

By the Committees on Fiscal Resource; Governmental Oversight
and Productivity; and Senator Horne

314-2222-00

1 A bill to be entitled
2 An act relating to state revenue; amending s.
3 215.5601, F.S.; defining the term
4 "participating manufacturer"; revising
5 legislative intent; specifying procedures by
6 which a tobacco manufacturer may become a
7 participating manufacturer; providing for
8 signatories to a specified settlement agreement
9 to be participating manufacturers; providing
10 for funds received from participating
11 manufacturers to be deposited into the Tobacco
12 Settlement Clearing Trust Fund; providing for a
13 portion of unappropriated funds to be deposited
14 into the Lawton Chiles Endowment Fund; amending
15 s. 210.02, F.S.; imposing a surtax on
16 cigarettes not manufactured by a participating
17 manufacturer, as defined by the act; providing
18 for calculating the amount of the surtax;
19 amending s. 210.20, F.S.; providing for the
20 deposit of proceeds of the surtax; creating s.
21 215.5603, F.S.; creating the Tobacco Settlement
22 Financing Corporation; defining terms;
23 providing membership, powers, duties, and
24 functions of the corporation; providing for the
25 purchase of insurance and for the issuance of
26 bonds; providing powers of the Department of
27 Banking and Finance with respect to the
28 corporation; providing for severability;
29 providing an effective date.

30
31 Be It Enacted by the Legislature of the State of Florida:

1 Section 1. Section 215.5601, Florida Statutes, is
2 amended to read:
3 215.5601 Lawton Chiles Endowment Fund.--
4 (1) SHORT TITLE.--This section may be cited as the
5 "Lawton Chiles Endowment Fund."
6 (2) DEFINITIONS.--As used in this section:
7 (a) "Board" means the State Board of Administration
8 established by s. 16, Art. IX of the State Constitution of
9 1885 and incorporated into s. 9(c), Art. XII of the State
10 Constitution of 1968.
11 (b) "Endowment" means the Lawton Chiles Endowment
12 Fund.
13 (c) "Earnings" means all income generated by
14 investments and the net change in the market value of assets.
15 (d) "Participating manufacturer" means any
16 manufacturer of tobacco products which meets the requirements
17 of subsection (4).
18 ~~(e)~~(d) "State agency" or "state agencies" means the
19 Department of Health, the Department of Children and Family
20 Services, the Department of Elderly Affairs, or the Agency for
21 Health Care Administration, or any combination thereof, as the
22 context indicates.
23 (3) LEGISLATIVE INTENT.--It is the intent of the
24 Legislature to:
25 (a) Provide a perpetual source of funding for the
26 future of state children's health programs, child welfare
27 programs, community-based health and human services
28 initiatives, and biomedical research activities.
29 (b) Ensure that enhancement revenues will be available
30 to finance these important initiatives.
31

1 (c) Use funds received from the Tobacco Settlement
2 Clearing Trust Fund moneys to ensure the financial security of
3 vital health and human services programs.

4 (d) Encourage the development of community-based
5 solutions to strengthen and improve the quality of life of
6 Florida's most vulnerable citizens.

7 (e) Provide funds for cancer research and
8 public-health research for diseases linked to tobacco use.

9 (f) Provide tobacco manufacturers the opportunity to
10 voluntarily participate in mitigating the impact of the use of
11 tobacco on the residents of this state.

12 (4) PARTICIPATING MANUFACTURERS; QUALIFICATIONS.--

13 (a)1. A tobacco manufacturer may become a
14 participating manufacturer by entering into an agreement with
15 the Attorney General which provides for the following:

16 a. Elimination of the manufacturer's outdoor
17 advertising and transit advertisements at the earlier of the
18 expiration of applicable contracts or 4 months after the date
19 the final list of outdoor advertising signs is supplied to the
20 Attorney General. The manufacturer shall provide a final list
21 of all its outdoor advertising signs and transit
22 advertisements to the Attorney General within 45 days after
23 entering the agreement.

24 b. Support of the state's efforts to mitigate the
25 impact of the use of tobacco through annual payments to the
26 state. On January 1 of each year, the Division of Alcoholic
27 Beverages and Tobacco of the Department of Business and
28 Professional Regulation shall calculate the payment amount,
29 which is due by January 31 of that year. The payment amount
30 shall be based on the number of cigarette packages delivered
31 to wholesale dealers for sale in this state by the

1 manufacturer from January 1 until December 31 of the prior
2 year. The payment amount per package shall be calculated as
3 the total annual payment due to the state pursuant to the
4 settlement agreement in the case of The State of Florida et
5 al., v. American Tobacco Company et al., divided by the total
6 number of packages delivered to wholesale dealers for sale in
7 this state by the four settling manufacturers during the
8 previous 12 months, rounded to the nearest tenth of a cent.

