



Committee on Economic Development

**Monday, March 19, 2007
2:00 p.m. – 5:00 p.m.
Reed Hall**

**Marco Rubio
Speaker**

**Rep. Don Davis
Chair**

COMMITTEE ON ECONOMIC DEVELOPMENT

Monday, March 19, 2007

2:00 pm – 5:00 pm

Reed Hall

- I. **Call to Order**
- II. **Remarks by Chairman**
- III. **Consideration of the following bills:**

HB 1287 – Relating to Florida Research Commercialization Matching Grant Program
Representative Ross

1 AMENDMENT

HB 1521 – Relating to Commercialization of Products, Patents, and Processes Resulting from Publicly Supported Research
Representative Harrell

1 AMENDMENT

HB 1523 – Relating to Public Rec. & Meetings/Sure Ventures Commercialization, Inc.
Representative Harrell

HB 1525 – Relating to Sure Ventures Commercialization Trust Fund
Representative Harrell

HB 1527 – Relating to Public Rec. & Meetings/SURE Venture Capital Fund & Institute for the Commercialization of Public Research
Representative Harrell

HB 1529 – Relating to Institute for the Commercialization of Public Research Trust Fund
Representative Harrell

HB 1531 – Relating to SURE Venture Capital Trust
Representative Harrell

HB 979 – Relating to Use of the Term “Chamber of Commerce”
Representative Gardiner

HB 1543 – Relating to Child Care Services
Representative Cusack

HB 1301 – Relating to Workforce Services
Representative Aubuchon

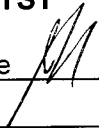

1 AMENDMENT

IV. ADJOURN

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1287
SPONSOR(S): Ross
TIED BILLS:

Florida Research Commercialization Matching Grant Program
IDEN./SIM. BILLS: SB 2378

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Economic Development</u>	_____	McAuliffe 	Croom 
2) <u>Economic Expansion & Infrastructure Council</u>	_____	_____	_____
3) <u>Policy & Budget Council</u>	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

This bill creates the Florida Research Commercialization Matching Grant Program to assist small or startup companies that take advantage of federal and state partnerships to accelerate their growth and market penetration. All applicants for the Florida Research Grant Program:

- Must be a small business that is registered with the Department of State.
- Must be in the process of applying for or have received a federal award under the Small Business Innovation Research Program or the Small Business Technology Transfer Program administered by the U.S. Small Business Administration Office of Technology within the previous 12 months prior to the proposed project.

The following criteria must be met to qualify for the Florida Research Commercialization Matching Grant Program:

- At least 20 percent of the total project funding must come from the federal government.
- No more than 25 percent of the funding may come from the Florida Research Commercialization Matching Grant Program.
- At least 25 percent of the project funding must come from sources other than the federal government and the state program.
- Projects funded by the state must be located in the state.

The bill also:

- Creates a statewide advisory committee to ensure inclusion of statewide perspectives in the development and administration of the Florida Research Commercialization Matching Grant Program
- Creates a selection committee to review applications, implement consistent selection criteria, and select award recipients.
- Provides for assessment reports to monitor the success and impact of the grant program.
- Provides the Florida Research Commercialization Matching Grant Program shall make 20 to 30 awards ranging from \$100,000 to \$250,000 each, for a total of \$5 million.

The bill does not provide an appropriation or specify how the grant program will be funded.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government - The bill creates the Florida Research Commercialization Matching Grant Program but does not specify what entity will administer the grant program.

B. EFFECT OF PROPOSED CHANGES:

Background

The commercialization of new ideas and technologies brings business startups in emerging industries to the marketplace. According to Enterprise Florida, once brought to market, these innovations spur economic productivity and growth, becoming the main sources of wealth and prosperity for a society in which change is the norm and high-speed evolution is vital to financial success and survival. A state's ability to foster research and development and commercialization activities greatly determines its long-term economic vitality and its success in providing its citizens with high-wage, high value-added jobs that can prosper in the ever-changing global marketplace.¹

Federal Programs Supporting Technology Commercialization²

The U.S. Small Business Administration Office of Technology administers the Small Business Innovation Research Program (SBIR) and the Small Business Technology Transfer Program (STTR) to encourage small business to explore their technological potential and provide the incentive to profit from its commercialization.

The SBIR and the STTR target the entrepreneurial sector because that is where most innovation and innovators thrive. However, the risk and expense of conducting serious research and development efforts are often beyond the means of many small businesses. By reserving a specific percentage of federal research and development funds for small business, these programs protect the small business and enables it to compete on the same level as larger businesses. SBIR and STTR funds the critical startup and development stages and it encourages the commercialization of the technology, product, or service, which, in turn, stimulates the U.S. economy. The only substantial difference between the programs is that the SBIR rewards for-profit businesses only, while a nonprofit research institution may qualify for the STTR.

Small businesses must meet certain eligibility criteria to participate in the SBIR and STTR program. The business must be American-owned and independently operated; must have a principal researcher employed by business; and must not have more than 500 employees.

Each year, eleven federal departments³ and agencies are required by SBIR (five by the STTR⁴) to reserve a portion of their research and development funds for award to small business. These agencies designate research and development topics and accept proposals.

¹ 2007 Legislative Proposal, Florida Research Commercialization Matching Grant Program, An Initiative of the Enterprise Florida Technology Entrepreneurship and Capital Committee.

² U.S. Small Business Administration, available online at: <http://www.sba.gov/sbir/indexsbir-sttr.html#sttr>.

³ U.S. Departments of: Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Homeland Security, Transportation; and the Environmental Protection Agency, the National Aeronautics and Space Administration, and the National Science Foundation.

⁴ U.S. Departments of: Defense, Energy, Health and Human Services; the National Aeronautics and Space Administration, and the National Science Foundation.

The programs consist of three phases. Following submission of proposals, agencies make SBIR and STTR awards based on small business qualification, degree of innovation, technical merit, and future market potential. Small businesses that receive awards then begin a three-phase program.

- Phase I is the startup phase. Awards of up to \$100,000 for approximately 6 months support exploration of the technical merit or feasibility of an idea or technology.
- Phase II awards of up to \$750,000, for as many as 2 years, expand Phase I results. During this time, the research and development work is performed and the developer evaluates commercialization potential. Only Phase I award winners are considered for Phase II.
- Phase III is the period during which Phase II innovation moves from the laboratory into the marketplace. No SBIR funds support this phase. The small business must find funding in the private sector or other non-SBIR federal agency funding.

In 2004, Florida received a total of 153 Phase I and Phase II SBIR awards totaling \$42,228,732 ranking twelfth in the country in state funding. In 2004, Florida received a total of 29 Phase I and Phase II STTR awards totaling \$7,764,217, ranking seventh in the country in state funding.

Effects of Proposed Changes

This bill creates the Florida Research Commercialization Matching Grant Program to assist small or startup companies that take advantage of federal and state partnerships to accelerate their growth and market penetration. All applicants for the Florida Research Grant Program:

- Must be a small business that is registered with the Department of State (DOS). If they are not, their eligibility for this program is contingent upon registering with DOS.
- Must be in the process of applying for or have received a federal award under the SBIR or STTR within the previous 12 months prior to the proposed project.

For awards under Phase II of the SBIR or STTR, an applicant must have received a Phase I award and an invitation by the U.S. Small Business Administration to apply for the Phase II award.

The bill creates a statewide advisory committee to ensure inclusion of statewide perspectives in the development and administration of the Florida Research Commercialization Matching Grant Program. Committee membership must reflect the diverse nature of research and development and capital investment industries in the state.

The following criteria must be met to qualify for the Florida Research Commercialization Matching Grant Program:

- At least 20 percent of the total project funding must come from the federal government.
- No more than 25 percent of the funding may come from the Florida Research Commercialization Matching Program.
- At least 25 percent of the project funding must come from sources other than the federal government and the state program.
- Projects funded by the state must be located in the state.

The bill establishes a selection committee to review applications, implement consistent selection criteria, and select award recipients. The members of the selection committee must be experienced in conducting, reviewing, and evaluating research and development projects, or persons who have been successful in developing commercialization programs and managing investment in early-stage companies.

The bill provides selection committee must solicit applications for the matching grant program. Once the application has been received the selection committee must review and vote on whether to award the grant within ten days. The amount of funds awarded for each grant will be determined based on the funding available, program constraints, and the discretion of the selection committee.

In order to assist companies that are awarded a Florida Research Commercialization Matching Grant transition from Phase II to Phase III under the SBIR or STTR the bill requires the establishment of a database to track grant recipients progress and provide them access to investors and venture capital firms.

The bill provides that in order to monitor the success and impact of the Florida Research Commercialization Matching Grant Program, the following assessments will be made when appropriate:

- Award recipients must submit a quarterly report documenting their progress and use of funds, and a final report upon conclusion of Phase II of the SBIR or STTR activities.
- A database of award recipients must be maintained with company profiles and contact information.
- The statewide advisory committee must be provided with an annual report regarding awards issued, progress made by award recipients, overall program results, and suggestions for enhancing the program.

The bill provides the Florida Research Commercialization Matching Grant Program shall make 20 to 30 awards ranging from \$100,000 to \$250,000 each, for a total of \$5 million. The bill does not provide an appropriation.

C. SECTION DIRECTORY:

Section 1. Creates s. 288.9552, F.S., creating: the Florida Research Commercialization Matching Grant Program; the statewide advisory committee; applicant eligibility guidelines; the selection committee, and other program requirements.

Section 2. Provides and effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None. See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Companies that have received federal funding through the SBIR or STTR would be eligible for additional funding through the Florida Research Commercialization Matching Grant Program.

D. FISCAL COMMENTS:

The bill does not specify what agency or entity will be responsible for administering the Florida Research Commercialization Matching Grant Program. There will be administrative costs associated with the program, but the amount is not known at this time.

The bill provides the Florida Research Commercialization Matching Grant Program shall make 20 to 30 awards ranging from \$100,000 to \$250,000 each, for a total of \$5 million. The bill does not provide an appropriation, so the funding source is unknown.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take action requiring the expenditure of funds. This bill does not reduce the percentage of state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill creates a statewide advisory committee and a selection committee but does not specify who chooses the members; how many members will serve on the committees; whether members are compensated or receive per diem; or what entity will administratively support the committees.

The bill assigns duties to a program administrator but does not specify what entity the administrator works for.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to the Florida Research Commercialization
 3 Matching Grant Program; creating s. 288.9552, F.S.;
 4 providing legislative findings and intent; creating the
 5 Florida Research Commercialization Matching Grant Program;
 6 providing for establishment of a statewide advisory
 7 committee for certain purposes; providing applicant
 8 eligibility requirements; providing funding source
 9 requirements; providing for a selection committee;
 10 providing requirements for a selection process and awards
 11 of grants; requiring the program to assist in
 12 commercialization transitions; requiring the program to
 13 establish a program participant database for certain
 14 purposes; providing requirements and procedures for
 15 assessing the program; requiring reports; providing for
 16 awards of grants; providing limitations; providing an
 17 effective date.

18
 19 Be It Enacted by the Legislature of the State of Florida:

20
 21 Section 1. Section 288.9552, Florida Statutes, is created
 22 to read:

23 288.9552 Florida Research Commercialization Matching Grant
 24 Program.--

25 (1) PURPOSE; GOALS AND OBJECTIVES; CREATION OF PROGRAM.--

26 (a) The purpose of this program is to increase the amount
 27 of federal funding coming to this state that will produce the
 28 kind of distinctive technologies that drive today's knowledge-

29 based economy. By leveraging federal, state, and private-sector
 30 resources, the program intends to accelerate the innovation
 31 process and more efficiently transform research results into
 32 products in the marketplace.

33 (b) The program is specifically targeted to be a catalyst
 34 for small or startup companies that can take advantage of
 35 federal and state partnerships to accelerate their growth and
 36 market penetration by helping to overcome the funding gap that
 37 many small companies based in this state face. Specific goals
 38 and objectives include:

39 1. Increasing the amount of federal research moneys
 40 received by small businesses in this state through awards from
 41 the Small Business Innovation Research Program and Small
 42 Business Technology Transfer Program of the United States Small
 43 Business Administration's Office of Technology.

44 2. Accelerating new technology-based products' entry into
 45 the marketplace.

46 3. Producing additional technology-based jobs for the
 47 state.

48 4. Providing leveraged resources to increase the
 49 effectiveness and success of applicants' projects.

50 5. Speeding commercialization of promising technologies.

51 6. Encouraging the establishment and growth of high-
 52 quality, advanced technology firms in the state.

53 7. Accelerating deal flow and enhancing the state's
 54 investment infrastructure.

55 (c) Pursuant to paragraph (a), the Legislature creates the
 56 Florida Research Commercialization Matching Grant Program to
 57 accomplish the goals and objectives specified in paragraph (b).

58 (2) STATEWIDE ADVISORY COMMITTEE.--A statewide advisory
 59 committee shall be established to ensure the inclusion of
 60 statewide perspectives in the development and administration of
 61 the program. Committee membership shall reflect the diverse
 62 nature of research and development and capital investment
 63 industries in the state.

64 (3) APPLICANT ELIGIBILITY GUIDELINES.--

65 (a) An applicant must be a small company for which a state
 66 matching grant is necessary for project development and
 67 implementation or a corporation registered with the Secretary of
 68 State to operate in this state. If an applicant is not a
 69 corporation registered to operate in this state, any state award
 70 is contingent upon the applicant successfully registering to do
 71 business in this state.

72 (b) Applicants must be in the process of applying for, or
 73 have applied for or received, a federal award under the Small
 74 Business Innovation Research Program or Small Business
 75 Technology Transfer Program within the previous 12 months prior
 76 to the proposed project. For awards under Phase II of the Small
 77 Business Innovation Research Program or Small Business
 78 Technology Transfer Program, an applicant must have received a
 79 Phase I award and have received an invitation to submit an
 80 application for a Phase II award. If an award has already been
 81 issued, the end date of the federal award must be identified and

82 justification must be provided as to how these additional funds
 83 will enhance, not supplant, the existing award.

84 (c) All sources of funding for the project must be
 85 identified and meet the following criteria:

86 1. At least 20 percent of the total project funding must
 87 come from the Federal Government or another federal funding
 88 mechanism.

89 2. A maximum of 25 percent of total project funding may be
 90 provided from the program. Requested program funding may not
 91 supplant other project funding. The term "not supplant" means
 92 that program grants must not diminish the amount of funds
 93 committed by other project partners.

94 3. At least 25 percent of project funding must be provided
 95 from sources other than the program and the Federal Government.
 96 Applicant or partner funding may be used to satisfy this
 97 requirement. Funds may be either cash or in-kind.

98 4. Applicant projects funded by program grants must be
 99 conducted in this state.

100 (4) SELECTION COMMITTEE.--A critical component of the
 101 program shall be the assessment and selection of matching fund
 102 award recipients. This process shall be quick, efficient,
 103 impartial, and serve the needs to the industry applicants that
 104 apply for program support. To address this need, a selection
 105 committee shall be established, composed of members who are
 106 experienced in conducting, reviewing, and evaluating research
 107 and development projects as well as those who have been
 108 successful in developing commercialization programs and managing
 109 investment in early-stage companies. The selection committee

110 shall review matching fund applications, implement consistent
 111 selection criteria, participate in the selection process, and
 112 select award recipients.

113 (5) SELECTION PROCESS.--

114 (a) The selection committee shall issue an open call
 115 request for funding proposals in the form of a match
 116 solicitation. The solicitation shall include the award amount
 117 available, reporting and proposal preparation guidance, and any
 118 required application forms. To qualify for an award under a
 119 match solicitation, an applicant must have been notified that it
 120 is the recipient of a federal Phase I award under the Small
 121 Business Innovation Research Program or Small Business
 122 Technology Transfer Program.

123 (b) Applications for awards from the program shall be
 124 submitted to the project manager of the program administrator
 125 who shall review the applications for completion and compliance
 126 with program standards. After such review, the project manager
 127 shall forward the applications to the selection committee.

128 (c) After receiving the applications from the project
 129 manager, the selection committee shall convene, review, and vote
 130 within a period of 10 days to award funds based on criteria that
 131 may include the company's history of operations, phase I results
 132 under the Small Business Innovation Research Program or Small
 133 Business Technology Transfer Program, and the impact on economic
 134 development in this state. Applicants may respond to any
 135 questions by the selection committee during this 10-day period.
 136 The purpose of providing applicants with a 10-day response
 137 period is to enable companies to respond rapidly to a Phase II

138 proposal and reduce the amount of time spent seeking additional
139 development funding. The funding provided to each applicant
140 shall be determined based on total funding available, program
141 constraints, and the discretion of the selection committee.

142 (d) Matching funds shall be distributed to companies only
143 upon notification of a successful Phase II award under the Small
144 Business Innovation Research Program or Small Business
145 Technology Transfer Program. The project manager shall remain in
146 contact with all matching funds applicants from the time an
147 application to the program is submitted until the termination of
148 a company's participation in the program as signified by a
149 denial of the Phase II award or the completion of Phase II work
150 and entering into commercialization activities under Phase III.

151 (e) Upon notification by the project manager of an
152 approved application, a company may apply for a Phase II award
153 with evidence of matching funds for purposes of demonstrating
154 external support for the project to the federal Small Business
155 Innovation Research Program or Small Business Technology
156 Transfer Program committees and enhance potential commercial
157 development opportunities for the company.

158 (f) After a company has notified the program manager of
159 the Phase II award, matching funds shall be distributed and the
160 award shall be recorded in the matching funds database for
161 purposes of initiating the development and reporting phase of
162 the relationship between the company and the program.

163 (6) COMMERCIALIZATION TRANSITION.--For purposes of
164 enabling companies to successfully make the transition to
165 commercialization from Phase II to Phase III under the Small

166 Business Innovation Research Program or Small Business
 167 Technology Transfer Program, the program shall engage companies
 168 at the end of Phase I to help them address commercialization
 169 planning in their Phase II proposals, thus enhancing their
 170 potential for successful company growth and development in this
 171 state.

172 (7) DATABASE.--To further support companies entering Phase
 173 III, the program shall establish a database to be used to track
 174 program participant progress and to provide access to investors
 175 and venture capital firms. Angel investors and venture
 176 capitalists seeking investment opportunities in this state may
 177 use the database to easily locate emerging technology companies
 178 throughout the state participating in the program.

179 (8) PROGRAM ASSESSMENT.--To monitor the success and impact
 180 of the program, the following assessments shall be made as
 181 appropriate:

182 (a) Companies that apply for and receive funding from the
 183 program shall submit to the program administrator quarterly
 184 reports documenting their progress and use of funds. The program
 185 shall maintain the information in such reports for purposes of
 186 monitoring program assessment and maintaining contact with award
 187 recipients. Each award recipient shall also provide the program
 188 administrator with a final report upon conclusion of its Phase
 189 II activities.

190 (b) The program administrator shall maintain a database of
 191 award recipients with company profiles and contact information.

192 (c) The program administrator shall provide the statewide
 193 advisory committee with an annual report regarding awards

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194 issued, progress made by award recipients, and overall program
195 results. The program administrator shall also provide the
196 committee with suggestions for enhancing the program.

197 (9) AWARDS.--The program shall make 20 to 30 awards,
198 ranging from \$100,000 to \$250,000 each, for a total of \$5
199 million.

200 Section 2. This act shall take effect July 1, 2007.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. HB 1287

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Council/Committee hearing bill: Committee on Economic
 2 Development
 3 Representative Ross offered the following:

Amendment (with title amendment)

7 Section 1. Section 288.9552, Florida Statutes, is created
8 to read:

9 288.9552 Florida Research Commercialization Matching Grant
10 Program.--

11 (1) PURPOSE; GOALS AND OBJECTIVES; CREATION OF PROGRAM.--

12 (a) The purpose of this program is to increase the amount
 13 of federal funding coming to this state that will produce the
 14 kind of distinctive technologies that drive today's knowledge-
 15 based economy. By leveraging federal, state, and private-sector
 16 resources, the program intends to accelerate the innovation
 17 process and more efficiently transform research results into
 18 products in the marketplace.

19 (b) The program is specifically targeted to be a catalyst
 20 for small or startup companies that can take advantage of
 21 federal and state partnerships to accelerate their growth and
 22 market penetration by helping to overcome the funding gap that

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

23 many small companies based in this state face. Specific goals
24 and objectives include:

25 1. Increasing the amount of federal research moneys
26 received by small businesses in this state through awards from
27 the Small Business Innovation Research Program and Small
28 Business Technology Transfer Program of the United States Small
29 Business Administration's Office of Technology.

30 2. Accelerating new technology-based products' entry into
31 the marketplace.

32 3. Producing additional technology-based jobs for the
33 state.

34 4. Providing leveraged resources to increase the
35 effectiveness and success of applicants' projects.

36 5. Speeding commercialization of promising technologies.

37 6. Encouraging the establishment and growth of high-
38 quality, advanced technology firms in the state.

39 7. Accelerating deal flow and enhancing the state's
40 investment infrastructure.

41 (c) Pursuant to paragraph (a), the Legislature creates the
42 Florida Research Commercialization Matching Grant Program to
43 accomplish the goals and objectives specified in paragraph (b).

44 (2) DEFINITIONS.—As used in this section, the term "program"
45 means the Florida Research Commercialization Matching Grant
46 Program created by this section.

47 (3) STATEWIDE ADVISORY COMMITTEE.— A statewide advisory
48 committee is created to develop programmatic policy, ensure
49 statewide applicability of the program, establish grant award
50 criteria, approve grant awards, review program progress and
51 results, and communicate program results to state policymakers.

52 (a) The committee shall consist of 15 members representing
53 the diverse geography of the state. The Governor, President of

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

54 the Senate, and Speaker of the House of Representatives shall
55 each appoint one member from each the following categories:
56 Florida university technology commercialization organizations,
57 research institutes in the state, the state's early-stage
58 venture capital community, and entrepreneurs representing a
59 Florida startup company. In addition, the Governor shall appoint
60 one member representing a regional technology development
61 organization in the state and one member of the board of the
62 Florida Research Consortium. The chair of the Enterprise
63 Florida, Inc., Technology Entrepreneurship and Capital Board
64 Committee shall serve on the committee. Committee members shall
65 elect the chair of the committee. Seats vacated on the committee
66 shall be filled in the same manner in which they were appointed.

67 (b) Members of the committee shall serve without
68 compensation but shall be entitled to receive per diem and
69 travel expenses in accordance with s. 112.061 while in
70 performance of their duties.

71 (c) Enterprise Florida, Inc., shall provide staff support
72 for the committee.

73 (d) The committee shall hold its initial meeting no later
74 than October 1, 2007. Subsequent meetings shall be held upon the
75 call of the chair.

76 (e) Beginning September 1, 2008, and annually thereafter,
77 the committee shall transmit an annual report to the Governor,
78 the President of the Senate, and the Speaker of the House of
79 Representatives for the prior fiscal year.

80 (4) FIDUCIARY ACTOR.—Enterprise Florida, Inc., shall accept
81 moneys appropriated by the Legislature for providing grants
82 under the program. No more than 10 percent of legislative
83 appropriations for the program may be used for administrative
84 purposes. Enterprise Florida, Inc., shall disburse moneys

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

85 awarded to a grant awardee upon approval by the statewide
86 advisory committee, demonstration by the awardee that it has
87 obtained a federal Small Business Innovation Research Program or
88 Small Business Technology Transfer Program Phase II award, and
89 the execution of a performance contract by the awardee.

90 Unallocated legislative appropriations for the program at the
91 end of the fiscal year shall carry forward to succeeding fiscal
92 years pursuant to s. 288.904(1)(j).

93 (5) PROGRAM ADMINISTRATOR.—Enterprise Florida, Inc., may
94 serve as program administrator or contract for performance of
95 all or some of its functions with an experienced third-party.
96 The responsibilities of the program administrator include, but
97 are not limited to:

98 (a) Establishing and coordinating the grant selection
99 committee;

100 (b) Administering the grant selection process, including,
101 but not limited to, issuing open call requests for grant
102 applications and receiving, reviewing, and processing grant
103 applications;

104 (c) Serving as grant contract manager for grant awardees;

105 (d) Reporting program progress and results and programmatic
106 recommendations for change to the statewide advisory committee;

107 (e) Establishing a technical assistance network composed
108 of, at a minimum, small business development centers, technology
109 incubators, and university technology transfer offices within
110 the state. Network members shall market the program and
111 facilitate participation in the program; and

112 (f) Establishing a mechanism by which information regarding
113 grant awardee projects may be made available to facilitate
114 additional angel, seed, or venture capital investment.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

115 (6) GRANT SELECTION COMMITTEE.--The grant selection
116 committee shall consist of at least five members, chosen by the
117 program administrator, who are experienced in conducting,
118 reviewing, and evaluating research and development projects for
119 commercialization potential or who have a successful track
120 record in developing technology commercialization programs or
121 managing investments in early-stage companies. Responsibilities
122 of the grant selection committee include reviewing grant
123 applications pursuant to adopted grant criteria, recommending
124 grant awardees and amounts to the statewide advisory committee,
125 and performing other duties as required by the program
126 administrator. The amount of each grant award may be no less
127 than \$100,000 and no more than \$250,000.

128 (7) APPLICANT ELIGIBILITY GUIDELINES.--

129 (a) An applicant must be a corporation registered with the
130 Secretary of State to operate in this state. If an applicant is
131 a non-Florida company, any state award is contingent upon the
132 applicant successfully registering to do business in this state.

133 (b) An applicant must be a small company for which a state
134 matching grant is necessary for project development and
135 implementation.

136 (c) An applicant must have received a federal Small
137 Business Innovation Research Program or Small Business
138 Technology Transfer Program Phase I award and have received an
139 invitation to submit an application for a Phase II award. If a
140 Phase II award has already been issued, the end date of the
141 federal award must be identified and justification must be
142 provided as to how these additional funds will enhance, not
143 supplant, the existing award.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

144 (d) An applicant must identify all sources of project
145 funding. Project funding must satisfy the following
146 requirements:

147 1. At least 20 percent of total project funding must come
148 from the federal government.

149 2. No more than 25 percent of total project funding may be
150 provided by the program. Program grants must not diminish the
151 amount of funds committed by other project partners.

152 3. At least 25 percent of total project funding must be
153 provided from sources other than the program and the federal
154 government. Applicant or partner funding may be used to satisfy
155 this requirement. Funds may be either cash or in-kind.

156 (e) Applicant projects funded by the program must be
157 conducted in this state.

158 Section 2. The sum of \$5 million is appropriated from the
159 General Revenue Fund to Enterprise Florida, Inc., for the
160 purpose of funding the activities of the Florida Research
161 Commercialization Matching Grant Program during the 2007-2008
162 fiscal year.

163 Section 3. This act shall take effect July 1, 2007.

164
165
166 ===== T I T L E A M E N D M E N T =====

167 Remove the entire title and insert:

168 An act relating to the Florida Research Commercialization
169 Matching Grant Program; creating s. 288.9552, F.S.; providing
170 legislative findings and intent; creating the program; providing
171 definitions; creating a statewide advisory committee for certain
172 purposes; requiring reports; designating a fiduciary actor;
173 providing for program administrative costs, award disbursement,
174 and carry forward of program funding; providing for a program

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

175 administrator; providing responsibilities; creating a grant
176 selection committee; providing responsibilities; providing
177 applicant eligibility guidelines; providing an appropriation;
178 providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1521 Commercialization of Products, Patents, and Processes Resulting from Publicly Supported Research
SPONSOR(S): Harrell
TIED BILLS: HB 1523, HB 1525, HB 1527, HB 1529, HB 1531 **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Economic Development</u>	_____	West <i>SDW</i>	Croom <i>SK</i>
2) <u>Economic Expansion & Infrastructure Council</u>	_____	_____	_____
3) <u>Policy & Budget Council</u>	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

Venture Commercialization

This bill creates the *Sure Ventures Commercialization Program* to finance through grants the commercialization of products and services developed through research and development at public universities in Florida. The goal is to convert goods or services produced by public universities into consumer products.

This bill creates *Sure Ventures Commercialization, Inc.*, to receive, hold, and distribute funds appropriated by the Legislature.

This bill creates the *Sure Ventures Commercialization Grant* to provide early-stage capital funding in the form of three grant categories.

Venture Capital

This bill creates the *Sure Venture Capital Act* designed to mobilize venture capital to create new businesses and jobs in the state that are high-growth-potential technologies to further diversify the state's economy. This Act creates the Sure Trust as a state beneficiary public trust to receive, hold, and distribute funds appropriated by the Legislature.

This bill creates the *Sure Venture Capital Fund*, to select early-stage venture capital investment advisors, negotiate for investment capital or loan proceeds from private, institutional, or banking sources having the benefit of guarantees from the Sure Trust and invest capital in companies in this state.

This bill creates the *Institute for the Commercialization of Public Research*, to assist in the commercialization of products developed at public universities, institutes, and other state supported organizations.

This bill appropriates \$13 million for fiscal year 2007-2008 from the General Revenue Fund for the costs associated with starting these new programs, plus \$35 million in tax credits that may be issued at no more than \$10 million per fiscal year from July 1, 2012 and July 1, 2037.

