



## Session 2017 Report

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Week 5—April 3-7, 2017

Following is a summary of the priority issues impacting BioFlorida. This update accompanies the detailed BioFlorida legislative tracking report that includes over 100 bills impacting the life sciences industry.

Throughout the next 60 days we will continue to keep you updated on these important issues.

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### Policy Issues

#### Economic Development

In order to make Florida more competitive with other states, BioFlorida supports the infusion of funds and creation of tax incentives to support existing companies and to attract more life sciences companies to the state. This includes the Institute for Commercialization of Public Research, which funds start-ups and helps investors and entrepreneurs identify new investment opportunities based on technologies developed through publicly-funded research. [CS/CS/HB 7005](#) passed off of the House floor on March 10, 2017. This bill eliminates economic development and incentive programs—including programs such as Enterprise Florida, The Institute for Commercialization of Public Research, and approximately 20 other incentive programs totaling \$289 million. The final vote was 87-28, on the chamber floor; during debate, Representative Lori Berman (D—Lantana) cited the direct connection between incentives and growth of the biotech industry. This bill has now been sent to the Senate for consideration. There is no direct companion bill in the Senate, however, there are a couple of proposed Senate bills that address accountability and transparency in incentive programs such as [SB 1076](#) “Government Support Organizations” by Senator Passidomo and [SB 1110](#) “Economic Development” by Senator Jeff Brandes. Both of these bills have been introduced and referred but not yet put on a committee agenda.

Because of the significant fiscal impact of economic development programs, and based upon the disparate positions of the House and Senate, it is highly likely that these issues will be a part of the budget conference process.

#### Patient Access

There are several bills BioFlorida is monitoring that address patient access issues, BioFlorida is monitoring these bills as potential vehicles to establish drug price controls or burdensome “drug price transparency” reporting requirements for manufacturers.

- “Prescription Drug Price Transparency” [SB 888](#) by Senator Aaron Bean and [HB 589](#) by Representative Clay Yarborough: the bill requires the Department of Health and the Attorney General’s office to post the cost of the top 300 drugs at pharmacies in order to allow consumers to engage in their healthcare purchases. SB 888 was heard and passed unanimously in the Health Policy committee on March 14. The bill now has two additional committee hearings. On March 30, HB 589 unanimously passed the House floor.
- “Consumer Protection from Nonmedical Changes to Prescription Drug Formularies” [HB 95](#) by Representative Ralph Massullo and [SB 182](#) by Senator Debbie Mayfield: this bill provides additional consumer protections by prohibiting an insurer or a health maintenance organization (HMO) from removing a covered prescription drug from its formulary except during open enrollment with some limited exceptions. HB 95 passed unanimously from the first of three committees; and SB 182 unanimously passed the Senate Appropriations on April 6.
- “Health Insurer Authorization” [HB 877](#) by Representative Shawn Harrison and [SB 530](#) by Senator Greg Steube: this “step therapy” legislation requires a utilization review entity or health insurer to make current prior authorization requirements, restrictions, and forms accessible in a specified manner. The bill specifies the requirements for a utilization review entity or health insurer that implements a new prior authorization requirement or that amends an existing requirement or restriction and requires a plan to publish on the plan’s website and provide to an insured a written procedure for requesting a protocol exception. HB 877 passed the first (of two) committee of reference unanimously; SB 530 passed the first and second committees of reference unanimously.

## **Tax Incentives**

BioFlorida supports tax reductions that benefit the life sciences industry. The current [House tax package](#) totals \$296 million, and includes a reduction on the state sales tax rate on the rental of commercial real estate from 6% to 4.5% for two years, then maintains a permanent tax rate reduction from 6% to 5.5%. The bill also increases the amount available for the research and development tax credit from \$9 million to \$20 million. The Senate has not released a comprehensive tax package, rather, has been moving stand-alone tax relief bills. [SB 484](#) reduces the commercial lease tax by 1%, this language is also in [SB 378](#), and is offset by eliminating the insurance premium tax. Lowering the tax on commercial leases is just one of a multitude of tax incentive proposals filed, these individual proposals will continue to move through the committee process and then some will ultimately folded into the Senate’s proposal. Traditionally, the presiding officers will make an agreement on the total amount of funding allocated for the tax package, and then the various proposals will be considered for inclusion.