9 2. Cigarettes produced by each manufacturer that fully
10 complies with the agreement entered into with the Attorney
11 General under subparagraph 1. and makes the annual payment by
12 January 31 are exempt from the surtax on cigarettes imposed
13 under s. 210.02(6) for the subsequent 12-month period.

14 (b) All tobacco manufacturers that are signatories to
15 the settlement agreement entered on August 25, 1997, in the
16 case of The State of Florida et al., v. American Tobacco
17 Company et al., and the settlement agreement entered on March
18 15, 1996, in the case of State of West Virginia, State of
19 Florida, State of Mississippi, Commonwealth of Massachusetts,
20 and State of Louisiana v. Brooke Group Ltd. and Liggett Group,
21 Inc., are participating manufacturers. Cigarettes produced by
22 each such manufacturer that fully complies with the applicable
23 settlement agreement and makes the annual payment required
24 under the agreement by December 31 are exempt from the surtax
25 on cigarettes imposed under s. 210.02(6) for the subsequent
26 12-month period.

27 (c) Funds received from participating manufacturers
28 shall be deposited into the Department of Banking and Finance
29 Tobacco Settlement Clearing Trust Fund.

30 (5)(4) LAWTON CHILES ENDOWMENT FUND; CREATION;
31 PURPOSES AND USES.--

1 (a) There is created the Lawton Chiles Endowment Fund,
2 to be administered by the State Board of Administration. The
3 endowment shall serve as a clearing trust fund not subject to
4 termination pursuant to s. 19(f), Art. III of the State
5 Constitution and shall be funded by ~~settlement~~ moneys received
6 from the Tobacco Settlement Clearing Trust Fund industry. The
7 endowment fund shall be exempt from the service charges
8 imposed by s. 215.20.

9 (b) Funds from the endowment shall be distributed by
10 the board to trust funds of the state agencies in the amounts
11 indicated by reference to the legislative appropriations for
12 the state agencies, except as otherwise provided in this
13 section.

14 (c) The state agencies shall use the funds from the
15 endowment to enhance or support increases in clients served or
16 in program costs in health and human services program areas.

17 (d) The Secretary of Health, the Secretary of Children
18 and Family Services, the Secretary of Elderly Affairs, and the
19 Director of Health Care Administration shall conduct meetings
20 to discuss program priorities for endowment funding prior to
21 submitting their budget requests to the Executive Office of
22 the Governor and the Legislature. The purpose of the meetings
23 shall be to gain consensus for priority requests and
24 recommended endowment funding levels for those priority
25 requests. An agency head may not designate a proxy for these
26 meetings.

27 (e) Funds from the endowment may not be used to
28 supplant existing revenues.

29 (f) When advised by the Revenue Estimating Conference
30 that a deficit will occur with respect to the appropriations
31 from the Tobacco Settlement Clearing Trust Fund in any fiscal

1 year, the Governor shall develop a plan of action to eliminate
2 the deficit. Before implementing the plan of action, the
3 Governor must comply with the provisions of s. 216.177(2). In
4 developing the plan of action, the Governor shall, to the
5 extent possible, preserve legislative policy and intent, and,
6 absent any specific directions to the contrary in the General
7 Appropriations Act, any reductions in appropriations from the
8 Tobacco Settlement Clearing Trust Fund for a fiscal year shall
9 be prorated among the purposes for which funds were
10 appropriated from the Tobacco Settlement Clearing Trust Fund
11 for that year.

12 ~~(6)~~⁽⁵⁾ ADMINISTRATION OF THE ENDOWMENT.--

13 (a) The board is authorized to invest and reinvest
14 funds of the endowment in those securities listed in s.
15 215.47, in accordance with the fiduciary standards set forth
16 in s. 215.47(9) and consistent with an investment plan
17 developed by the executive director and approved by the board.
18 Costs and fees of the board for investment services shall be
19 deducted from the earnings accruing to the endowment.

