

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Finance and Tax

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BILL: SM 982

INTRODUCER: Senator Diaz

SUBJECT: Memorial/Internal Revenue Service Regulations

DATE: January 13, 2022

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Covin	Babin	FT	<b>Favorable</b>
2.			RC	

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## I. Summary:

SM 982 is a memorial to the Congress of the United States urging Congress to protect consumers from harmful and intrusive Internal Revenue Service regulations, such as burdensome reporting requirements for financial institutions.

Legislative memorials are not subject to the Governor’s veto power and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for formally petitioning the federal government to act on a particular subject.

The memorial does not have a fiscal impact on the state or local governments.

## II. Present Situation:

The memorial appears to urge Congress to limit reporting requirements for financial institutions. Federal law does require reporting by financial institutions, and recently proposed federal legislation included an expansion of those reporting requirements; however, those additional reporting requirements were removed from the latest draft of the federal legislation. A separate, recently enacted federal law includes an expansion of reporting requirements imposed on brokers relating to digital assets, which may apply to financial institutions that serve as brokers.

### Cash Payment Reporting

Current federal law requires a person to report cash transactions of more than \$10,000 received in a trade or business.<sup>1</sup> “Person” means an individual, company, corporation, partnership, association, trust, or estate.<sup>2</sup> “Cash” includes coins and currency of the United States or any

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<sup>1</sup> Internal Revenue Code (IRC), s. 6050I. Cash payment report helps government combat money laundering, IRS, <https://www.irs.gov/newsroom/cash-payment-report-helps-government-combat-money-laundering> (Last visited Jan. 10, 2022).

<sup>2</sup> IRC, s. 7701(a)(1).

foreign country.<sup>3</sup> Cash also includes a cashier's check, bank draft, traveler's check, or money order with a face amount of \$10,000 or less that a person receives for either a designated reporting transaction or any transaction in which the person knows the payer is trying to avoid a report.<sup>4</sup>

Banks and other financial institutions are required to report each deposit, withdrawal, exchange of currency or other payment or transfer, by, through, or to the bank or financial institution which involves a transaction in currency of more than \$10,000, including cash purchases of cashier's checks, treasurer's checks, bank checks, bank drafts, traveler's checks, and money orders with a face value of more than \$10,000, to the Internal Revenue Service (IRS).<sup>5</sup>

### **The Infrastructure Investment and Jobs Act**

The Infrastructure Investment and Jobs Act (Act) was signed into law on November 15, 2021.<sup>6</sup> The Act adds additional reporting requirements for a broker that facilitates the movement of "digital assets," or cryptocurrency.<sup>7</sup> Applicable to returns required to be filed and statements required to be furnished after December 31, 2023, the Act:

- Expands the definition of broker to include "any person who (for consideration) is responsible for regularly providing any service effectuating transfers of digital assets on behalf of another person."<sup>8</sup> A broker is required to file a return with the IRS showing the name and address of each customer with details regarding gross proceeds and other information.<sup>9</sup>
- Modifies the definition of "specified security" to include digital assets.
- Requires brokers to report transfers of digital assets that are not otherwise subject to reporting to the IRS.<sup>10</sup>

The act also expands the definition of cash for purposes of cash reporting to include digital assets. By including digital assets in the definition of cash, the Act extends the reporting requirements for transactions of more than \$10,000 in cash to transactions involving digital assets of more than \$10,000. The new reporting requirement requires a person that is currently required to comply with cash reporting requirements to collect information and report to the IRS

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<sup>3</sup> IRC, s. 6050I(d).

<sup>4</sup> See IRC, s. 6050I(d) and (f). A "designated reporting transaction" is the retail sale of tangible personal property that's generally suited for personal use, expected to last at least one year and has a sales price of more than \$10,000, such as sales of automobiles, jewelry, mobile homes, and furniture, the sale of a collectible, or the sale of travel and entertainment if the total price of the items for the same trip or entertainment event is more than \$10,000. Cash payment report helps government combat money laundering, IRS, <https://www.irs.gov/newsroom/cash-payment-report-helps-government-combat-money-laundering>, (Last visited Jan. 10, 2022).