This bill provides an effective date of July 1, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government: This bill grants the Department of Revenue additional rule-making authority. Also, Enterprise Florida, under the direction of the Office of Tourism, Trade, and Economic Development, is tasked with monitoring and providing administrative duties to some entities created in this bill.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

State Investment in University Research

In 2006, the Legislature passed HB 1237 which created the 21st Century Technology, Research, and Scholarship Enhancement Act (the act). The Act created the Florida Technology, Research, and Scholarship Board (the board) and established a 3-pronged approach to facilitate research and development at Florida universities and to attract exceptional talent. The bill created the following three programs:

1. **Centers of Excellence** to increase technology research at state universities and diversify the state's economy by stimulating the high-tech economic job sector;
2. **World Class Scholars** to attract and recruit a knowledge base of world-class scholars to state universities; and
3. **Research and Economic Development Investment Program** to provide funds and help universities obtain state-of-the art science and technology facilities and equipment.

Centers of Excellence were established around biomolecular identification, ocean energy technologies, sustainable energy, photonics laser technology, advanced materials, and nano-science sensors. While it is too early to have results from this investment by the Florida Legislature, the programs are spurring research and development at Florida universities, will increase patents filed and issued in Florida, and will spur creation of new business.

The bill appropriated \$20 million to the 21st Century World Class Scholars Program, \$30 million to the Centers of Excellence Program, and \$45 million to the Research and Economic Development Investment Program.

Venture Capital Industry Overview

Venture capital is money provided by professionals who invest alongside management in young, rapidly growing companies that have the potential to develop into significant economic contributors. Venture capital is an important source of equity for startup companies.¹ Venture capitalists generally finance new and rapidly growing companies, purchase equity securities, assist in the development of new products or services, add value to the company through active participation, take higher risks with the expectation of higher rewards, and have a long-term orientation.

Venture capital investment in Florida is low compared to the amount of investment found in other states such as California, Massachusetts, New York, and Texas. In 2006, California had 1,445 venture capital

¹ Material in this section is taken from the National Venture Capital Association website, available at <http://www.nvca.org/def.html>. (Visited March 14, 2007.)

deals totaling over \$12 billion in investment.² Massachusetts, New York, and Texas all had at least \$1.25 billion in venture capital investment.³ Florida attracted only \$305 million in venture capital investment.⁴ Florida has the potential to attract more venture capital investment dollars. In 2000, venture capital firms struck 180 deals that totaled \$2.6 billion dollars in investments in the state.⁵ In 2001, the number of deals fell to 113 and the amount of dollars invested fell to \$895 million.⁶ In 2002, the downward trend continued as a total of 57 deals totaling \$403 million in investments were struck in Florida.⁷ From 2002-2006 the downward trend of total dollars invested leveled off as venture capital firms invested between \$304 billion and \$403 billion annually.⁸ Florida is not on the same competitive level as other states with similar population levels.

Venture Capital Programs in Florida

The Cypress Equity Fund and the Certified Capital Company Act are two current venture capital programs in the state. The Cypress Equity Fund was designed to encourage initial venture capital investments by Florida investors and to stimulate investment from national sources as well.⁹ The fund was created to invest in national venture capital funds that would invest in companies with high potential growth. Investments were not limited to Florida. Enterprise Florida's Capital Development Board intended to create a second program that would target Florida companies but this program was never developed.¹⁰ The Office of Program Policy Analysis and Government Accountability (OPPAGA) found that the Cypress Equity Fund achieved its limited goals of initiating venture capital investment but the program could have been more effective by improving Florida businesses' access to venture capital funds.¹¹

In 1998, the Florida Legislature created the Certified Capital Company Act to stimulate private investment in venture capital by providing tax credits to qualified businesses.¹² The stated purpose of this act is to stimulate a substantial increase in venture capital investments in Florida by providing an incentive for insurance companies to invest in state-certified capital companies (CAPCOs) which, in turn, will invest in new or expanding businesses.¹³

Eligible insurance companies are granted insurance premium tax credits in amounts equal to investments in CAPCOs. The increase in investment capital is intended to contribute to employment growth, create high-paying jobs, and expand or diversify Florida's economy.

Proposed Changes:

Sure Ventures Commercialization Program

HB 1521 creates s. 288.956, F.S., the Sure Ventures Commercialization Program (program), to finance the commercialization of products and services developed through research and development of public universities in Florida. The goal is to convert goods or services produced by public universities into consumer products. Funds from the Sure Ventures Commercialization may be used to market goods produced by public universities but not for research and development. Funds may be used to secure patents, establish start-up companies, develop license agreements, attract private investment, or other support activities that are necessary to establish commercially viable ventures for the marketing and sale of products. Funds may not be used for research and development.

² PricewaterhouseCoopers National Venture Capital Association Money Tree Report 2006, provided by Thompson Financial.

³ Id.

⁴ 2007 Conference Venture Capital State of the Industry Presentation; 2007 Florida Venture Capital Conference, available at [http://www.flvencap.org/documents/NVCA%20Florida%20Venture%20Fair%202002-07-07%20\(short\).ppt#1100.11.Dollars Invested Florida : State Hit Hard In Post-Bubble Decline](http://www.flvencap.org/documents/NVCA%20Florida%20Venture%20Fair%202002-07-07%20(short).ppt#1100.11.Dollars%20Invested%20Florida%20State%20Hit%20Hard%20In%20Post-Bubble%20Decline) (visited 3/14/2007).

⁵ PricewaterhouseCoopers National Venture Capital Association Money Tree Report 2006, provided by Thompson Financial.

⁶ Id.

⁷ PricewaterhouseCoopers National Venture Capital Association Money Tree Report 2006, provided by Thompson Financial.

⁸ Id.

⁹ Office of Program Policy Analysis and Government Accountability (OPPAGA) *Review of the Enterprise Florida, Inc. Capital Development Board's Cypress Equity Fund*, Report No. 98-33.

¹⁰ Id.

¹¹ Id.

¹² Section 288.99, F.S.

¹³ Section 288.99(2), F.S.

Sure Ventures Commercialization, Inc.

To implement the Sure Ventures Commercialization Program, the bill creates Sure Ventures Commercialization, Inc., a not-for-profit corporation that is not a part of state government but is subject to s. 24, Art. I of the State Constitution and chapter 119, relating to public records, and the provisions of chapter 286 relating to public meetings and records. Sure Ventures Commercialization, Inc. (the corporation) must establish at least one corporate office in Florida and appoint a registered agent. Further, the corporation may not spend more than \$1 million annually on salaries and administrative costs. Enterprise Florida is tasked with providing administrative support as requested by the corporation if appropriations are provided. If the corporation is dissolved, Enterprise Florida will assume all rights and obligations of the corporation under any contract which the corporation is involved with at that time. The corporation will receive, hold, and distribute funds appropriated by the Legislature.

Board Membership; Organization & Meetings

The corporation will be governed by a board of directors staffed by nine voting members. The Governor, the President of the Senate, and the Speaker of the House of Representatives, shall appoint three members each. Terms of the board are four years in length but the initial board shall consist of three members serving one year terms, three members serving two year terms, and three members serving four year terms so that appointments to the board are staggered. The Governor, President of the Senate, and Speaker of the House will each appoint one member apiece to serve a one year term, one member apiece to serve a two year term, and one member apiece to serve a four year term. Further, the Governor, President of the Senate, or Speaker of the House, respectively, shall fill a vacancy on the board according to who the member whose vacancy is being filled. No board member is allowed to have a personal stake in any contract or business dealing arising from a project receiving financing from the board. Members of the board shall receive no compensation but may be reimbursed for necessary expenses. Members of the board may be removed by the official that appointed them for criminal activities or poor performance.

The board shall annually elect a chairperson and vice chairperson from the board's members. Both the chairperson and vice chairperson can be removed by a vote of five of the nine board members. The board will meet at the request of the chairperson or at the request of a majority of the members but not less than twice per year. A majority of voting members constitutes a quorum and unless otherwise provided, the board may take official action by a majority vote of the members present at any meeting where a quorum is present. Members may not vote by proxy but members may participate by phone or video conferencing.

Sure Ventures Commercialization Grant

This bill creates s. 288.9562, F.S., which creates the Sure Ventures Commercialization Grant Program. This program is established to provide early-stage capital funding in the form of three grant categories.

Phase One grants may not exceed \$50,000 per project and may be used for initial activities required to develop an initial business model for a university project.

Phase Two grants may not exceed \$100,000 per project and may be used to match private investment in a university project. These grants shall be used to develop a complete business plan for the commercialization of a university project. To be eligible for a Phase Two grant, a university must document a 1:1 match in funds from the private sector.

Phase Three grants may not exceed \$250,000 per project and may be used to match private investment relating to the implementation of a completed business plan. To be eligible for a Phase Three grant, a university must document a 1:1 match in funds from the private sector.

Contracts for the Award of Grants

The corporation shall negotiate and execute contracts with state universities governing the terms of grants. Contracts must be approved by six of the nine board members. Each contract must contain provisions:

- Specifying the procedures and schedules that govern disbursement of the funds;
- Requiring the university to submit to the corporation a business plan;
- Requiring the university to submit data to the corporation concerning the performance of projects funded by the corporation; and
- Requiring grant recipients to repay the amount of the grant award when the project generates sufficient revenues to sustain profitable operation.

Annual Report

By December 1 of each year, the corporation shall produce a report to be submitted to the Governor, President of the Senate, and Speaker of the House of Representatives. This report shall document grants disbursed during the preceding fiscal year by project and university, describe any economic development generated by this program, detail any potential benefits to the state as a result of the program, and other relevant information.

Liability and Debt

Appropriation of funds through this program does not constitute a debt of the state or any political subdivision of the state. Further, the state will not be subject to any liability resulting from projects that received funding from this program. The corporation may not incur debt associated with long term leases, promissory notes, loans, and other similar financial obligations.

Investment

The corporation must enter into an agreement with the State Board of Administration so that unused funds are invested by the State Board of Administration.

The corporation shall meet at least once every six months for the purpose of evaluating grant proposals and for awarding grants when the uncommitted balance of the Sure Ventures Commercialization Trust Fund exceeds \$750,000. The corporation must approve or deny submitted proposals no more than sixty days after the proposal is received unless the board votes to extend the time allotment to deal with complex issues surrounding the proposal.

Sure Venture Capital Act

The Sure Venture Capital Act is designed to mobilize venture capital to create new businesses and jobs in the state that are high-growth-potential technologies to further diversify the state's economy.

This bill creates Sure Trust as a state beneficiary public trust to be administered by the board. The trust will receive, hold, and distribute funds appropriated by the Legislature. The trust is not a part of state government but is subject to s. 24, Art. I of the State Constitution and chapter 119, relating to public records, and the provisions of chapter 286 relating to public meetings and records. The trust must establish at least one corporate office in Florida and appoint a registered agent. Further, the trust may not spend more than \$1 million annually on salaries and administrative costs. Enterprise Florida is tasked with providing administrative support as requested by the trust. If the trust is dissolved, Enterprise Florida will assume all rights and obligations of the trust under any contract which the trust is involved with at that time.

Tax Credits

The board, in conjunction with the Department of Revenue (DOR), shall develop a system for registering any tax credits received by the trust. The trust will receive a total of \$35 million in tax credits that it can use to reduce any tax liability imposed by the state for sales and use, income, or fees. The board shall ensure that no more than \$10 million in tax credits are transferred in any state fiscal year and credits must be transferred in increments of at least \$100,000. If the amount of taxes due is less than the amount of tax credits in possession of the taxpayer, then the balance may be refunded by the

state. Any sale of tax credits by the board shall be subject to a bidding process unless the sale is for the full face value of the credits. Tax credits may not be sold before July 1, 2012 or after July 1, 2037.

Board Membership: Organization: Meetings

The corporation will be governed by a board of directors staffed by nine voting members. The Governor, the President of the Senate, and the Speaker of the House of Representatives, shall appoint three members each. Terms of the board are four years in length but the initial board shall consist of three members serving one year terms, three members serving two year terms, and three members serving four year terms so that appointments to the board are staggered. The Governor, President of the Senate, and Speaker of the House will each appoint one member apiece to serve a one year term, one member apiece to serve a two year term, and one member apiece to serve a four year term. Further, the Governor, President of the Senate, or Speaker of the House, respectively, shall fill a vacancy on the board according to who the member whose vacancy is being filled. No board member is allowed to have a personal stake in any contract or business dealing arising from a project receiving financing from the board. Members of the board shall receive no compensation but may be reimbursed for necessary expenses. Members of the board may be removed by the official that appointed them for criminal activities or poor performance.

The board shall annually elect a chairperson and vice chairperson from the board's members. Both the chairperson and vice chairperson can be removed by a vote of five of the nine board members. The board will meet at the request of the chairperson or at the request of a majority of the members but not less than twice per year. A majority of voting members constitutes a quorum and unless otherwise provided, the board may take official action by a majority vote of the members present at any meeting where a quorum is present. Members may not vote by proxy but members may participate by phone or video conferencing.

Powers and Duties

The trust shall be organized to receive, hold, and distribute funds appropriated by the Legislature. In an effort to fulfill its duties, the trust may enter into contracts, leases, and other legally binding agreements.

Annual Report

By December 1 of each year, the trust shall produce a report to be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives. This report shall document grants disbursed during the preceding fiscal year by project and university, describe any economic development generated by this program, detail any potential benefits to the state as a result of the program, and other relevant information.

Liability and Debt

Appropriation of funds through this program does not constitute a debt of the state or any political subdivision of the state. Further, the state will not be subject to any liability resulting from projects that received funding from this program. The corporation may not incur debt associated with long term leases, promissory notes, loans, and other similar financial obligations.

Employees

The board may hire employees that have expertise in the appropriate field and shall charge fees to investors so that the board's duties can be carried out without legislative appropriation.

Sure Venture Capital Fund

At the request of the board, Enterprise Florida shall assist in the creation of the Sure Venture Capital Fund, a private corporation. Enterprise Florida shall be the sole shareholder and member of the corporation. The purpose of the Sure Venture Capital Fund is to select an early-stage venture capital investment advisor, negotiate for investment capital or loan proceeds from private, institutional, or

banking sources having the benefit of guarantees from the Sure Trust and coinvest capital in companies in this state which are accepted into or promoted by the Institute for Commercialization of Public Research.

Board Membership; Organization

The vice chair of Enterprise Florida shall select from its sitting board of directors a five-person committee. This committee is tasked with selecting five members for an initial board of directors for the fund. Vacancies on the board shall be filled by a vote of the board of directors of Enterprise Florida. The board shall select an early stage venture capital investment fund allocation manager and negotiate with that entity. The board shall also manage the business affairs of the Sure Venture Capital Fund such as accounting, insurance, and other similar business needs. Board members shall receive no compensation other than reimbursements for necessary expenses.

Duties

The board shall conduct a national solicitation for investment plan proposals from qualified allocation managers for the raising and investing of capital by the trust. The fund shall invest in only companies which are accepted into or promoted by the Institute for the Commercialization of Public Research that have the intent of remaining in the state. No more than 15 percent of the fund's assets may be invested in one company project.

Annual Report

The board will submit an annual report on the activities conducted by the Sure Venture Capital Fund to the Governor, the President of the Senate, and Speaker of the House. The report should detail the companies that are receiving investments from the fund, contain an independent audit, and document the amount of debt or capital in the fund as well as a description of any tax credits sold.

Institute for the Commercialization of Public Research

This bill establishes the Institute for the Commercialization of Public Research (institute) at a public university in south Florida. Enterprise Florida shall issue a request for proposals from public universities in south Florida. The board of directors for Enterprise Florida must approve the selected proposal. The purpose of the institute is to assist in the commercialization of products developed at public universities, institutes, and other state supported organizations. Any company attempting to commercialize a product must first be accepted by the institute. After Enterprise Florida makes recommendations, the institute shall decide which companies to accept into the institute and only then will they be eligible for the Sure Ventures Commercialization Program or the Sure Ventures Commercialization Grant Program. The institute shall:

- Maintain a centralized location to showcase companies and their products;
- Develop a efficient process to publicize products from companies that have been accepted by the institute;
- Communicate with private investors and venture capital organizations regarding investment opportunities with institute-sponsored companies;
- Facilitate meetings between investors and organizations in the institute;
- Hire competent full-time staff; and
- Operate within a \$1 million budget.

The institute may not:

- Acquire ownership, royalty rights, or interest in companies or products in the institute and shall maintain secrecy of proprietary information; and
- Charge for services rendered to state universities.

C. SECTION DIRECTORY:

Section 1: Creates s. 288.956, F.S.; creating the Sure Ventures Commercialization Program.

Section 2: Creates s. 288.9561, F.S.; creating Sure Ventures Commercialization, Inc., a not-for-profit corporation; requiring Enterprise Florida, Inc., to provide administrative support to the corporation and be its successor in interest; providing for its administration by a board; providing for appointment of board members; providing for terms; providing for service without compensation; providing for reimbursement for per diem, travel, and other direct expenses; providing criteria for membership; providing for powers and duties of the board; providing for hiring employees; providing for meetings of the board; requiring the board to invest funds through the State Board of Administration; providing for contracts with state universities; requiring the board to prepare and deliver an annual report to the Governor and the Legislature by a specified date; detailing the content of the report; providing for exclusion of liability by the corporation; prohibiting the corporation from incurring debt.

Section 3: Creates s. 288.9563, F.S., creating the Sure Ventures Commercialization Grant Program; providing for the types of grants that may be made to state universities for the commercialization of research projects.

Section 4: Creates s. 288.9563, F.S., providing for grant application and approval procedures.

Section 5: Creating s. 288.9621, F.S.; providing a short title; creating s. 288.9622, F.S.; providing legislative findings and intent; creating s. 288.9623, F.S.; providing definitions; creating s. 288.9624, F.S.; creating the Sure Trust as a state beneficiary public trust; requiring Enterprise Florida, Inc., to provide administrative support to the trust and be its successor in interest; providing for administration by a board of trustees; providing for appointment of board trustees; providing for terms; providing for service without compensation; providing for reimbursement for travel and other expenses; providing criteria for trustees; providing powers and duties of trustees; providing for hiring employees; providing for meetings of the board; requiring the trust to prepare and deliver an annual report to the Governor and the Legislature by a specified date; detailing the content of the report; providing for exclusion of liability by the trust; prohibiting the trust from incurring debt; creating s. 288.9625, F.S.; authorizing the trust to receive, hold, use, transfer, and sell certain tax credits for certain purposes; providing requirements and limitations; authorizing the Department of Revenue to adopt rules for certain purposes; creating s. 288.9626, F.S.; requiring Enterprise Florida, Inc., to facilitate establishment of the Sure Venture Capital Fund; specifying criteria of the fund; providing for appointment of a board of directors appointment committee; providing for selection of a board of directors of the fund by Enterprise Florida, Inc.; specifying criteria; providing for terms and requirements of the directors; providing purposes of the fund; providing duties and responsibilities of the fund; authorizing the fund to charge a management fee for certain purposes; providing for reimbursement for travel and other direct expenses; providing for powers of the fund; providing investment requirements for the fund; requiring the board of directors to issue an annual report on the activities of the fund; providing report requirements; creating s. 288.9628, F.S.; creating the Institute for the Commercialization of Public Research; providing legislative intent; providing that the purpose of the institute is to commercialize the products of public research; providing responsibilities of the institute; prohibiting the institute from having any interest in any product supported by the institute.

Section 6: Provides appropriation through the General Revenue Fund of \$1 million in nonrecurring funds for creating and administering the Sure Ventures Commercialization Trust Fund for fiscal year 2007-2008.

Section 7: Provides appropriation through the General Revenue Fund of \$10 million in nonrecurring funds for the Sure Ventures Commercialization Trust Fund for the purpose of implementing this bill for fiscal year 2007-2008.

Section 8: Provides appropriation through the General Revenue Fund of \$1 million in nonrecurring funds for the Sure Ventures Capital Fund for the purpose of initiating activities necessary to implement its responsibilities for fiscal year 2007-2008.

Section 9: Provides appropriation through the General Revenue Fund of \$1 million in nonrecurring funds for the Institute for the Commercialization of Public Research for the purpose of initiating activities necessary to implement its responsibilities for fiscal year 2007-2008.

Section 10: Provides an effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill will incur a negative fiscal impact on the General Revenue Fund of \$13 million for fiscal year 2007-2008. The Sure Ventures Commercialization Trust Fund shall receive \$1 million; the Sure Ventures Commercialization Trust Fund shall receive \$10 million; the Sure Ventures Capital Fund shall receive \$1 million; and the Institute for the Commercialization of Public Research shall receive \$1 million. These funds are nonrecurring.

In addition, the bill sets aside \$35 million in tax credits that may be sold from July 1, 2012 through July 1, 2037.

2. Expenditures:

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The exact amount of any possible fiscal impact on local governments is unknown but one goal of this bill is to attract businesses engaged in high-technology industries to the state. Those industries typically offer high-wage jobs and a positive fiscal impact on local governments is possible.

2. Expenditures:

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill could have an economic impact on the private sector of the state's economy. The goal of this bill is to attract new businesses and investors to the state that are high-growth-potential technologies to further diversify the state's economy. This bill includes provisions to coinvest capital in companies in this state which are accepted into or promoted by the Institute for Commercialization of Public Research.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take action requiring the expenditure of funds. This bill does not reduce the percentage of state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

B. RULE-MAKING AUTHORITY:

This bill grants the Department of Revenue rule-making authority governing the manner and form of documentation required to claim tax credits. DOR may establish guidelines as to the requisites for an affirmative showing of qualification for tax credits granted or transferred.

C. DRAFTING ISSUES OR OTHER COMMENTS:

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to commercialization of products, patents,
3 and processes resulting from publicly supported research;
4 creating s. 288.956, F.S.; creating and providing
5 legislative intent for the Sure Ventures Commercialization
6 Program; creating s. 288.9561, F.S.; creating Sure
7 Ventures Commercialization, Inc., a not-for-profit
8 corporation; requiring Enterprise Florida, Inc., to
9 provide administrative support to the corporation and be
10 its successor in interest; providing for its
11 administration by a board; providing for appointment of
12 board members; providing for terms; providing for service
13 without compensation; providing for reimbursement for per
14 diem, travel, and other direct expenses; providing
15 criteria for membership; providing for powers and duties
16 of the board; providing for hiring employees; providing
17 for meetings of the board; requiring the board to invest
18 funds through the State Board of Administration; providing
19 for contracts with state universities; requiring the board
20 to prepare and deliver an annual report to the Governor
21 and the Legislature by a specified date; detailing the
22 content of the report; providing for exclusion of
23 liability by the corporation; prohibiting the corporation
24 from incurring debt; creating s. 288.9562, F.S.; creating
25 the Sure Ventures Commercialization Grant Program;
26 providing for the types of grants that may be made to
27 state universities for the commercialization of research
28 projects; creating s. 288.9563, F.S.; providing for grant

29 application and approval procedures; creating s. 288.9621,
 30 F.S.; providing a short title; creating s. 288.9622, F.S.;
 31 providing legislative findings and intent; creating s.
 32 288.9623, F.S.; providing definitions; creating s.
 33 288.9624, F.S.; creating the SURE Trust as a state
 34 beneficiary public trust; requiring Enterprise Florida,
 35 Inc., to provide administrative support to the trust and
 36 be its successor in interest; providing for administration
 37 by a board of trustees; providing for appointment of board
 38 trustees; providing for terms; providing for service
 39 without compensation; providing for reimbursement for
 40 travel and other expenses; providing criteria for
 41 trustees; providing powers and duties of trustees;
 42 providing for hiring employees; providing for meetings of
 43 the board; requiring the trust to prepare and deliver an
 44 annual report to the Governor and the Legislature by a
 45 specified date; detailing the content of the report;
 46 providing for exclusion of liability by the trust;
 47 prohibiting the trust from incurring debt; creating s.
 48 288.9625, F.S.; authorizing the trust to receive, hold,
 49 use, transfer, and sell certain tax credits for certain
 50 purposes; providing requirements and limitations;
 51 authorizing the Department of Revenue to adopt rules for
 52 certain purposes; creating s. 288.9626, F.S.; requiring
 53 Enterprise Florida, Inc., to facilitate establishment of
 54 the SURE Venture Capital Fund; specifying criteria of the
 55 fund; providing for appointment of a board of directors
 56 appointment committee; providing for selection of a board

57 of directors of the fund by Enterprise Florida, Inc.;

58 specifying criteria; providing for terms and requirements

59 of the directors; providing purposes of the fund;

60 providing duties and responsibilities of the fund;

61 authorizing the fund to charge a management fee for

62 certain purposes; providing for reimbursement for travel

63 and other direct expenses; providing for powers of the

64 fund; providing investment requirements for the fund;

65 requiring the board of directors to issue an annual report

66 on the activities of the fund; providing report

67 requirements; creating s. 288.9628, F.S.; creating the

68 Institute for the Commercialization of Public Research;

69 providing legislative intent; providing that the purpose

70 of the institute is to commercialize the products of

71 public research; providing responsibilities of the

72 institute; prohibiting the institute from having any

73 interest in any product supported by the institute;

74 providing appropriations; providing an effective date.

75

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

77

78 Section 1. Section 288.956, Florida Statutes, is created

79 to read:

80 288.956 Sure Ventures Commercialization Program.--

81 (1) The Sure Ventures Commercialization Program is

82 established for the purpose of financing the commercialization

83 of products and services developed from the research and

84 development conducted at public universities in this state. The

85 purpose of the program is to enhance the economy of this state
 86 by converting products from research performed at public
 87 universities to viable consumer products.

88 (2) The Sure Ventures Commercialization Program is
 89 designed so that a public university can apply for funding from
 90 Sure Ventures Commercialization, Inc., in order to commercially
 91 develop products and services resulting from research at the
 92 university. Funding from the Sure Ventures Commercialization
 93 Trust Fund may be used for a variety of premarketing activities,
 94 including, but not limited to, securing patents, establishing
 95 start-up companies, developing license agreements, attracting
 96 private investment, and supporting other activities that are
 97 necessary to establish commercially viable ventures for the
 98 marketing and sale of products. Funds may not be used for
 99 research or development.

100 Section 2. Section 288.9561, Florida Statutes, is created
 101 to read:

102 288.9561 Sure Ventures Commercialization, Inc.--

103 (1) CREATION.--There is created Sure Ventures
 104 Commercialization, Inc., a not-for-profit corporation, which
 105 shall be registered, incorporated, organized, and operated under
 106 chapter 617.

107 (a) The corporation is not a unit of state government or a
 108 political subdivision of the state. However, the Legislature
 109 declares that the corporation is subject to s. 24, Art. I of the
 110 State Constitution and chapter 119, relating to public records,
 111 and the provisions of chapter 286 relating to public meetings
 112 and records. Furthermore, all officers, directors, and employees

113 of the corporation must comply with the code of ethics for
 114 public officers and employees under part III of chapter 112.

115 (b) The corporation must establish at least one corporate
 116 office in this state and appoint a registered agent.

117 (c) The corporation may hire or contract for all personnel
 118 necessary to properly execute the powers and duties bestowed
 119 upon it within the funds appropriated to implement ss. 288.956-
 120 288.9566. Using funds appropriated to implement this section,
 121 the corporation may not expend more than \$1 million each year
 122 for personnel and necessary administrative expenditures,
 123 including, but not limited to, travel and per diem, legal fees,
 124 consultant's fees, rents and utilities, and audit fees.

125 (d) Subject to appropriations, Enterprise Florida, Inc.,
 126 shall provide administrative support to the corporation as
 127 requested by the corporation. If the corporation is dissolved,
 128 Enterprise Florida, Inc., becomes the corporation's successor in
 129 interest and assumes all rights, duties, and obligations of the
 130 corporation under any contract to which the corporation is then
 131 a party and under law.

132 (2) PURPOSE.--The corporation shall be organized to
 133 receive, hold, invest, administer, and disburse funds
 134 appropriated by the Legislature.

135 (3) BOARD; MEMBERSHIP.--The corporation shall be governed
 136 by a board of directors.

137 (a) The board of directors shall consist of nine voting
 138 members, of whom the Governor shall appoint three, the President
 139 of the Senate shall appoint three, and the Speaker of the House
 140 of Representatives shall appoint three.

141 (b) As a candidate to be selected to the board of
 142 directors, an individual must have prior experience with and
 143 demonstrated expertise and competence in early stage business
 144 investment, corporate management, the fiduciary management of
 145 investment funds, or the commercialization of research products.
 146 The individual must also demonstrate competence with respect to
 147 the administration and management of a publicly listed company,
 148 or experience and competence in public accounting, auditing, and
 149 fiduciary responsibilities. A board member may not have an
 150 interest in any grant proposal submitted to the corporation.

151 (c) Each member of the board of directors shall be
 152 appointed to a term of 4 years, except that for the initial
 153 appointments the Governor, the President of the Senate, and the
 154 Speaker of the House of Representatives each shall appoint one
 155 member for a term of 1 year, one member for a term of 2 years,
 156 and one member for a term of 4 years in order to achieve
 157 staggered terms among the members of the board. A member is not
 158 eligible for reappointment to the board, except that a member
 159 appointed to an initial term of 1 year or 2 years may be
 160 reappointed for an additional term of 4 years, and a person
 161 appointed to fill a vacancy having 2 years or less remaining on
 162 the term may be reappointed for an additional term of 4 years.
 163 The Governor, the President of the Senate, and the Speaker of
 164 the House of Representatives shall make their initial
 165 appointments to the board by October 1, 2007.

166 (d) The Governor, the President of the Senate, or the
 167 Speaker of the House of Representatives, respectively, shall
 168 fill a vacancy on the board of directors, according to who

169 appointed the member whose vacancy is to be filled or whose term
 170 has expired. A vacancy that occurs before the scheduled
 171 expiration of the term of the member shall be filled for the
 172 remainder of the unexpired term. A board member whose term has
 173 expired shall continue to serve until his or her replacement has
 174 been appointed.