## **Medical Marijuana**

BioFlorida is monitoring medical marijuana issues and the implementation of Amendment 2. On April 3<sup>rd</sup>, [SB 406](#) filed by Senator Rob Bradley (R-Fleming Island)

passed the Health Policy Committee. The comprehensive Senate legislation creates a set of laws and regulations to implement the medical marijuana constitutional amendment which was overwhelmingly approved by voters in Florida's general election last year. As amended by the committee, the Senate proposal:

- Adds legislative intent;
- Amends definitions to incorporate terms used in Article X, Section 29 of the State Constitution, and adds definitions for “chronic nonmalignant pain” and “close relative.”
- Allows allopathic and osteopathic physicians to certify the medical use of marijuana for patients with debilitating medical conditions and other specified patients, including certain patients from other states who meet Florida requirements.
- Establishes the requirements that a physician must meet before certifying a patient and after certification. Reduces the required course a physician must take prior to certify patients to a 4-hour course that must only be taken once. Removes the 3-month patient treatment prerequisite.
- Amends the current criminal penalties to conform to other changes in the bill and establishes new criminal violations for patients and caregivers cultivating or purchasing marijuana from a source other than a medical marijuana treatment center (MMTC) or who violate other provisions of the act.
- Creates a coalition for medical marijuana research through Tampa's H. Lee Moffitt Center and Research Institute, to conduct “rigorous scientific research,” and to “guide policy” for the adoption of a statewide policy on ordering and dosing practices for medical marijuana. An education board, appointed by Moffitt's CEO, will adopt a plan for medical marijuana research in Florida. By February 15<sup>th</sup> each year, the new Education Board would issue a report to the Governor, Senate President and House Speaker on research projects, community outreach initiatives and future plans of the coalition in regards to medical marijuana.
- Allows nonresidents to apply to receive medical marijuana in Florida as long as they are able to get medical marijuana in their home state and qualify in Florida.
- Requires the Department of Health to have computer software system to track marijuana from “seed to sale,” following medical marijuana from its original planting through to its distribution to patients statewide.
- Requires an independent laboratory to test medical marijuana before it is distributed to patients in Florida. Patients would also be allowed to increase their supply from 45 to 90 days or even more than 90 days with a doctor's approval.
- Increases the cap on the number of marijuana dispensaries, expanding the number of businesses by five more when the state has 250,000 patients, 350,000 patients, 400,000 patients and then every 100,000 thereafter.
- Requires that at least one of the five dispensaries would have to be a black-owned company.

The Senate bill now heads to the Health and Human Services Appropriations Subcommittee for consideration.

On March 28<sup>th</sup>, [HB 1397](#) filed by Rep. Ray Rodrigues (R-Estero) passed the Health Quality Subcommittee by a vote of 14 to 1 and has two committee hearings remaining. The more restrictive House bill bans smokable cannabis and any edible product and prohibits patients from buying more than a 90-day supply of medical marijuana, and “vaping” products would only be allowed for terminally ill patients. The House proposal also puts limitations on medical marijuana dispensaries distributing the products, as well. Florida’s current seven dispensaries would be given first priority on selling medical marijuana, and then after 150,000 patients enroll in the state’s Compassionate Use Registry, the DOH could open up licensing to a second round of dispensaries. After 200,000 patients register, the state would license five additional medical marijuana treatment centers, and allow three more for each 100,000 patients after that. Medical marijuana users must also be Florida residents and register with the DOH to receive a medical marijuana card, which would only be issued to patients after they had been seen by the same doctor for 90 days.

