

1 A bill to be entitled
2 An act relating to the Johnnie B. Byrd, Sr., Alzheimer's
3 Center and Research Institute; amending s. 1004.445, F.S.;
4 providing a mission statement for the research institute;
5 deleting the provision that requires the State Board of
6 Education to enter into an agreement for the use of the
7 facilities on the campus of the University of South
8 Florida; requiring a not-for-profit corporation to govern
9 and manage the research institute; authorizing the not-
10 for-profit corporation to create corporate subsidiaries
11 without the approval from the Board of Governors; revising
12 the membership of the board of directors of the not-for-
13 profit corporation; revising the terms of service for the
14 members of the board of directors of the not-for-profit
15 corporation; requiring that the board of directors,
16 instead of the Board of Governors, perform certain duties
17 without the approval of the Board of Governors; providing
18 that management letters in the annual audit report be
19 submitted to the Auditor General and not to the Board of
20 Governors; deleting the authority of the Board of
21 Governors to require and receive any data relative to the
22 operation of the not-for-profit corporation or subsidiary;
23 requiring that the board of directors appoint an advisory
24 panel for itself and the chief executive officer for
25 specific purposes; requiring that the board of directors,
26 not the Board of Governors, secure general liability
27 protection; conforming provisions to changes made by the
28 act; deleting the provision that prohibits the chief

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29 executive officer from establishing academic programs for
30 which academic credit is awarded; requiring that the chief
31 executive officer appoint faculty and staff, not
32 representatives of the institute, to carry out certain
33 responsibilities of the research institute; providing that
34 such faculty and staff receive compensation, benefits, and
35 terms of service consistent with university policy;
36 deleting the chief executive officer's reporting
37 relationship to the Board of Governors; deleting the chief
38 executive officer's responsibility to submit an annual
39 operating budget to the Governor, Cabinet, the chair of
40 the Board of Governors, and the Legislature; abolishing
41 the council of scientific advisers created by the board of
42 directors; deleting the requirements for submitting
43 applications for Alzheimer's disease research funding;
44 deleting the statement that the not-for-profit corporation
45 and its subsidiaries are not agencies within the meaning
46 of s. 20.03, F.S.; specifying the sources of funding for
47 the institute; requiring that any appropriation to the
48 institute be expended for certain purposes; deleting the
49 requirement that an appropriation to the research
50 institute be paid directly to the board of directors;
51 deleting obsolete provisions; deleting provisions
52 providing for the expiration of the institute; providing
53 an effective date.

54
55 Be It Enacted by the Legislature of the State of Florida:
56

57 Section 1. Section 1004.445, Florida Statutes, is amended
 58 to read:

59 1004.445 Johnnie B. Byrd, Sr., Alzheimer's Center and
 60 Research Institute.--

61 (1) The Johnnie B. Byrd, Sr., Alzheimer's Center and
 62 Research Institute is established within ~~at~~ the University of
 63 South Florida.

64 (2) The research institute has a statewide mission to
 65 advance research, education, treatment, prevention, and the
 66 early detection of Alzheimer's disease and is responsible for
 67 distributing competitive grant funds for Alzheimer's disease
 68 research.

69 ~~(3)(2)(a) The State Board of Education shall enter into an~~
 70 ~~agreement for the utilization of the facilities on the campus of~~
 71 ~~the University of South Florida to be known as the Johnnie B.~~
 72 ~~Byrd, Sr., Alzheimer's Center and Research Institute, including~~
 73 ~~all furnishings, equipment, and other chattels used in the~~
 74 ~~operation of those facilities, with A Florida not-for-profit~~
 75 ~~corporation is created to act as an instrumentality of the state~~
 76 ~~organized solely for the sole purpose of managing ~~governing~~ and~~
 77 ~~operating the Johnnie B. Byrd, Sr., Alzheimer's Center and~~
 78 ~~Research Institute. This not-for-profit corporation, acting as~~
 79 ~~an instrumentality of the state, shall govern and operate the~~
 80 ~~Johnnie B. Byrd, Sr., Alzheimer's Center and Research Institute~~
 81 ~~in accordance with the terms of the agreement between the State~~
 82 ~~Board of Education and the not-for-profit corporation. The not-~~
 83 ~~for-profit corporation may, with the prior approval of the Board~~
 84 ~~of Governors, create either for-profit or not-for-profit~~

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85 corporate subsidiaries, or both, to fulfill its mission. The
86 not-for-profit corporation and its subsidiaries may ~~are~~
87 ~~authorized to~~ receive, hold, invest, and administer property and
88 any moneys acquired from private, local, state, and federal
89 sources, as well as technical and professional income generated
90 or derived from practice activities of the institute, for the
91 benefit of the institute and the fulfillment of its mission.
92 ~~Effective July 1, 2007, the agreement authority provided to the~~
93 ~~State Board of Education is transferred to the Board of~~
94 ~~Governors.~~

