

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 a limitation on liability;
27 providing powers of the Department of Banking
28 and Finance with respect to the corporation;
29 providing for severability; providing an
30 effective date.
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1 Be It Enacted by the Legislature of the State of Florida:

2

3 Section 1. Section 215.5601, Florida Statutes, is
4 amended to read:

5 215.5601 Lawton Chiles Endowment Fund.--

6 (1) SHORT TITLE.--This section may be cited as the
7 "Lawton Chiles Endowment Fund."

8 (2) DEFINITIONS.--As used in this section:

9 (a) "Board" means the State Board of Administration
10 established by s. 16, Art. IX of the State Constitution of
11 1885 and incorporated into s. 9(c), Art. XII of the State
12 Constitution of 1968.

13 (b) "Endowment" means the Lawton Chiles Endowment
14 Fund.

15 (c) "Earnings" means all income generated by
16 investments and the net change in the market value of assets.

17 (d) "Participating manufacturer" means any
18 manufacturer of tobacco products which meets the requirements
19 of subsection (4).

20 (e)~~(d)~~ "State agency" or "state agencies" means the
21 Department of Health, the Department of Children and Family
22 Services, the Department of Elderly Affairs, or the Agency for
23 Health Care Administration, or any combination thereof, as the
24 context indicates.

25 (3) LEGISLATIVE INTENT.--It is the intent of the
26 Legislature to:

27 (a) Provide a perpetual source of funding for the
28 future of state children's health programs, child welfare
29 programs, community-based health and human services
30 initiatives, and biomedical research activities.

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1 (b) Ensure that enhancement revenues will be available
2 to finance these important initiatives.

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

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

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

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

14 (4) PARTICIPATING MANUFACTURERS; QUALIFICATIONS.--

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

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

26 b. Support of the state's efforts to mitigate the
27 impact of the use of tobacco through annual payments to the
28 state. On January 1 of each year, the Division of Alcoholic
29 Beverages and Tobacco of the Department of Business and
30 Professional Regulation shall calculate the payment amount,
31 which is due by January 31 of that year. The payment amount

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

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

16 (b) All tobacco manufacturers that are signatories to
17 the settlement agreement entered on August 25, 1997, in the
18 case of The State of Florida et al., v. American Tobacco
19 Company et al., and the settlement agreement entered on March
20 15, 1996, in the case of State of West Virginia, State of
21 Florida, State of Mississippi, Commonwealth of Massachusetts,
22 and State of Louisiana v. Brooke Group Ltd. and Liggett Group,
23 Inc., are participating manufacturers. Cigarettes produced by
24 each such manufacturer that fully complies with the applicable
25 settlement agreement and makes the annual payment required
26 under the agreement by December 31 are exempt from the surtax
27 on cigarettes imposed under s. 210.02(6) for the subsequent
28 12-month period.

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

1 (5)~~(4)~~ LAWTON CHILES ENDOWMENT FUND; CREATION;

2 PURPOSES AND USES.--

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

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

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

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

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

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

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

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

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

29 (c) The board shall establish a separate account for
30 the funds of the endowment. The board shall design and operate
31 an investment portfolio that maximizes the financial return to

1 the endowment, consistent with the risks inherent in each
2 investment, and that is designed to preserve an appropriate
3 diversification of the portfolio.

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

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

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

20 (7)~~(6)~~ AVAILABILITY OF FUNDS.--

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

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

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

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

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

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

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

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

21 (a) For fiscal year 1999-2000, \$1.1 billion;

22 (b) For fiscal year 2000-2001, \$200 million;

23 (c) For fiscal year 2001-2002, \$200 million; ~~and~~

24 (d) For fiscal year 2002-2003, \$200 million; ~~and~~;

25 (e) For all subsequent fiscal years, a minimum of \$25
26 million.

27 Section 2. Section 210.02, Florida Statutes, is
28 amended to read:

29 210.02 Cigarette tax imposed; collection.--

30 (1) An excise or privilege tax, in addition to all
31 other taxes of every kind imposed by law, is imposed upon the

1 sale, receipt, purchase, possession, consumption, handling,
2 distribution, and use of cigarettes in this state, in the
3 following amounts, except as hereinafter otherwise provided,
4 for cigarettes of standard dimensions:

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

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

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

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

21 (3) When cigarettes as described in paragraph (1)(a)
22 are packed in varying quantities of 20 cigarettes or less,
23 except manufacturer's free samples authorized under s.
24 210.04(9), the following rate shall govern:

25 (a) Packages containing 10 cigarettes or less require
26 a 16.95-cent tax.