<sup>5</sup> *Id.* 31 C.F.R. ss. 1010.311 and 1010.313; and 31 U.S.C. ss. 5312 and 5313.

<sup>6</sup> Infrastructure and Jobs Act, Pub. L. No. 117-58 (2021), § 80603, <https://www.congress.gov/bill/117th-congress/house-bill/3684/text> (Last visited Jan. 10, 2022).

<sup>7</sup> *Id.* IRC, s. 6045(g)(3)(D) defines "digital asset" to mean, except as otherwise provided by the [United States] Secretary [of the Treasury], any digital representation of value which is recorded on a cryptographically secured distributed ledger or any similar technology as specified by the Secretary.

<sup>8</sup> *Id.* IRC, s. 6045(c)(1)(D).

<sup>9</sup> *Id.* IRC, s. 6045(a).

<sup>10</sup> *Id.* IRC, s. 6045A(d).

details of transactions involving digital assets, or cryptocurrency transactions, of more than \$10,000.<sup>11</sup>

### **The Biden Administration Revenue Proposals**

In the Biden Administration’s proposal released in May 2021, a provision provided the IRS increased scrutiny over bank accounts.<sup>12</sup> The proposal would require banks, credit unions, and other financial companies to monitor deposits and withdrawals in accounts that have balances of more than \$600 and submit information to the IRS. Under a revised proposal, financial accounts with money flowing in and out that total \$10,000 or more annually would be subject to additional reporting requirements.<sup>13</sup> In the current version of the Build Back Better Act passed by the United States House of Representatives on November 19, 2021, the provision requiring additional reporting by banks, credit unions, and other financial companies was omitted.<sup>14</sup>

### **Senate Memorial**

A Senate Memorial is “a measure addressed to an executive agency or another legislative body, usually Congress, which expresses the consensus of the Florida Legislature or urges that certain action be taken on a matter within the jurisdiction of the agency or body to which it is addressed. When both houses adopt the measure, the memorial is signed by the legislative officers and transmitted to the Secretary of State for presentation to the addressee. A memorial is not subject to the approval or veto powers of the Governor, is not subject to constitutional title requirements, and does not have the effect of law.”<sup>15</sup>

### **III. Effect of Proposed Changes:**

The Senate memorial would urge the United States Congress to protect consumers from harmful and intrusive Internal Revenue Service regulations and dispatch a message to that effect.

Copies of the memorial will be sent by Florida’s Secretary of State to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of the Florida delegation to the United States Congress.

The memorial contains six whereas clauses. The clauses outline concerns regarding data privacy and security relating to a proposed expansion of reporting requirements as well as concerns regarding additional regulations imposed on financial institutions.

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<sup>11</sup> *Id.* IRC, s. 6050I(d).

<sup>12</sup> General Explanations of the Administration’s Fiscal Year 2022 Revenue Proposals, United States Department of the Treasury, May 2021, <https://home.treasury.gov/system/files/131/General-Explanations-FY2022.pdf> (Last visited Jan. 10, 2022).

<sup>13</sup> FACT SHEET: Tax Compliance Proposals Will Improve Tax Fairness While Protecting Taxpayer Privacy, United States Department of Treasury, Oct. 19, 2021, <https://home.treasury.gov/news/press-releases/jy0415> (Last visited Jan. 10, 2022).

<sup>14</sup> Build Back Better Act, H.R. 5376, 117th Cong. (2021) <https://www.congress.gov/bill/117th-congress/house-bill/5376> (Last visited Jan. 10, 2022).

<sup>15</sup> Senate Glossary, <https://www.flsenate.gov/Reference/Glossary> (Last visited Jan. 10, 2022).

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

As SM 982 is a memorial requesting an action of the federal government, mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce the counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties or municipalities.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

Laws that create or raise state taxes or fees must be passed by two-thirds vote of the membership of each house of the Legislature in a separate bill that contains no other subject.<sup>16</sup> The memorial does not increase any taxes or fees; therefore, the increased tax or fee requirements do not apply.

**E. Other Constitutional Issues:**

None identified.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

The memorial does not affect state or local revenues.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

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<sup>16</sup> See FLA. CONST., art. VII, s. 19.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

None.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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