20 (b) The endowment shall be managed as an annuity. The
21 investment objective shall be long-term preservation of the
22 real value of the principal and a specified regular annual
23 cash outflow for appropriation, as nonrecurring revenue. The
24 schedule of annual cash outflow shall be included within the
25 investment plan adopted pursuant to paragraph (a).

26 (c) The board shall establish a separate account for
27 the funds of the endowment. The board shall design and operate
28 an investment portfolio that maximizes the financial return to
29 the endowment, consistent with the risks inherent in each
30 investment, and that is designed to preserve an appropriate
31 diversification of the portfolio.

1 (d) No later than February 15, 2000, the board shall
2 report on the financial status of the endowment to the
3 Governor, the Speaker of the House of Representatives, the
4 President of the Senate, the chairs of the respective
5 appropriations and appropriate substantive committees of each
6 chamber, and the Revenue Estimating Conference. Thereafter,
7 the board shall make a status report to such persons no later
8 than August 15 and February 15 of each year.

9 (e) Accountability for funds from the endowment which
10 have been appropriated to a state agency and distributed by
11 the board shall reside with the state agency. The board is not
12 responsible for the proper expenditure or accountability of
13 funds from the endowment after distribution to a state agency.

14 (f) The board may collect a fee for service from the
15 endowment no greater than that charged to the Florida
16 Retirement System.

17 (7)~~(6)~~ AVAILABILITY OF FUNDS.--

18 (a) Funds from the endowment shall not be available
19 for appropriation to a state agency until July 1, 2000.
20 Beginning July 1, 2000, the maximum annual amount of endowment
21 funds that may be appropriated shall be in accordance with the
22 following, based on earnings averaged over 3 years:

23 1. Beginning July 1, 2000, no more than a level of
24 spending representing earnings at a rate of 3 percent.

25 2. Beginning July 1, 2001, no more than a level of
26 spending representing earnings at a rate of 4 percent.

27 3. Beginning July 1, 2002, no more than a level of
28 spending representing earnings at a rate of 5 percent.

29 4. Beginning July 1, 2003, and thereafter, no more
30 than a level of spending representing earnings at a rate of 6
31 percent.

1 (b) The Legislature may not appropriate more than 85
2 percent of the revenue that is received from participating
3 manufacturers or pursuant to s. 210.02 in any fiscal year and
4 made available for appropriation in the subsequent fiscal
5 year. Revenue received from participating manufacturers or
6 pursuant to s. 210.02 in any fiscal year which is not
7 appropriated by the Legislature shall be deposited into the
8 Lawton Chiles Endowment Fund.

9 (c)~~(b)~~ Notwithstanding the provisions of s. 216.301
10 and pursuant to s. 216.351, all unencumbered balances of
11 appropriations as of June 30 or undisbursed balances as of
12 December 31 shall revert to the endowment's principal.

13 (8)~~(7)~~ ENDOWMENT PRINCIPAL; APPROPRIATION OF
14 EARNINGS.--The following amounts are appropriated from the
15 Department of Banking and Finance Tobacco Settlement Clearing
16 Trust Fund to the Lawton Chiles Endowment Fund for Health and
17 Human Services:

- 18 (a) For fiscal year 1999-2000, \$1.1 billion;
19 (b) For fiscal year 2000-2001, \$200 million;
20 (c) For fiscal year 2001-2002, \$200 million; ~~and~~
21 (d) For fiscal year 2002-2003, \$200 million; and-
22 (e) For all subsequent fiscal years, a minimum of \$25
23 million.

24 Section 2. Section 210.02, Florida Statutes, is
25 amended to read:

26 210.02 Cigarette tax imposed; collection.--

27 (1) An excise or privilege tax, in addition to all
28 other taxes of every kind imposed by law, is imposed upon the
29 sale, receipt, purchase, possession, consumption, handling,
30 distribution, and use of cigarettes in this state, in the
31

1 following amounts, except as hereinafter otherwise provided,
2 for cigarettes of standard dimensions:

3 (a) Upon all cigarettes weighing not more than 3
4 pounds per thousand, 16.95 mills on each cigarette.

5 (b) Upon all cigarettes weighing more than 3 pounds
6 per thousand and not more than 6 inches long, 33.9 mills on
7 each cigarette.

8 (c) Upon all cigarettes weighing more than 3 pounds
9 per thousand and more than 6 inches long, 67.8 mills on each
10 cigarette.