27 (b) Packages containing more than 10 but not more than
28 20 cigarettes require a 33.9-cent tax.

29 (4) When cigarettes as described in paragraph (1)(b)
30 are packed in varying quantities of 20 cigarettes or less,
31

1 except manufacturer's free samples authorized under s.
2 210.04(9), the following rates shall govern:

3 (a) Packages containing 10 cigarettes or less require
4 a 33.9-cent tax.

5 (b) Packages containing more than 10 but not more than
6 20 cigarettes require a 67.8-cent tax.

7 (5) When cigarettes as described in paragraph (1)(c)
8 are packed in varying quantities of 20 cigarettes or less,
9 except manufacturer's free samples authorized under s.
10 210.04(9), the following rates shall govern:

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

13 (b) Packages containing more than 10 but not more than
14 20 cigarettes require a 135.6-cent tax.

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

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

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

14 (8)~~(7)~~ It is the legislative intent that the tax on
15 cigarettes shall be uniform throughout the state.

16 Section 3. Section 210.20, Florida Statutes, is
17 amended to read:

18 210.20 Employees and assistants; distribution of
19 funds.--

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

27 (2) As collections are received by the division from
28 such cigarette taxes, it shall pay the same into a trust fund
29 in the State Treasury designated "Cigarette Tax Collection
30 Trust Fund" which shall be paid and distributed as follows:
31

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

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

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

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

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

30 Section 4. Section 215.5603, Florida Statutes, is
31 created to read:

1 215.5603 Tobacco Settlement Financing Corporation.--

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

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

6 (b) "Corporation" means the Tobacco Settlement
7 Financing Corporation created by this section.

8 (c) "Department" means the Department of Banking and
9 Finance or its successor.

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

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

20 (f) "Tobacco settlement agreement" means the
21 settlement agreement, as amended, entered into by the state
22 and participating cigarette manufacturers in settlement of
23 State of Florida et al. v. American Tobacco Co., Case No.
24 95-1466AH (Fla. 15th Cir. Ct. 1996).

25 (2) CORPORATION CREATION AND AUTHORITY.--

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

29 1. Developing a plan which is subject to the review,
30 modification, and approval of the Legislature, by which it
31 will purchase any or all of the state's right, title, and

1 interest in and to the tobacco settlement agreement and will
2 issue bonds to pay the purchase price therefor. The sale of
3 bonds is subject to ratification by law. Funds generated by
4 the sale of the bonds shall be used to provide funding for the
5 Lawton Chiles Endowment Fund; or

6 2. Purchasing insurance, subject to the review,
7 modification, and approval of the Legislature, to insure the
8 state against the loss of proceeds from the tobacco settlement
9 agreement.

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

19 (c) The corporation shall have all the powers of a
20 corporate body under the laws of this state, including, but
21 not limited to, the powers of corporations under chapter 617,
22 to the extent not inconsistent with or restricted by the
23 provisions of this section, including, but not limited to, the
24 power to:

25 1. Adopt, amend, and repeal bylaws not inconsistent
26 with this section.

27 2. Sue and be sued.

28 3. Adopt and use a common seal.

29 4. Acquire, purchase, hold, lease, and convey real and
30 personal property, contract rights, general intangibles,
31 revenues, moneys, and accounts as is proper or expedient to

1 carry out the purposes of the corporation and this section and
2 to assign, convey, sell, transfer, lease, or otherwise dispose
3 of such property.

4 5. Elect or appoint and employ such officers, agents,
5 and employees as the corporation deems advisable to operate
6 and manage the affairs of the corporation, which officers,
7 agents, and employees may be employees of the state or of the
8 state officers and agencies represented on the board of
9 directors of the corporation.

10 6. Make and execute any and all contracts, trust
11 agreements, trust indentures, and other instruments and
12 agreements necessary or convenient to accomplish the purposes
13 of the corporation and this section, including, but not
14 limited to, investment contracts approved by the Legislature,
15 swap agreements, liquidity facilities, or the purchase, as
16 approved by the Legislature, of insurance or reinsurance.