175 (e) Each member of the board of directors who is not
 176 otherwise required to file financial disclosure under s. 8, Art.
 177 II of the State Constitution or s. 112.3144 shall file
 178 disclosure of financial interests under s. 112.3145.

179 (f)1. A person appointed to the board of directors must
 180 agree to refrain from having any direct interest in any
 181 contract, franchise, privilege, or other benefit arising from a
 182 university project receiving financing from the board during the
 183 term of his or her appointment and for 2 years after the
 184 termination of the appointment.

185 2. If a person accepts a direct interest in any contract,
 186 franchise, privilege, or other benefit granted by the
 187 institution or affiliate within 2 years after the termination of
 188 his or her service on the board, the person commits a
 189 misdemeanor of the first degree, punishable as provided in s.
 190 775.083 or s. 775.084.

191 (g) Members of the board of directors shall receive no
 192 compensation for their services but are entitled to receive
 193 reimbursement for necessary expenses, including travel and per
 194 diem expenses, incurred in the performance of their duties.

195 (h) Each member of the board of directors is accountable
 196 for the proper performance of his or her duties of office, and

197 each member owes a fiduciary duty to the people of the state to
 198 ensure that funds provided in furtherance of this section are
 199 disbursed and used as prescribed by law and contract and in the
 200 best interests of the state.

201 (i) The Governor, the President of the Senate, or the
 202 Speaker of the House of Representatives, according to which
 203 officer appointed the member, may remove a member for
 204 malfeasance, misfeasance, neglect of duty, incompetence,
 205 permanent inability to perform official duties, unexcused
 206 absence from three consecutive meetings of the board, arrest or
 207 indictment for a crime that is a felony or a misdemeanor
 208 involving theft or a crime of dishonesty, or pleading nolo
 209 contendere to, or being found guilty of, any crime.

210 (4) ORGANIZATION; MEETINGS.--

211 (a)1. The board of directors shall annually elect a
 212 chairperson and a vice chairperson from among the board's
 213 members. The members may, by a vote of five of the nine board
 214 members, remove a member from the position of chairperson or
 215 vice chairperson before the expiration of his or her term as
 216 chairperson or vice chairperson. His or her successor shall be
 217 elected to serve for the balance of the removed chairperson's or
 218 vice chairperson's term.

219 2. The chairperson shall ensure that records are kept of
 220 the proceedings of the board of directors and is the custodian
 221 of all books, documents, and papers filed with the board; the
 222 minutes of meetings of the board; and the official seal of the
 223 corporation.

224 (b)1. The board of directors shall meet upon the call of

225 the chairperson or at the request of a majority of the members,
 226 but not less than twice each calendar year if a university
 227 request for funding under this section is pending.

228 2. A majority of the voting members of the board of
 229 directors constitutes a quorum. Except as otherwise provided in
 230 this section, the board may take official action by a majority
 231 vote of the members present at any meeting at which a quorum is
 232 present. Members may not vote by proxy.

233 3. A member of the board may participate in a meeting of
 234 the board by telephone or videoconference through which each
 235 member may hear every other member.

236 (5) POWERS AND DUTIES.--The corporation shall be organized
 237 to receive, hold, invest, administer, and disburse funds
 238 appropriated by the Legislature in support of ss. 288.956-
 239 288.9566 and to disburse any income generated from the
 240 investment of these funds consistent with the purpose and
 241 provisions of this section. In addition to the powers and duties
 242 prescribed in chapter 617 and the articles and bylaws adopted
 243 under that chapter, the corporation:

244 (a) May make and enter into contracts and assume any other
 245 functions that are necessary to carry out the provisions of this
 246 section.

247 (b) May enter into leases and contracts for the purchase
 248 of real property and hold notes, mortgages, guarantees, or
 249 security agreements to secure the performance of obligations of
 250 the university under a contract.

251 (c) May perform all acts and things necessary or
 252 convenient to carry out the powers expressly granted in ss.

253 288.956-288.9566 and a contract entered into between the
 254 corporation and a university.

255 (d) May make expenditures from funds provided by this
 256 state, including any necessary administrative expenditures
 257 consistent with its powers.

258 (e) Shall indemnify, and purchase and maintain insurance
 259 on behalf of, directors, officers, and employees of the
 260 corporation against any personal liability or accountability.

261 (f) Shall disburse funds under this section and a contract
 262 entered into between the corporation and a university.

263 (g) Shall receive and review reports and financial
 264 documentation provided by a university to ensure compliance with
 265 this section and the contract.

266 (h) Shall prepare an annual report as prescribed in
 267 subsection (8).

268 (i) May accept gifts, grants, donations, in-kind services,
 269 or other goods and services for carrying out its purposes.

270 (6) INVESTMENT OF FUNDS.--The corporation must enter into
 271 an agreement with the State Board of Administration under which
 272 funds received by the corporation which are not disbursed to a
 273 university or invested must be invested by the State Board of
 274 Administration on behalf of the corporation. Funds shall be
 275 invested in suitable instruments authorized under s. 215.47 and
 276 specified in investment guidelines established and agreed to by
 277 the State Board of Administration and the corporation.

278 (7) CONTRACTS FOR THE AWARD OF GRANTS.--

279 (a) The corporation shall negotiate and execute contracts
 280 with universities governing the terms of grants provided under

281 ss. 288.956-288.9566. The corporation may not execute the
 282 contract unless the contract is approved by the affirmative vote
 283 of at least six of the nine members of the board of directors.

284 (b) Each contract, at a minimum, must contain provisions:

285 1. Specifying the procedures and schedules that govern the
 286 disbursement of funds under this section and specifying the
 287 conditions or deliverables that the university must satisfy
 288 before the release of each disbursement.

289 2. Requiring the university to submit to the corporation a
 290 business plan in a form and manner prescribed by the
 291 corporation.

292 3. Requiring the university to submit data to the
 293 corporation concerning the activities and performance of
 294 projects funded under this section and to provide to the
 295 corporation an annual accounting of the expenditure of funds
 296 disbursed under this section by August 1, 2008, and annually
 297 thereafter.

298 4. Requiring grant recipients to negotiate repayment to
 299 the Sure Ventures Commercialization Trust Fund the amount of the
 300 grant awarded to a project when the project generates sufficient
 301 revenues to sustain a profitable operation.

302 (8) ANNUAL REPORT.--By December 1 of each year, the
 303 corporation shall prepare a report of the activities and
 304 outcomes under ss. 288.956-288.9566 for the preceding fiscal
 305 year and submit the report to the Governor, the President of the
 306 Senate, and the Speaker of the House of Representatives. The
 307 report, at a minimum, must include:

308 (a) An accounting of the amount of grants awarded and

309 disbursed during the preceding fiscal year by project and
 310 university.

311 (b) Information concerning the amount and nature of
 312 economic activity in this state generated through university
 313 research projects receiving funding under ss. 288.956-288.9566.

314 (c) Project level summaries of the information reported by
 315 grant recipients in paragraph (7) (b).

316 (d) A description of the benefits to this state resulting
 317 from the grant program, including the number of businesses
 318 created, associated industries started, and the growth of
 319 related research projects at the university.

320 (e) An independent audit of the corporation's receipts and
 321 expenditures during the preceding fiscal year for personnel,
 322 administration, and operational costs of the corporation.

323 (f) A description of those projects funded by the grant
 324 program in which two or more universities are working
 325 cooperatively together to avoid duplicating the activities,
 326 programs, and functions of the cooperating universities and to
 327 leverage the expertise offered by other universities.

328 (9) LIABILITY.--

329 (a) The appropriation or disbursement of funds under this
 330 section does not constitute a debt, liability, or obligation of
 331 the state, any political subdivision of the state, or the
 332 corporation or a pledge of the faith and credit of the state or
 333 of any political subdivision of the state.

334 (b) The appropriation or disbursement of funds under this
 335 section does not subject the state, any political subdivision of
 336 the state, or the corporation to liability related to the

337 research activities and research products that receive funding
 338 under this section.

339 (10) DEBT.--The corporation may not incur debt. This
 340 prohibition includes long-term leases, promissory notes, loans,
 341 lease-purchase agreements, certificates of participation, the
 342 sale of bonds or revenue bonds, or the award or commitment to
 343 award grants in excess of the unencumbered cash balance in the
 344 Sure Ventures Commercialization Trust Fund.

345 Section 3. Section 288.9562, Florida Statutes, is created
 346 to read:

347 288.9562 Sure Ventures Commercialization Grant
 348 Program.--The Sure Ventures Commercialization Grant Program is
 349 established to provide early stage capital funding from the Sure
 350 Ventures Commercialization Trust Fund in support of the
 351 commercialization of university research products. Grants from
 352 the Sure Ventures Commercialization Trust Fund shall be
 353 disbursed under the following categories:

354 (1) Phase One grants, which may not exceed \$50,000 per
 355 project, may be used to assist with early market research,
 356 independent evaluation, consultation, and other initial
 357 activities that may be required to develop an initial business
 358 model for a university research product having the potential for
 359 commercialization.

360 (2) Phase Two grants, which may not exceed \$100,000 per
 361 project, may be used to match private investment in a university
 362 research commercialization proposal. The university proposal
 363 must have been successfully evaluated and developed into a level
 364 of readiness contemplated for projects that have received Phase

365 One grants. Phase Two grants shall be used to develop a complete
 366 business plan for the commercialization of a university research
 367 product. For a Phase Two grant proposal, the university must
 368 document the availability of \$1 in private support for each \$1
 369 in state funding requested.

370 (3) Phase Three grants, which may not exceed \$250,000 per
 371 project, may be used to match private investment relating to the
 372 implementation of a completed business plan for a university
 373 research product. For a Phase Three grant proposal, the
 374 university must document the availability of \$1 in private
 375 support for each \$1 in state funding requested.

376 Section 4. Section 288.9563, Florida Statutes, is created
 377 to read:

378 288.9563 Sure Ventures Commercialization grants;
 379 application and approval procedures.--

380 (1) A university, or any two or more universities, upon
 381 approval of each university's board of trustees, may submit a
 382 request to Sure Ventures Commercialization, Inc., for a grant to
 383 facilitate the commercialization of a university research
 384 product or the commercialization of a patent held by a
 385 university.

386 (2) Subject to the availability of trust funds, the
 387 corporation shall periodically solicit specific proposals from
 388 universities for grants approved by the corporation.

389 (a)1. The corporation shall meet at least once every 6
 390 months for the purpose of evaluating the grant proposals and for
 391 awarding grants if the uncommitted balance in the Sure Ventures
 392 Commercialization Trust Fund exceeds \$750,000.

393 2. The minimum time between the date when the notice for
 394 the solicitation for proposals is issued and the date when the
 395 finished proposal is received by the corporation may not be less
 396 than 60 days. The corporation must approve or deny a completed
 397 proposal not more than 60 days after receiving the proposal.

398 3. The board of directors, by a majority vote, may
 399 increase the time allotted to approve or deny the submitted
 400 proposals by an additional 60 days when complex proposals
 401 require additional time for proper evaluation.

402 (b) The board shall establish guidelines prescribing the
 403 criteria and format for proposed projects submitted by
 404 universities.

405 (3) When evaluating the projects submitted for funding
 406 support through Sure Ventures Commercialization, Inc., the board
 407 must consider the following criteria:

408 (a) The potential return to the university which may be
 409 reasonably assumed based on the business case presented in
 410 support of the proposed project;

411 (b) The potential for the creation of high-wage jobs
 412 resulting from the success of the proposed project;

413 (c) The potential of the proposed project to address
 414 pressing needs of the residents of the state;

415 (d) The potential of the proposed project to "spin-off"
 416 other related business enterprises;

417 (e) The potential of the proposed project to enhance the
 418 economic competitiveness of the state and the university; and

419 (f) The technical, financial, organizational, and
 420 marketing feasibility of the project and its business plan.

421 (4) The proposed project must be evaluated on its
 422 individual merits.

423 Section 5. Sections 288.9621, 288.9622, 288.9623,
 424 288.9624, 288.9625, 288.9626, and 288.9628, Florida Statutes,
 425 are created to read:

426 288.9621 Short title.--Sections 288.9621-288.9629 may be
 427 cited as the "SURE Venture Capital Act."

428 288.9622 Findings and intent.--

429 (1) The Legislature finds and declares that there is need
 430 to increase the availability of seed capital and early stage
 431 venture equity capital for emerging companies in this state
 432 which are commercializing state university research, technology,
 433 or patents, or commercializing in this state any other state-
 434 supported research organization's technology, products, or
 435 patents, including, without limitation, enterprises in life
 436 sciences, information technology, advanced manufacturing
 437 processes, aviation and aerospace, and homeland security and
 438 defense, as well as other strategic technologies.

439 (2) It is the intent of the Legislature that ss. 288.9621-
 440 288.9629 serve to mobilize investment in a broad variety of
 441 Florida-based, new technology companies within diversified
 442 industries; retain private-sector investment criteria focused on
 443 rate of return; use the services of a highly qualified manager
 444 in the venture capital industry; facilitate the organization of
 445 the SURE Venture Capital Fund as a coinvestor in seed and early
 446 stage companies; market products developed in state universities
 447 and other publicly funded entities located in this state; and
 448 precipitate capital investment and extensions of credit to and

449 in the Sure Venture Capital Fund, and it is the further intent
 450 of the Legislature that an institute be created to mentor,
 451 market, and attract capital to such commercialization ventures.

452 (3) It is the intent of the Legislature to mobilize
 453 venture equity capital for investment in such a manner as to
 454 result in a significant potential to create new businesses and
 455 jobs in this state which are based on high-growth-potential
 456 technologies, products, or services and which will further
 457 diversify the economy of this state.

458 288.9623 Definitions.--As used in ss. 288.9621-288.9629:

459 (1) "Board" means the board of trustees of the SURE Trust.

460 (2) "Certificate" means a contract between the trust and a
 461 designated investor or lender evidencing the terms of a
 462 guarantee or incentive granted to a designated investor.

463 (3) "Designated investor" means a person, other than the
 464 board, who purchases an equity interest in the SURE Venture
 465 Capital Fund, who is a party to a certificate, or who is a
 466 lender to the SURE Venture Capital Fund.

467 (4) "SURE Trust" or "trust" means a state beneficiary
 468 public trust created under ss. 288.9621-288.9629.

469 (5) "SURE Venture Capital Fund" or "fund" means the
 470 private, for-profit limited liability company in which a
 471 designated investor purchases an equity interest or to which a
 472 designated investor extends credit.

473 (6) "Tax credit" means a contingent tax credit issued
 474 under ss. 288.9621-288.9629 or subsequent legislative action
 475 which is available to offset tax liabilities imposed by this
 476 state if the proceeds of the tax are payable to the General

477 Revenue Fund. A tax credit is not eligible to offset tax
 478 liabilities imposed by a political subdivision within this
 479 state.

480 288.9624 SURE Trust.--

481 (1) PUBLIC TRUST.--The SURE Trust is created as a state
 482 beneficiary public trust to be administered by the board. The
 483 exercise by the board of powers conferred by this part is deemed
 484 and held to be the performance of essential public purposes.

485 (2) PUBLIC RECORDS AND MEETINGS.--

486 (a) The trust is not a unit of state government or a
 487 political subdivision of the state. However, the Legislature
 488 declares that the trust is subject to s. 24, Art. I of the State
 489 Constitution and chapter 119, relating to public records, and
 490 the provisions of chapter 286 relating to public meetings and
 491 records. Furthermore, all officers, trustees, and employees of
 492 the trust must comply with the code of ethics for public
 493 officers and employees under part III of chapter 112.

494 (b) The trust must establish at least one corporate office
 495 in this state and appoint a registered agent.

496 (c) The trust may hire or contract for all personnel
 497 necessary to properly execute the powers and duties bestowed
 498 upon it within the funds appropriated to implement ss. 288.9621-
 499 288.9629. Using funds appropriated to implement this section,
 500 the trust may not expend more than \$1 million each year for
 501 personnel and necessary administrative expenditures, including,
 502 but not limited to, travel and per diem, legal fees,
 503 consultant's fees, rents and utilities, and audit fees.

504 (d) Subject to appropriations, Enterprise Florida, Inc.,

505 shall provide administrative support to the trust as requested
 506 by the trust. If the trust is dissolved, Enterprise Florida,
 507 Inc., becomes the trust's successor in interest and assumes all
 508 rights, duties, and obligations of the trust under any contract
 509 to which the trust is then a party and under law.

510 (3) PURPOSE.--The trust shall be organized to receive,
 511 hold, invest, administer, and disburse funds appropriated by the
 512 Legislature.

513 (4) BOARD; MEMBERSHIP.--The trust shall be governed by a
 514 board of trustees.

515 (a) The board of trustees shall consist of nine voting
 516 trustees, of whom the Governor shall appoint three, the
 517 President of the Senate shall appoint three, and the Speaker of
 518 the House of Representatives shall appoint three.

519 (b) As a candidate to be selected to the board of
 520 trustees, an individual must have prior experience with and
 521 demonstrated expertise and competence in early stage business
 522 investment, corporate management, the supervision of early stage
 523 investment managers, venture capital investment, management of
 524 entrepreneurial companies, the fiduciary management of
 525 investment funds, and the commercialization of research
 526 products. The individual must also demonstrate competence with
 527 respect to the administration and management of a publicly
 528 listed company, or experience and competence in public
 529 accounting, auditing, and fiduciary responsibilities. A trustee
 530 may not have an ownership interest in any entity to which a
 531 certificate is issued or have any business relationship with any
 532 investment manager hired by SURE Venture Capital Fund.

533 (c) Each trustee of the board of trustees shall be
 534 appointed to a term of 4 years, except that for the initial
 535 appointments the Governor, the President of the Senate, and the
 536 Speaker of the House of Representatives shall each appoint one
 537 trustee for a term of 1 year, one trustee for a term of 2 years,
 538 and one trustee for a term of 4 years in order to achieve
 539 staggered terms among the trustees of the board. A trustee is
 540 not eligible for reappointment to the board, except that a
 541 trustee appointed to an initial term of 1 year or 2 years may be
 542 reappointed for an additional term of 4 years, and a person
 543 appointed to fill a vacancy having 2 years or less remaining on
 544 the term may be reappointed for an additional term of 4 years.
 545 The Governor, the President of the Senate, and the Speaker of
 546 the House of Representatives shall make their initial
 547 appointments to the board by October 1, 2007.

548 (d) The Governor, the President of the Senate, or the
 549 Speaker of the House of Representatives, respectively, shall
 550 fill a vacancy on the board of trustees, according to who
 551 appointed the trustee whose vacancy is to be filled or whose
 552 term has expired. A vacancy that occurs before the scheduled
 553 expiration of the term of the trustee shall be filled for the
 554 remainder of the unexpired term. A trustee whose term has
 555 expired shall continue to serve until his or her replacement has
 556 been appointed.

557 (e) Each trustee who is not otherwise required to file
 558 financial disclosure under s. 8, Art. II of the State
 559 Constitution or s. 112.3144 shall file disclosure of financial
 560 interests under s. 112.3145.

561 (f)1. A trustee appointed to the board must agree to
 562 refrain from having any direct interest in any contract,
 563 franchise, privilege, or other benefit arising from a project
 564 receiving financing from the board during the term of his or her
 565 appointment and for 2 years after the termination of the
 566 appointment.

567 2. If a trustee accepts a direct interest in any contract,
 568 franchise, privilege, or other benefit granted by the
 569 institution or affiliate within 2 years after the termination of
 570 his or her service on the board, the trustee commits a
 571 misdemeanor of the first degree, punishable as provided in s.
 572 775.083 or s. 775.084.

573 (g) A trustee may not receive compensation for his or her
 574 services, but is entitled to receive reimbursement for necessary
 575 expenses, including travel and per diem expenses, incurred in
 576 the performance of his or her duties.

577 (h) A trustee is accountable for the proper performance of
 578 the duties of office, and each trustee owes a fiduciary duty to
 579 the people of the state to ensure that funds provided in
 580 furtherance of ss. 288.9621-288.9629 are disbursed and used as
 581 prescribed by law and contract and in the best interests of the
 582 state.

583 (i) The Governor, the President of the Senate, or the
 584 Speaker of the House of Representatives, according to which
 585 officer appointed the trustee, may remove a trustee for
 586 malfeasance, misfeasance, neglect of duty, incompetence,
 587 permanent inability to perform official duties, unexcused
 588 absence from three consecutive meetings of the board, arrest or

589 indictment for a crime that is a felony or a misdemeanor
 590 involving theft or a crime of dishonesty, or pleading nolo
 591 contendere to, or being found guilty of, any crime.

592 (5) ORGANIZATION; MEETINGS.--

593 (a)1. The board of trustees shall annually elect a
 594 chairperson and a vice chairperson from among the board's
 595 trustees. The trustees may, by a vote of five of the nine board
 596 trustees, remove a trustee from the position of chairperson or
 597 vice chairperson before the expiration of his or her term as
 598 chairperson or vice chairperson. His or her successor shall be
 599 elected to serve for the balance of the removed chairperson's or
 600 vice chairperson's term.

601 2. The chairperson is responsible for ensuring that
 602 records are kept of the proceedings of the board of trustees and
 603 is the custodian of all books, documents, and papers filed with
 604 the board; the minutes of meetings of the board; and the
 605 official seal of the trust.

606 (b)1. The board of trustees shall meet upon the call of
 607 the chairperson or at the request of a majority of the trustees,
 608 but not less than twice each calendar year if a request for a
 609 coinvestment under this section is pending.

610 2. A majority of the voting trustees of the board
 611 constitutes a quorum. Except as otherwise provided in this
 612 section, the board may take official action by a majority vote
 613 of the trustees present at any meeting at which a quorum is
 614 present. Trustees may not vote by proxy.

615 3. A trustee may participate in a meeting of the board by
 616 telephone or videoconference through which each trustee may hear

617 every other trustee.

618 (6) POWERS AND DUTIES.--The trust shall be organized to
 619 receive, hold, invest, administer, and disburse funds
 620 appropriated by the Legislature and shall disburse any income
 621 generated from the investment of these funds consistent with the
 622 purpose and provisions of ss. 288.9621-288.9629. In addition to
 623 any other powers and duties ascribed to the trust in ss.
 624 288.9621-288.9629, the trust:

625 (a) May make and enter into contracts and assume any other
 626 functions that are necessary to carry out this section.

627 (b) May enter into leases and contracts for the purchase
 628 of real property and hold notes, mortgages, guarantees, or
 629 security agreements to secure the performance of a contract.

630 (c) May perform all acts and things necessary or
 631 convenient to carry out the powers expressly granted in ss.
 632 288.9621-288.9629 and a contract entered into between the trust
 633 and a coinvestor.

634 (d) May make expenditures from funds provided by this
 635 state, including any necessary administrative expenditures
 636 consistent with its powers.

637 (e) Shall indemnify, and purchase and maintain insurance
 638 on behalf of, trustees, officers, and employees of the trust
 639 against any personal liability or accountability.

640 (f) Shall disburse funds under this section and a contract
 641 entered into between the trust and a coinvestor.

642 (g) Shall receive and review reports and financial
 643 documentation provided by a coinvestor to ensure compliance with
 644 ss. 288.9621-288.9626 and the contract.

645 (h) Shall prepare an annual report as prescribed in
 646 subsection (7).

647 (i) May accept gifts, grants, donations, in-kind services,
 648 or other goods and services for carrying out its purposes.

649 (7) ANNUAL REPORT.--By December 1 of each year, the trust
 650 shall prepare a report of the activities and outcomes of the
 651 trust and submit the report to the Governor, the President of
 652 the Senate, and the Speaker of the House of Representatives. The
 653 report, at a minimum, must include:

654 (a) An accounting of the contracts entered into during the
 655 preceding fiscal year between the trust and designated investors
 656 and lenders.

657 (b) Information concerning the amount and nature of
 658 economic activity in this state generated through projects
 659 receiving funding from the trust.

660 (c) Project summaries of the information reported by fund
 661 recipients in paragraph (b).

662 (d) A description of the benefits to this state resulting
 663 from the trust program, including the number of businesses
 664 created, associated industries started, and the growth of
 665 related research projects.

666 (e) An independent audit of the trust's receipts and
 667 expenditures during the preceding fiscal year for personnel,
 668 administration, and operational costs of the trust.

669 (f) A description of those projects supported by the trust
 670 in which two or more universities or other state-supported
 671 research entities are working cooperatively together to avoid
 672 duplicating the activities, programs, and functions of the

673 cooperating universities or entities and to leverage the
 674 expertise offered by other universities and state-supported
 675 research entities.

676 (8) LIABILITY.--

677 (a) The appropriation or disbursement of funds under this
 678 section does not constitute a debt, liability, or obligation of
 679 the state, any political subdivision of the state, or the trust
 680 or a pledge of the faith and credit of the state or of any
 681 political subdivision of the state.

682 (b) The appropriation or disbursement of funds under this
 683 section does not subject the state, any political subdivision of
 684 the state, or the trust to liability related to the research
 685 activities and research products that receive funding under this
 686 section.

687 (9) DEBT.--The trust may not incur debt. This prohibition
 688 includes long-term leases, promissory notes, loans, lease-
 689 purchase agreements, certificates of participation, the sale of
 690 bonds or revenue bonds, and the award or commitment to awards in
 691 excess of the unencumbered cash balance in the SURE Venture
 692 Capital Fund.

693 (10) ACTIVITIES.--The board may engage consultants, expend
 694 funds, invest funds, contract, bond or insure against loss,
 695 provide guarantees or other incentives, hold transferable tax
 696 credits, sell tax credits, or enter into any financial or other
 697 transaction or perform any other act necessary to carry out its
 698 purpose under ss. 288.9621-288.9629.

699 (11) TAX CREDITS.--The board, in conjunction with the
 700 Department of Revenue, shall develop a system for registration

701 of any tax credits received by the trust and transferred under
 702 ss. 288.9621-288.9629. The board shall also create a system of
 703 documentation that permits verification that any tax credit
 704 claimed upon a tax return is validly held by the person claiming
 705 such tax credit and properly taken in the year of claim and that
 706 any transfers of the tax credit are made in accordance with the
 707 requirements of ss. 288.9621-288.9629.

708 (12) EMPLOYEES.--If the board elects to hire employees,
 709 such persons shall be selected by the board based upon knowledge
 710 and leadership in the field for which the person performs
 711 services for the board. The board shall charge fees for its
 712 guarantees to designated investors or for other services such
 713 that the board's operations may be conducted without subsequent
 714 legislative appropriation.

715 288.9625 Issuance of tax credits.--

716 (1) The trust shall receive and hold for the purposes of
 717 ss. 288.9621-288.9629 tax credits that may be used to reduce any
 718 tax liability imposed by the state under chapter 212, chapter
 719 220, s. 624.509, or s. 624.510. The total amount of tax credits
 720 issued and transferred to the trust is \$35 million. The tax
 721 credits shall be transferable by the board as provided in this
 722 section if such transferred tax credit is not exercisable before
 723 July 1, 2012, or after July 1, 2037.

724 (2) The board may transfer and sell tax credits solely for
 725 the purpose of fulfilling, in whole or in part, any certificate
 726 obligation issued by the board. The board shall immediately
 727 notify the Governor, the President of the Senate, the Speaker of
 728 the House of Representatives, and the Department of Revenue, in

729 writing, if any tax credit is transferred. The board shall be
 730 notified immediately of any transfers of tax credits by persons
 731 or businesses other than the board and shall notify the
 732 Department of Revenue, in writing, of such transfers.

733 (3) (a) The board shall ensure that no more than \$10
 734 million in tax credits is transferred, which may be claimed and
 735 used to reduce taxes payable to the General Revenue Fund for any
 736 single state fiscal year. The board shall clearly indicate upon
 737 the face of the document transferring the tax credit the
 738 principal amount of the tax credit and the state fiscal year or
 739 years during which the credit may be claimed.

740 (b) Tax credits may be transferred in increments of no
 741 less than \$100,000. A copy of the document transferring the tax
 742 credit shall be transmitted to the executive director of the
 743 Department of Revenue, who shall allow the credit to be claimed
 744 against tax liabilities of the person or business consistent
 745 with the terms appearing in the transfer document.

746 (4) If the tax liabilities of the taxpayer are
 747 insufficient to exhaust the tax credit for which the taxpayer is
 748 eligible, the balance of the tax credit may be refunded by the
 749 state. If a tax credit granted under this section is not claimed
 750 in the year designated for claiming the credit on the transfer
 751 document, any return for the year in which the credit was
 752 eligible to be claimed may be amended to claim the credit within
 753 the time specified by ss. 95.091 and 215.26.

754 (5) Persons or businesses to which tax credits under this
 755 section are transferred shall retain documentation supporting
 756 eligibility to claim the tax credits and evidence of the

757 transfer of the tax credits, if applicable, until the time
 758 provided to audit the tax returns on which the tax credits were
 759 claimed has passed.

760 (6) The Department of Revenue, in conjunction with the
 761 board, may adopt rules governing the manner and form of
 762 documentation required to claim tax credits granted or
 763 transferred under this section and may establish guidelines as
 764 to the requisites for an affirmative showing of qualification
 765 for tax credits granted or transferred under this section.