95 (b) The affairs of the not-for-profit corporation shall be
96 managed by a board of directors who shall serve without
97 compensation. The board of directors shall consist of seven
98 members. Four members shall be appointed by the chair of the
99 board of trustees ~~the President~~ of the University of South
100 Florida and three members shall be appointed as follows: the
101 ~~chair of the Board of Governors, or their designees, five~~
102 ~~representatives of the state universities, and nine~~
103 ~~representatives of the public who are neither medical doctors~~
104 ~~nor state employees. Each director who is a representative of a~~
105 ~~state university or of the public shall be appointed to serve a~~
106 ~~term of 3 years. The chair of the board of directors shall be~~
107 ~~selected by a majority vote of the directors. Each director~~
108 ~~shall have only one vote. Of the five university~~
109 ~~representatives, one shall be appointed by the Governor, one ~~two~~~~
110 ~~by the President of the Senate, and one ~~two~~ by the Speaker of~~
111 ~~the House of Representatives.~~ Each member of the board of
112 directors shall be appointed to a 5-year term beginning July 1,

113 ~~2009, and may be reappointed; and of the nine public~~
 114 ~~representatives, three shall be appointed by the Governor, three~~
 115 ~~by the President of the Senate, and three by the Speaker of the~~
 116 ~~House of Representatives.~~ Any vacancy in office shall be filled
 117 in the same manner as the original appointment. ~~Any director may~~
 118 ~~be reappointed.~~

119 (4) ~~(3)~~ The board of directors ~~Governors~~ shall provide in
 120 ~~the agreement with the not-for-profit corporation~~ for the
 121 following:

122 (a) Approval ~~by the Board of Governors~~ of the articles of
 123 incorporation of the not-for-profit corporation.

124 (b) Approval ~~by the Board of Governors~~ of the articles of
 125 incorporation of any ~~not-for-profit~~ corporate subsidiary created
 126 by the not-for-profit corporation.

127 (c) The use ~~Utilization~~ of lands, facilities, and
 128 personnel by the not-for-profit corporation and its subsidiaries
 129 for research, education, treatment, prevention, and the early
 130 detection of Alzheimer's disease and for mutually approved
 131 teaching and research programs conducted by the University of
 132 South Florida or other accredited medical schools or research
 133 institutes.

134 (d) Preparation of an annual financial audit pursuant to
 135 s. 11.45 of the not-for-profit corporation's accounts and the
 136 accounts of any subsidiaries to be conducted by an independent
 137 certified public accountant. The annual audit report shall
 138 include management letters and shall be submitted to the Auditor
 139 General ~~and the Board of Governors~~ for review. ~~The Board of~~
 140 ~~Governors, the Auditor General,~~ and the Office of Program Policy

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141 Analysis and Government Accountability may ~~shall have the~~
142 ~~authority to~~ require and receive from the not-for-profit
143 corporation and any subsidiaries, or from their independent
144 auditor, any detail or supplemental data relative to the
145 operation of the not-for-profit corporation or subsidiary.

146 (e) Provision by the not-for-profit corporation and its
147 subsidiaries of equal employment opportunities for all persons
148 regardless of race, color, religion, gender, age, or national
149 origin.

150 (f) The appointment of an advisory panel to the board of
151 directors and the chief executive officer for the purposes of
152 providing advice and advocacy in meeting the institute's
153 statewide mission, engaging community leaders and other
154 concerned members of the public in supporting the institute's
155 mission, raising public awareness of Alzheimer's disease, and
156 soliciting philanthropic support for the institute.

157 (5)(4) The board of directors of the not-for-profit
158 corporation may ~~Governors is authorized to~~ secure comprehensive
159 general liability protection, including professional liability
160 protection, for the not-for-profit corporation and its
161 subsidiaries, pursuant to s. 1004.24. The not-for-profit
162 corporation and its subsidiaries shall be exempt from any
163 participation in any property insurance trust fund established
164 by law, including any property insurance trust fund established
165 pursuant to chapter 284, so long as the not-for-profit
166 corporation and its subsidiaries maintain property insurance
167 protection with comparable or greater coverage limits.