17 7. Select, retain, and employ professionals,
18 contractors, or agents, which may include the Division of Bond
19 Finance of the State Board of Administration and the Division
20 of State Purchasing of the Department of Management Services,
21 as are necessary or convenient to enable or assist the
22 corporation in carrying out the purposes of the corporation.

23 8. Do any act or thing necessary or convenient to
24 carry out the purposes of the corporation subject to the
25 review, modification, and approval of the Legislature as
26 provided herein.

27 (d) With the approval of at least six of its
28 directors, the corporation may plan to purchase insurance to
29 insure the state, for 7 years, against the loss of 50 percent
30 of the revenues to be paid to the state pursuant to the
31 tobacco settlement agreement. The total premium paid for this

1 insurance may not exceed \$200 million. The plan is subject to
2 review, modification, and approval of the Legislature.

3 Purchase of insurance is subject to legislative approval.

4 (e) With the approval of at least six of its
5 directors, the corporation may develop a plan to enter into
6 one or more purchase agreements with the department pursuant
7 to which the corporation will purchase any or all of the
8 state's right, title, and interest in and to the tobacco
9 settlement agreement and will execute and deliver any other
10 documents necessary or desirable to effectuate such purchase.
11 The plan is subject to review, modification, and approval of
12 the Legislature. Sale of all or part of the state's right,
13 title, and interest in and to the tobacco settlement agreement
14 is subject to approval by the Legislature.

15 (f) Subject to the review, modification, and approval
16 by the Legislature, the corporation may issue bonds payable
17 from and secured by amounts payable to the corporation from
18 proceeds of the tobacco settlement agreement. The corporation
19 is additionally authorized to issue bonds to refund previously
20 issued bonds and to deposit the proceeds of such bonds as
21 provided in the documents authorizing the issuance of such
22 bonds. Upon legislative approval of the issuance of bonds, the
23 corporation is authorized, to do all things necessary or
24 desirable in connection with the issuance of the bonds,
25 including, but not limited to, establishing debt service
26 reserves or other additional security for the bonds, providing
27 for capitalized interest, and executing and delivering any and
28 all documents and agreements. The total principal amount of
29 bonds issued by the corporation shall not exceed \$3 billion.
30 The principal amount of bonds issued in any single fiscal year
31 shall not exceed \$1.5 billion, beginning with the 2000-2001

1 fiscal year. The limitation on the principal amount of bonds
2 does not apply the bonds issued to refund previously issued
3 bonds. The term of any such bonds shall not exceed 40 years,
4 and the rate of interest on such bonds may not exceed 10
5 percent. The corporation may sell bonds through competitive
6 bidding or negotiated contracts, whichever method of sale is
7 determined by the corporation to be in the best interest of
8 the corporation.

9 (g) The corporation does not have the power to pledge
10 the credit, the general revenues, or the taxing power of the
11 state or of any political subdivision of the state. The
12 obligations of the department and the corporation under the
13 purchase agreement and under any bonds shall not constitute a
14 general obligation of the state or a pledge of the faith and
15 credit or taxing power of the state. The bonds shall be
16 payable from and secured by payments received under the
17 tobacco settlement agreement, and neither the state nor any of
18 its agencies shall have any liability on such bonds. Such
19 bonds shall not be construed in any manner as an obligation of
20 the state or any of its agencies, the department, the State
21 Board of Administration or entities for which it invests
22 funds, or board members or their respective agencies.

23 (h) Notwithstanding any other provision of law, any
24 pledge of or other security interest in revenues, money,
25 accounts, contract rights, general intangibles, or other
26 personal property made or created by the corporation resulting
27 from the authority granted by law shall be valid, binding, and
28 perfected from the time such pledge is made or other security
29 interest attaches without any physical delivery of the
30 collateral or further act, and the lien of any such pledge or
31 other security interest shall be valid, binding, and perfected

1 against all parties having claim of any kind in tort, in
2 contract, or otherwise against the corporation irrespective of
3 whether such parties have notice of such claims. No instrument
4 by which such a pledge or security interest is created nor any
5 financing statement need be recorded or filed.