766 (7) An insurance company claiming a credit against premium
 767 tax liability under this section is not required to pay any
 768 additional retaliatory tax levied pursuant to s. 624.5091 as a
 769 result of claiming such credit. Because credits under this
 770 section are available to an insurance company, s. 624.5091 does
 771 not limit such credit in any manner.

772 (8) Any original sale of tax credits by the board shall be
 773 by competitive bidding unless the sale is for the full face
 774 value of the credits.

775 288.9626 SURE Venture Capital Fund.--

776 (1) (a) At the request of the board, Enterprise Florida,
 777 Inc., shall facilitate the creation of the SURE Venture Capital
 778 Fund, a private corporation. Enterprise Florida, Inc., shall be
 779 the corporation's sole shareholder or member. The corporation is
 780 not a public corporation or instrumentality of the state.

781 (b) The purpose of the SURE Venture Capital Fund is to
 782 select an early stage venture capital investment advisor,
 783 negotiate for investment capital or loan proceeds from private,
 784 institutional, or banking sources having the benefit of

785 guarantees from the SURE Trust and coinvest capital in companies
786 in this state which are accepted into or promoted by the
787 Institute for the Commercialization of Public Research. The fund
788 shall manage its business affairs and conduct business
789 consistent with its organizational documents and the purposes
790 set forth in this section.

791 (2) (a) The vice chair of Enterprise Florida, Inc., shall
792 select from among its sitting board of directors a five-person
793 appointment committee. The appointment committee shall select
794 five initial members of a board of directors for the fund.

795 (b) The persons elected to the initial board of directors
796 by the appointment committee shall include persons who have
797 expertise in the area of the selection and supervision of early
798 stage investment managers or in the fiduciary management of
799 investment funds and other areas of expertise as considered
800 appropriate by the appointment committee.

801 (c) After election of the initial board of directors,
802 vacancies on the board shall be filled by vote of the board of
803 directors of Enterprise Florida, Inc., and board members shall
804 serve terms as provided in the fund's organizational documents.

805 (d) Members of the board are subject to any restrictions
806 on conflicts of interest specified in the organizational
807 documents and may not have an interest in any venture capital
808 investment selected by the corporation under ss. 288.9621-
809 288.9629 or in any investments made by the SURE Venture Capital
810 Fund.

811 (3) The board shall organize the SURE Venture Capital
812 Fund, select an early stage venture capital investment fund

813 allocation manager, negotiate the terms of a contract with the
 814 SURE Venture Capital Fund allocation manager, execute the
 815 contract with the selected venture capital investment fund
 816 allocation manager on behalf of the SURE Venture Capital Fund,
 817 manage the business affairs of the SURE Venture Capital Fund,
 818 such as accounting, audit, insurance, and related requirements,
 819 and receive investment returns and reinvest the investment
 820 returns in the fund in order to provide additional venture
 821 capital investments designed to result in a significant
 822 potential to create new businesses and jobs in this state and
 823 further diversify the economy of this state.

824 (4) Upon organization, the board shall conduct a national
 825 solicitation for investment plan proposals from qualified
 826 venture capital investment fund allocation managers for the
 827 raising and investing of capital by the trust. Any proposed
 828 investment plan must address the applicant's level of
 829 experience, quality of management, investment philosophy and
 830 process, provability of success in fundraising, prior investment
 831 fund results, and plan for achieving the purposes of this act.
 832 The board shall select only venture capital investment fund
 833 managers having demonstrated expertise in the management of and
 834 investment in companies.

835 (5) The board may charge a management fee on assets under
 836 management in the fund. The fee shall be in addition to any fee
 837 charged to the fund by the venture capital investment fund
 838 allocation manager, but the fee shall be charged only to pay for
 839 reasonable and necessary costs of the fund.

840 (6) A member of the board of directors shall receive no

841 compensation for his or her services, but is entitled to receive
 842 reimbursement for necessary expenses, including travel and per
 843 diem expenses, incurred in the performance of his or her duties.

844 (7) The fund shall have all powers granted under its
 845 organizational documents and shall indemnify members to the
 846 broadest extent permissible under the laws of this state.

847 (8) (a) The fund shall invest and emphasize investment in
 848 early stage venture capital funds focusing on opportunities in
 849 this state. The investments by the fund shall be in direct
 850 investments in individual businesses approved by the trust. The
 851 fund shall coinvest with other venture capital funds having
 852 experienced managers or management teams having demonstrated
 853 expertise and a successful history in the investment of early
 854 stage venture capital funds. The fund and its partners or
 855 shareholders may negotiate any and all terms and conditions for
 856 its investments, including drawback of management fees and other
 857 provisions that maximize investment in seed and early stage
 858 companies based in this state.

859 (b) The fund shall invest directly only in companies in
 860 this state which are accepted into or promoted by the Institute
 861 for the Commercialization of Public Research. The fund shall
 862 invest only if additional private capital is invested in an
 863 amount equal to or greater than the investment of the fund, the
 864 fund's reasonable due diligence determines that the company is
 865 viable and has prospects for profitable operations, and the
 866 company has manifested its intent to remain located in this
 867 state. Not more than 15 percent of the fund's assets may be
 868 invested in one company project.

869 (9) If the fund is liquidated or has returned all capital
 870 to designated investors in accordance with contractual
 871 agreements, or if the guarantee capacity of the corporation, at
 872 the sole discretion of the board, is sufficient for additional
 873 certificates, a new funding of the SURE Venture Capital Fund may
 874 be implemented for subsequent venture capital investments. If
 875 the board takes exception to an additional funding, such
 876 additional funding may be implemented only without the benefit
 877 of certificates from the board.

878 (10) The board shall issue an annual report concerning the
 879 activities conducted by the SURE Venture Capital Fund and
 880 present the report to the Governor, the President of the Senate,
 881 and the Speaker of the House of Representatives. The annual
 882 report must include, but need not be limited to, a copy of the
 883 independent audit of the fund and a valuation of the assets of
 884 the fund, the number of investments made or committed during the
 885 fiscal year, the amount of debt or capital in or committed to
 886 the fund for which certificates have been issued by the board,
 887 and a general description of the companies receiving investment
 888 by the fund and their associated industry. The annual report
 889 shall also describe any sale of tax certificates and any sale of
 890 tax certificates which is reasonably anticipated by the board in
 891 order to meet its certificate obligations.

892 288.9628 Institute for the Commercialization of Public
 893 Research.--There is established the Institute for the
 894 Commercialization of Public Research.

895 (1) It is the intent of the Legislature that the Institute
 896 for the Commercialization of Public Research be established at a

897 public university in south Florida. Enterprise Florida, Inc.,
 898 shall issue a request for proposals to public universities in
 899 South Florida requesting proposals to fulfill the purposes of
 900 the institute as described in this section. Enterprise Florida,
 901 Inc., shall review the proposals in a committee appointed by its
 902 board of directors which shall make a recommendation for final
 903 selection. Final approval of the selected proposal must be by
 904 the board of directors of Enterprise Florida, Inc., at one of
 905 its duly noticed meetings.

906 (2) (a) The purpose of the institute is to assist in the
 907 commercialization of products developed by the research and
 908 development activities of publicly supported universities and
 909 colleges, research institutes, and other publicly supported
 910 organizations within the state.

911 (b) To be eligible for assistance, the company or
 912 organization attempting to commercialize its product must be
 913 accepted by the institute before receiving the institute's
 914 assistance. The institute shall receive recommendations from any
 915 publicly supported organization that a company that is
 916 commercializing the research, technology, or patents from a
 917 qualifying publicly supported organization should be accepted
 918 into the institute.

919 (c) The institute shall thereafter review the business
 920 plans and technology information of each such recommended
 921 company. If accepted, the institute shall mentor the company,
 922 develop marketing information on the company, and use its
 923 resources to attract capital investment into the company, as
 924 well as bring other resources to the company which may foster

925 its effective management, growth, capitalization, technology
 926 protection, marketing, or business success.

927 (3) The institute shall:

928 (a) Maintain a centralized location to showcase companies
 929 and their technologies and products;

930 (b) Develop an efficient process to inventory and
 931 publicize companies and products that have been accepted by the
 932 institute for commercialization;

933 (c) Routinely communicate with private investors and
 934 venture capital organizations regarding the investment
 935 opportunities in its showcased companies;

936 (d) Facilitate meetings between prospective investors and
 937 eligible organizations in the institute;

938 (e) Hire full-time staff who understand relevant
 939 technologies needed to market companies to the angel investors
 940 and venture capital investment community;

941 (f) Operate within an allocated annual budget of \$1
 942 million or less; and

943 (g) Develop cooperative relationships with publicly
 944 supported organizations all of which work together to provide
 945 resources or special knowledge that is likely to be helpful to
 946 institute companies.

947 (4) The institute may not develop or accrue any ownership,
 948 royalty, or other such rights over or interest in companies or
 949 products in the institute and shall maintain the secrecy of
 950 proprietary information.

951 (5) The institute may not charge for services rendered to
 952 state universities and affiliated organizations, community

953 colleges, or state agencies.

954 Section 6. The nonrecurring sum of \$1 million is
 955 appropriated from the General Revenue Fund to Sure Ventures
 956 Commercialization, Inc., for the purpose of creating and
 957 administering the Sure Ventures Commercialization Trust Fund as
 958 created by this act during the 2007-2008 fiscal year.

959 Section 7. The nonrecurring sum of \$10 million is
 960 appropriated from the General Revenue Fund to the Sure Ventures
 961 Commercialization Trust Fund for the purpose of implementing the
 962 provisions of this act during the 2007-2008 fiscal year.

963 Section 8. The nonrecurring sum of \$1 million is
 964 appropriated from the General Revenue Fund to the SURE Venture
 965 Capital Fund for the purpose of initiating activities necessary
 966 to implement its responsibilities under this act for the 2007-
 967 2008 fiscal year.

968 Section 9. The nonrecurring sum of \$1 million is
 969 appropriated from the General Revenue Fund to the Institute for
 970 the Commercialization of Public Research for the purpose of
 971 initiating activities necessary to implement its
 972 responsibilities under this act for the 2007-2008 fiscal year.

973 Section 10. This act shall take effect July 1, 2007.

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Amendment No. (for drafter's use only)

Bill No. 1521

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

1 Council/Committee hearing bill: Committee on Economic
2 Development
3 Representative(s) Harrell offered the following:
4

5 **Amendment**

6 Remove everything after the enacting clause and insert:
7 Section 1. Section 288.956, Florida Statutes, is created
8 to read:

9 288.956 Sure Ventures Commercialization Program.--

10 (1) The Sure Ventures Commercialization Program is
11 established for the purpose of financing the commercialization
12 of products and services developed from the research and
13 development conducted at public universities in this state. The
14 purpose of the program is to enhance the economy of this state:

15 (a) By converting products from research performed at
16 public universities into viable consumer products, and

17 (b) By precipitating the formation of new Florida
18 companies to further develop and sell those products in the
19 commercial marketplace.

20 (2) The Sure Ventures Commercialization Program is
21 designed so that a public university can apply for funding from
22 Sure Ventures Commercialization, Inc., in order to commercially

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23 develop products and services resulting from research at the
24 university. Funding from the Sure Ventures Commercialization
25 Trust Fund may be used for a variety of premarketing activities,
26 including, but not limited to, securing patents, establishing
27 start-up companies, developing license agreements, attracting
28 private investment, and supporting other activities that are
29 necessary to establish commercially viable ventures for the
30 marketing and sale of products. Funds may not be used for
31 research or development.

32 Section 2. Section 288.9561, Florida Statutes, is created
33 to read:

34 288.9561 Sure Ventures Commercialization, Inc.--

35 (1) CREATION.--There is created Sure Ventures
36 Commercialization, Inc., a not-for-profit corporation, which
37 shall be registered, incorporated, organized, and operated under
38 chapter 617 with Enterprise Florida, Inc., as its sole member.

39 (a) The corporation is not a unit of state government or a
40 political subdivision of the state. However, the Legislature
41 declares that the corporation is subject to s. 24, Art. I of the
42 State Constitution and chapter 119, relating to public records,
43 and the provisions of chapter 286 relating to public meetings
44 and records. Furthermore, all officers, directors, and employees
45 of the corporation must comply with the code of ethics for
46 public officers and employees under part III of chapter 112.

47 (b) The corporation shall adopt suitable articles of
48 incorporation and bylaws and must establish at least one
49 corporate office in this state and appoint a registered agent.

50 (c) The corporation may hire or contract for all personnel
51 necessary to properly execute the powers and duties bestowed
52 upon it within the funds appropriated to implement ss. 288.956-
53 288.9566. Using funds appropriated to implement this section,

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54 the corporation may not expend more than \$1 million each year
55 for personnel and necessary administrative expenditures,
56 including, but not limited to, travel and per diem, legal fees,
57 consultant's fees, rents and utilities, and audit fees.

58 (d) Subject to appropriations, Enterprise Florida, Inc.,
59 shall contract to provide administrative support to the
60 corporation as requested by the corporation. If the corporation
61 is dissolved, Enterprise Florida, Inc., becomes the
62 corporation's successor in interest and assumes all rights,
63 duties, and obligations of the corporation under any contract to
64 which the corporation is then a party and under law.

65 (2) PURPOSE.--The corporation shall be organized to
66 administer a commercialization grants program as defined herein
67 with funding from the Sure Ventures commercialization Trust
68 Fund, and the corporation is authorized to receive, hold,
69 invest, administer, and disburse funds appropriated by the
70 Legislature.

71 (3) BOARD; MEMBERSHIP.--The corporation shall be governed
72 by a board of directors.

73 (a) The board of directors shall consist of nine voting
74 members, of whom the Governor shall appoint three, the President
75 of the Senate shall appoint three, and the Speaker of the House
76 of Representatives shall appoint three.

77 (b) As a candidate to be selected to the board of
78 directors, an individual must have prior experience with and
79 demonstrated expertise and competence in early stage business
80 investment, corporate management, the fiduciary management of
81 investment funds, or the commercialization of research products.
82 The individual must also demonstrate competence with respect to
83 the administration and management of a publicly listed company,
84 or experience and competence in public accounting, auditing, and

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85 fiduciary responsibilities. A board member may not have an
86 interest in any grant proposal submitted to the corporation.

87 (c) Each member of the board of directors shall be
88 appointed to a term of 4 years, except that for the initial
89 appointments the Governor, the President of the Senate, and the
90 Speaker of the House of Representatives each shall appoint one
91 member for a term of 1 year, one member for a term of 2 years,
92 and one member for a term of 4 years in order to achieve
93 staggered terms among the members of the board. A member is not
94 eligible for reappointment to the board, except that a member
95 appointed to an initial term of 1 year or 2 years may be
96 reappointed for an additional term of 4 years, and a person
97 appointed to fill a vacancy having 2 years or less remaining on
98 the term may be reappointed for an additional term of 4 years.
99 The Governor, the President of the Senate, and the Speaker of
100 the House of Representatives shall make their initial
101 appointments to the board by October 1, 2007.

102 (d) The Governor, the President of the Senate, or the
103 Speaker of the House of Representatives, respectively, shall
104 fill a vacancy on the board of directors, according to who
105 appointed the member whose vacancy is to be filled or whose term
106 has expired. A vacancy that occurs before the scheduled
107 expiration of the term of the member shall be filled for the
108 remainder of the unexpired term. A board member whose term has
109 expired shall continue to serve until his or her replacement has
110 been appointed.

111 (e) Each member of the board of directors who is not
112 otherwise required to file financial disclosure under s. 8, Art.
113 II of the State Constitution or s. 112.3144 shall file
114 disclosure of financial interests under s. 112.3145.

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115 (f)1. A person appointed to the board of directors must
116 agree to refrain from having any direct interest in any
117 contract, franchise, privilege, or other benefit arising from a
118 university project receiving financing from the board during the
119 term of his or her appointment and for 2 years after the
120 termination of the appointment.

121 2. If a person accepts a direct interest in any contract,
122 franchise, privilege, or other benefit granted by the
123 institution, an affiliate or corporation benefited by Sure
124 Commercialization grant proceeds within 2 years after the
125 termination of his or her service on the board, the person
126 commits a misdemeanor of the first degree, punishable as
127 provided in s. 775.083 or s. 775.084.

128 (g) Members of the board of directors shall receive no
129 compensation for their services but are entitled to receive
130 reimbursement for necessary expenses, including travel and per
131 diem expenses, incurred in the performance of their duties.

132 (h) Each member of the board of directors is accountable
133 for the proper performance of his or her duties of office, and
134 each member owes a fiduciary duty to the people of the state to
135 ensure that funds provided in furtherance of this section are
136 disbursed and used as prescribed by law and contract and in the
137 best interests of the state.

138 (i) The Governor, the President of the Senate, or the
139 Speaker of the House of Representatives, according to which
140 officer appointed the member, may remove a member for
141 malfeasance, misfeasance, neglect of duty, incompetence,
142 permanent inability to perform official duties, unexcused
143 absence from three consecutive meetings of the board, arrest or
144 indictment for a crime that is a felony or a misdemeanor

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145 involving theft or a crime of dishonesty, or pleading nolo
146 contendere to, or being found guilty of, any crime.

147 (4) ORGANIZATION; MEETINGS.--

148 (a)1. The board of directors shall annually elect a
149 chairperson and a vice chairperson from among the board's
150 members. The members may, by a vote of five of the nine board
151 members, remove a member from the position of chairperson or
152 vice chairperson before the expiration of his or her term as
153 chairperson or vice chairperson. His or her successor shall be
154 elected to serve for the balance of the removed chairperson's or
155 vice chairperson's term.

156 2. The chairperson shall ensure that records are kept of
157 the proceedings of the board of directors and is the custodian
158 of all books, documents, and papers filed with the board; the
159 minutes of meetings of the board; and the official seal of the
160 corporation.

161 (b)1. The board of directors shall meet upon the call of
162 the chairperson or at the request of a majority of the members,
163 but not less than twice each calendar year if a university
164 request for funding under this section is pending.

165 2. A majority of the voting members of the board of
166 directors constitutes a quorum. Except as otherwise provided in
167 this section, the board may take official action by a majority
168 vote of the members present at any meeting at which a quorum is
169 present. Members may not vote by proxy.

170 3. A member of the board may participate in a meeting of
171 the board by telephone or videoconference through which each
172 member may hear every other member.

173 (5) POWERS AND DUTIES.--The corporation shall be organized
174 to receive, hold, invest, administer, and disburse funds
175 appropriated by the Legislature in support of ss. 288.956-

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176 288.9566 and to disburse any income generated from the
177 investment of these funds consistent with the purpose and
178 provisions of this section. In addition to the powers and duties
179 prescribed in chapter 617 and the articles and bylaws adopted
180 under that chapter, the corporation:

181 (a) May make and enter into contracts and assume any other
182 functions that are necessary to carry out the provisions of this
183 section.

184 (b) May enter into leases and contracts for the purchase
185 of real property and hold notes, mortgages, guarantees, or
186 security agreements to secure the performance of obligations of
187 the university under a contract.

188 (c) May perform all acts and things necessary or
189 convenient to carry out the powers expressly granted in ss.
190 288.956-288.9566 and any contract entered into between the
191 corporation and a university.

192 (d) May make expenditures from funds provided by this
193 state, including any necessary administrative expenditures
194 consistent with its powers.

195 (e) Shall indemnify, and purchase and maintain insurance
196 on behalf of, directors, officers, and employees of the
197 corporation against any personal liability or accountability.

198 (f) Shall disburse funds under this section and any
199 contract entered into between the corporation and a university.

200 (g) Shall receive and review reports and financial
201 documentation provided by a university to ensure compliance with
202 this section and the contract.

203 (h) Shall prepare an annual report as prescribed in
204 subsection (8).

205 (i) May accept gifts, grants, donations, in-kind services,
206 or other goods and services for carrying out its purposes.

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207 (6) INVESTMENT OF FUNDS.--The corporation is authorized to
208 enter into an agreement with the State Board of Administration
209 under which funds received by the corporation which are not
210 disbursed to a university or invested must be invested by the
211 State Board of Administration on behalf of the corporation.
212 Funds shall be invested in suitable instruments authorized under
213 s. 215.47 and specified in investment guidelines established and
214 agreed to by the State Board of Administration and the
215 corporation.

216 (7) CONTRACTS FOR THE AWARD OF GRANTS.--

217 (a) The corporation shall negotiate and execute contracts
218 with universities governing the terms of grants provided under
219 ss. 288.956-288.9566. Grants shall be approved by two thirds
220 vote of the board of directors when a quorum is present at a
221 duly noticed meeting.

222 (b) Each contract, at a minimum, must contain provisions:

223 1. Specifying the procedures and schedules that govern the
224 disbursement of funds under this section and specifying the
225 conditions or deliverables that the university must satisfy
226 before the release of each disbursement.

227 2. Requiring the university to expend 95 percent of grant
228 proceeds for described uses in the approved grant application
229 and not otherwise reduce grant proceeds with facilities charges
230 or fees by the university.

231 3. Requiring the university to submit data to the
232 corporation concerning the activities and performance of
233 projects funded under this section and to provide to the
234 corporation an annual accounting of the expenditure of funds
235 disbursed under this section by August 1 of each year until one
236 year elapses from the university's final disbursement of all
237 grant funds received from the Sure commercialization program.

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238 (8) ANNUAL REPORT.--By December 1 of each year, the
239 corporation shall prepare a report of the activities and
240 outcomes under ss. 288.956-288.9566 for the preceding fiscal
241 year and submit the report to the Governor, the President of the
242 Senate, and the Speaker of the House of Representatives. The
243 report, at a minimum, must include:

244 (a) An accounting of the amount of grants awarded and
245 disbursed during the preceding fiscal year by project and
246 university.

247 (b) Project level summaries of the information reported by
248 grant recipients in paragraph (7) (b).

249 (c) A description of the benefits to this state resulting
250 from the grant program, including the number of businesses
251 created, associated industries started, and the growth of
252 related research projects at the university.

253 (d) An independent audit of the corporation's financial
254 statements, which should include a statement of operations that
255 reports receipts and expenditures during the preceding fiscal
256 year for personnel, administration, and operational costs of the
257 corporation.

258 (e) A description of those projects funded by the grant
259 program in which two or more universities are working
260 cooperatively together to avoid duplicating the activities,
261 programs, and functions of the cooperating universities and to
262 leverage the expertise offered by other universities.

263 (9) LIABILITY.--

264 (a) The appropriation or disbursement of funds under this
265 section does not constitute a debt, liability, or obligation of
266 the state, any political subdivision of the state, or the
267 corporation or a pledge of the faith and credit of the state or
268 of any political subdivision of the state.

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269 (b) The appropriation or disbursement of funds under this
270 section does not subject the state, any political subdivision of
271 the state, or the corporation to liability related to the
272 research activities, commercialization activities, and research
273 products that receive funding under this section.

274 (10) DEBT.--The corporation may not incur debt. This
275 prohibition includes long-term leases, promissory notes, loans,
276 lease-purchase agreements, certificates of participation, the
277 sale of bonds or revenue bonds, or the award or commitment to
278 award grants in excess of the unencumbered cash balance in the
279 Sure Ventures Commercialization Trust Fund.

280 Section 3. Section 288.9562, Florida Statutes, is created
281 to read:

282 288.9562 Sure Ventures Commercialization Grant
283 Program.--The Sure Ventures Commercialization Grant Program is
284 established to provide early stage capital funding from the Sure
285 Ventures Commercialization Trust Fund in support of the
286 commercialization of university research products. Grants from
287 the Sure Ventures Commercialization Trust Fund shall be
288 disbursed under the following categories:

289 (1) Phase One grants, which may not exceed \$50,000 per
290 project, may be used to assist with early market research,
291 independent evaluation, consultation, and other initial
292 activities that may be required to develop an initial business
293 model for a university research product having the potential for
294 commercialization.

295 (2) Phase Two grants, which may not exceed \$100,000 per
296 project, may be used to match private investment in a university
297 research commercialization proposal. The university proposal
298 must have been successfully evaluated and developed into a level
299 of readiness contemplated for projects that have received Phase

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300 One grants. Phase Two grants shall be used to develop a complete
301 business plan for the commercialization of a university research
302 product. For a Phase Two grant proposal, the university must
303 document the availability of \$1 in private support for each \$1
304 in state funding requested.

305 (3) Phase Three grants, which may not exceed \$250,000 per
306 project, may be used to match private investment relating to the
307 implementation of a completed business plan for a university
308 research product. For a Phase Three grant proposal, the
309 university must document the availability of \$1 in private
310 support for each \$1 in state funding requested.

311 Section 4. Section 288.9563, Florida Statutes, is created
312 to read:

313 288.9563 Sure Ventures Commercialization grants;
314 application and approval procedures.--

315 (1) A university, or any two or more universities, upon
316 approval by an authorized officer of the university, may submit
317 a request to Sure Ventures Commercialization, Inc., for a grant
318 to facilitate the commercialization of a university research
319 product or the commercialization of a patent held by a
320 university.

321 (2) Subject to the availability of trust funds, the
322 corporation shall periodically solicit specific proposals from
323 universities for grants to be funded by the corporation.

324 (a)1. The corporation shall meet at least once every 6
325 months for the purpose of evaluating the grant proposals and for
326 awarding grants if the uncommitted balance in the Sure Ventures
327 Commercialization Trust Fund exceeds \$750,000.

328 2. The minimum time between the date when the notice for
329 the solicitation for proposals is issued and the date when the
330 finished proposal is received by the corporation may not be less

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331 than 60 days. The corporation must approve or deny a completed
332 proposal not more than 60 days after receiving the proposal.

333 3. The board of directors, by a majority vote, may
334 increase the time allotted to approve or deny the submitted
335 proposals by an additional 60 days when complex proposals
336 require additional time for proper evaluation.

337 (b)1. The board shall establish guidelines prescribing the
338 criteria and format for proposed projects submitted by
339 universities.

340 2. A university need not receive prior stage grants to be
341 eligible for phase two or phase three grants.

342 (3) When evaluating the projects submitted for funding
343 support through Sure Ventures Commercialization, Inc., the board
344 must consider the following criteria:

345 (a) The potential return to the university which may be
346 reasonably assumed based on the business case presented in
347 support of the proposed project;

348 (b) The potential for the creation of high-wage jobs
349 resulting from the success of the proposed project;

350 (c) The potential of the proposed project to address
351 pressing needs of the residents of the state;

352 (d) The potential of the proposed project to "spin-off"
353 other related business enterprises;

354 (e) The potential of the proposed project to enhance the
355 economic competitiveness of the state and the university; and

356 (f) The technical, financial, organizational, and
357 marketing feasibility of the project and its business plan.

358 (4) The proposed project must be evaluated on its
359 individual merits.

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360 Section 5. Sections 288.9621, 288.9622, 288.9623,
361 288.9624, 288.9625, 288.9626, and 288.9628, Florida Statutes,
362 are created to read:

363 288.9621 Short title.--Sections 288.9621-288.9629 may be
364 cited as the "SURE Venture Capital Act."

365 288.9622 Findings and intent.--

366 (1) The Legislature finds and declares that there is need
367 to increase the availability of seed capital and early stage
368 venture equity capital for emerging companies in this state
369 which are commercializing state university research, technology,
370 or patents, or commercializing in this state any other state-
371 supported research organization's technology, products, or
372 patents, including, without limitation, enterprises in life
373 sciences, information technology, advanced manufacturing
374 processes, aviation and aerospace, and homeland security and
375 defense, as well as other strategic technologies.

376 (2) It is the intent of the Legislature that ss. 288.9621-
377 288.9629 serve to mobilize investment in a broad variety of
378 Florida-based, new technology companies within diversified
379 industries; retain private-sector investment criteria focused on
380 rate of return; use the services of a highly qualified manager
381 in the venture capital industry; facilitate the organization of
382 the SURE Venture Capital Fund as a coinvestor in seed and early
383 stage companies; market products developed in state universities
384 and other publicly funded entities located in this state; and
385 precipitate capital investment and extensions of credit to and
386 in the SURE Venture Capital Fund, and it is the further intent
387 of the Legislature that an institute be created to mentor,
388 market, and attract capital to such commercialization ventures.

389 (3) It is the intent of the Legislature to mobilize
390 venture equity capital for investment in such a manner as to

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391 result in a significant potential to create new businesses and
392 jobs in this state which are based on high-growth-potential
393 technologies, products, or services and which will further
394 diversify the economy of this state.

395 288.9623 Definitions.--As used in ss. 288.9621-288.9629:

396 (1) "Board" means the board of trustees of the SURE Trust.

397 (2) "Certificate" means a contract between the trust and a
398 designated investor or lender evidencing the terms of a
399 guarantee or incentive granted to a designated investor.

400 (3) "Designated investor" means a person, other than the
401 board, who purchases an equity interest in the SURE Venture
402 Capital Fund, who is a party to a certificate, or who is a
403 lender to the SURE Venture Capital Fund.

404 (4) "SURE Trust" or "trust" means a state beneficiary
405 public trust created under ss. 288.9621-288.9629.

406 (5) "SURE Venture Capital Fund" or "fund" means the
407 private, for-profit limited liability company in which a
408 designated investor purchases an equity interest or to which a
409 designated investor extends credit.

410 (6) "SURE Fund Board" or "directorates" means the board of
411 directors of the SURE Venture Capital Fund.

412 (7) "Tax credit" means a contingent tax credit issued
413 under ss. 288.9621-288.9629 or subsequent legislative action
414 which is available to offset tax liabilities imposed by this
415 state if the proceeds of the tax are payable to the General
416 Revenue Fund. A tax credit is not eligible to offset tax
417 liabilities imposed by a political subdivision within this
418 state.