Other House and Senate bills relating to medical marijuana which have been filed include:

- [SB 614](#) by Senator Jeff Brandes (R-St. Petersburg) called the "Florida Medical Marijuana Act." This bill has not yet been heard in committee.
- [SB 1388](#) by Senator Frank Artiles (R-Miami) authorizes physicians to issue physician certifications for medical cannabis or cannabis delivery devices, instead of ordering low-THC cannabis, for patients suffering from a debilitating medical condition. This bill has not yet been heard in committee.
- [SB 1666](#) by Senate Democratic Leader Oscar Braynon (D-Miami Gardens) also authorizes physicians to issue physician certifications to specified patients for the provision of marijuana and marijuana delivery devices. This bill has not yet been heard in committee.
- [SB 1758](#) by Senator Denise Grimsley (R-Sebring) implements the medical marijuana amendment and limits the business to those already approved and licensed under the state’s current limited medical marijuana law. This bill has not yet been heard in committee.
- A House budget bill, [HB 3525](#) by Rep. Jamie Grant (R-Tampa) gives Drug Free America Foundation \$500,000 to educate Floridians on medical marijuana. The bill passed the first committee of reference unanimously, the bill is now waiting to be heard in the final committee of reference, Appropriations.
- [SB 1472](#) by Senator Bill Galvano (R-Bradenton) and [HB 1177](#) by Rep. Jackie Toledo (R-Tampa) establish the Coalition for Medicinal Cannabis Research and Education within the H. Lee Moffitt Cancer Center and Research Institute. The purpose of the coalition is to conduct scientific research, provide education and disseminate research to guide state policy for the adoption of a statewide policy on ordering and dosing practices for the medicinal use of cannabis. On March 27<sup>th</sup>, the Senate bill passed the Senate Education Committee by a vote of 9 to 0. The identical House bill has not been scheduled for a hearing.

## Budget Update

The budget process plays a significant role in many of BioFlorida’s priorities. This week, both the House and Senate released their budget bills, [HB 5001](#) and [SB 2500](#), respectively. The House budget was heard before the Appropriations Committee on April 4th and the Senate budget was taken up the Senate Appropriations Committee on the following day. During week 6 (beginning April 10) these bills will be heard on the floor of their respective chambers. We anticipate budget conference will begin during Week 7 (April 17) and go for approximately 1-2 weeks. Per the constitution, the budget must be printed/published for 72 hours before the final budget vote, traditionally the last few days of Session (week of May 1).

The two draft spending plans are about \$2 billion apart in their recommended funding priorities for Fiscal Year 2017/18 which begins July 1st of this year. The Senate’s budget allocates \$83.2 billion while the House spending plan recommends \$81.2 billion in funding. This difference now sets the stage for budget conferences to begin in the next couple weeks with some skeptics already predicting that legislators won’t conclude budget negotiations on time before the scheduled May 5th end of the legislative session. Below is a chart of the budget priorities BioFlorida is tracking, please let us know if you have any questions or concerns. We will continue to keep BioFlorida members updated on the priorities as the budget process moves forward.

Issue	House <a href="#">HB 5001</a>	Senate <a href="#">SB 2500</a>
James and Esther King Biomedical Research Program	<b>\$10 million</b>	<b>\$10 million</b>
Bankhead & Coley Cancer Research Program	<b>\$10 million</b> From the funds in Specific Appropriation 451, \$500,000 from the Biomedical Research Trust Fund is provided to maintain the statewide Brain Tumor Registry Program at the McKnight Brain Institute (recurring base appropriations project).	<b>\$13 million</b> From the funds in Specific Appropriation 451, \$500,000 from the Biomedical Research Trust Fund is provided to maintain the statewide Brain Tumor Registry Program at the McKnight Brain Institute.  From the funds in Specific Appropriation 451, \$1,000,000 in nonrecurring funds from the Biomedical Research Trust Fund is provided to the Bankhead-Coley Cancer Research Program for medical cannabis research. Funding shall be awarded pursuant to