11 (2) The description of cigarettes contained in
12 paragraphs (a), (b), and (c) of subsection (1) are hereby
13 declared to be standard as to dimensions for taxing purposes
14 as provided in this law and should any cigarette be received,
15 purchased, possessed, sold, offered for sale, given away, or
16 used of a size other than of standard dimensions, the same
17 shall be taxed at the rate of 1.41 cents on each such
18 cigarette.

19 (3) When cigarettes as described in paragraph (1)(a)
20 are packed in varying quantities of 20 cigarettes or less,
21 except manufacturer's free samples authorized under s.
22 210.04(9), the following rate shall govern:

23 (a) Packages containing 10 cigarettes or less require
24 a 16.95-cent tax.

25 (b) Packages containing more than 10 but not more than
26 20 cigarettes require a 33.9-cent tax.

27 (4) When cigarettes as described in paragraph (1)(b)
28 are packed in varying quantities of 20 cigarettes or less,
29 except manufacturer's free samples authorized under s.
30 210.04(9), the following rates shall govern:

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1 (a) Packages containing 10 cigarettes or less require
2 a 33.9-cent tax.

3 (b) Packages containing more than 10 but not more than
4 20 cigarettes require a 67.8-cent tax.

5 (5) When cigarettes as described in paragraph (1)(c)
6 are packed in varying quantities of 20 cigarettes or less,
7 except manufacturer's free samples authorized under s.
8 210.04(9), the following rates shall govern:

9 (a) Packages containing 10 cigarettes or less require
10 a 67.8-cent tax.

11 (b) Packages containing more than 10 but not more than
12 20 cigarettes require a 135.6-cent tax.

13 (6) Beginning February 1, 2001, an additional surtax
14 shall be added to the amounts otherwise provided in this
15 section. The division shall calculate the surtax on January 1
16 of each year, and the surtax shall apply on February 1. The
17 surtax per package shall be calculated as the total annual
18 payment due to the state pursuant to the settlement agreement
19 in the case of The State of Florida et al., v. American
20 Tobacco Company et al., divided by the total number of
21 packages of cigarettes delivered to wholesale dealers for sale
22 in this state by the four settling manufacturers during the
23 previous 12 months, rounded to the nearest tenth of a cent.

24 (7)~~(6)~~ This tax shall be paid by the dealer to the
25 division for deposit and distribution as hereinafter provided
26 upon the first sale or transaction within the state, whether
27 or not such sale or transfer be to the ultimate purchaser or
28 consumer. The seller or dealer shall collect the tax from the
29 purchaser or consumer, and the purchaser or consumer shall pay
30 the tax to the seller. The seller or dealer shall be
31 responsible for the collection of the tax and the payment of

1 the same to the division. All taxes are due not later than the
2 10th day of the month following the calendar month in which
3 they were incurred, and thereafter shall bear interest at the
4 rate of 1 percent per month. If the amount of tax due for a
5 given period is assessed without allocating it to any
6 particular month, the interest shall begin with the date of
7 the assessment. Whenever cigarettes are shipped from outside
8 the state to anyone other than a distributing agent or
9 wholesale dealer, the person receiving the cigarettes shall be
10 responsible for the tax on said cigarettes and the payment of
11 same to the division.

12 (8)~~(7)~~ It is the legislative intent that the tax on
13 cigarettes shall be uniform throughout the state.

14 Section 3. Section 210.20, Florida Statutes, is
15 amended to read:

16 210.20 Employees and assistants; distribution of
17 funds.--

18 (1) The division under the applicable rules of the
19 Department of Management Services shall have the power to
20 employ such employees and assistants and incur such other
21 expenses as may be necessary for the administration of this
22 part, within the limits of an appropriation for the operation
23 of the Department of Business and Professional Regulation as
24 may be authorized by the General Appropriations Act.

25 (2) As collections are received by the division from
26 such cigarette taxes, it shall pay the same into a trust fund
27 in the State Treasury designated "Cigarette Tax Collection
28 Trust Fund" which shall be paid and distributed as follows:

29 (a) The division shall from month to month certify to
30 the Comptroller the amount derived from the cigarette tax
31 imposed by s. 210.02(1)-(5)~~s. 210.02~~, less the service

1 charges provided for in s. 215.20 and less 0.9 percent of the
2 amount derived from the cigarette tax imposed by s. 210.02,
3 which shall be deposited into the Alcoholic Beverage and
4 Tobacco Trust Fund, specifying the amounts to be transferred
5 from the Cigarette Tax Collection Trust Fund and credited on
6 the basis of 5.8 percent of the net collections to the
7 Municipal Financial Assistance Trust Fund, 32.4 percent of the
8 net collections to the Revenue Sharing Trust Fund for
9 Municipalities, 2.9 percent of the net collections to the
10 Revenue Sharing Trust Fund for Counties, and 29.3 percent of
11 the net collections for the funding of indigent health care to
12 the Public Medical Assistance Trust Fund.