419 288.9624 SURE Trust.--

420 (1) PUBLIC TRUST.--The SURE Trust is created as a state
421 beneficiary public trust to be administered by the board. The

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422 exercise by the board of powers conferred by this part is deemed
423 and held to be the performance of essential public purposes.

424 (2) PUBLIC RECORDS AND MEETINGS.--

425 (a) The trust is not a unit of state government or a
426 political subdivision of the state. However, the Legislature
427 declares that the trust is subject to s. 24, Art. I of the State
428 Constitution and chapter 119, relating to public records, and
429 the provisions of chapter 286 relating to public meetings and
430 records. Furthermore, all officers, trustees, and employees of
431 the trust must comply with the code of ethics for public
432 officers and employees under part III of chapter 112.

433 (b) The trust must establish at least one corporate office
434 in this state and appoint a registered agent.

435 (c) The trust may hire or contract for all personnel
436 necessary to properly execute the powers and duties bestowed
437 upon it within the funds appropriated to implement ss. 288.9621-
438 288.9629. Using funds appropriated to implement this section,
439 the trust may not expend more than \$1 million each year for
440 personnel and necessary administrative expenditures, including,
441 but not limited to, travel and per diem, legal fees,
442 consultant's fees, rents and utilities, and audit fees.

443 (d) Subject to appropriations, Enterprise Florida, Inc.,
444 shall reasonably contract to provide administrative support to
445 the trust as requested by the trust. If the trust is dissolved,
446 Enterprise Florida, Inc., becomes the trust's successor in
447 interest and assumes all rights, duties, and obligations of the
448 trust under any contract to which the trust is then a party and
449 under law.

450 (3) PURPOSE.--The trust shall be organized to receive,
451 hold, invest, administer, and disburse funds appropriated by the
452 Legislature; to receive and hold transferable tax credits; to

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453 issue guarantees or pledge tax credits for guarantee of funds
454 borrowed by or invested in the SURE Venture Capital Fund; and to
455 liquidate tax credits as may be necessary to effect performance
456 on any guarantee.

457 (4) BOARD; MEMBERSHIP.--The trust shall be governed by a
458 board of trustees.

459 (a) The board of trustees shall consist of nine voting
460 trustees, of whom the Governor shall appoint three, the
461 President of the Senate shall appoint three, and the Speaker of
462 the House of Representatives shall appoint three.

463 (b) As a candidate to be selected to the board of
464 trustees, an individual must have prior experience with and
465 demonstrated expertise and competence in early stage business
466 investment, corporate management, the supervision of early stage
467 investment managers, venture capital investment, management of
468 entrepreneurial companies, the fiduciary management of
469 investment funds, or the commercialization of research products.
470 The individual must also demonstrate competence with respect to
471 the administration and management of a publicly listed company,
472 or experience and competence in public accounting, auditing, and
473 fiduciary responsibilities. A trustee may not have an ownership
474 interest in any entity to which a certificate is issued or have
475 any business relationship with any investment manager hired by
476 the SURE Venture Capital Fund.

477 (c) Each trustee of the board of trustees shall be
478 appointed to a term of 4 years, except that for the initial
479 appointments the Governor, the President of the Senate, and the
480 Speaker of the House of Representatives shall each appoint one
481 trustee for a term of 1 year, one trustee for a term of 2 years,
482 and one trustee for a term of 4 years in order to achieve
483 staggered terms among the trustees of the board. A trustee is

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484 not eligible for reappointment to the board, except that a
485 trustee appointed to an initial term of 1 year or 2 years may be
486 reappointed for an additional term of 4 years, and a person
487 appointed to fill a vacancy having 2 years or less remaining on
488 the term may be reappointed for an additional term of 4 years.
489 The Governor, the President of the Senate, and the Speaker of
490 the House of Representatives shall make their initial
491 appointments to the board by October 1, 2007.

492 (d) The Governor, the President of the Senate, or the
493 Speaker of the House of Representatives, respectively, shall
494 fill a vacancy on the board of trustees, according to who
495 appointed the trustee whose vacancy is to be filled or whose
496 term has expired. A vacancy that occurs before the scheduled
497 expiration of the term of the trustee shall be filled for the
498 remainder of the unexpired term. A trustee whose term has
499 expired shall continue to serve until his or her replacement has
500 been appointed.

501 (e) Each trustee who is not otherwise required to file
502 financial disclosure under s. 8, Art. II of the State
503 Constitution or s. 112.3144 shall file disclosure of financial
504 interests under s. 112.3145.

505 (f)1. A trustee appointed to the board must agree to
506 refrain from having any direct interest in any contract,
507 franchise, privilege, or other benefit arising from the trust,
508 the SURE Venture Capital Fund, or a project or company receiving
509 investment from the SURE Venture Capital Fund during the term of
510 his or her appointment and for 2 years after the termination of
511 the appointment.

512 2. If a trustee accepts a direct interest in any contract,
513 franchise, privilege, or other benefit as prohibited in
514 subparagraph 1. within 2 years after the termination of his or

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515 her service on the board, the trustee commits a misdemeanor of
516 the first degree, punishable as provided in s. 775.083 or s.
517 775.084.

518 (g) A trustee may not receive compensation for his or her
519 services, but is entitled to receive reimbursement for necessary
520 expenses, including travel and per diem expenses, incurred in
521 the performance of his or her duties.

522 (h) A trustee is accountable for the proper performance of
523 the duties of office, and each trustee owes a fiduciary duty to
524 the people of the state to ensure that funds or tax credits
525 provided in furtherance of ss. 288.9621-288.9629 are disbursed
526 and used as prescribed by law and contract and in the best
527 interests of the state.

528 (i) The Governor, the President of the Senate, or the
529 Speaker of the House of Representatives, according to which
530 officer appointed the trustee, may remove a trustee for
531 malfeasance, misfeasance, neglect of duty, incompetence,
532 permanent inability to perform official duties, unexcused
533 absence from three consecutive meetings of the board, arrest or
534 indictment for a crime that is a felony or a misdemeanor
535 involving theft or a crime of dishonesty, or pleading nolo
536 contendere to, or being found guilty of, any crime.

537 (5) ORGANIZATION; MEETINGS.--

538 (a)1. The board of trustees shall annually elect a
539 chairperson and a vice chairperson from among the board's
540 trustees. The trustees may, by a vote of five of the nine board
541 trustees, remove a trustee from the position of chairperson or
542 vice chairperson before the expiration of his or her term as
543 chairperson or vice chairperson. His or her successor shall be
544 elected to serve for the balance of the removed chairperson's or
545 vice chairperson's term.

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546 2. The chairperson is responsible for ensuring that
547 records are kept of the proceedings of the board of trustees and
548 is the custodian of all books, documents, and papers filed with
549 the board; the minutes of meetings of the board; and the
550 official seal of the trust.

551 (b)1. The board of trustees shall meet upon the call of
552 the chairperson or at the request of a majority of the trustees,
553 but not less than twice each calendar year and more frequently
554 if necessary to promptly act on a request for matched
555 investment.

556 2. A majority of the voting trustees of the board
557 constitutes a quorum. Except as otherwise provided in this
558 section, the board may take official action by a majority vote
559 of the trustees present at any meeting at which a quorum is
560 present. Trustees may not vote by proxy.

561 3. A trustee may participate in a meeting of the board by
562 telephone or videoconference through which each trustee may hear
563 every other trustee.

564 (6) POWERS AND DUTIES.--The trust shall be organized to
565 receive and hold transferable tax credits; to issue guarantees
566 or pledge tax credits for guarantee of funds borrowed by or
567 invested in the SURE Venture Capital Fund; to liquidate tax
568 credits as may be necessary to effect performance on any
569 guarantee; and to receive, hold, invest, administer, and
570 disburse funds appropriated by the Legislature and shall
571 disburse any income generated from the investment of these funds
572 consistent with the purpose and provisions of ss. 288.9621-
573 288.9629. In addition to any other powers and duties ascribed to
574 the trust in ss. 288.9621-288.9629, the trust:

575 (a) May make and enter into contracts and assume any other
576 functions that are necessary to carry out the trust's purpose.

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577 (b) May enter into leases and contracts and execute notes,
578 mortgages, guarantees, or security agreements to secure the
579 performance of a contract or certificate.

580 (c) May perform all acts and things necessary or
581 convenient to carry out the powers expressly granted in ss.
582 288.9621-288.9629 and perform on a contract or certificate
583 agreement entered into between the trust and a designated
584 investor.

585 (d) May make expenditures from funds provided by this
586 state, including any necessary administrative expenditures
587 consistent with its powers.

588 (e) Shall indemnify, and purchase and maintain insurance
589 on behalf of, trustees, officers, and employees of the trust
590 against any personal liability or accountability.

591 (f) Shall disburse funds under this section and any
592 contract entered into between the trust and a designated
593 investor.

594 (g) Shall receive and review reports and financial
595 documentation provided by the SURE Venture Capital Fund to
596 ensure compliance with ss. 288.9621-288.9626 and any
597 certificate.

598 (h) Shall prepare an annual report as prescribed in
599 subsection (8).

600 (i) May accept gifts, grants, donations, in-kind services,
601 or other goods and services for carrying out its purposes.

602 (7) INVESTMENT OF FUNDS.--The trust and fund must enter
603 into an agreement with the State Board of Administration under
604 which funds received by the trust which are not disbursed to a
605 university or invested must be invested by the State Board of
606 Administration on behalf of the trust. Moneys shall be invested
607 in suitable instruments authorized under s. 215.47 and specified

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608 in investment guidelines established and agreed to by the State
609 Board of Administration and the trust.

610 (8) ANNUAL REPORT.--By December 1 of each year, the trust
611 shall prepare a report of the activities and outcomes of the
612 trust and submit the report to the Governor, the President of
613 the Senate, and the Speaker of the House of Representatives. The
614 report, at a minimum, must include:

615 (a) An accounting of the amount of grants and proposals
616 awarded and disbursed during the preceding fiscal year by
617 project and university.

618 (b) Information concerning the amount and nature of
619 economic activity in this state generated through university and
620 other state-supported research projects receiving funding from
621 the trust.

622 (c) Project summaries of the information reported by grant
623 recipients in paragraph (b).

624 (d) A description of the benefits to this state resulting
625 from the trust program, including the number of businesses
626 created, associated industries started, and the growth of
627 related research projects.

628 (e) The amount of certificates issued the previous fiscal
629 year and the total certificates outstanding.

630 (f) Independently audited financial statements, including
631 statements that show receipts and expenditures during the
632 preceding fiscal year for personnel, administration, and
633 operational costs of the trust.

634 (g) A description of any sale of tax certificates and any
635 sale of tax certificates that is reasonably anticipated by the
636 board to meet its certificate obligations.

637 (9) LIABILITY.--The appropriation or disbursement of funds
638 under this section does not constitute a debt, liability, or

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639 obligation of the state or any political subdivision of the
640 state or a pledge of the faith and credit of the state or any
641 political subdivision of the state.

642 (10) ACTIVITIES.--The board may engage consultants, expend
643 funds, invest funds, contract, bond or insure against loss,
644 provide guarantees or other incentives, hold transferable tax
645 credits, sell tax credits, or enter into any financial or other
646 transaction or perform any other act necessary to carry out its
647 purpose under ss. 288.9621-288.9629.

648 (11) TAX CREDITS.--The board, in conjunction with the
649 Department of Revenue, shall develop a system for registration
650 of any tax credits received by the trust and transferred under
651 ss. 288.9621-288.9629. The board shall also create a system of
652 documentation that permits verification that any tax credit
653 claimed upon a tax return is validly held by the person claiming
654 such tax credit and properly taken in the year of claim and that
655 any transfers of the tax credit are made in accordance with the
656 requirements of ss. 288.9621-288.9629.

657 (12) EMPLOYEES.--If the board elects to hire employees,
658 such persons shall be selected by the board based upon knowledge
659 and leadership in the field for which the person performs
660 services for the board. The board shall charge fees for its
661 guarantees to designated investors or for other services such
662 that the board's operations may be conducted without subsequent
663 legislative appropriation.

664 288.9625 Issuance of tax credits.--

665 (1) The trust shall receive and hold for the purposes of
666 ss. 288.9621-288.9629 tax credits that may be used to reduce any
667 tax liability imposed by the state under chapter 212, chapter
668 220, s. 624.509, or s. 624.510. The total amount of tax credits
669 issued and transferred to the trust is \$50 million. The tax

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670 credits shall be transferable by the board as provided in this
671 section if such transferred tax credit is not exercisable before
672 July 1, 2012, or after July 1, 2037.

673 (2) The board may transfer and sell tax credits solely for
674 the purpose of fulfilling, in whole or in part, any certificate
675 obligation issued by the board. The board shall immediately
676 notify the Governor, the President of the Senate, the Speaker of
677 the House of Representatives, and the Department of Revenue, in
678 writing, if any tax credit is transferred. The board shall be
679 notified immediately of any transfers of tax credits by persons
680 or businesses other than the board and shall notify the
681 Department of Revenue, in writing, of such transfers.

682 (3) (a) The board shall ensure that no more than \$15
683 million in tax credits is transferred, which may be claimed and
684 used to reduce taxes payable to the General Revenue Fund for any
685 single state fiscal year. The board shall clearly indicate upon
686 the face of the document transferring the tax credit the
687 principal amount of the tax credit and the state fiscal year or
688 years during which the credit may be claimed.

689 (b) Tax credits may be transferred in increments of no
690 less than \$100,000. A copy of the document transferring the tax
691 credit shall be transmitted to the executive director of the
692 Department of Revenue, who shall allow the credit to be claimed
693 against tax liabilities of the person or business consistent
694 with the terms appearing in the transfer document.

695 (4) If the tax liabilities of the taxpayer are
696 insufficient to exhaust the tax credit for which the taxpayer is
697 eligible, the balance of the tax credit may be refunded by the
698 state. If a tax credit granted under this section is not claimed
699 in the year designated for claiming the credit on the transfer
700 document, any return for the year in which the credit was

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701 eligible to be claimed may be amended to claim the credit within
702 the time specified by ss. 95.091 and 215.26.

703 (5) Persons or businesses to which tax credits under this
704 section are transferred shall retain documentation supporting
705 eligibility to claim the tax credits and evidence of the
706 transfer of the tax credits, if applicable, until the time
707 provided to audit the tax returns on which the tax credits were
708 claimed has passed.

709 (6) The Department of Revenue, in conjunction with the
710 board, may adopt rules governing the manner and form of
711 documentation required to claim tax credits granted or
712 transferred under this section and may establish guidelines as
713 to the requisites for an affirmative showing of qualification
714 for tax credits granted or transferred under this section.

715 (7) An insurance company claiming a credit against premium
716 tax liability under this section is not required to pay any
717 additional retaliatory tax levied pursuant to s. 624.5091 as a
718 result of claiming such credit. Because credits under this
719 section are available to an insurance company, s. 624.5091 does
720 not limit such credit in any manner.

721 (8) Any original sale of tax credits by the board shall be
722 by competitive bidding unless the sale is for the full face
723 value of the credits.

724 288.9626 SURE Venture Capital Fund.--

725 (1)(a) At the request of the board, Enterprise Florida,
726 Inc., shall facilitate the creation of the SURE Venture Capital
727 Fund, a private corporation. Enterprise Florida, Inc., shall be
728 the corporation's sole shareholder or member. The corporation is
729 not a public corporation or instrumentality of the state.

730 (b) The purpose of the SURE Venture Capital Fund is to
731 select an early stage venture capital investment advisor,

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732 negotiate for investment capital or loan proceeds from private,
733 institutional, or banking sources having the benefit of
734 guarantees from the SURE Trust and coinvest capital in companies
735 in this state which are accepted into or promoted by the
736 Institute for the Commercialization of Public Research. The fund
737 shall manage its business affairs and conduct business
738 consistent with its organizational documents and the purposes
739 set forth in this section.

740 (2) (a) The vice chair of Enterprise Florida, Inc., shall
741 select from among its sitting board of directors a five-person
742 appointment committee. The appointment committee shall select
743 five initial members of a board of directors for the fund.

744 (b) The persons elected to the initial board of directors
745 by the appointment committee shall include persons who have
746 expertise in the area of the selection and supervision of early
747 stage investment managers or in the fiduciary management of
748 investment funds and other areas of expertise as considered
749 appropriate by the appointment committee.

750 (c) After election of the initial board of directors,
751 vacancies on the board shall be filled by vote of the board of
752 directors of Enterprise Florida, Inc., and board members shall
753 serve terms as provided in the fund's organizational documents.

754 (d) Members of the board are subject to any restrictions
755 on conflicts of interest specified in the organizational
756 documents and may not have an interest in any venture capital
757 investment selected by the corporation under ss. 288.9621-
758 288.9629.

759 (3) The directorate shall organize the SURE Venture
760 Capital Fund, select an early stage venture capital investment
761 manager, negotiate the terms of a contract with the SURE Venture
762 Capital Fund investment manager, execute the contract with the

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763 selected venture capital investment manager on behalf of the
764 SURE Venture Capital Fund, manage the business affairs of the
765 SURE Venture Capital Fund, such as accounting, audit, insurance,
766 and related requirements, solicit and negotiate the terms, and
767 contract for and receive, investment capital or loan proceeds
768 with the assistance of the investment manager and with
769 certificates of guarantee from the SURE Trust, and receive
770 investment returns, pay investors and debtors, and reinvest the
771 investment returns in the fund in order to provide additional
772 venture capital investments designed to result in a significant
773 potential to create new businesses and jobs in this state and
774 further diversify the economy of this state.

775 (4) Upon organization, the board shall conduct a national
776 solicitation for investment plan proposals from qualified
777 venture capital investment managers for the raising and
778 investing of capital by the SURE Venture Capital Fund. Any
779 proposed investment plan must address the applicant's level of
780 experience, quality of management, investment philosophy and
781 process, provability of success in fundraising, prior investment
782 fund results, and plan for achieving the purposes of ss.
783 288.9621-288.9629. The board shall select only venture capital
784 investment managers having demonstrated expertise in the
785 management of and investment in companies.

786 (5) A member of the board of directors shall receive no
787 compensation for his or her services, but is entitled to receive
788 reimbursement for necessary expenses, including travel and per
789 diem expenses, incurred in the performance of his or her duties.

790 (6) The fund shall have all powers granted under its
791 organizational documents and shall indemnify members to the
792 broadest extent permissible under the laws of this state.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

793 (7) The fund may negotiate any and all terms and
794 conditions for its investments. The fund shall invest directly
795 only in companies in this state which are accepted into or
796 promoted by the Institute for the Commercialization of Public
797 Research. The fund shall invest only if additional private
798 capital is invested in an amount equal to or greater than the
799 investment of the fund, the fund's reasonable due diligence
800 determines that the company is viable and has prospects for
801 profitable operations, and the company has manifested its intent
802 to remain located in this state. Not more than 15 percent of the
803 fund's accessible capital may be invested in one company
804 project.

805 (8) If the fund is liquidated or has returned all capital
806 to designated investors in accordance with contractual
807 agreements, or if the guarantee capacity of the corporation, at
808 the sole discretion of the board, is sufficient for additional
809 certificates, a new funding of the SURE Venture Capital Fund may
810 be implemented for subsequent venture capital investments. If
811 the board takes exception to an additional funding, such
812 additional funding may be implemented only without the benefit
813 of certificates from the board.

814 (9) The directorate shall issue an annual report
815 concerning the activities conducted by the SURE Venture Capital
816 Fund and present the report to the SURE Trust by November 15 for
817 inclusion in the board's report to the Governor, the President
818 of the Senate, and the Speaker of the House of Representatives.
819 The annual report must include, but need not be limited to, a
820 copy of the independent audit of the fund, the number of
821 investments made or committed during the fiscal year, the amount
822 of debt or capital in or committed to the fund for which
823 certificates have been issued by the board, and a general

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

824 description of the companies receiving investment by the fund
825 and their associated industry.

826 288.9628 Institute for the Commercialization of Public
827 Research.--There is established the Institute for the
828 Commercialization of Public Research.

829 (1) It is the intent of the Legislature that the Institute
830 for the Commercialization of Public Research be established in
831 this state. Enterprise Florida, Inc., shall issue a request for
832 proposals to public universities in this state requesting
833 proposals to fulfill the purposes of the institute as described
834 in this section and provide for its physical location in a major
835 metropolitan area in South Florida with extensive commercial air
836 service to facilitate access by venture capital providers.
837 Enterprise Florida, Inc., shall review the proposals in a
838 committee appointed by its board of directors which shall make a
839 recommendation for final selection. Final approval of the
840 selected proposal must be by the board of directors of
841 Enterprise Florida, Inc., at one of its duly noticed meetings.

842 (2) (a) The purpose of the institute is to assist in the
843 commercialization of products developed by the research and
844 development activities of publicly supported universities and
845 colleges, research institutes, and other publicly supported
846 organizations within the state.

847 (b) To be eligible for assistance, the company or
848 organization attempting to commercialize its product must be
849 accepted by the institute before receiving the institute's
850 assistance. The institute shall receive recommendations from any
851 publicly supported organization that a company that is
852 commercializing the research, technology, or patents from a
853 qualifying publicly supported organization should be accepted
854 into the institute.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

855 (c) The institute shall thereafter review the business
856 plans and technology information of each such recommended
857 company. If accepted, the institute shall mentor the company,
858 develop marketing information on the company, and use its
859 resources to attract capital investment into the company, as
860 well as bring other resources to the company which may foster
861 its effective management, growth, capitalization, technology
862 protection, marketing, or business success.

863 (3) The institute shall:

864 (a) Maintain a centralized location to showcase companies
865 and their technologies and products;

866 (b) Develop an efficient process to inventory and
867 publicize companies and products that have been accepted by the
868 institute for commercialization;

869 (c) Routinely communicate with private investors and
870 venture capital organizations regarding the investment
871 opportunities in its showcased companies;

872 (d) Facilitate meetings between prospective investors and
873 eligible organizations in the institute;

874 (e) Hire full-time staff who understand relevant
875 technologies needed to market companies to the angel investors
876 and venture capital investment community;

877 (f) Operate within an allocated annual budget of \$1
878 million or less; and

879 (g) Develop cooperative relationships with publicly
880 supported organizations all of which work together to provide
881 resources or special knowledge that is likely to be helpful to
882 institute companies.

883 (4) The institute may not develop or accrue any ownership,
884 royalty, or other such rights over or interest in companies or

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

885 products in the institute and shall maintain the secrecy of
886 proprietary information.

887 (5) The institute may not charge for services rendered to
888 state universities and affiliated organizations, community
889 colleges, or state agencies.

890 Section 6. The nonrecurring sum of \$1 million is
891 appropriated from the General Revenue Fund to Sure Ventures
892 Commercialization, Inc., for the purpose of creating and
893 organizing the corporation, implementing a grant program as
894 defined herein and carrying out the administration of the Sure
895 Ventures Commercialization Trust Fund as created by this act
896 during the 2007-2008 fiscal year.

897 Section 7. The nonrecurring sum of \$10 million is
898 appropriated from the General Revenue Fund to the Sure Ventures
899 Commercialization Trust Fund for the purpose of implementing the
900 provisions of this act during the 2007-2008 fiscal year.

901 Section 8. The nonrecurring sum of \$700,000 is
902 appropriated from the General Revenue Fund to the SURE Venture
903 Capital Fund, and the nonrecurring sum of \$300,000 is
904 appropriated to the SURE Trust, for the purpose of initiating
905 activities necessary to implement responsibilities under this
906 act for the 2007-2008 fiscal year.

907 Section 9. The nonrecurring sum of \$100,000 is
908 appropriated to Enterprise Florida and the nonrecurring sum of
909 \$900,000 is appropriated from the General Revenue Fund to the
910 Institute for the Commercialization of Public Research for the
911 purpose of initiating activities necessary to implement the
912 institute and start its operations and meet its responsibilities
913 under this act for the 2007-2008 fiscal year.

914 Section 10. This act shall take effect July 1, 2007.

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HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1523
SPONSOR(S): Harrell
TIED BILLS: HB 1521

Public Rec. & Meetings/Sure Ventures Commercialization, Inc.

IDEN./SIM. BILLS: SB 2416

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Economic Development</u>	_____	West <i>SRW</i>	Croom <i>SCC</i>
2) <u>Economic Expansion & Infrastructure Council</u>	_____	_____	_____
3) <u>Policy & Budget Council</u>	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

HB 1521 creates the "Sure Ventures Commercialization, Inc.," a non-profit corporation intended to encourage commercialization of state university research.

HB 1523 creates a public records exemption for the corporation for: certain proprietary confidential business information; agreements and proposals regarding grants; information received from another state or nation or the Federal Government that is exempt or confidential; information otherwise confidential by law; and information identifying investors or prospective investors who wish to remain anonymous. It creates an exception to the exemption for governmental entities, and requires such entities to maintain the confidential and exempt status of the information received.

This bill creates a public meetings exemption for meetings of the corporation at which confidential and exempt information is presented or discussed. It provides for future review and repeal of the exemptions and provides a statement of public necessity.

This bill requires a two-thirds vote of the members present and voting for passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Public Records Law

Article I, s. 24(a), Florida Constitution, sets forth the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature, however, may provide by general law for the exemption of records from the requirements of Article I, s. 24(a), Florida Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose. Public policy regarding access to government records also is addressed in Florida Statutes.

Chapter 119, F.S., more completely addresses the issue of public records. Section 119.07(1), F.S., also guarantees every person a right to inspect, examine, and copy any state, county, or municipal record.

Open Government Sunset Review Act

Section 119.15, F.S., the "Open Government Sunset Review Act," sets forth a legislative review process that requires newly created or expanded exemptions to include an automatic repeal of the exemption on October 2nd of the fifth year after enactment or substantial amendment, unless the Legislature reenacts the exemption. It provides that a public records or public meetings exemption may be created or maintained only if it serves an identifiable public purpose, and may be no broader than is necessary to meet one of the following public purposes:

- Allowing the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
- Protecting sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety. However, only the identity of an individual may be exempted under this provision; or
- Protecting trade or business secrets.

Sure Ventures Commercialization Program

HB 1521 creates the "Sure Ventures Commercialization, Inc.," a non-profit corporation intended to encourage commercialization of state university research. It achieves this goal by contracting with and issuing grants to universities and encouraging private investors to get involved in commercialization of state university research projects. HB 1521 expressly states that the corporation is not a unit of state government, but is subject generally to the public records and public meetings laws of the State of Florida.

Proposed Exemptions

This bill creates a public records exemption for the corporation. It makes confidential and exempt:

- Information relating to methods of manufacture or production, actual or potential trade secrets, patentable material, or proprietary information received, generated, ascertained, or discovered by university research projects submitted for funding through the grant program, and transactions resulting from such research.
- Agreements and proposals to receive funding under the program.
- Information identifying an investor or prospective investor in a project.
- Information received from a person from another state or nation or the Federal Government that is exempt or confidential pursuant to the laws of that state or nation or pursuant to federal law.

This bill also requires the corporation to permit access to such confidential and exempt information to any public employee in the performance of its duties and responsibilities. The public employee must maintain the confidential and exempt status of the information received, or the employee commits a misdemeanor of the first degree.

This bill creates a public meetings exemption for the corporation. Those portions of meetings of the corporation during which confidential and exempt information is presented or discussed are exempt from the public meetings requirements.

This bill provides for future review and repeal of the exemptions, and provides a statement of public necessity.

C. SECTION DIRECTORY:

- Section 1.** Creates s. 288.9566, F.S.; creating a public records and public meetings exemption.
- Section 2.** Provides a statement of public necessity.
- Section 3.** Provides an effective date of July 1, 2007, if HB 1521 or similar legislation is adopted.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
None.
2. Expenditures:
None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
None.
2. Expenditures:
None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

Vote Requirement

Article I, s. 24(c) of the Florida Constitution, requires a two-thirds vote of the members present and voting for passage of a newly created public records or public meetings exemption. The bill creates a public records exemption. Thus, it requires a two-thirds vote for passage.

Public Necessity Statement

Article I, s. 24(c) of the Florida Constitution, requires a statement of public necessity (public necessity statement) for a newly created public records or public meetings exemption. The bill creates a public records exemption. Thus, it includes a public necessity statement.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Potential Overbreadth

As drafted, the bill may receive criticism from open government advocates over the breadth of the exemption created in s. 288.9566(1)(b) F.S. By exempting entire agreements, the grant recipient and dollar amounts are hidden from public access. Given the narrower protections of sub-subsection (a) regarding trade secrets (and all other confidential materials), and the protections of sub-subsection (c) regarding the identity of private investors, it seems that all of the relevant information is protected without exempting agreements in their entirety.

"Public Employee" Access

The phrase "public employee" created in s. 288.9566(4), F.S. may be too limiting, and block access to material by some entity with a legitimate public purpose to access the information. Other statutes expand this concept by using the phrase "governmental entity," to encompass as many legitimate uses as possible.

Penalties

It may be advisable to expand the scope of the penalty for improper release of exempt material, by replacing the phrase "public employee" with "any person," in the penalty portion of s. 288.9566(4), F.S.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

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A bill to be entitled
 An act relating to public records and meetings; creating
 s. 288.9566, F.S.; creating an exemption from public
 records requirements for proprietary confidential business
 information relating to state university research projects
 which is held by Sure Ventures Commercialization, Inc.;
 providing for future legislative review and repeal;
 providing a statement of public necessity; providing a
 contingent effective date.