6 (i) The corporation may validate any bonds issued
7 pursuant to this section and the security for payment
8 therefor, as provided in chapter 75. The validation
9 proceedings may be brought only in the circuit court for Leon
10 County. The notice required under s. 75.06 must be published
11 in Leon County, and the petition and order of the circuit
12 court shall be served only on the State Attorney for the
13 Second Judicial Circuit. The provisions of ss. 75.04(2) and
14 75.06(2) shall not apply to validation proceedings brought
15 under this paragraph. The validation of the first bonds issued
16 pursuant to this section may be appealed to the Supreme Court,
17 and the Court shall process such appeal expeditiously.

18 (j) The state covenants with the holders of bonds of
19 the corporation that the state will not limit or alter the
20 authority or the rights under this section vested in the
21 corporation to fulfill the terms of any agreements, including
22 the terms of any purchase agreement, or in any way impair the
23 rights and remedies of such bondholders as long as any such
24 bonds remain outstanding unless adequate provision has been
25 made for the payment of such bonds pursuant to the documents
26 authorizing such bonds.

27 (k) The corporation shall not take any action that
28 will materially and adversely affect the rights of holders of
29 any bonds issued under this section as long as such bonds are
30 outstanding.

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1 (l) As long as the corporation has any bonds
2 outstanding, the corporation may not file a voluntary petition
3 under chapter 9 of the federal Bankruptcy Code or such
4 corresponding chapter or sections as are in effect from time
5 to time, and neither any public officer nor any organization,
6 entity, or other person may authorize the corporation, while
7 bonds are outstanding, to be or become a debtor under chapter
8 9 of the federal Bankruptcy Code or such corresponding chapter
9 or sections as are in effect from time to time.

10 (m) The corporation may contract with the State Board
11 of Administration to serve as trustee with respect to bonds
12 issued by the corporation as provided by this section and to
13 hold, administer, and invest proceeds of such bonds and other
14 funds of the corporation and to perform other services
15 required by the corporation. The State Board of Administration
16 may perform such services and may contract with others to
17 provide any such services and to recover the costs and
18 expenses of providing such services.

19 (n) The corporation shall not be deemed to be a
20 special district or a unit of local government. The provisions
21 of chapter 120, part I of chapter 287, and ss. 215.57-215.83
22 do not apply to the corporation, to any purchase agreements
23 entered into under this section, or to any bonds issued by the
24 corporation as provided in this section, except that
25 underwriters, financial advisors, and legal counsel must be
26 selected in a manner consistent with the rules adopted
27 pursuant to the State Bond Act for the selection of service
28 providers and underwriters.

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

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1 (p) Unless such officer, employee, or agent acted
2 outside the course and scope of her or his employment or acted
3 in bad faith or with malicious purpose or in a manner
4 exhibiting wanton and willful disregard of human rights,
5 safety, or property, there shall be no liability on the part
6 of, and no cause of action shall arise against, any board
7 member of the corporation or any employee of the corporation
8 or the state for any action taken by them in the performance
9 of their duties under this section.

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

14 (r) The corporation and its corporate existence shall
15 continue until terminated by law; however, the corporation may
16 not be terminated while it has bonds outstanding unless
17 adequate provision is made for the payment of such bonds
18 pursuant to the documents authorizing the issuance of such
19 bonds. Upon termination of the corporation, all its rights and
20 assets in excess of its obligations shall pass to and be
21 vested in the Lawton Chiles Endowment Fund.

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

24 (3) POWERS OF THE DEPARTMENT.--

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

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

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

5 3. Execute and deliver any and all other documents and
6 agreements, which may not take effect until ratified by law,
7 necessary or desirable in connection with the sale of any or
8 all of the state's right, title, and interest in and to the
9 tobacco settlement agreement to the corporation or the
10 issuance of the bonds by the corporation.

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

20 (c) Subject to the prior legislative approval set
21 forth in paragraph (2)(e), the department is authorized, on
22 behalf of the state, to make any covenant, representation, or
23 warranty necessary or desirable in connection with the sale of
24 any or all of the state's right, title, and interest in and to
25 the tobacco settlement agreement to the corporation or the
26 issuance of the bonds by the corporation.

27 Section 5. If any provision of this act or its
28 application to any person or circumstance is held invalid, the
29 invalidity does not affect other provisions or applications of
30 the act which can be given effect without the invalid
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1 provision or application, and to this end the provisions of
2 this act are severable.

3 Section 6. This act shall take effect upon becoming a
4 law.

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