempt by  
705 subsection (2).

706 2. Any action under this subsection must be brought in Palm  
707 Beach County or Alachua County, and the petition or other  
708 initial pleading shall be served on the institute and, if  
709 determinable upon diligent inquiry, on the proprietor of the  
710 information sought to be released.

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

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

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

718 c. The release of the record will not cause damage to or  
719 adversely affect the interests of the proprietor of the released  
720 information, other private persons or business entities, or the  
721 institute.

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

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