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

Section 1. Section 288.9566, Florida Statutes, is created
 to read:

288.9566 Exemptions from public records and public
 meetings requirements; Sure Ventures Commercialization, Inc.--

(1) The following information held by Sure Ventures
 Commercialization, Inc., is confidential and exempt from s.
 24(a), Art. I of the State Constitution and s. 119.07(1):

(a) Materials that relate to methods of manufacture or
 production, potential trade secrets, patentable material, actual
 trade secrets as defined in s. 688.002, or proprietary
 information received, generated, ascertained, or discovered by
 or through the state universities' research projects submitted
 for funding under the Sure Ventures Commercialization Grant
 Program.

(b) Agreements and proposals to receive funding, including
 grant applications; however, those portions of such agreements

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

29 and proposals, including grant applications, which do not
 30 contain information made exempt by paragraph (a), are not
 31 confidential and exempt upon issuance of the report that is made
 32 after the conclusion of the project for which funding was
 33 provided.

34 (c) Materials that relate to the identity of other
 35 investors or potential investors in projects reviewed by the
 36 corporation.

37 (d) Any information received from a person or another
 38 state or nation or the Federal Government which is otherwise
 39 confidential or exempt under that state's or nation's laws or
 40 under federal law.

41 (2) That portion of a meeting of the board of directors of
 42 Sure Ventures Commercialization, Inc., at which information is
 43 presented or discussed which is confidential and exempt under
 44 subsection (1) is closed to the public and exempt from s. 24(b),
 45 Art. I of the State Constitution and s. 286.011.

46 (3) Any records generated during those portions of the
 47 board meetings which are closed to the public under subsection
 48 (2), such as minutes, tape recordings, videotapes,
 49 transcriptions, or notes, are confidential and exempt from s.
 50 24(a), Art. I of the State Constitution and s. 119.07(1).

51 (4) Public employees may inspect and copy records or
 52 information that is made exempt and confidential under this
 53 section exclusively for the performance of their public duties.
 54 Public employees receiving this exempt and confidential
 55 information must maintain the confidentiality of the
 56 information. Any public employee receiving confidential

57 | information who violates this subsection commits a misdemeanor
 58 | of the first degree, punishable as provided in s. 775.082 or s.
 59 | 775.083.

60 | (5) At the time that any record or information made
 61 | confidential and exempt by this section, or portion thereof, is
 62 | legally available or subject to public disclosure for any other
 63 | reason, that record or information, or portion thereof, is no
 64 | longer confidential and exempt and shall be made available for
 65 | inspection and copying.

66 | (6) This section is subject to the Open Government Sunset
 67 | Review Act in accordance with s. 119.15 and shall stand repealed
 68 | on October 2, 2012, unless reviewed and saved from repeal
 69 | through reenactment by the Legislature.

70 | Section 2. The Legislature finds that it is a public
 71 | necessity that proprietary, confidential business information
 72 | held by Sure Ventures Commercialization, Inc., regarding certain
 73 | funding proposals and proprietary business information of public
 74 | universities be held confidential and exempt from s. 119.07(1),
 75 | Florida Statutes, and Section 24(a), Article I of the State
 76 | Constitution. Disclosing proprietary confidential business
 77 | information derived from university research projects, including
 78 | trade secrets as defined in s. 688.002, Florida Statutes, would
 79 | negatively affect the ability of public universities that rely
 80 | heavily on the information gained from publicly funded research
 81 | products to generate investment returns, and competitor
 82 | partnerships could gain an unfair competitive advantage if
 83 | provided access to such information. The release of university-
 84 | based proprietary confidential business information, including

85 trade secrets, could result in inadequate returns and ultimately
 86 frustrate attainment of the investment objective of the Sure
 87 Ventures Commercialization Grant Program. In finding that the
 88 public records exemption created by this act is a public
 89 necessity, the Legislature finds that the public and private
 90 harm in disclosing proprietary confidential business information
 91 relating to university research projects significantly outweighs
 92 any public benefit derived from disclosure; that the exemption
 93 created by this act will enhance the ability of the Sure
 94 Ventures Commercialization Grant Program to fulfill its duty to
 95 support the commercialization of publicly funded research
 96 products; and that the public's ability to be informed regarding
 97 the university's research projects funded by the grant program
 98 is preserved by the disclosure of information excepted from the
 99 created exemption.

100 Section 3. This act shall take effect July 1, 2007, if
 101 House Bill 1521 or similar legislation is adopted in the same
 102 legislative session or an extension thereof and becomes law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1525 Sure Ventures Commercialization Trust Fund
SPONSOR(S): Harrell
TIED BILLS: HB 1521 IDEN./SIM. BILLS: SB 2418

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Economic Development		West <i>SRW</i>	Croom <i>SCZ</i>
2) Economic Expansion & Infrastructure Council			
3) Policy & Budget Council			
4)			
5)			

SUMMARY ANALYSIS

HB 1525 creates a new Sure Ventures Commercialization Trust Fund, to support the activities of Sure Ventures Commercialization, Inc., a non-profit corporation intended to provide support to public university research and development. The larger Sure Ventures Commercialization Program is outlined in HB 1521.

The bill provides an effective date of July 1, 2007, contingent upon the passage of HB 1521 or similar legislation, in the same legislative session.

Laws creating trust funds require a three-fifths vote of the membership of each house in a separate bill only for that purpose.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government - The bill creates the Sure Ventures Commercialization Trust Fund within the State Treasury.

B. EFFECT OF PROPOSED CHANGES:

Section 215.32, F.S., and s. 19(f)(1), Art. III, of the Florida Constitution, govern the creation of new trust funds. A bill creating a new trust fund must provide a name for the trust fund, the agency or branch of government responsible for administering the fund, a specific uses of the fund, and the sources of moneys to be credited to the trust fund.

HB 1525 creates the Sure Ventures Commercialization Trust Fund within the State Treasury. The Trust Fund is specifically intended to fund grants approved by Sure Ventures Commercialization, Inc., a non-profit corporation created by HB 1521 to provide grants to qualified projects at public universities in the state. These activities are part of the larger Sure Ventures Commercialization Program, more-specifically detailed in the analysis for HB 1521.

Funding for the Commercialization Trust Fund comes not only from the Legislature but also from grants and donations received by the Sure Ventures Commercialization, Inc. in the form of grants and donations. The fund may also receive investment earnings and repayment of grant awards, pursuant to mechanisms created in the Sure Ventures Commercialization Program.

C. SECTION DIRECTORY:

Section 1. Creates s. 288.9565, F.S., naming the Sure Ventures Commercialization Trust Fund, providing statutory and constitutional requirements for said fund.

Section 2. Provides an effective date of July 1, 2007, contingent upon the passage of HB 1521 or similar legislation, in the same legislative session.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
None.

2. Expenditures:

The bill provides that the Legislature will fund, in part, the Sure Ventures Commercialization Trust Fund, but the amount of funding is not specified in this bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take action requiring the expenditure of funds. This bill does not reduce the percentage of state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Laws creating trust funds require a three-fifths vote of the membership of each house pursuant to s. 19(f)(1), Art. III, Fla. Const., in a separate bill only for that purpose.

The bill states that the Trust Fund is created "within the State Treasury." It is not immediately clear whether that statement identifies a specific "agency or branch of state government responsible for administering the trust fund," as required by s. 215.3207, F.S.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to the Sure Ventures Commercialization
 3 Trust Fund; creating s. 288.9565, F.S.; creating the Sure
 4 Ventures Commercialization Trust Fund within the State
 5 Treasury; providing for the use of the fund; providing for
 6 sources of funds; providing for annual carryforward of
 7 funds; providing for review and termination or re-creation
 8 of the trust fund; providing a contingent effective date.

9
 10 Be It Enacted by the Legislature of the State of Florida:

11
 12 Section 1. Section 288.9565, Florida Statutes, is created
 13 to read:

14 288.9565 Sure Ventures Commercialization Trust Fund.--

15 (1) The Sure Ventures Commercialization Trust Fund is
 16 created within the State Treasury to fund grants approved by
 17 Sure Ventures Commercialization, Inc., to universities in this
 18 state and to support the operations of the corporation as
 19 authorized in s. 288.9561.

20 (2) Funds to be credited to the trust fund shall consist
 21 of funds appropriated by the Legislature for the Sure Ventures
 22 Commercialization Grant Program, grants and donations received
 23 by the corporation, investment earnings pursuant to s.
 24 288.9561(6), and the repayment of grant awards pursuant to s.
 25 288.9561(7).

26 (3) Notwithstanding s. 216.301 and pursuant to s. 216.351,
 27 any balance in the trust fund at the end of the fiscal year
 28 shall remain in the trust fund and shall be available for

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29 carrying out the purposes of the trust fund.

30 (4) In accordance with s. 19(f)(2), Art. III of the State
31 Constitution, the Sure Ventures Commercialization Trust Fund
32 shall, unless terminated sooner, be terminated on July 1, 2011.
33 Before its scheduled termination, the trust fund shall be
34 reviewed as provided in s. 215.3206(1) and (2).

35 Section 2. This act shall take effect July 1, 2007, if
36 House Bill 1521 or similar legislation creating the Sure
37 Ventures Commercialization Grant Program is adopted in the same
38 legislative session or an extension thereof and becomes law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Public Records Law

Article I, s. 24(a), Florida Constitution, sets forth the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature, however, may provide by general law for the exemption of records from the requirements of Article I, s. 24(a), Florida Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose. Public policy regarding access to government records also is addressed in Florida Statutes.

Chapter 119, F.S., more completely addresses the issue of public records. Section 119.07(1), F.S., also guarantees every person a right to inspect, examine, and copy any state, county, or municipal record.

Open Government Sunset Review Act

Section 119.15, F.S., the "Open Government Sunset Review Act," sets forth a legislative review process that requires newly created or expanded exemptions to include an automatic repeal of the exemption on October 2nd of the fifth year after enactment or substantial amendment, unless the Legislature reenacts the exemption. It provides that a public records or public meetings exemption may be created or maintained only if it serves an identifiable public purpose, and may be no broader than is necessary to meet one of the following public purposes:

- Allowing the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
- Protecting sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety. However, only the identity of an individual may be exempted under this provision; or
- Protecting trade or business secrets.

Sure Ventures Commercialization Program

HB 1521 creates the Sure Venture Capital Fund and the Institute for the Commercialization of Public Research, both of which are intended to encourage commercialization of state university research. The Fund and the ICPR achieve this goal by contracting with and issuing grants to universities and encouraging private investors to get involved in commercialization of state university research projects.

Proposed Exemptions

This bill creates a public records exemption for the Fund and the ICPR. It makes confidential and exempt:

- Information relating to methods of manufacture or production, actual or potential trade secrets, patentable material, or proprietary information received, generated, ascertained, or discovered by university research projects submitted for funding through the grant program, and transactions resulting from such research.
- Agreements and proposals to receive funding under the program.
- Information identifying an investor or prospective investor in a project.
- Information received from a person from another state or nation or the Federal Government that is exempt or confidential pursuant to the laws of that state or nation or pursuant to federal law.

This bill also requires the corporation to permit access to such confidential and exempt information to any public employee in the performance of its duties and responsibilities. The public employee must maintain the confidential and exempt status of the information received, or the employee commits a misdemeanor of the first degree.

This bill creates a public meetings exemption for the corporation. Those portions of meetings of the corporation during which confidential and exempt information is presented or discussed are exempt from the public meetings requirements.

This bill provides for future review and repeal of the exemptions, and provides a statement of public necessity.

C. SECTION DIRECTORY:

Section 1. Creates s. 288.9629, F.S.; creating a public records and public meetings exemption.

Section 2. Provides a statement of public necessity.

Section 3. Provides an effective date of July 1, 2007, if HB 1521 or similar legislation is adopted.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

Vote Requirement

Article I, s. 24(c) of the Florida Constitution, requires a two-thirds vote of the members present and voting for passage of a newly created public records or public meetings exemption. The bill creates a public records exemption. Thus, it requires a two-thirds vote for passage.

Public Necessity Statement

Article I, s. 24(c) of the Florida Constitution, requires a statement of public necessity (public necessity statement) for a newly created public records or public meetings exemption. The bill creates a public records exemption. Thus, it includes a public necessity statement.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Potential Overbreadth

As drafted, the bill may receive criticism from open government advocates over the breadth of the exemption created in s. 288.9566(1)(b) F.S. By exempting entire agreements, the grant recipient and dollar amounts are hidden from public access. Given the narrower protections of sub-subsection (a) regarding trade secrets (and all other confidential materials), and the protections of sub-subsection (c) regarding the identity of private investors, it seems that all of the relevant information is protected without exempting agreements in their entirety.

"Public Employee" Access

The phrase "public employee" created in s. 288.9566(4), F.S. may be too limiting, and block access to material by some entity with a legitimate public purpose to access the information. Other statutes expand this concept by using the phrase "governmental entity," to encompass as many legitimate uses as possible.

Penalties

It may be advisable to expand the scope of the penalty for improper release of exempt material, by replacing the phrase "public employee" with "any person," in the penalty portion of s. 288.9566(4), F.S.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to public records and meetings; creating
 3 s. 288.9629, F.S.; creating an exemption from public
 4 records requirements for proprietary confidential business
 5 information derived from state-supported research projects
 6 held by the SURE Venture Capital Fund or the Institute for
 7 the Commercialization of Public Research; providing an
 8 exemption from public meetings requirements for portions
 9 of meetings of the board of directors of the SURE Venture
 10 Capital Fund at which confidential information is
 11 presented or discussed; providing for future legislative
 12 review and repeal; providing a statement of public
 13 necessity; providing a contingent effective date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

16
 17 Section 1. Section 288.9629, Florida Statutes, is created
 18 to read:

19 288.9629 Exemptions from public records and public
 20 meetings requirements; SURE Venture Capital Fund and the
 21 Institute for the Commercialization of Public Research.--

22 (1) The following information held by the SURE Venture
 23 Capital Fund or the Institute for the Commercialization of
 24 Public Research is confidential and exempt from s. 24(a), Art. I
 25 of the State Constitution and s. 119.07(1):

26 (a) Materials that relate to methods of manufacture or
 27 production, potential trade secrets, patentable material, actual
 28 trade secrets as defined in s. 688.002, or proprietary

29 information received, generated, ascertained, or discovered by
 30 or through research projects conducted by universities and other
 31 publicly supported organizations in this state and held by the
 32 SURE Venture Capital Fund or the Institute for the
 33 Commercialization of Public Research.

34 (b) Agreements and proposals to receive grants or funding,
 35 including funding and grant applications; however, those
 36 portions of such agreements and proposals, including grant
 37 applications, which do not contain information made exempt by
 38 paragraph (a) are not confidential and exempt upon issuance of
 39 the report that is made after the conclusion of the project for
 40 which funding was provided.

41 (c) Materials that relate to the identity of other
 42 investors or potential investors in projects reviewed by the
 43 fund.

44 (d) Any information received from a person or another
 45 state or nation or the Federal Government which is otherwise
 46 confidential or exempt under that state's or nation's laws or
 47 under federal law.

48 (2) That portion of a meeting of the board of directors of
 49 SURE Venture Capital Fund or a meeting of the Institute for the
 50 Commercialization of Public Research at which information is
 51 presented or discussed which is confidential and exempt under
 52 subsection (1) is closed to the public and exempt from s. 24(b),
 53 Art. I of the State Constitution and s. 286.011.

54 (3) Any records generated during those portions of the
 55 board meetings which are closed to the public under subsection
 56 (2), such as minutes, tape recordings, videotapes,

57 transcriptions, or notes, are confidential and exempt from s.
 58 24(a), Art. I of the State Constitution and s. 119.07(1).

59 (4) Public employees may inspect and copy records or
 60 information that is made exempt and confidential under this
 61 section exclusively for the performance of their public duties.
 62 Public employees receiving this exempt and confidential
 63 information must maintain the confidentiality of the
 64 information. Any public employee receiving confidential
 65 information who violates this subsection commits a misdemeanor
 66 of the first degree, punishable as provided in s. 775.082 or s.
 67 775.083.

68 (5) At the time that any record or information made
 69 confidential and exempt by this section, or portion thereof, is
 70 legally available or subject to public disclosure for any other
 71 reason, that record or information, or portion thereof, shall no
 72 longer be confidential and exempt and shall be made available
 73 for inspection and copying.

74 (6) This section is subject to the Open Government Sunset
 75 Review Act in accordance with s. 119.15 and shall stand repealed
 76 on October 2, 2012, unless reviewed and saved from repeal
 77 through reenactment by the Legislature.

78 Section 2. The Legislature finds that it is a public
 79 necessity that proprietary and confidential business information
 80 held by the SURE Venture Capital Fund or the Institute for the
 81 Commercialization of Public Research regarding certain funding
 82 and coinvestment proposals and proprietary business information
 83 of public universities or other state-supported entities be held
 84 confidential and exempt from s. 119.07(1), Florida Statutes, and

85 s. 24(a), Art. I of the State Constitution. Disclosing
86 proprietary and confidential business information derived from
87 university or other research projects, including trade secrets
88 as defined in s. 688.002, Florida Statutes, would negatively
89 affect the ability of universities and certain other entities in
90 this state which conduct publicly funded research to use the
91 information gained from the research to generate investment
92 returns on viable products, and competitor partnerships could
93 gain an unfair competitive advantage if provided access to such
94 product information. The release of proprietary and confidential
95 business information, including trade secrets, could result in
96 inadequate returns and ultimately frustrate attainment of the
97 investment objective of the SURE Venture Capital Fund and the
98 Institute for the Commercialization of Public Research. In
99 finding that the public records exemption created by this act is
100 a public necessity, the Legislature finds that the public and
101 private harm in disclosing proprietary and confidential business
102 information relating to the state-supported research projects
103 significantly outweighs any public benefit derived from
104 disclosure; that the exemption created by this act will enhance
105 the ability of the SURE Venture Capital Fund and the Institute
106 for the Commercialization of Public Research to fulfill their
107 duty to support the commercialization of publicly funded
108 research products; and that the public's ability to be informed
109 regarding the state-supported research projects is preserved by
110 the disclosure of information excepted from the created
111 exemption.

112 Section 3. This act shall take effect July 1, 2007, if

F L O R I D A H O U S E O F R E P R E S E N T A T I V E S

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113 | House Bill 1521 or similar legislation is adopted in the same
114 | legislative session or an extension thereof and becomes law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1529 Institute for the Commercialization of Public Research Trust Fund
SPONSOR(S): Harrell
TIED BILLS: HB 1521 IDEN./SIM. BILLS: SB 2424

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Economic Development</u>	_____	West <i>DW</i>	Croom <i>SC</i>
2) <u>Economic Expansion & Infrastructure Council</u>	_____	_____	_____
3) <u>Policy & Budget Council</u>	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

HB 1529 creates the Institute for the Commercialization of Public Research Trust Fund. The purpose of the trust fund is to fund the organizational and operational expenses of the Institute for the Commercialization of Public Research in support of the activities authorized in s. 288.9628, F.S.

The bill is effective July 1, 2007, if HB 1521 or similar legislation is adopted.

Laws creating trust funds require a three-fifths vote of the membership of each house in a separate bill only for that purpose.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government - The bill creates the Sure Ventures Commercialization Trust Fund within the State Treasury.

B. EFFECT OF PROPOSED CHANGES:

Section 215.32, F.S., and s. 19(f)(1), Art. III, of the Florida Constitution, govern the creation of new trust funds. A bill creating a new trust fund must provide a name for the trust fund, the agency or branch of government responsible for administering the fund, a specific uses of the fund, and the sources of moneys to be credited to the trust fund.

HB 1529 creates the Institute for the Commercialization of Public Research Trust Fund. The purpose of the trust fund is to fund the organizational and operational expenses of the Institute for the Commercialization of Public Research in support of the activities authorized in s. 288.9628, F.S.

Money deposited into the trust fund shall come from funds appropriated by the legislature, grants and donations, and any investment earnings of the trust fund.

C. SECTION DIRECTORY:

Section 1. Creates s. 288.9629, F.S., naming the Commercialization of Public Research Trust Fund, providing statutory and constitutional requirements for said fund.

Section 2. Provides an effective date of July 1, 2007, if HB 1521 or similar legislation is adopted in the same legislative session or an extended session.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill provides that the Legislature will fund, in part, the Sure Ventures Commercialization Trust Fund, but the amount of funding is not specified in this bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take action requiring the expenditure of funds. This bill does not reduce the percentage of state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Laws creating trust funds require a 3/5 vote of the membership of each house pursuant to s. 19(f)(1), Art. III, Fla. Const., in a separate bill only for that purpose.

The bill states that the Trust Fund is created "within the State Treasury." It is not immediately clear whether that statement identifies a specific "agency or branch of state government responsible for administering the trust fund," as required by s. 215.3207, F.S.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to the Institute for the Commercialization
 3 of Public Research Trust Fund; creating s. 288.9629, F.S.;
 4 creating the Institute for the Commercialization of Public
 5 Research Trust Fund within the State Treasury; providing
 6 for the use of the fund; providing for sources of funds;
 7 providing for annual carryforward of funds; providing for
 8 future review and termination or re-creation of the trust
 9 fund; providing a contingent effective date.

10
 11 Be It Enacted by the Legislature of the State of Florida:

12
 13 Section 1. Section 288.9629, Florida Statutes, is created
 14 to read:

15 288.9629 Institute for the Commercialization of Public
 16 Research Trust Fund.--

17 (1) The Institute for the Commercialization of Public
 18 Research Trust Fund is created within the State Treasury for the
 19 purpose of funding the organizational and operational expenses
 20 of the Institute for the Commercialization of Public Research in
 21 support of the activities as authorized in s. 288.9628.

22 (2) Funds credited to the trust fund shall consist of
 23 funds appropriated by the Legislature for the fund, grants and
 24 donations received by the fund, and investment earnings.

25 (3) Notwithstanding s. 216.301 and pursuant to s. 216.351,
 26 any balance in the trust fund at the end of the fiscal year
 27 shall remain in the trust fund and shall be available for
 28 carrying out the purposes of the trust fund.

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29 (4) In accordance with s. 19(f)(2), Art. III of the State
 30 Constitution, the Institute for the Commercialization of Public
 31 Research Trust Fund shall, unless terminated sooner, be
 32 terminated on July 1, 2011. Before its scheduled termination,
 33 the trust fund shall be reviewed as provided in s. 215.3206(1)
 34 and (2).

35 Section 2. This act shall take effect July 1, 2007, if
 36 House Bill 1521 or similar legislation creating the Institute
 37 for the Commercialization of Public Research is adopted in the
 38 same legislative session or an extension thereof and becomes
 39 law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1531 SURE Venture Capital Trust Fund
SPONSOR(S): Harrell
TIED BILLS: HB 1521 IDEN./SIM. BILLS: SB 2426

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Economic Development	_____	West <i>SPW</i>	Croom <i>SCZ</i>
2) Economic Expansion & Infrastructure Council	_____	_____	_____
3) Policy & Budget Council	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

HB 1531 creates a new Sure Venture Capital Trust Fund, to support the activities of the fund as outlined in HB 1521.

The bill provides an effective date of July 1, 2007, contingent upon the passage of HB 1521 or similar legislation, in the same legislative session.

Laws creating trust funds require a three-fifths vote of the membership of each house in a separate bill only for that purpose.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government - The bill does not appear to satisfy this House principle.

B. EFFECT OF PROPOSED CHANGES:

Section 215.32, F.S., and s. 19(f)(1), Art. III, of the Florida Constitution, govern the creation of new trust funds. A bill creating a new trust fund must provide a name for the trust fund, the agency or branch of government responsible for administering the fund, specified uses for the fund, and the sources of moneys to be credited to the trust fund.

HB 1531 creates the SURE Ventures Capital Trust Fund within the State Treasury for the purpose of providing operating expenses to the SURE Venture Capital Fund.

C. SECTION DIRECTORY:

Section 1. Creates s. 288.9627, F.S., naming the SURE Venture Capital Trust Fund, providing statutory and constitutional requirements for said fund.

Section 2. Provides an effective date of July 1, 2007, contingent upon the passage of HB 1521 or similar legislation, in the same legislative session.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill provides that the Legislature will fund the SURE Ventures Capital Trust Fund, but the amount of funding is not specified in this bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take action requiring the expenditure of funds. This bill does not reduce the percentage of state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Laws creating trust funds require a 3/5 vote of the membership of each house pursuant to s. 19(f)(1), Art. III, Fla. Const., in a separate bill only for that purpose.

The bill states that the Trust Fund is created "within the State Treasury." It is not immediately clear whether that statement identifies a specific "agency or branch of state government responsible for administering the trust fund," as required by s. 215.3207, F.S.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to the SURE Venture Capital Trust Fund;
 3 creating s. 288.9627, F.S.; creating the SURE Venture
 4 Capital Trust Fund within the State Treasury; providing
 5 for the use of the fund; providing for sources of funds;
 6 providing for annual carryforward of funds; providing for
 7 future review and termination or re-creation of the trust
 8 fund; providing a contingent effective date.

9

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

11

12 Section 1. Section 288.9627, Florida Statutes, is created
 13 to read:

14

288.9627 SURE Venture Capital Trust Fund.--

15

(1) The SURE Venture Capital Trust Fund is created within
 16 the State Treasury for the purpose of funding the organizational
 17 and operational expenses of the SURE Venture Capital Fund in
 18 support of the activities of the fund as authorized in s.
 19 288.9626.

20

(2) Funds credited to the trust fund shall consist of
 21 funds appropriated by the Legislature for the SURE Venture
 22 Capital Fund, grants and donations received by the fund, and
 23 investment earnings.

24

(3) Notwithstanding s. 216.301 and pursuant to s. 216.351,
 25 any balance in the trust fund at the end of the fiscal year
 26 shall remain in the trust fund and shall be available for
 27 carrying out the purposes of the trust fund.

28

(4) In accordance with s. 19(f)(2), Art. III of the State

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29 Constitution, the SURE Venture Capital Trust Fund shall, unless
 30 terminated sooner, be terminated on July 1, 2011. Before its
 31 scheduled termination, the trust fund shall be reviewed as
 32 provided in s. 215.3206(1) and (2).

33 Section 2. This act shall take effect July 1, 2007, if
 34 House Bill 1521 or similar legislation creating the SURE Venture
 35 Capital Fund is adopted in the same legislative session or an
 36 extension thereof and becomes law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 979
SPONSOR(S): Gardiner
TIED BILLS:

Use of the Term "Chamber of Commerce"

IDEN./SIM. BILLS: SB 1862

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Economic Development		West <i>StW</i>	Croom <i>SC</i>
2) Economic Expansion & Infrastructure Council			
3) Policy & Budget Council			
4) _____			
5) _____			

SUMMARY ANALYSIS

House Bill 979 creates definitions for the terms "chamber of commerce" and "business entity" and prohibits a business entity which does not qualify as a chamber of commerce under the newly created definition from using the term in its business name or to describe itself. This prohibition does not apply, however, to binational chambers of commerce or chambers of commerce in existence on or before October 1, 1992.

The bill provides that any violation of this prohibition is a first-degree misdemeanor. Further, the bill provides the ability for any chamber of commerce to petition a court to limit or restrain a business entity from unlawful use of the term.

The bill will have no impact on state revenue collections or expenditures.

The bill provides that the act will take effect October 1, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government: This bill creates new statutes that provide criminal penalties for violating the prohibition set out in this bill.

Safeguard Individual Liberty: This bill prevents business entities or organizations that do not meet the requirements set out in this bill from using the term "chamber of commerce."

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

The idea of a national institution to represent the unified interests of U.S. business first took shape when President Howard Taft, in a speech before Congress on December 7, 1911, addressed the need for a "central organization in touch with associations and chambers of commerce throughout the country and able to keep purely American interests in a closer touch with different phases of commercial affairs."

Four months later, on April 12, 1912, President Taft's vision became a reality when a group of 700 delegates from various commercial and trade organizations came together to create a unified body of business interest that today is the U.S. Chamber of Commerce.

In 1925, construction on the Chamber headquarters was completed on property that had belonged to Daniel Webster and the U.S. business community made it a rallying point for promoting and defending free enterprise and individual opportunity. More than 90 years later, the Chamber has grown from an initial membership of 878 to more than 3 million businesses, nearly 3,000 state and local chambers, 830 associations, and over 90 American Chambers of Commerce abroad.¹

According to the U.S. Chamber of Commerce website (www.uschamber.com), there are 97 registered local Chambers of Commerce in Florida.²

Black's Law Dictionary, Seventh Edition, defines the term "chamber of commerce" as:

"An association of merchants and other business leaders who organize to promote the commercial interests in a given area and whose group is generally affiliated with the national organization of the same name."

Limiting the Use of Certain Terms

The Florida Legislature has enacted statutes limiting the use of certain terms in the name of a regulated business entity. For example, ss. 636.033 and 641.33, F.S., limit the use of the words "insurance," "casualty," "surety," "mutual", and "HMO" in the name of a business.

Chapter 495, F.S., entitled Registration of Trademarks and Service Marks, establishes procedures for the registration of trademarks with the Department of State. Section 495.011(6), F.S., defines a trade name as:

¹ Information from this section can be found at <http://www.uschamber.com/about/history/default.htm?n=tb> (visited 3/15/07).

² Information online at <http://www.uschamber.com/chambers/directory/default.htm?st=fl> (visited 3/15/07).

“... any word, name, symbol, character, design, drawing or device or any combination thereof adopted and used by a person to identify her or his business, vocation or occupation and to distinguish it from the business, vocation or occupation of others.”