		<p>section 381.922, Florida Statutes.</p> <p>From the funds in Specific Appropriation 451, \$2,000,000 in nonrecurring funds from the Biomedical Research Trust Fund is provided to the Bankhead-Coley Cancer Research Program for the Live Like Bella Initiative to provide competitively awarded grants for pediatric cancer research. This funding is contingent on SB 2514, or similar legislation, becoming law.</p>
Florida Consortium of National Cancer Institutes Centers Program	<p><b>\$60 million</b></p> <p>\$45 million in General Revenue</p> <p>\$15 million from Biomedical Research Trust Fund</p>	<p><b>\$62.4 million</b></p> <p>\$45 million in General Revenue</p> <p>\$17.4 million from Biomedical Research Trust Fund</p>
Endowed Chair of Cancer Research	<b>\$2 million</b>	<b>\$2 million</b>
Ed and Ethel Moore Alzheimer's Disease Research Program	<b>\$5 million</b>	<b>\$5 million</b>
Economic Development "Tools"	<p><b>\$18 million</b></p> <p>Funds provided in Specific Appropriation 2226C are provided to make payments and tax refunds in Fiscal Year 2017-2018 for the following programs: Qualified Target Industry (QTI) Business Tax Refund; QTI Tax Refund - Brownfield Redevelopment Bonus; Brownfield Redevelopment Tax Refund; High-Impact Business Performance (HIPI) Grant; and Qualified Defense Contractor and Space Flight (QDSC) Business Tax Refund. Payments may</p>	<p><b>\$24,410,503</b></p> <p>From the funds provided in Specific Appropriation 2226E, \$10,000,000 in recurring funds from the State Economic Enhancement and Development Trust Fund, \$8,949,934 in nonrecurring funds from the State Economic Enhancement and Development Trust Fund, and \$5,460,569 in nonrecurring funds from the Economic Development Trust Fund are provided to make payments and</p>

only be made for projects that meet the statutory eligibility requirements. Funds may not be released for any other purpose and may only be disbursed when projects are certified to have met all contracted performance requirements. Funds provided in Specific Appropriation 2226C from the Economic Development Trust Fund represent local matching funds. The Department of Economic Opportunity must provide monthly reports, within 10 business days after the end of each month, to the Governor's Office of Policy and Budget, the chair of the Senate Appropriations Committee, and the chair of the House Appropriations Committee regarding all escrow activity relating to the Quick Action Closing Fund and the Innovation Incentive Fund programs. Such report must include information regarding any funds and interest earnings returned to the appropriate fund in the state treasury, and the anticipated payment date(s) of all funds held in escrow. The Department of Economic Opportunity shall provide monthly reports to the Governor's Office of Policy and Budget, the chair of the Senate Appropriations Committee, and the chair of the House Appropriations Committee on the status of economic development programs administered by the department under section 288, Florida Statutes.

tax refunds in Fiscal Year 2017-2018 for the following programs: Qualified Target Industry (QTI) Business Tax Refund; QTI Tax Refund - Brownfield Redevelopment Bonus; Brownfield Redevelopment Tax Refund; High-Impact Business Performance (HIPI) Grant; and Qualified Defense Contractor and Space Flight (QDSC) Business Tax Refund. Payments may only be made for projects that meet the statutory eligibility requirements. Funds may not be released for any other purpose and may only be disbursed when projects are certified to have met all contracted performance requirements. Funds provided in Specific Appropriation 2226E from the Economic Development Trust Fund represent local matching funds. The Department of Economic Opportunity must provide monthly reports, within 10 business days after the end of each month, to the Governor's Office of Policy and Budget, the chair of the Senate Appropriations Committee, and the chair of the House Appropriations Committee regarding all escrow activity and the repayment of any interest to the appropriate fund in the state treasury. The