13 (b) The division shall from month to month certify to
14 the Comptroller the amount derived from the cigarette surtax
15 imposed by s. 210.02(6), and that amount shall be transferred
16 from the Cigarette Tax Collection Trust Fund and credited to
17 the Department of Banking and Finance Tobacco Settlement
18 Clearing Trust Fund.

19 ~~(c)(b)~~ The division shall from month to month certify
20 to the Comptroller the amount derived from the cigarette tax
21 imposed by s. 210.02 on all cigarettes sold at retail on any
22 property of the Inter-American Center Authority, created by
23 chapter 554, and such amount, less the service charge provided
24 for in s. 215.20, shall be paid to said Inter-American Center
25 Authority by warrant drawn by the Comptroller upon the State
26 Treasury, which amount is hereby appropriated monthly out of
27 such Cigarette Tax Collection Trust Fund.

28 ~~(d)(c)~~ Beginning January 1, 1999, and continuing for
29 10 years thereafter, the division shall from month to month
30 certify to the Comptroller the amount derived from the
31 cigarette tax imposed by s. 210.02, less the service charges

1 provided for in s. 215.20 and less 0.9 percent of the amount
2 derived from the cigarette tax imposed by s. 210.02 which
3 shall be deposited into the Alcoholic Beverage and Tobacco
4 Trust Fund, specifying an amount equal to 2.59 percent of the
5 net collections, and that amount shall be paid to the Board of
6 Directors of the H. Lee Moffitt Cancer Center and Research
7 Institute, established under s. 240.512, by warrant drawn by
8 the Comptroller upon the State Treasury. These funds are
9 hereby appropriated monthly out of the Cigarette Tax
10 Collection Trust Fund, to be used for the purpose of
11 constructing, furnishing, and equipping a cancer research
12 facility at the University of South Florida adjacent to the H.
13 Lee Moffitt Cancer Center and Research Institute. In fiscal
14 years 1999-2000 and thereafter with the exception of fiscal
15 year 2008-2009, the appropriation to the H. Lee Moffitt ~~Moffitt~~
16 Cancer Center and Research Institute authorized by this
17 paragraph shall not be less than the amount which would have
18 been paid to the H. Lee Moffitt Cancer Center and Research
19 Institute for fiscal year 1998-1999 had payments been made for
20 the entire fiscal year rather than for a 6-month period
21 thereof.

22 (3) After all distributions hereinabove provided for
23 have been made, the balance of the revenue produced from the
24 tax imposed by this part shall be deposited in the General
25 Revenue Fund.

26 Section 4. Section 215.5603, Florida Statutes, is
27 created to read:

28 215.5603 Tobacco Settlement Financing Corporation.--

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

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1 (a) "Bond" means any bond, debenture, note,
2 certificate, or other obligation of financial indebtedness
3 issued by the corporation under this section.

4 (b) "Corporation" means the Tobacco Settlement
5 Financing Corporation created by this section.

6 (c) "Department" means the Department of Banking and
7 Finance or its successor.

8 (d) "Insurance" means a contract whereby one
9 undertakes to indemnify another or pay or allow a specified
10 amount or a determinable benefit upon determinable
11 contingencies.

12 (e) "Purchase agreement" means a contract between the
13 corporation and the state, acting by and through the
14 department, in which the state sells to the corporation any or
15 all of the state's right, title, and interest in and to the
16 tobacco settlement agreement, including, but not limited to,
17 the moneys to be received thereunder.

18 (f) "Tobacco settlement agreement" means the
19 settlement agreement, as amended, entered into by the state
20 and participating cigarette manufacturers in settlement of
21 State of Florida et al. v. American Tobacco Co., Case No.
22 95-1466AH (Fla. 15th Cir. Ct. 1996).