Section 495.151, F.S., authorizes affected parties to seek an injunction to enjoin another from the continued use of the same or similar trade name if it appears that there exists the likelihood of injury to the business reputation or of dilution of the distinctive quality of the name.

495.151, F.S. Injury to business reputation; dilution.—Every person, association, or union of workers adopting and using a mark, trade name, label or form of advertisement may proceed by suit, and all courts having jurisdiction thereof shall grant injunctions to enjoin subsequent use by another of the same or any similar mark, trade name, label or form of advertisement if it appears to the court that there exists a likelihood of injury to business reputation or of dilution of the distinctive quality of the mark, trade name, label or form of advertisement of the prior user, notwithstanding the absence of competition between the parties or of confusion as to the source of goods or services.

Abuses

In 2005, a company using the name “Florida Regional Chamber of Commerce” was soliciting membership dues throughout the state of Florida. By phoning future clients and asking where they should mail the \$389 membership renewal bill, they gave the appearance of being a not-for-profit Chamber of Commerce associated with the state and local governments.

In reality, the Florida Regional Chamber of Commerce didn’t exist, and the Florida Department of State Division of Corporations had no record of such a company. Unlike most chambers of commerce whose main goals are to advance general working conditions through social and political representation, the Regional Chamber of Commerce was intimidating prospective members into paying dues without rightful justification. Several companies reported being charged \$1,000 in membership dues after only agreeing to pay \$49 for a three month membership.

Effect of Proposed Changes:

HB 979 creates Section 501.973, F.S., to define a “chamber of commerce” as a “voluntary-membership, dues-paying organization of business and professional persons dedicated, as stated in the articles of incorporation or bylaws of the organization, to improving the economic climate and business development of the community, area, or region in which the organization is located and which:

1. Operates as an approved not-for-profit corporation under chapter 617, F.S., and as a corporation or association qualified for tax exempt status under s. 501(c)(6) or s. 501 (c)(3) of the Internal Revenue Code of 1986, as amended.
2. Files any required corporation annual reports with the Secretary of State, and if applicable, required annual information returns with the United States Internal Revenue Service.
3. Is governed by a volunteer board of directors of at least 7 members who are elected from among the membership of the organization and who serve without compensation.”

The bill defines a “business entity” as “any corporation, partnership, limited partnership, proprietorship, firm, enterprise, franchise, association, self-employed individual, or trust, whether fictitiously named or not, doing business in this state.” The bill prohibits a business entity that does not qualify as a chamber of commerce under the newly created definition from using the term in its business name or to describe itself. This provision does not apply, however, to binational chambers of commerce recognized by the Office of International Affairs, Department of State, or to chambers of commerce in existence on or before October 1, 1992.

An example of a binational chamber is the Association of Bi-National Chambers of Commerce in Florida (ABiCC).

The ABiCC serves as the cooperative chamber representing bi-national chambers throughout the state of Florida. ABiCC represents almost 40 member organizations throughout the state of Florida, whose total membership equates to 8,000 international memberships within the state of Florida. This makes up a large part of the international community within Florida.

ABiCC has seen a tremendous increase in bi-national chambers located in the state of Florida, which directly relates to the growing diversification of our economy.³

The bill does not place oversight responsibility with any state agency but provides standing, pursuant to s. 495.151, F. S., for any chamber of commerce to petition the court to enjoin a business entity from using the term in its name or to describe itself.

The bill provides that any violation of this prohibition is a first-degree misdemeanor. A first-degree misdemeanor is punishable by up to 60 days imprisonment under s. 775.082(4)(b), F.S., and a fine of up to \$500 under s. 775.083(1)(e), F.S.

C. SECTION DIRECTORY:

Section 1: Creates s. 501.973, Florida Statutes, regarding chambers of commerce.

Subsection (1) creates a statutory definition for “business entity” and “chamber of commerce.”

Subsection (2) creates a first-degree misdemeanor penalty for a business entity to use the term chamber of commerce in its name or to describe itself and provides exemptions.

Subsection (3) specifies that the section imposes no requirement for oversight or regulation of a business name, trademark, trade name, or other requirement for filing or registration.

Subsection (4) authorizes a chamber of commerce to bring suit to enjoin a business entity from using the term.

Section 2: Provides that the act will take effect October 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

³ Information online at <http://www.abicc.org/about.htm> (visited 3/15/07).

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Businesses using the term "chamber of commerce" in their names that do not meet the statutory definition created in this legislation will be subject to criminal prosecution or civil actions.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take action requiring the expenditure of funds. This bill does not reduce the percentage of state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

Statutes limiting the use of certain terms in the name of a business have been upheld against attack under the First Amendment of the United States Constitution and under the Equal Protection Clause of the United States Constitution when the purpose of the statute is to prevent consumers from being misled.⁴

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

In 1995, Congress added to the existing federal trademark law, the Lanham Act (15 U.S.C.A – 1994), the Federal Trademark Dilution Act (FTDA). The concept of trademark "dilution" is distinct from the more common concept of trademark "infringement." A trademark infringement claim requires a plaintiff to show that the use of the junior mark is likely to cause confusion between its product or service and the product or service of the infringing mark. Infringement law protects consumers from being misled by the use of infringing marks and also protects producers from unfair practices by an imitating competitor.

A trademark dilution claim focuses on the "whittling away" of the "uniqueness" of a trademark and the resulting loss of economic power caused by other uses of the mark, regardless of whether such use is likely to actually cause confusion (not merely to likely cause dilution).

Unlike most state statutes, including Florida at s. 4965.151, F.S., which allow a dilution claim if a junior mark is "likely to cause dilution," the language of the FTDA is limited to use of a trademark that "causes dilution." It is likely that should this bill become law, litigation may result which will address distinctions between state and federal law in terms of trademark dilution.

⁴ See Friedman v. Rogers, 440 U.S. 1 (1979); Baker v. Registered Dentists of Okla., 543 F. supp 1177 (W.D. Oklahoma 1982); Greater Miami Fin. Corp. v. Dickinson, 214 So. 2d 874 (Fla. 1968).

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to use of the term "chamber of commerce";
 3 creating s. 501.973, F.S.; providing definitions;
 4 prohibiting certain business entities from using the term
 5 "chamber of commerce" under certain circumstances;
 6 providing exceptions; providing a penalty; specifying
 7 nonimposition of certain requirements; authorizing
 8 chambers of commerce to sue certain business entities to
 9 enjoin use of certain terms; providing an effective date.

10
 11 Be It Enacted by the Legislature of the State of Florida:

12
 13 Section 1. Section 501.973, Florida Statutes, is
 14 created to read:

15 501.973 Chambers of commerce.--

16 (1) For the purposes of this section:

17 (a) "Business entity" means any corporation, partnership,
 18 limited partnership, proprietorship, firm, enterprise,
 19 franchise, association, self-employed individual, or trust,
 20 whether fictitiously named or not, doing business in this state.

21 (b) "Chamber of commerce" means a voluntary membership,
 22 dues-paying organization of business and professional persons
 23 dedicated, as stated in the articles of incorporation or bylaws
 24 of the organization, to improving the economic climate and
 25 business development of the community, area, or region in which
 26 the organization is located and which:

27 1. Operates as an approved not-for-profit corporation
 28 under chapter 617 and as a corporation or association qualified

29 | for tax exempt status under s. 501(c)(3) or s. 501(c)(6) of the
 30 | Internal Revenue Code of 1986, as amended.

31 | 2. Files any required corporation annual reports with the
 32 | Secretary of State and, if applicable, required annual
 33 | information returns with the United States Internal Revenue
 34 | Service.

35 | 3. Is governed by a volunteer board of directors of at
 36 | least seven members who are elected from among the membership of
 37 | the organization and who serve without compensation.

38 | (2) A business entity, other than a chamber of commerce,
 39 | shall not use the term "chamber of commerce" in its name or to
 40 | describe itself, except for binational chambers of commerce
 41 | recognized by the Office of International Affairs of the
 42 | Department of State or chambers of commerce in existence on or
 43 | before October 1, 1992. Any business entity which violates this
 44 | subsection commits a misdemeanor of the first degree, punishable
 45 | as provided in s. 775.082 or s. 775.083.

46 | (3) This section imposes no requirement for oversight or
 47 | regulation of a business entity name, trademark, trade name, or
 48 | other requirement for filing or registration under any provision
 49 | of law.

50 | (4) Subject to the provisions of s. 495.151, a chamber of
 51 | commerce may sue any business entity that is not a chamber of
 52 | commerce as defined in this section to enjoin such entity from
 53 | using the term "chamber of commerce" in its name or to describe
 54 | itself as a chamber of commerce in any business or commerce.

55 | Section 2. This act shall take effect October 1, 2007.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1543

Child Care Services

SPONSOR(S): Cusack

TIED BILLS:

IDEN./SIM. BILLS: SB 2400

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Economic Development</u>	_____	Downes <i>RD</i>	Croom <i>SC</i>
2) <u>Economic Expansion & Infrastructure Council</u>	_____	_____	_____
3) <u>Policy & Budget Council</u>	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

HB 1543 ensures that children under the jurisdiction of the circuit courts receive priority consideration for placement in quality child care centers.

If an approved child care center cannot accommodate the child due to limited capacity, the program is responsible for immediately notifying the child's legal guardians to inform them of the current situation and the estimated enrollment date for the child.

Each local agency who is responsible for the licensing of child care centers must submit a quarterly report to the community-based care lead agency for the district. The report will describe the current licensed capacity for each quality child care center in the district.

The bill may change how current state expenditures on early learning programs are spent.

The bill provides that the act will take effect July 1, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

None.

B. EFFECT OF PROPOSED CHANGES:

PRESENT SITUATION:

Studies have shown that children's social, emotional, and learning abilities are influenced by the quality of care they receive. The amount of time children participate in high-quality learning environments directly influences a child's outcome. Children obtain the most benefit when they receive an education from knowledgeable teachers who are able to provide one-on-one interaction. Child care centers have trained staff who are equipped to address the unique needs of children pulled from their homes due to neglect, abuse, or abandonment.

Currently under s. 411.01(6), F.S. first priority for participation in the school readiness program is given to children ages 3 years to school entry who are served by the Family Safety Program Office (FSPO) of the Department of Children and Family Services or a community-based lead agency under chapter 39 and for whom child care is needed to minimize risk of further abuse, neglect, or abandonment. Furthermore, s. 411.01(6)(a)1, F.S., expands services to include all children under the age of kindergarten eligibility who are determined to be at risk of abuse, neglect, or exploitation who are currently clients of the FSPO, but who are not otherwise given priority under this subsection.

Gold Seal Quality Care Programs

In 1996, the Legislature created the Gold Seal Quality Care Program designation to acknowledge child care facilities and family day care homes that are accredited by nationally recognized agencies whose standards reflect a high quality of care for children. In 1999, the Legislature provided tax incentives for educational materials purchased by programs under this designation through s. 212.08, F.S., and in 2004, they approved accreditation for Gold Seal Quality Care programs to participate in VPK.

Under s. 402.281, F.S., the Gold Seal Quality Care Programs must be accredited by a national recognized accrediting association whose standards meet or exceed the National Association for the Education of Young Children (NAEYC), the National Association of Family Child Care, and the National Early Childhood Program Accreditation Commission. The Department of Children and Families have since increased the list of approved accrediting agencies to 14. These additions include the following:

- Association of Christian Schools International;
- Association of Christian Teachers and Schools;
- Accredited Professional Preschool Learning Environment;
- Council On Accreditation (multi-site, multi-program organizations only);
- Montessori School Accreditation Commission;
- National After-School Association;
- National Accreditation Commission;
- National Association for the Education of Young Children;
- National Association for Family Child Care;
- National Council for Private School Accreditation;
- National Early Childhood Program Accreditation;
- Southern Association of Colleges and Schools;
- United Methodist Association of Preschools; and
- National Accreditation Council for Early Childhood Professional Personnel and Programs.

According to summary data provided by the Department of Children and Family's website, there are currently 2,380 Gold Seal Programs in the state of Florida. Public schools, religious facilities, nonpublic schools, Large Family Day Care Home (LFDCH), Large Family Child Care Homes (LFCCH), and Facilities are the six program types that have received this designation.¹

These programs must meet the following criteria as set forth in s. 402.281(3), F.S.

- a.) The child care program must not have received any class I violations within the 2 years preceding its application for designation as a Gold Seal Quality Care Program provider. If current Gold Seal Quality Care Program providers receive any class 1 violations, their designation will be immediately terminated and may not be reconsidered until the provider has no class I violations for a period of 2 years.
- b.) The child care program must not have 3 or more class II violations within the 2 years preceding its application for designation as a Gold Seal Quality Care Program provider. If current Gold Seal Quality Care Program providers receive 3 or more class II violations, their designation will be immediately terminated and may not be reconsidered until the provider has no class II violations for a period of 1 year.
- c.) The child care provider must not have been cited for the same class III violation three or more times within the two years preceding its application for designation as a Gold Seal Quality Care Program provider. If current Gold Seal Quality Care Program providers receive 3 or more class III violations, their designation will be immediately terminated and may not be reconsidered until the provider has no class III violations for a period of 1 year.

Quality Rating Systems (QRS)

The purpose of administering a quality rating to licensed child care providers is to promote high-quality care for our children. It holds each child care provider accountable for their services and gives parents and guardians an easier way to determine the quality and legitimacy of each provider. Currently, the rating systems are independently administered. Early learning coalitions are implementing various quality rating systems (QRS) in eight counties: Broward, Duval, Hillsborough, Leon, Miami-Dade, Orange, Palm Beach, and Pinellas.² Participating counties are responsible for the criteria and grading scale of their own professional rating system, which allows for inconsistencies when they are compared.

Children under the jurisdiction of the circuit courts

The following is the general process that must be taken by the Department of Children and Families (DCF) before a child is considered under the jurisdiction of the circuit courts.³

- 1) Someone must phone the abuse hotline and report a possible case of abuse or neglect. The hotline will go through a list of criteria with the caller to determine the legitimacy of their claim.
- 2) The Department of Children and Families then send an agent to investigate the situation and can immediately take the child into custody if they find substantial evidence of abuse or neglect.
- 3) It is then required that a court hearing take place within 24 hours to determine whether the child will be released back to their home, placed with other family members, or remain under the custody of the state.
- 4) If they remain with the state, it is then considered that the child is under the jurisdiction of the circuit courts, and therefore, under this new section, the child receives priority consideration for placement in the qualified child care centers.

EFFECT OF PROPOSED CHANGES

¹ Information available online at <http://www.dcf.state.fl.us/childcare/goldseal.shtml>.

² Information was found in the July 2006 QRS Matrix Report generated by the Office of Early Learning.

³ Information available online at <http://www.dcf.state.fl.us/childabuseprevention>.

This bill ensures that children under the jurisdiction of the circuit courts receive priority consideration for placement in quality child care centers. The term "Quality Child Care Center" is a program that meets the following criteria:

- a) Holds a current Gold Seal Quality Care designation from the Department of Children and Families (DCF) if they substantially meet or exceed the standards of the National Association for the Education of Young Children (NAEYC), the National Association of Family Child Care, and the National Early Learning Childhood Program Accreditation Commission, OR
- b) Has been designated as a high quality program with at least a rating of 3 by professional quality rating system if the county in which the child is located has such a system.

If an approved child care center cannot accommodate the child due to limited capacity, the program is responsible for immediately notifying the child's legal guardians to inform them of the current situation and the estimated enrollment date for the child.

Currently under s. 411.01(6), F.S., priority for participation in the school readiness program is given to children ages 3 years to school entry who are served by the Family Safety Program Office of the Department of Children and Family Services or a community-based lead agency under chapter 39 and for whom child care is needed to minimize risk of further abuse, neglect, or abandonment.

This bill does not state where the new language will be inserted into current statute, which raises the question of how these priorities will be administered. Also, the bill does not define which ages of the children within the jurisdiction of the circuit courts that this priority applies to. By giving priority for placement into quality child care centers to any child under the jurisdiction of the circuit courts, regardless of age, the bill would contradict the current state priority of providing program eligibility to children under the age of kindergarten eligibility.

In fiscal year 2005-2006, 164,848 children were enrolled in school readiness programs. During that year, 48,078 were on the waiting list to receive services.⁴ Funding provided by the Florida Legislature for this program during this year was \$659.1 million in which \$172.5 million was appropriated from the General Revenue fund. Expanding priority to older children will likely place more children on the waiting list.

Additionally, the current bill does not define "legal guardian" of a child under the jurisdiction of a circuit court. Without a clear definition, the quality child care center could not ensure that notification was given to the proper person or entity.

C. SECTION DIRECTORY:

Section 1. – Provides legislative intent that children under the jurisdiction of the circuit courts receive priority consideration for placement into quality child care centers. This section also requires quality child care centers to notify legal guardians if they are unable to accept the child into the program due to limited capacity. Last, it requires district child care agencies to provide a quarterly report regarding the capacity of quality child care centers.

Section 2 – Providing an effective date of July 1, 2007

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

⁴ Information available online at www.floridajobs.org/earlylearning/SRS.html.

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill may change how current state expenditures on early learning programs are spent.

There may also be small expenses incurred by the agency in each district responsible for licensing child care centers due to the increase in time and effort to generate a quarterly report on each child care center in the district.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take action requiring the expenditure of funds. This bill does not reduce the percentage of state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill does not state where the new language will be inserted into current statute, which raises the question of how these priorities will be administered. Also, the bill does not define which ages of the children within the jurisdiction of the circuit courts that this priority applies to. By giving priority for placement into quality child care centers to any child under the jurisdiction of the circuit courts, regardless of age, the bill would contradict the current state priority of providing program eligibility to children under the age of kindergarten eligibility.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to child care services; providing
 3 legislative intent that a child under jurisdiction of the
 4 circuit court receive priority consideration for placement
 5 into a quality child care center; defining the term
 6 "quality child care center"; requiring a quality child
 7 care center to immediately notify the legal guardian of a
 8 child if the child care center is unable to accept a child
 9 into its program due to the center's limited capacity;
 10 requiring district child care licensing agencies to
 11 provide a report to community-based care lead agencies
 12 regarding capacity of quality child care centers;
 13 providing an effective date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

16
 17 Section 1. (1) It is the intent of the Legislature that a
 18 child under the jurisdiction of the circuit court receive
 19 priority consideration for placement into a quality child care
 20 center pursuant to s. 411.01, Florida Statutes, the School
 21 Readiness Act.

22 (2) As used in this section, the term "quality child care
 23 center" means a child care center that:

24 (a) Holds a current Gold Seal Quality Care designation
 25 under s. 402.281, Florida Statutes; or

26 (b) Has been designated as a high-quality program with at
 27 least a quality rating of 3 by a professional quality rating
 28 system if such a system exists in the county in which the child

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29 is being served. A quality child care center must maintain
 30 accreditation or designation as a high-quality program
 31 throughout the year in order to be an approved provider.

32 (3) If a quality child care center is unable to accept a
 33 child into its program due to the child care center's limited
 34 capacity, the center must immediately notify the legal guardian
 35 of the child of this fact and the estimated enrollment date for
 36 the child.

37 (4) The agency in each district that is responsible for
 38 licensing child care centers shall provide the community-based
 39 care lead agency for the district with a quarterly report of the
 40 licensed capacity for each quality child care center in the
 41 district.

42 Section 2. This act shall take effect July 1, 2007.

February 2007 Gold Seal Quality Care
Child Care Setting Roll Up Report



D	County	Facility	LFCCCH	LFDCCH	Nonpublic School	Public School	Religious Facility	Grand Total
01	Escambia		31	6	4	3	11	55
	Okaloosa		7		4	4	16	31
	Santa Rosa		4	2			6	13
	Walton		1		1		4	6
01 Total		43	8	9	7	37	105	
02	Bay		11	2	1	3	21	38
	Calhoun						4	4
	Franklin		4			1	1	6
	Gadsden		2				8	10
	Gulf		1					1
	Holmes		4				4	8
	Jackson		2				6	8
	Jefferson						1	1
	Leon		29			1	20	52
	Madison		1	1		1		3
	Taylor		1					1
	Washington						2	2
02 Total		60	3	1	6	69	141	
03	Alachua		16	1	6		11	34
	Bradford		2		1		3	7
	Columbia		7			2	6	15
	Dixie						2	2
	Gilchrist		3				2	5
	Hamilton		1				3	4
	Lafayette						1	1
	Levy		4				3	7
	Putnam		5		2		9	16
	Suwannee		3				2	5
	Union		1				1	2
03 Total		42	1	9	2	43	98	
04	Baker		3				1	4
	Clay		21				7	28
	Duval		45	1	1	6	45	103
	Nassau		3				4	8
	Saint Johns		16				4	20
04 Total		88	1	1	6	61	163	
07	Brevard		54	1		1	35	91
	Orange		55			2	12	70
	Osceola		7			1	14	22
	Seminole		35		2	2	4	44
07 Total		151	1	2	6	65	227	
08	Charlotte		10		2		8	21
	Collier		7	2		2	21	33
	Glades		2					2
	Hendry		5	1			1	8
	Lee		25	1			21	47
08 Total		49	4	2	2	51	111	
09	Palm Beach		146		28	5	30	209
09 Total		146		28	5	30	209	
10	Broward		212	1	1	8	55	277
10 Total		212	1	1	8	55	277	
11	Miami-Dade		276	15	3	21	12	327
	Monroe		6			2	2	10
11 Total		282	15	3	23	14	337	
12	Flagler		2				2	4
	Volusia		26			1	24	52
12 Total		28			1	26	56	
13	Citrus		14	1	1	1		17
	Hernando		13	1			2	16
	Lake		13		1	1	18	33
	Marion		17	3	1			23
	Sumter						4	5
13 Total		57	5	3	2	24	94	
14	Hardee		2				2	4
	Highlands		6			2	6	14
	Polk		22		2		35	59
14 Total		30		2	2	43	77	
15	Indian River		13				1	14
	Martin		8			2	5	15
	Okeechobee		3					3
	Saint Lucie		23			1	10	34
15 Total		47			3	16	66	
23	DeSoto		5		1			6
	Hillsborough		119	4	35	6	25	191
	Manatee		8			1	2	11
	Pasco		23				32	55
	Pinellas		70	8	21	1	1	101
	Sarasota		48	2	2	3		55
23 Total		273	14	59	11	60	419	
Grand Total		1508	53	120	84	594	21	2380

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1301
SPONSOR(S): Aubuchon
TIED BILLS:

Workforce Services

IDEN./SIM. BILLS: SB 1926

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Economic Development</u>	_____	McAuliffe 	Croom 
2) <u>Economic Expansion & Infrastructure Council</u>	_____	_____	_____
3) <u>Policy & Budget Council</u>	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

This bill amends portions of the workforce statutes related to the one-stop employment services delivery system as well as work requirements and transitional child care under the Temporary Assistance to Needy Families (TANF) program. The one-stop delivery revisions reflect similar proposed changes to the federal Wagner-Peyser Act. The TANF revisions reflect changes made by the Department of Health and Human Services (HHS)¹ as a result of the Deficit Reduction Act of 2005. The bill does the following:

- Deletes a requirement that regional workforce boards enter into memoranda of understanding with the Agency for Workforce Innovation regarding its one-stop delivery system in recognition of a proposed change in federal law that would make such memoranda unnecessary;
- Deletes lengthy descriptions of work requirements for TANF recipients which are currently in statute in order to conform state practice to federal work requirement definitions now detailed in the HHS interim final rule;
- Inserts language into the transitional child care statute to emphasize that this service is only available to assist those seeking employment, attempting to retain employment, or attempting to improve their employment prospects; and
- Changes certain terms to conform to terms in federal law.

This bill has no fiscal impact on state funds.

¹ See, 70 Fed. Reg. 37454-37483 (to be codified at 45 CFR Sec. 261, 262, 263 and 265).

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1301.ED.doc
DATE: 3/15/2007

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote Personal Responsibility: The bill clarifies that transitional child care is only available to those who are either employed or seeking employment.

B. EFFECT OF PROPOSED CHANGES:

Background

Workforce Services Delivery System

Workforce Florida, Inc., (WFI) creates statewide policy for Florida's workforce system.² The Agency for Workforce Innovation (AWI) is responsible for implementing that policy through its 24 regional workforce boards (RWBs or boards). The boards deliver program services at the local level that reflect workforce policy through one-stop career centers.

Currently, 96 one-stop career centers, which operate under the direction of the boards, provide employment services to job seekers, such as job training and career counseling. The one-stop centers also assist employers in finding workers to fill vacancies.

In accordance with s. 445.009(7), F.S., regional workforce boards enter into memoranda of understanding with the one-stop centers to deliver these services. The memoranda specify, in accordance with a U.S. Secretary of Labor requirement,³ that job finding, placement, and reemployment services be delivered by state merit-staffed employees. As a result of positive results from demonstration projects using non-merit-based staff systems under the Workforce Investment Act and "[i]n the interest of providing maximum flexibility to all States,"⁴ the U.S. Department of Labor (DOL) has proposed no longer requiring that these services be delivered only by state merit-staffed employees.⁵

The Workforce Innovation Act of 2000 directed WFI to provide oversight and policy direction for several programs, including welfare transition services funded by the federal Temporary Assistance to Needy Families (TANF) program.

Temporary Assistance to Needy Families

The TANF program was created by the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, as amended, Pub. L. No. 104-193, and Title IV, s. 403, of the Social Security Act, as amended. The PRWORA defines work activities for the TANF work program; establishes requirements for workforce performance measures and standards; requires an integrated data system; and requires employer participation. In addition, the act provides that state and regional entities will govern the workforce development system.

² See, ch. 445, F.S.

³ The Secretary of Labor may, under section 3(a) and 5(b)(1) of the Wagner Peyser Act, issue requirements intended "to develop and prescribe minimum standards of efficiency for State public Employment Services and promote uniformity in their administrative procedures." 70 Fed. Reg. 76559 (to be codified at 20 CFR sec. 652).

⁴ *Id.*

⁵ DOL has proposed replacing 20 CFR Secs. 652.215 and 652.216, which contain the merit employee language, with a new section 652.215, which will authorize states to deliver services using methods in addition to state merit-staffed delivery systems. *See, id.*

TANF provides funding for “a wide variety of employment and training activities, supportive services, and benefits that will enable clients to get a job, keep a job and improve their economic circumstances.”⁶ More specifically, TANF is designed to do the following:

- Provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;
- End the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;
- Prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and
- Encourage the formation and maintenance of two-parent families.⁷

To qualify for TANF block grants, states must impose work requirements on welfare recipients and establish time limits on the receipt of TANF cash assistance, also known as temporary cash assistance (TCA). The federal law defines a work-eligible individual, with certain exceptions, as “an adult (or minor child head of household) receiving assistance under TANF or a separate state program or a non-recipient parent living with a child receiving such assistance.”⁸ While individuals receiving TCA are required to comply with work requirements, they will not be penalized for not working if they are unable to secure childcare.⁹

Work Activity Requirements

The TANF final rule¹⁰ contained a list of work requirements without specific definitions in order to promote states’ flexibility in designing their own programs. As a result, s. 445.024, F.S., lists each work requirement followed by a detailed, lengthy explanation of its meaning.

A 2005 report by the federal Government Accountability Office, noted that “the wide range of work activity definitions used across states makes it difficult to compare work participation across States.”¹¹ Concern over the inconsistency of work measures across and among states led to the Deficit Reduction Act of 2005 requirement that HHS define each work activity category as it has in its interim rule.¹²

Revised TANF Legislation

The Deficit Reduction Act of 2005 (DRA) requires the U.S. Department of Health and Human Services (HHS) to define work activities, and determine who is a work eligible individual. The interim final rule published on June 29, 2006,¹³ implements the work and program changes of the new law. The interim final rules provide definitions of work activities, and require that states provide services consistent with those activities in order to receive continued funding. The rule also requires states to develop a Work Verification Plan to ensure compliance with federal definitions and requirements. Moreover, states are required to provide current work definitions and internal control procedures, proposed changes, and details of their implementation process. In order to receive full TANF grant amounts under the DRA,

⁶ Department of Health and Human Services, Administration for Children and Families, Office of Family Assistance. Helping Families Achieve Self-Sufficiency: A Guide on Funding Services for Children and Families through the TANF Program, p.4. <http://www.acf.dhhs.gov/programs/ofa/funds2.htm>. 8 February 2007.

⁷ See, 45 CFR Sec. 260.20.

⁸ 45 CFR Sec. 261.2(n)1. The following individuals are excluded from this definition: minor children who are not heads of a household, aliens not eligible for assistance due to their immigration status and, at State option, on a case-by-case basis, recipients of Supplemental Security Income benefits.

⁹ See, 45 CFR 261.56.

¹⁰ 64 FR 17720, April 12, 1999.

¹¹ HHS, supra, note 1, citing GAO Report (GAO-05-821), Welfare Reform: HHS Should Exercise Oversight to Help Ensure TANF Work Participation Is Measured Consistently Across States.

¹² HHS, supra, note 1.

¹³ HHS, supra, note 1.

states are now required to apply internal controls, document participation hours, and ensure that their work activities meet federal definitions.

Transitional Child Care

Under current law, transitional child care is available for up to 2 years for former welfare transition program participants and individuals “who have been redirected through up-front diversion.”¹⁴ According to representatives of AWI, upfront diversion program participants are individuals who seek help at a one-stop center, but do not meet the income requirements for TANF assistance. They may receive job training or counseling, or other services unrelated to cash assistance.