		Department of Economic Opportunity shall provide monthly reports to the Governor's Office of Policy and Budget, the chair of the Senate Appropriations Committee, and the chair of the House Appropriations Committee on the status of economic development programs administered by the department under Chapter 288, Florida Statutes.
Tax Incentives	<p><a href="#">HB 7109</a> is the House tax package; it was heard this week in the Ways and Means Committee. The House tax package totals \$296 million, this includes:</p> <ul style="list-style-type: none"> <li>• Reduces the state sales tax rate on rental of commercial real estate (business rent tax) from 6% to 4.5% for two years, beginning January 1, 2018, then maintains a permanent tax rate reduction from 6% to 5.5% beginning January 1, 2020.</li> <li>• Increases the amount available for research and development tax credits from \$9 million to \$20 million.</li> </ul>	<p>The Senate has not released a comprehensive tax package, rather has been moving stand-alone tax relief bills through the committee process. Two of the bills BioFlorida is monitoring are:</p> <ul style="list-style-type: none"> <li>• <a href="#">SB 484</a> reduces the commercial lease tax by 1% (currently 6%). Florida is currently the only state with this tax, and with this cut, businesses would save \$129.9 million in the first year of implementation.</li> <li>• This language is also in <a href="#">SB 378</a>, and is offset by eliminating the insurance premium tax.</li> </ul>
Institute for the Commercialization of Public Research	<p><b>\$0</b> House bill eliminates ICPR (per <a href="#">CS/CS/HB 7005</a>)</p>	<p><b>\$5.5 million</b></p>
Enterprise Florida: Operations and Business Development	<p><b>\$0</b> House bill eliminates Enterprise Florida (per <a href="#">CS/CS/HB 7005</a>)</p>	<p><b>\$23.5 million for the operations</b></p>
Additional	<p><b>Torrey Pines Institute for Molecular</b></p>	<p><b>Torrey Pines Institute for</b></p>

<p>Biomedical Research Funding</p> <p>(This is a general list, if any BioFlorida member has a specific inquiry please reach out.)</p>	<p><b>Studies:</b> not included in budget recommendations</p> <p><b>University of Miami’s Sylvester Comprehensive Cancer Center - Firefighters Cancer Research – Line Item 2373A</b>          \$1 million in General Revenue          The funds shall be utilized to: expand firefighter’s access to cancer screenings across the state; enable prevention and earlier detection of the disease; identify exposures that account for increased cancer risk; and field test new technology and methods that measure exposure in the field. The University of Miami - Sylvester Comprehensive Cancer Center shall develop a report on cancer research outcomes and cancer mitigation efforts being examined. The report shall be submitted to the President of the Senate, the Speaker of the House of Representatives, the Chief Financial Officer, and the Governor by June 15, 2018.</p>	<p><b>Molecular Studies:</b> From the funds in Specific Appropriation 454, \$3,000,000 in nonrecurring funds from the General Revenue Fund is provided to the Torrey Pines Institute for Molecular Studies for the Florida Drug Discovery Acceleration Program. From the funds in Specific Appropriation 454, \$100,000 in nonrecurring funds from the General Revenue Fund is provided to the Torrey Pines Institute for Molecular Studies for NCI Experimental Testing (NExT).           From the funds in Specific Appropriation 454, \$750,000 in nonrecurring funds from the General Revenue Fund is provided to the University of Florida College of Pharmacy for medical cannabis research pursuant to section 381.986(2)(g), Florida Statutes.</p> <p><b>University of Miami’s Sylvester Comprehensive Cancer Center:</b> not included in budget recommendations</p>
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In addition to these issues and budget items, BioFlorida is monitoring approximately 100 pieces of legislation on behalf of its members. More information will be forthcoming on budget-related issues as the budgeting process begins in the few weeks. The 2017 BioFlorida Government Affairs Priorities can be [found here](#), and a complete legislative tracking list is attached.

If there is anyone who is interested in joining the BioFlorida Government Relations Committee please email [admin@bioflorida.com](mailto:admin@bioflorida.com). The Government Relations Committee

helps address the legislative priorities and goals of BioFlorida and also formulates advocacy positions in support or opposition of proposed legislation.

We hope this brief legislative update is helpful. If you have any questions about specific bills or the budget process, please email Alli Liby-Schoonover at [Allison.LibySchoonover@metzlaw.com](mailto:Allison.LibySchoonover@metzlaw.com).