23 (2) CORPORATION CREATION AND AUTHORITY.--

24 (a) The Tobacco Settlement Financing Corporation is
25 created as a special purpose, not-for-profit, public benefits
26 corporation for the purpose of:

27 1. Developing a plan by which it will purchase any or
28 all of the state's right, title, and interest in and to the
29 tobacco settlement agreement and will issue bonds to pay the
30 purchase price therefor. The sale of bonds is subject to
31 ratification by law. Funds generated by the sale of the bonds

1 shall be used to provide funding for the Lawton Chiles
2 Endowment Fund; or

3 2. Purchasing insurance to insure the state against
4 the loss of proceeds from the tobacco settlement agreement.

5 (b) The corporation shall be governed by a board of
6 directors consisting of the Governor, the Treasurer, the
7 Comptroller, the Attorney General, two directors appointed
8 from the membership of the Senate by the President of the
9 Senate, and two directors appointed from the membership of the
10 House of Representatives by the Speaker of the House of
11 Representatives. On January 7, 2003, the board shall include
12 the Chief Financial Officer in place of the Treasurer and the
13 Comptroller.

14 (c) The corporation shall have all the powers of a
15 corporate body under the laws of this state, including, but
16 not limited to, the powers of corporations under chapter 617,
17 to the extent not inconsistent with or restricted by the
18 provisions of this section, including, but not limited to, the
19 power to:

20 1. Adopt, amend, and repeal bylaws not inconsistent
21 with this section.

22 2. Sue and be sued.

23 3. Adopt and use a common seal.

24 4. Acquire, purchase, hold, lease, and convey real and
25 personal property, contract rights, general intangibles,
26 revenues, moneys, and accounts as is proper or expedient to
27 carry out the purposes of the corporation and this section and
28 to assign, convey, sell, transfer, lease, or otherwise dispose
29 of such property.

30 5. Elect or appoint and employ such officers, agents,
31 and employees as the corporation deems advisable to operate

1 and manage the affairs of the corporation, which officers,
2 agents, and employees may be employees of the state or of the
3 state officers and agencies represented on the board of
4 directors of the corporation.

5 6. Make and execute any and all contracts, trust
6 agreements, trust indentures, and other instruments and
7 agreements necessary or convenient to accomplish the purposes
8 of the corporation and this section, including, but not
9 limited to, investment contracts, swap agreements, liquidity
10 facilities, or the purchase of insurance or reinsurance.

11 7. Select, retain, and employ professionals,
12 contractors, or agents, which may include the Division of Bond
13 Finance of the State Board of Administration and the Division
14 of State Purchasing of the Department of Management Services,
15 as are necessary or convenient to enable or assist the
16 corporation in carrying out the purposes of the corporation.

17 8. Do any act or thing necessary or convenient to
18 carry out the purposes of the corporation.

19 (d) With the approval of at least six of its
20 directors, the corporation may plan to purchase insurance to
21 insure the state, for 7 years, against the loss of 50 percent
22 of the revenues to be paid to the state pursuant to the
23 tobacco settlement agreement. The total premium paid for this
24 insurance may not exceed \$200 million. Purchase of insurance
25 is subject to legislative approval.

26 (e) With the approval of at least six of its
27 directors, the corporation may develop a plan to enter into
28 one or more purchase agreements with the department pursuant
29 to which the corporation will purchase any or all of the
30 state's right, title, and interest in and to the tobacco
31 settlement agreement and will execute and deliver any other

1 documents necessary or desirable to effectuate such purchase.
2 Sale of all or part of the state's right, title, and interest
3 in and to the tobacco settlement agreement is subject to
4 approval by the Legislature.

5 (f) Subject to approval by law, the corporation may
6 issue bonds payable from and secured by amounts payable to the
7 corporation from proceeds of the tobacco settlement agreement.
8 The corporation is additionally authorized to issue bonds to
9 refund previously issued bonds and to deposit the proceeds of
10 such bonds as provided in the documents authorizing the
11 issuance of such bonds. The corporation is authorized to do
12 all things necessary or desirable in connection with the
13 issuance of the bonds, including, but not limited to,
14 establishing debt service reserves or other additional
15 security for the bonds, providing for capitalized interest,
16 and executing and delivering any and all documents and
17 agreements. The total principal amount of bonds issued by the
18 corporation shall not exceed \$3 billion. The principal amount
19 of bonds issued in any single fiscal year shall not exceed
20 \$1.5 billion, beginning with the 2000-2001 fiscal year. The
21 limitation on the principal amount of bonds does not apply the
22 bonds issued to refund previously issued bonds. The term of
23 any such bonds shall not exceed 40 years, and the rate of
24 interest on such bonds may not exceed 10 percent. The
25 corporation may sell bonds through competitive bidding or
26 negotiated contracts, whichever method of sale is determined
27 by the corporation to be in the best interest of the
28 corporation.