168 ~~(5) In the event that the agreement between the not-for-~~

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169 ~~profit corporation and the Board of Governors is terminated for~~
170 ~~any reason, the Board of Governors shall assume governance and~~
171 ~~operation of the facilities.~~

172 (6) The institute shall be administered by a chief
173 executive officer, who shall be appointed by and serve at the
174 pleasure of the board of directors of the not-for-profit
175 corporation, and who shall exercise the following powers and
176 duties, subject to the approval of the board of directors:

177 (a) The chief executive officer shall establish programs
178 that fulfill the mission of the institute in research,
179 education, treatment, prevention, and early detection of
180 Alzheimer's disease; ~~however, the chief executive officer may~~
181 ~~not establish academic programs for which academic credit is~~
182 ~~awarded and which culminate in the conferring of a degree,~~
183 ~~without prior approval of the Board of Governors.~~

184 (b) The chief executive officer shall have control over
185 the budget and the moneys appropriated or donated to the
186 institute from private, local, state, and federal sources, as
187 well as technical and professional income generated or derived
188 from practice activities of the institute. However, professional
189 income generated by university faculty from practice activities
190 at the institute shall be shared between the institute and the
191 university as determined by the chief executive officer and the
192 appropriate university dean or vice president.

193 (c) The chief executive officer shall appoint faculty and
194 staff ~~representatives of the institute~~ to carry out the
195 research, patient care, and educational activities of the
196 institute. This appointed faculty and staff shall receive and

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197 ~~establish the compensation, benefits, and terms of service that~~
 198 ~~are consistent with university policy of such representatives.~~
 199 ~~Representatives of the institute shall be eligible to hold~~
 200 ~~concurrent appointments at affiliated academic institutions.~~
 201 ~~University faculty shall be eligible to hold concurrent~~
 202 ~~appointments at the institute.~~

203 (d) The chief executive officer shall have control over
 204 the use and assignment of space and equipment within the
 205 facilities.

206 (e) The chief executive officer shall have the power to
 207 create the administrative structure necessary to carry out the
 208 mission of the institute.

209 ~~(f) The chief executive officer shall have a reporting~~
 210 ~~relationship to the Board of Governors or its designee.~~

211 (f) ~~(g)~~ The chief executive officer shall provide a copy of
 212 the institute's annual report to the Governor and Cabinet, the
 213 President of the Senate, the Speaker of the House of
 214 Representatives, and the chair of the Board of Governors. The
 215 annual report shall describe the expenditure of all funds and
 216 shall provide information regarding research that has been
 217 conducted or funded by the institute center, as well as the
 218 expected and actual results of such research.

219 ~~(h) By August 1 of each year, the chief executive officer~~
 220 ~~shall develop and submit to the Governor and Cabinet, the~~
 221 ~~President of the Senate, the Speaker of the House of~~
 222 ~~Representatives, and the chair of the Board of Governors an~~
 223 ~~annual operating budget detailing the planned use of state,~~
 224 ~~federal, and private funds for the fiscal year.~~

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225 ~~(7) The board of directors of the not-for-profit~~
226 ~~corporation shall create a council of scientific advisers to the~~
227 ~~chief executive officer comprised of leading researchers,~~
228 ~~physicians, and scientists. The council shall review programs~~
229 ~~and recommend research priorities and initiatives to maximize~~
230 ~~the state's investment in the institute. The members of the~~
231 ~~council shall be appointed by the board of directors of the not-~~
232 ~~for-profit corporation. Each member of the council shall be~~
233 ~~appointed to serve a 2-year term and may be reappointed to the~~
234 ~~council.~~

235 ~~(8) (a) Applications for Alzheimer's disease research~~
236 ~~funding may be submitted from any university or established~~
237 ~~research institute in the state. All qualified investigators in~~
238 ~~the state, regardless of institutional affiliation, shall have~~
239 ~~equal access and opportunity to compete for the research~~
240 ~~funding. Grants shall be awarded by the board of directors of~~
241 ~~the not-for-profit corporation on the basis of scientific merit,~~
242 ~~as determined by an open, competitive peer review process that~~
243 ~~ensures objectivity, consistency, and high quality. The~~
244 ~~following types of applications shall be considered for funding:~~

- 245 ~~1. Investigator-initiated research grants.~~
246 ~~2. Institutional research grants.~~
247 ~~3. Collaborative research grants, including those that~~
248 ~~advance the finding of cures through basic or applied research.~~

249 ~~(b) Preference may be given to grant proposals that foster~~
250 ~~collaboration among institutions, researchers, and community~~
251 ~~practitioners because these proposals support the advancement of~~
252 ~~cures through basic or applied research, including clinical~~

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253 ~~trials involving Alzheimer's patients and related networks.~~