Effects of Proposed Changes

The bill amends s. 445.009(3), F.S., relating to the one-stop delivery system, to delete the requirement that regional workforce boards enter into memoranda of understanding with AWI for the delivery of employment services.

Currently, this subsection requires regional workforce boards to enter into such memoranda for the delivery of employment services authorized and funded by the federal Wagner Peyser Act. The memoranda require that one-stop centers use state merit-based employees to deliver job finding, placement, and reemployment services. The bill deletes this requirement in anticipation of a proposed change to federal law which will allow other employees to be used to deliver such services. Consequently, an unspecified number of state merit-based employees could be affected by this change in policy, should the proposed change to federal law occur. Absent this change to federal law, one-stop centers will still be required to use state merit-based employees.

The bill amends s. 445.024, F.S., related to work requirements, in order to align the state description of work requirements with those contained in the federal TANF law.

Currently, s. 445.024(1), F.S., lists several work requirements, with lengthy descriptions, that may be used individually or in combination to satisfy the work requirements for participants in the temporary cash assistance program. They include:

- Unsubsidized employment;
- Subsidized private sector employment;
- Subsidized public sector employment;
- Community service work experience;
- Work experience (combining job training with education related to an employment goal);
- Job search and job readiness assistance;
- Career education or training;
- Job skills training;
- Education services related to employment for participants 19 years of age or younger;
- School attendance;
- Teen parent services;
- Extended education and training;
- GED preparation and literacy education; or
- Providing child care services.

This bill deletes these descriptions, retaining only the categories of each work requirement, explicitly requiring that the federal definitions be used. The bill also does the following:

- Adds “on-the-job training” as a separate work requirement category;

¹⁴ Section 445.032, F.S.

- Specifically states that the job skills training and education requirements be “directly related to employment” in order to prevent the inclusion of barrier removal activities;¹⁵
- Replaces the “school attendance” requirement for those 19 years of age and younger with a “satisfactory attendance at the secondary school or in a course of study leading to a graduate equivalency diploma” for any age in order to comply with federal law;¹⁶
- Deletes teen parent services;
- Deletes extended education and training; and
- Deletes GED preparation and literacy education.

While the substance of the extended education and training as well as the GED preparation and literacy education are incorporated into other federal work requirement categories, the teen parent services category is not.

This bill deletes the exemption from work requirements currently provided to minors under 16 years of age. This exemption does not exist in federal law, which classifies minor parents as work eligible.¹⁷ Therefore, deleting this provision brings the state statute in line with federal law.

The bill also amends the remaining subsections of s. 445.024, F.S., to make minor adjustments to the language of the statute in order to align it with federal law.

The bill amends s. 445.032, F.S., to make clear that transitional child care is only available to those who are either employed or seeking employment. Currently the statute does not make clear that employment is a prerequisite to receiving child care. The revisions reflect this clarification in the new federal law.

The bill also amends s. 402.305, F.S., to change the phrase “community service work experience activity” to “community service program activity” to conform to the same change in section 2 of the bill. This section of the bill also corrects cross-references that have been changed by the bill.

C. SECTION DIRECTORY:

Section 1. Amends s. 445.009, F.S., deleting a requirement that regional workforce boards enter into memoranda of understanding with the Agency for Workforce Innovation regarding its one-stop delivery system.

Section 2. Amends s. 445.024, F.S., related to work requirements, in order to align the state description of work requirements with those contained in the federal TANF law.

Section 3. Amends s. 445.032, F.S., to make clear that transitional child care is only available to those who are either employed or seeking employment.

Section 3. Amends s. 402.305, F.S., to make conforming changes.

Section 4. Provides the bill will take effect upon becoming law.

¹⁵ According to the explanation of the TANF interim final rule, while literacy or language instruction may be included, such instruction should focus specifically on skills needed for employment. However, “barrier removal activities” such as substance abuse counseling and treatment, mental health services, and other rehabilitative activities, while encouraged, do not meet the requirement that activities focus “on educational or technical training designed specifically to help individuals move into employment.” *Id.* at 37461.

¹⁶ The 19-year-old age limit appears to have been arbitrary; no such limit exists in federal law.

¹⁷ Florida Statutes otherwise provides guidance for the provision of services to teen parents: s. 414.095(2)(a)4., F.S., addresses a teen parent’s eligibility for temporary cash assistance and Medicaid; s. 414.095(2)(b) addresses teen parent eligibility for temporary cash assistance; and s. 445.019 generally outlines a teen parent and pregnancy prevention diversion program designed to prevent welfare dependency by reducing teen pregnancy, reduce the incidence of multiple pregnancies to teens and assist them in completing educational or employment programs, or both.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take action requiring the expenditure of funds. This bill does not reduce the percentage of state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to workforce services; amending s.
 3 445.009, F.S.; revising requirements for the one-stop
 4 delivery system of employment services; deleting a
 5 requirement that regional workforce boards enter into
 6 memoranda of understanding with the Agency for Workforce
 7 Innovation for the delivery of certain services; deleting
 8 a requirement that the agency have authority to direct the
 9 staff of the workforce system; deleting authority of the
 10 agency over personnel matters; amending s. 445.024, F.S.;
 11 revising definitions of work activities to conform to
 12 federal law and regulations governing work requirements
 13 for participants in the temporary cash assistance program;
 14 revising work activity requirements and exemptions from
 15 such requirements; revising certain requirements for and
 16 duties of regional workforce boards with respect to work
 17 requirements for program participants; amending s.
 18 445.032, F.S.; clarifying circumstances under which
 19 transitional child care is available to former
 20 participants in the welfare transition program and certain
 21 other individuals; amending s. 402.305, F.S.; correcting
 22 cross-references; providing an effective date.

23
 24 Be It Enacted by the Legislature of the State of Florida:

25
 26 Section 1. Subsection (3) of section 445.009, Florida
 27 Statutes, is amended to read:

28 445.009 One-stop delivery system.--

29 ~~(3) Beginning October 1, 2000, regional workforce boards~~
 30 ~~shall enter into a memorandum of understanding with the Agency~~
 31 ~~for Workforce Innovation for the delivery of employment services~~
 32 ~~authorized by the federal Wagner Peyser Act. This memorandum of~~
 33 ~~understanding must be performance based.~~

34 (a) Employment services funded by the federal Wagner-
 35 Peysers Act must be provided by the one-stop delivery system
 36 under the guidance of the one-stop delivery system operators.
 37 Unless otherwise required by federal law, at least 90 percent of
 38 the Wagner-Peyser funding must go into direct customer service
 39 costs.

40 (b) Employment services must be provided through the one-
 41 stop delivery system, under the guidance of one-stop delivery
 42 system operators. ~~One stop delivery system operators shall have~~
 43 ~~overall authority for directing the staff of the workforce~~
 44 ~~system. Personnel matters shall remain under the ultimate~~
 45 ~~authority of the Agency for Workforce Innovation. However, the~~
 46 ~~one stop delivery system operator shall submit to the agency~~
 47 ~~information concerning the job performance of agency employees~~
 48 ~~who deliver employment services. The agency shall consider any~~
 49 ~~such information submitted by the one stop delivery system~~
 50 ~~operator in conducting performance appraisals of the employees.~~

51 ~~(c) The agency shall retain fiscal responsibility and~~
 52 ~~accountability for the administration of funds allocated to the~~
 53 ~~state under the Wagner Peyser Act. An agency employee who is~~
 54 ~~providing services authorized under the Wagner Peyser Act shall~~
 55 ~~be paid using Wagner Peyser Act funds.~~

56 Section 2. Subsections (1) through (4) of section 445.024,
 57 Florida Statutes, are amended to read:

58 445.024 Work requirements.--

59 (1) WORK ACTIVITIES.--The Agency for Workforce Innovation
 60 may develop activities under each of the following categories of
 61 work activities. The following categories of work activities,
 62 based on federal law and regulations, may be used individually
 63 or in combination to satisfy the work requirements for a
 64 participant in the temporary cash assistance program:

- 65 (a) Unsubsidized employment.
- 66 (b) Subsidized private sector employment.
- 67 (c) Subsidized public sector employment.
- 68 (d) On-the-job training.
- 69 (e) Community service programs.
- 70 (f) Work experience.
- 71 (g) Job search and job readiness assistance.
- 72 (h) Vocational educational training.
- 73 (i) Job skills training directly related to employment.
- 74 (j) Education directly related to employment.
- 75 (k) Satisfactory attendance at a secondary school or in a
 76 course of study leading to a graduate equivalency diploma.
- 77 (l) Providing child care services.

78 ~~(a) Unsubsidized employment. Unsubsidized employment is~~
 79 ~~full time employment or part time employment that is not~~
 80 ~~directly supplemented by federal or state funds. Paid~~
 81 ~~apprenticeship and cooperative education activities are included~~
 82 ~~in this activity.~~

83 ~~(b) Subsidized private sector employment. Subsidized~~
 84 ~~private sector employment is employment in a private for profit~~
 85 ~~enterprise or a private not for profit enterprise which is~~
 86 ~~directly supplemented by federal or state funds. A subsidy may~~
 87 ~~be provided in one or more of the forms listed in this~~
 88 ~~paragraph.~~

89 ~~1. Work supplementation. A work supplementation subsidy~~
 90 ~~diverts a participant's temporary cash assistance under the~~
 91 ~~program to the employer. The employer must pay the participant~~
 92 ~~wages that equal or exceed the applicable federal minimum wage.~~
 93 ~~Work supplementation may not exceed 6 months. At the end of the~~
 94 ~~supplementation period, the employer is expected to retain the~~
 95 ~~participant as a regular employee without receiving a subsidy. A~~
 96 ~~work supplementation agreement may not be continued with any~~
 97 ~~employer who exhibits a pattern of failing to provide~~
 98 ~~participants with continued employment after the period of work~~
 99 ~~supplementation ends.~~

100 ~~2. On the job training. On the job training is full time,~~
 101 ~~paid employment in which the employer or an educational~~
 102 ~~institution, in cooperation with the employer, provides training~~
 103 ~~needed for the participant to perform the skills required for~~
 104 ~~the position. The employer or the educational institution on~~
 105 ~~behalf of the employer receives a subsidy to offset the cost of~~
 106 ~~the training provided to the participant. Upon satisfactory~~
 107 ~~completion of the training, the employer is expected to retain~~
 108 ~~the participant as a regular employee without receiving a~~
 109 ~~subsidy. An on the job training agreement may not be continued~~
 110 ~~with any employer who exhibits a pattern of failing to provide~~

111 ~~participants with continued employment after the on-the-job~~
112 ~~training subsidy ends.~~

113 ~~3. Incentive payments. Regional workforce boards may~~
114 ~~provide additional incentive payments to encourage employers to~~
115 ~~employ program participants. Incentive payments may include~~
116 ~~payments to encourage the employment of hard to place~~
117 ~~participants, in which case the amount of the payment shall be~~
118 ~~weighted proportionally to the extent to which the participant~~
119 ~~has limitations associated with the long term receipt of welfare~~
120 ~~and difficulty in sustaining employment. Incentive payments may~~
121 ~~also include payments to encourage employers to provide health~~
122 ~~care insurance benefits to current or former program~~
123 ~~participants. In establishing incentive payments, regional~~
124 ~~workforce boards shall consider the extent of prior receipt of~~
125 ~~welfare, lack of employment experience, lack of education, lack~~
126 ~~of job skills, and other appropriate factors. A participant who~~
127 ~~has complied with program requirements and who is approaching~~
128 ~~the time limit for receiving temporary cash assistance may be~~
129 ~~defined as "hard to place." Incentive payments may include~~
130 ~~payments in which an initial payment is made to the employer~~
131 ~~upon the employment of a participant, and the majority of the~~
132 ~~incentive payment is made after the employer retains the~~
133 ~~participant as a full time employee for at least 12 months. An~~
134 ~~incentive agreement may not be continued with any employer who~~
135 ~~exhibits a pattern of failing to provide participants with~~
136 ~~continued employment after the incentive payments cease.~~

137 ~~4. Tax credits. An employer who employs a program~~
138 ~~participant may qualify for enterprise zone property tax credits~~

139 ~~under s. 220.182, the tax refund program for qualified target~~
140 ~~industry businesses under s. 288.106, or other federal or state~~
141 ~~tax benefits. The regional workforce board shall provide~~
142 ~~information and assistance, as appropriate, to use such credits~~
143 ~~to accomplish program goals.~~

144 ~~5. Training bonus. An employer who hires a participant in~~
145 ~~the welfare transition program and pays the participant a wage~~
146 ~~that precludes the participant's eligibility for temporary cash~~
147 ~~assistance may receive \$250 for each full month of employment~~
148 ~~for a period that may not exceed 3 months. An employer who~~
149 ~~receives a training bonus for an employee may not receive a work~~
150 ~~supplementation subsidy for the same employee. "Employment" is~~
151 ~~defined as 35 hours per week at a wage of no less than minimum~~
152 ~~wage.~~

153 ~~(c) Subsidized public sector employment. Subsidized~~
154 ~~public sector employment is employment by an agency of the~~
155 ~~federal, state, or local government which is directly~~
156 ~~supplemented by federal or state funds. The applicable subsidies~~
157 ~~provided under paragraph (b) may be used to subsidize employment~~
158 ~~in the public sector, except that priority for subsidized~~
159 ~~employment shall be employment in the private sector. Public~~
160 ~~sector employment is distinguished from work experience in that~~
161 ~~the participant is paid wages and receives the same benefits as~~
162 ~~a nonsubsidized employee who performs similar work. Work study~~
163 ~~activities administered by educational institutions are included~~
164 ~~in this activity.~~

165 ~~(d) Community service work experience. Community service~~
166 ~~work experience is job training experience at a supervised~~

167 ~~public or private not for-profit agency. A participant shall~~
 168 ~~receive temporary cash assistance in the form of wages, which,~~
 169 ~~when combined with the value of food stamps awarded to the~~
 170 ~~participant, is proportional to the amount of time worked. A~~
 171 ~~participant in the welfare transition program or the Food Stamp~~
 172 ~~Employment and Training program assigned to community service~~
 173 ~~work experience shall be deemed an employee of the state for~~
 174 ~~purposes of workers' compensation coverage and is subject to the~~
 175 ~~requirements of the drug free workplace program. Community~~
 176 ~~service work experience may be selected as an activity for a~~
 177 ~~participant who needs to increase employability by improving his~~
 178 ~~or her interpersonal skills, job retention skills, stress~~
 179 ~~management, and job problem solving, and by learning to attain a~~
 180 ~~balance between job and personal responsibilities. Community~~
 181 ~~service is intended to:~~

- 182 ~~1. Assess compliance with requirements of the welfare~~
- 183 ~~transition program before referral of the participant to costly~~
- 184 ~~services such as career education;~~
- 185 ~~2. Maintain work activity status while the participant~~
- 186 ~~awaits placement into paid employment or training;~~
- 187 ~~3. Fulfill a clinical practicum or internship requirement~~
- 188 ~~related to employment; or~~
- 189 ~~4. Provide work-based mentoring.~~

190
 191 ~~As used in this paragraph, the terms "community service~~
 192 ~~experience," "community work," and "workfare" are synonymous.~~

193 ~~(c) Work experience. Work experience is an appropriate~~
 194 ~~work activity for participants who lack preparation for or~~

195 ~~experience in the workforce. It must combine a job training~~
 196 ~~activity in a public or private not for profit agency with~~
 197 ~~education and training related to an employment goal. To qualify~~
 198 ~~as a work activity, work experience must include education and~~
 199 ~~training in addition to the time required by the work activity,~~
 200 ~~and the work activity must be intensively supervised and~~
 201 ~~structured. Regional workforce boards shall contract for any~~
 202 ~~services provided for clients who are assigned to this activity~~
 203 ~~and shall require performance benchmarks, goals, outcomes, and~~
 204 ~~time limits designed to assure that the participant moves toward~~
 205 ~~full time paid employment. A participant shall receive temporary~~
 206 ~~cash assistance proportional to the time worked. A participant~~
 207 ~~assigned to work experience is an employee of the state for~~
 208 ~~purposes of workers' compensation coverage and is subject to the~~
 209 ~~requirements of the drug free workplace program.~~

210 ~~(f) Job search and job readiness assistance. Job search~~
 211 ~~assistance may include supervised or unsupervised job seeking~~
 212 ~~activities. Job readiness assistance provides support for job~~
 213 ~~seeking activities, which may include:~~

214 ~~1. Orientation to the world of work and basic job seeking~~
 215 ~~and job retention skills.~~

216 ~~2. Instruction in completing an application for employment~~
 217 ~~and writing a resume.~~

218 ~~3. Instruction in conducting oneself during a job~~
 219 ~~interview, including appropriate dress.~~

220 ~~4. Instruction in how to retain a job, plan a career, and~~
 221 ~~perform successfully in the workplace.~~

222

223 ~~Job readiness assistance may also include providing a~~
 224 ~~participant with access to an employment resource center that~~
 225 ~~contains job listings, telephones, facsimile machines,~~
 226 ~~typewriters, and word processors. Job search and job readiness~~
 227 ~~activities may be used in conjunction with other program~~
 228 ~~activities, such as work experience, but may not be the primary~~
 229 ~~work activity for longer than the length of time permitted under~~
 230 ~~federal law.~~

231 ~~(g) Career education or training. Career education or~~
 232 ~~training is education or training designed to provide~~
 233 ~~participants with the skills and certification necessary for~~
 234 ~~employment in an occupational area. Career education or training~~
 235 ~~may be used as a primary program activity for participants when~~
 236 ~~it has been determined that the individual has demonstrated~~
 237 ~~compliance with other phases of program participation and~~
 238 ~~successful completion of the career education or training is~~
 239 ~~likely to result in employment entry at a higher wage than the~~
 240 ~~participant would have been likely to attain without completion~~
 241 ~~of the career education or training. Career education or~~
 242 ~~training may be combined with other program activities and also~~
 243 ~~may be used to upgrade skills or prepare for a higher paying~~
 244 ~~occupational area for a participant who is employed.~~

245 ~~1. Unless otherwise provided in this section, career~~
 246 ~~education shall not be used as the primary program activity for~~
 247 ~~a period which exceeds 12 months. The 12 month restriction~~
 248 ~~applies to instruction in a career education program and does~~
 249 ~~not include remediation of basic skills, including English~~
 250 ~~language proficiency, if remediation is necessary to enable a~~

251 ~~participant to benefit from a career education program. Any~~
 252 ~~necessary remediation must be completed before a participant is~~
 253 ~~referred to career education as the primary work activity. In~~
 254 ~~addition, use of career education or training shall be~~
 255 ~~restricted to the limitation established in federal law. Career~~
 256 ~~education included in a program leading to a high school diploma~~
 257 ~~shall not be considered career education for purposes of this~~
 258 ~~section.~~

259 ~~2. When possible, a provider of career education or~~
 260 ~~training shall use funds provided by funding sources other than~~
 261 ~~the regional workforce board. The regional workforce board may~~
 262 ~~provide additional funds to a career education or training~~
 263 ~~provider only if payment is made pursuant to a performance-based~~
 264 ~~contract. Under a performance based contract, the provider may~~
 265 ~~be partially paid when a participant completes education or~~
 266 ~~training, but the majority of payment shall be made following~~
 267 ~~the participant's employment at a specific wage or job retention~~
 268 ~~for a specific duration. Performance based payments made under~~
 269 ~~this subparagraph are limited to education or training for~~
 270 ~~targeted occupations identified by the Workforce Estimating~~
 271 ~~Conference under s. 216.136, or other programs identified by~~
 272 ~~Workforce Florida, Inc., as beneficial to meet the needs of~~
 273 ~~designated groups who are hard to place. If the contract pays~~
 274 ~~the full cost of training, the community college or school~~
 275 ~~district may not report the participants for other state~~
 276 ~~funding.~~

277 ~~(h) Job skills training. Job skills training includes~~
 278 ~~customized training designed to meet the needs of a specific~~

279 ~~employer or a specific industry. Job skills training shall~~
 280 ~~include literacy instruction, and may include English~~
 281 ~~proficiency instruction or Spanish language or other language~~
 282 ~~instruction if necessary to enable a participant to perform in a~~
 283 ~~specific job or job training program or if the training enhances~~
 284 ~~employment opportunities in the local community. A participant~~
 285 ~~may be required to complete an entrance assessment or test~~
 286 ~~before entering into job skills training.~~

287 ~~(i) Education services related to employment for~~
 288 ~~participants 19 years of age or younger. Education services~~
 289 ~~provided under this paragraph are designed to prepare a~~
 290 ~~participant for employment in an occupation. The agency shall~~
 291 ~~coordinate education services with the school to work activities~~
 292 ~~provided under s. 1006.02. Activities provided under this~~
 293 ~~paragraph are restricted to participants 19 years of age or~~
 294 ~~younger who have not completed high school or obtained a high~~
 295 ~~school equivalency diploma.~~

296 ~~(j) School attendance. Attendance at a high school or~~
 297 ~~attendance at a program designed to prepare the participant to~~
 298 ~~receive a high school equivalency diploma is a required program~~
 299 ~~activity for each participant 19 years of age or younger who:~~

300 ~~1. Has not completed high school or obtained a high school~~
 301 ~~equivalency diploma;~~

302 ~~2. Is a dependent child or a head of household; and~~

303 ~~3. For whom it has not been determined that another~~
 304 ~~program activity is more appropriate.~~

305 ~~(k) Teen parent services. Participation in medical,~~
 306 ~~educational, counseling, and other services that are part of a~~

307 ~~comprehensive program is a required activity for each teen~~
 308 ~~parent who participates in the welfare transition program.~~

309 ~~(l) Extended education and training. Notwithstanding any~~
 310 ~~other provisions of this section to the contrary, the board of~~
 311 ~~directors of Workforce Florida, Inc., may approve a plan by a~~
 312 ~~regional workforce board for assigning, as work requirements,~~
 313 ~~educational activities that exceed or are not included in those~~
 314 ~~provided elsewhere in this section and that do not comply with~~
 315 ~~federal work participation requirement limitations. In order to~~
 316 ~~be eligible to implement this provision, a regional workforce~~
 317 ~~board must continue to exceed the overall federal work~~
 318 ~~participation rate requirements. For purposes of this paragraph,~~
 319 ~~the board of directors of Workforce Florida, Inc., may adjust~~
 320 ~~the regional participation requirement based on regional~~
 321 ~~easeload decline. However, this adjustment is limited to no more~~
 322 ~~than the adjustment produced by the calculation used to generate~~
 323 ~~federal adjustments to the participation requirement due to~~
 324 ~~easeload decline.~~

325 ~~(m) GED preparation and literacy education. Satisfactory~~
 326 ~~attendance at secondary school or in a course of study leading~~
 327 ~~to a graduate equivalency diploma, if a participant has not~~
 328 ~~completed secondary school or received such a diploma. English~~
 329 ~~language proficiency training may be included as a part of the~~
 330 ~~education if it is deemed the individual requires such training~~
 331 ~~to complete secondary school or to attain a graduate equivalency~~
 332 ~~diploma. To calculate countable hours attributable to education,~~
 333 ~~a participant may earn study credits equal to the number of~~
 334 ~~actual hours spent in formal training per week, but the total~~

335 ~~number of hours earned for actual hours spent in formal training~~
 336 ~~and studying may not exceed a one to one and one half ratio for~~
 337 ~~the week. Countable hours are subject to the restrictions~~
 338 ~~contained in 45 C.F.R. s. 261.31.~~

339 ~~(n) Providing child care services. Providing child care~~
 340 ~~services to an individual who is participating in a community~~
 341 ~~service program pursuant to this section.~~

342 (2) WORK ACTIVITY REQUIREMENTS.--Each individual who is
 343 not otherwise exempt from work activity requirements must
 344 participate in a work activity, ~~except for community service~~
 345 ~~work experience~~, for the maximum number of hours allowable under
 346 federal law; however, a, provided that no participant may not be
 347 required to work more than 40 hours per week or less than the
 348 minimum number of hours required by federal law. The maximum
 349 number of hours each month that a family participant may be
 350 required to participate in community service or work experience
 351 programs activities is the greater of: the number of hours that
 352 would result from dividing the family's monthly amount for
 353 temporary cash assistance and food stamps by the applicable
 354 federal minimum wage and then dividing that result by the number
 355 of participants in the family who participate in community
 356 service activities, or the minimum required to meet federal
 357 participation requirements. However, ~~in no case shall the~~
 358 ~~maximum hours required per week for community service or work~~
 359 ~~experience may not exceed 40 hours. An applicant shall be~~
 360 ~~referred for employment at the time of application if the~~
 361 ~~applicant is eligible to participate in the welfare transition~~
 362 ~~program.~~

363 (a) A participant in a work activity may also be required
 364 to enroll in and attend a course of instruction designed to
 365 increase literacy skills to a level necessary for obtaining or
 366 retaining employment ~~if, provided that~~ the instruction plus the
 367 work activity does not require more than 40 hours per week.

368 (b) Program funds may be used, as available, to support
 369 the efforts of a participant who meets the work activity
 370 requirements and who wishes to enroll in or continue enrollment
 371 in an adult general education program or other training programs
 372 ~~a career education program.~~

373 (3) EXEMPTION FROM WORK ACTIVITY REQUIREMENTS.--The
 374 following individuals are exempt from work activity
 375 requirements:

376 ~~(a) A minor child under 16 years of age.~~

377 ~~(a)(b)~~ (a) An individual who receives benefits under the
 378 Supplemental Security Income program or the Social Security
 379 Disability Insurance program.

380 ~~(b)(c)~~ (b) ~~An adult~~ Adults who is ~~are~~ not defined as a work-
 381 eligible individual under federal law ~~included in the~~
 382 ~~calculation of temporary cash assistance in child only cases.~~

383 ~~(c)(d)~~ (c) A single ~~One~~ custodial parent of ~~with~~ a child under
 384 3 months of age, except that the parent may be required to
 385 attend parenting classes or other activities to better prepare
 386 for the responsibilities of raising a child. ~~If the custodial~~
 387 ~~parent is 19 years of age or younger and has not completed high~~
 388 ~~school or the equivalent, he or she may be required to attend~~
 389 ~~school or other appropriate educational activities.~~

390 (d) ~~(e)~~ An individual who is exempt from the time period
 391 pursuant to s. 414.105.

392 (4) PRIORITIZATION OF WORK REQUIREMENTS.--Regional
 393 workforce boards shall require participation in work activities
 394 to the maximum extent possible, subject to federal and state
 395 funding. If funds are projected to be insufficient to allow
 396 full-time work activities by all program participants who are
 397 required to participate in work activities, regional workforce
 398 boards shall screen participants and assign priority based on
 399 the following:

400 (a) In accordance with federal requirements, at least one
 401 adult in each two-parent family shall be assigned priority for
 402 full-time work activities.

403 (b) Among single-parent families, a family that has older
 404 preschool children or school-age children shall be assigned
 405 priority for work activities.

406 (c) A participant who has access to subsidized or
 407 unsubsidized ~~nonsubsidized~~ child care may be assigned priority
 408 for work activities.

409 (d) Priority may be assigned based on the amount of time
 410 remaining until the participant reaches the applicable time
 411 limit for program participation or may be based on requirements
 412 of a case plan.

413
 414 Regional workforce boards may limit a participant's weekly work
 415 requirement to the minimum required to meet federal work
 416 activity requirements ~~in lieu of the level defined in subsection~~
 417 ~~(2)~~. Regional workforce boards may develop screening and

418 prioritization procedures based on the allocation of resources,
 419 the availability of community resources, the provision of
 420 supportive services, or the work activity needs of the service
 421 area district.

422 Section 3. Section 445.032, Florida Statutes, is amended
 423 to read:

424 445.032 Transitional child care.--In order to assist
 425 former welfare transition program participants and individuals
 426 who have been redirected through up-front diversion in obtaining
 427 employment, continuing to be employed, and improving their
 428 employment prospects, transitional child care is available for
 429 up to 2 years:

430 (1) To ~~After~~ a former program participant who is no longer
 431 receiving temporary cash assistance and who is employed or is
 432 actively seeking employment if his or her ~~has left the program~~
 433 ~~due to employment and whose~~ income does not exceed 200 percent
 434 of the federal poverty level at any time during that 2-year
 435 period.

436 (2) To an individual who has been redirected through up-
 437 front diversion and who is employed or is actively seeking
 438 employment if his or her ~~whose~~ income does not exceed 200
 439 percent of the federal poverty level at any time during that 2-
 440 year period.

441 Section 4. Paragraph (b) of subsection (4) of section
 442 402.305, Florida Statutes, is amended to read:

443 402.305 Licensing standards; child care facilities.--

444 (4) STAFF-TO-CHILDREN RATIO.--

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2007

445 (b) This subsection does not apply to nonpublic schools
 446 and their integral programs as defined in s. 402.3025(2)(d)1. In
 447 addition, an individual participating in a community service
 448 program ~~work-experience~~ activity under s. 445.024(1) (e) ~~(d)~~, or a
 449 work experience activity under s. 445.024(1) (f) ~~(e)~~; at a child
 450 care facility may not be considered in calculating the staff-to-
 451 children ratio.

452 Section 5. This act shall take effect upon becoming a law.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. **1301**

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Council/Committee hearing bill: Committee on Economic
2 Development
3 Representative Aubuchon offered the following:

Amendment (with title amendment)

Remove lines 26-55

===== T I T L E A M E N D M E N T =====

Remove lines 3-10 and insert:

445.024, F.S.;