29 (g) The corporation does not have the power to pledge
30 the credit, the general revenues, or the taxing power of the
31 state or of any political subdivision of the state. The

1 obligations of the department and the corporation under the
2 purchase agreement and under any bonds shall not constitute a
3 general obligation of the state or a pledge of the faith and
4 credit or taxing power of the state. The bonds shall be
5 payable from and secured by payments received under the
6 tobacco settlement agreement, and neither the state nor any of
7 its agencies shall have any liability on such bonds. Such
8 bonds shall not be construed in any manner as an obligation of
9 the state or any of its agencies, the department, the State
10 Board of Administration or entities for which it invests
11 funds, or board members or their respective agencies.

12 (h) Notwithstanding any other provision of law, any
13 pledge of or other security interest in revenues, money,
14 accounts, contract rights, general intangibles, or other
15 personal property made or created by the corporation resulting
16 from the authority granted by law shall be valid, binding, and
17 perfected from the time such pledge is made or other security
18 interest attaches without any physical delivery of the
19 collateral or further act, and the lien of any such pledge or
20 other security interest shall be valid, binding, and perfected
21 against all parties having claim of any kind in tort, in
22 contract, or otherwise against the corporation irrespective of
23 whether such parties have notice of such claims. No instrument
24 by which such a pledge or security interest is created nor any
25 financing statement need be recorded or filed.

26 (i) The corporation may validate any bonds issued
27 pursuant to this section and the security for payment
28 therefor, as provided in chapter 75. The validation
29 proceedings may be brought only in the circuit court for Leon
30 County. The notice required under s. 75.06 must be published
31 in Leon County, and the petition and order of the circuit

1 court shall be served only on the State Attorney for the
2 Second Judicial Circuit. The provisions of ss. 75.04(2) and
3 75.06(2) shall not apply to validation proceedings brought
4 under this paragraph. The validation of the first bonds issued
5 pursuant to this section may be appealed to the Supreme Court,
6 and the Court shall process such appeal expeditiously.

7 (j) The state covenants with the holders of bonds of
8 the corporation that the state will not limit or alter the
9 authority or the rights under this section vested in the
10 corporation to fulfill the terms of any agreements, including
11 the terms of any purchase agreement, or in any way impair the
12 rights and remedies of such bondholders as long as any such
13 bonds remain outstanding unless adequate provision has been
14 made for the payment of such bonds pursuant to the documents
15 authorizing such bonds.

16 (k) The corporation shall not take any action that
17 will materially and adversely affect the rights of holders of
18 any bonds issued under this section as long as such bonds are
19 outstanding.

20 (l) As long as the corporation has any bonds
21 outstanding, the corporation may not file a voluntary petition
22 under chapter 9 of the federal Bankruptcy Code or such
23 corresponding chapter or sections as are in effect from time
24 to time, and neither any public officer nor any organization,
25 entity, or other person may authorize the corporation, while
26 bonds are outstanding, to be or become a debtor under chapter
27 9 of the federal Bankruptcy Code or such corresponding chapter
28 or sections as are in effect from time to time.

29 (m) The corporation may contract with the State Board
30 of Administration to serve as trustee with respect to bonds
31 issued by the corporation as provided by this section and to

1 hold, administer, and invest proceeds of such bonds and other
2 funds of the corporation and to perform other services
3 required by the corporation. The State Board of Administration
4 may perform such services and may contract with others to
5 provide any such services and to recover the costs and
6 expenses of providing such services.

7 (n) The corporation shall not be deemed to be a
8 special district or a unit of local government. The provisions
9 of chapter 120, part I of chapter 287, and ss. 215.57-215.83
10 do not apply to the corporation, to any purchase agreements
11 entered into under this section, or to any bonds issued by the
12 corporation as provided in this section, except that
13 underwriters, financial advisors, and legal counsel must be
14 selected in a manner consistent with the rules adopted
15 pursuant to the State Bond Act for the selection of service
16 providers and underwriters.

17 (o) In no event shall any of the benefits or earnings
18 of the corporation inure to the benefit of any private person.