254 ~~(c) To ensure that all proposals for research funding are~~
255 ~~appropriate and are evaluated fairly on the basis of scientific~~
256 ~~merit, the board of directors of the not-for-profit corporation,~~
257 ~~in consultation with the council of scientific advisors, shall~~
258 ~~appoint a peer review panel of independent, scientifically~~
259 ~~qualified individuals to review the scientific content of each~~
260 ~~proposal and establish its scientific priority score. The~~
261 ~~priority scores shall be forwarded to the council and must be~~
262 ~~considered by the board of directors of the not-for-profit~~
263 ~~corporation in determining which proposals shall be recommended~~
264 ~~for funding.~~

265 ~~(d) The council of scientific advisors and the peer review~~
266 ~~panel shall establish and follow rigorous guidelines for ethical~~
267 ~~conduct and adhere to a strict policy with regard to conflict of~~
268 ~~interest. All employees, members of the board of directors, and~~
269 ~~affiliates of the not-for-profit corporation shall follow the~~
270 ~~same rigorous guidelines for ethical conduct and shall adhere to~~
271 ~~the same strict policy with regard to conflict of interest. A~~
272 ~~member of the council or panel may not participate in any~~
273 ~~discussion or decision with respect to a research proposal by~~
274 ~~any firm, entity, or agency with which the member is associated~~
275 ~~as a member of the governing body or as an employee or with~~
276 ~~which the member has entered into a contractual arrangement.~~
277 ~~Meetings of the council and the peer review panels are subject~~
278 ~~to chapter 119, s. 286.011, and s. 24, Art. I of the State~~
279 ~~Constitution.~~

280 ~~(9) In carrying out the provisions of this section, the~~

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281 ~~not-for-profit corporation and its subsidiaries are not agencies~~
282 ~~within the meaning of s. 20.03(11).~~

283 (7)~~(10)~~ The following information is confidential and
284 exempt from s. 119.07(1) and s. 24, Art. I of the State
285 Constitution:

286 (a) Personal identifying information relating to clients
287 of programs created or funded through the Johnnie B. Byrd, Sr.,
288 Alzheimer's Center and Research Institute that is held by the
289 institute, the University of South Florida, the Board of
290 Governors, or the State Board of Education;

291 (b) Medical or health records relating to patients held by
292 the institute;

293 (c) Materials that relate to methods of manufacture or
294 production, potential trade secrets, potentially patentable
295 material, actual trade secrets as defined in s. 688.002, or
296 proprietary information received, generated, ascertained, or
297 discovered during the course of research conducted by or through
298 the institute and business transactions resulting from such
299 research;

300 (d) The personal identifying information of a donor or
301 prospective donor to the institute who wishes to remain
302 anonymous; and

303 (e) Any information received by the institute from a
304 person from another state or nation or the Federal Government
305 that is otherwise confidential or exempt pursuant to the laws of
306 that state or nation or pursuant to federal law.

307

308 Any governmental entity that demonstrates a need to access such

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309 confidential and exempt information in order to perform its
310 duties and responsibilities shall have access to such
311 information.

312 (8) The institute's budget shall include the moneys
313 appropriated in the General Appropriations Act, donated, or
314 otherwise provided to the institute from private, local, state,
315 and federal sources as well as technical and professional income
316 generated or derived from practice activities at the institute.
317 Any appropriation to the institute shall be expended for the
318 purposes specified in this section, including conducting and
319 supporting research and related clinical services, awarding
320 institutional grants and investigator-initiated research grants
321 to other persons within the state through a competitive process,
322 developing and operating integrated data projects, providing
323 assistance to the memory disorder clinics established in s.
324 430.502, and providing for the operation of the institute.

325 ~~(11) Any appropriation to the institute provided in a~~
326 ~~general appropriations act shall be paid directly to the board~~
327 ~~of directors of the not-for-profit corporation by warrant drawn~~
328 ~~by the Chief Financial Officer from the State Treasury.~~

329 ~~(12) By June 1, 2009, the Division of Statutory Revision~~
330 ~~of the Office of Legislative Services shall certify to the~~
331 ~~President of the Senate and the Speaker of the House of~~
332 ~~Representatives the language and statutory citation of this~~
333 ~~section, which is scheduled to expire January 1, 2011.~~

334 ~~(13) The Legislature shall review the performance, the~~
335 ~~outcomes, and the financial management of the Johnnie B. Byrd,~~
336 ~~Sr., Alzheimer's Center and Research Institute during the 2010~~

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337 ~~Regular Session of the Legislature and shall determine the most~~
338 ~~appropriate funding source and means of funding the center and~~
339 ~~institute based on its review.~~

340 ~~(14) This section expires January 1, 2011, unless reviewed~~
341 ~~and reenacted by the Legislature before that date.~~

342 Section 2. This act shall take effect upon becoming a law.