19 (p) Unless such officer, employee, or agent acted in
20 bad faith or with malicious purpose, there shall be no
21 liability on the part of, and no cause of action shall arise
22 against, any board member of the corporation or any employee
23 of the corporation or the state for any action taken by them
24 in the performance of their duties under this section.

25 (q) The corporation is exempt from taxation and
26 assessments of any nature whatsoever upon its income and any
27 property, assets, or revenues acquired, received, or used in
28 the furtherance of the purposes provided in this section.

29 (r) The corporation and its corporate existence shall
30 continue until terminated by law; however, the corporation may
31 not be terminated while it has bonds outstanding unless

1 adequate provision is made for the payment of such bonds
2 pursuant to the documents authorizing the issuance of such
3 bonds. Upon termination of the corporation, all its rights and
4 assets in excess of its obligations shall pass to and be
5 vested in the Lawton Chiles Endowment Fund.

6 (s) The Auditor General may conduct a financial audit
7 of the accounts and records of the corporation.

8 (3) POWERS OF THE DEPARTMENT.--

9 (a) The department is authorized, on behalf of the
10 state, to do all things necessary or desirable to assist the
11 corporation in the execution of its responsibilities, and may:

12 1. Enter into one or more purchase agreements, which
13 may not take effect until ratified by law, to sell to the
14 corporation any or all of the state's right, title, and
15 interest in and to the tobacco settlement agreement;

16 2. Enter any administrative agreements with the
17 corporation, which may not take effect until ratified by law,
18 to fund the administration, operation, and expenses of the
19 corporation from moneys appropriated for such purpose; and

20 3. Execute and deliver any and all other documents and
21 agreements, which may not take effect until ratified by law,
22 necessary or desirable in connection with the sale of any or
23 all of the state's right, title, and interest in and to the
24 tobacco settlement agreement to the corporation or the
25 issuance of the bonds by the corporation.

26 (b) The state covenants with the holders of bonds of
27 the corporation that the state will not limit or alter the
28 authority or the rights under this section vested in the
29 department to fulfill the terms of any agreements, including
30 the terms of any purchase agreement, or in any way impair the
31 rights and remedies of such bondholders as long as any such

1 bonds remain outstanding, unless adequate provision has been
2 made for the payment of such bonds pursuant to the documents
3 authorizing such bonds.

4 (c) Subject to the prior legislative approval set
5 forth in paragraph (2)(e), the department is authorized, on
6 behalf of the state, to make any covenant, representation, or
7 warranty necessary or desirable in connection with the sale of
8 any or all of the state's right, title, and interest in and to
9 the tobacco settlement agreement to the corporation or the
10 issuance of the bonds by the corporation.

11 Section 5. If any provision of this act or its
12 application to any person or circumstance is held invalid, the
13 invalidity does not affect other provisions or applications of
14 the act which can be given effect without the invalid
15 provision or application, and to this end the provisions of
16 this act are severable.

17 Section 6. This act shall take effect upon becoming a
18 law.

1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 CS/SB 1998

4 The committee substitute for the committee substitute creates
5 the Tobacco Settlement Financing Corporation. Its board of
6 directors includes the Governor, Treasurer, Comptroller, and
7 Attorney General, or their respective designees, and two
8 directors appointed from the Senate by the President of the
9 Senate, and two from the House of Representatives appointed by
10 the Speaker of the House. It authorizes the board of directors
11 to plan a purchase of insurance to insure the state, for seven
12 years, against the loss of 50 percent of the revenues to be
13 paid to the state pursuant to the tobacco settlement
14 agreement, subject to approval by the legislature. The total
15 premium may not exceed \$200,000,000. The decision to begin
16 such a plan must be approved by six members of the board. It
17 also authorizes the board of directors to develop a plan to
18 enter into an agreement to purchase part of the state's
19 tobacco settlement income, and, subject to approval by the
20 legislature, to purchase part of the state's tobacco
21 settlement income. The decision to develop the plan must be
22 approved by six members of the board. Also subject to approval
23 by the legislature, the board of directors may issue bonds
24 payable from and secured by tobacco settlement payments. The
25 total principal amount of bonds issued by the corporation
26 shall not exceed \$3.0 billion, and the amount issued in any
27 one year may not exceed \$1.5 billion. The term of the bonds
28 may not exceed 40 years and the rate of interest on such bonds
29 may not exceed 10 percent. The corporation shall administer
30 the sale of bonds if approval is granted by the legislature.
31