

Bill No. CS for SB 1286

Amendment No.      Barcode 724374

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11 Senator King moved the following amendment:

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13 **Senate Amendment (with title amendment)**

14 Delete everything after the enacting clause

15 and insert:

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17 Section 1. Subsection (4) of section 17.41, Florida

18 Statutes, is amended to read:

19 17.41 Department of Banking and Finance Tobacco

20 Settlement Clearing Trust Fund.--

21 (4) Net proceeds of the sale of the tobacco settlement

22 agreement received by the state shall be immediately deposited

23 into the Lawton Chiles Endowment Fund, created in s. 215.5601

24 ~~s. 215.5601(4)~~, without deposit to the Tobacco Settlement

25 Clearing Trust Fund.

26 Section 2. Paragraph (h) of subsection (1) of section

27 20.435, Florida Statutes, is amended to read:

28 20.435 Department of Health; trust funds.--

29 (1) The following trust funds are hereby created, to

30 be administered by the Department of Health:

31 (h) Biomedical Research Trust Fund.

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1           1. Funds to be credited to the trust fund shall  
2 consist of funds deposited pursuant to s. 215.5601 ~~s.~~  
3 ~~215.5601(4)~~. Funds shall be used for the purposes of the  
4 Florida Biomedical Research Program as specified in s.  
5 215.5602. The trust fund is exempt from the service charges  
6 imposed by s. 215.20.

7           2. Notwithstanding the provisions of s. 216.301 and  
8 pursuant to s. 216.351, any balance in the trust fund at the  
9 end of any fiscal year shall remain in the trust fund at the  
10 end of the year and shall be available for carrying out the  
11 purposes of the trust fund.

12           3. The trust fund shall, unless terminated sooner, be  
13 terminated on July 1, 2004.

14           Section 3. Section 215.5601, Florida Statutes, is  
15 amended to read:

16           (Substantial rewording of section. See  
17           s. 215.5601, F.S., for present text.)

18           215.5601 Lawton Chiles Endowment Fund.--

19           (1) LEGISLATIVE INTENT.--It is the intent of the  
20 Legislature to:

21           (a) Provide a perpetual source of enhanced funding for  
22 state children's health programs, child welfare programs,  
23 children's community-based health and human services  
24 initiatives, elder programs, and biomedical research  
25 activities related to tobacco use.

26           (b) Use tobacco settlement moneys as the source of  
27 enhanced funding to ensure the financial security of vital  
28 health and human services programs for children and elders.

29           (c) Ensure that enhancement revenues will be available  
30 to help finance these important programs and initiatives.

31           (d) Provide funds to help support public-health and

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1 biomedical research for the prevention, diagnosis, and  
2 treatment of diseases related to tobacco use by creating an  
3 annual and perpetual source of funding for biomedical research  
4 in the state in order to expand the foundation of biomedical  
5 knowledge relating to the prevention, diagnosis, and treatment  
6 of diseases related to tobacco use, including cancer,  
7 cardiovascular disease, stroke, and pulmonary disease; improve  
8 the quality of the state's academic health centers by bringing  
9 the advances of biomedical research into the training of  
10 physicians and other health care providers; and increase the  
11 state's per capita funding for biomedical research by  
12 undertaking new initiatives in biomedical research which will  
13 attract additional funding from outside the state while also  
14 stimulating economic activity in the state in areas related to  
15 biomedical research, such as the research and production of  
16 pharmaceuticals, biotechnology, and medical devices.

17 (e) Encourage the development of community-based  
18 solutions to strengthen and improve the quality of life of  
19 Florida's most vulnerable citizens, its children and elders.

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

21 (a) "Board" means the State Board of Administration  
22 established by s. 16, Art. IX of the State Constitution of  
23 1885 and incorporated into s. 9(c), Art. XII of the State  
24 Constitution of 1968.

25 (b) "Endowment" means the Lawton Chiles Endowment  
26 Fund.

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

29 (d) "State agency" or "state agencies" means the  
30 Department of Health, the Department of Children and Family  
31 Services, the Department of Elderly Affairs, or the Agency for

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1 Health Care Administration, or any combination thereof, as the  
2 context indicates.

3 (3) LAWTON CHILES ENDOWMENT FUND; CREATION;  
4 PRINCIPAL.--

5 (a) There is created the Lawton Chiles Endowment Fund,  
6 to be administered by the State Board of Administration. The  
7 endowment shall serve as a clearing trust fund, not subject to  
8 termination under s. 19(f), Art. III of the State  
9 Constitution. The endowment fund shall be exempt from the  
10 service charges imposed by s. 215.20.

11 (b) The endowment shall receive moneys from the sale  
12 of the state's right, title, and interest in and to the  
13 tobacco settlement agreement as defined in s. 215.56005,  
14 including the right to receive payments under such agreement,  
15 and from accounts transferred from the Department of Banking  
16 and Finance Tobacco Settlement Clearing Trust Fund established  
17 under s. 17.41. Amounts to be transferred from the Department  
18 of Banking and Finance Tobacco Settlement Clearing Trust Fund  
19 to the endowment shall be in the following amounts for the  
20 following fiscal years:

21 1. For fiscal year 1999-2000, \$1.1 billion;  
22 2. For fiscal year 2000-2001, \$200 million;  
23 3. For fiscal year 2001-2002, \$200 million;  
24 4. For fiscal year 2002-2003, \$200 million; and  
25 5. For all subsequent fiscal years, an amount equal to  
26 the greater of \$40 million or 10 percent of the payments  
27 deposited into the Tobacco Settlement Clearing Trust Fund.

28 (c) Amounts to be transferred under subparagraphs  
29 (b)2., 3., 4., and 5. may be reduced by an amount equal to the  
30 lesser of \$200 million or the amount the endowment receives in  
31 that fiscal year from the sale of the state's right, title,

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1 and interest in and to the tobacco settlement agreement.

2 (d) Beginning in fiscal year 2001-2002, \$150 million  
3 of the existing principal in the endowment shall be reserved  
4 and accounted for within the endowment to be used solely for  
5 the funding for biomedical research activities as provided in  
6 s. 215.5602. The remaining principal shall be used solely as  
7 the source of funding for health and human services programs  
8 for children and elders as provided in subsection (5). The  
9 separate account for biomedical research shall be dissolved  
10 and the entire principal in the endowment shall be used  
11 exclusively for health and human services programs when cures  
12 have been found for tobacco-related cancer, heart, and lung  
13 disease.

14 (4) ADMINISTRATION.--

15 (a) The board may invest and reinvest funds of the  
16 endowment in accordance with s. 215.47 and consistent with an  
17 investment plan developed by the executive director and  
18 approved by the board.

19 (b) The endowment shall be managed as an annuity. The  
20 investment objective shall be long-term preservation of the  
21 real value of the principal and a specified regular annual  
22 cash outflow for appropriation, as nonrecurring revenue. From  
23 the annual cash outflow, a pro rata share shall be used solely  
24 for biomedical research activities as provided in paragraph  
25 (3)(d), until such time as cures are found for tobacco-related  
26 cancer and heart and lung disease. Five percent of the annual  
27 cash outflow dedicated to the biomedical research portion of  
28 the endowment shall be reinvested and applied to that portion  
29 of the endowment's principal, with the remainder to be spent  
30 on biomedical research activities consistent with this  
31 section. The schedule of annual cash outflow shall be included

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1 within the investment plan adopted under paragraph (a).

2 (c) In accordance with s. 215.44, the board shall  
3 include separate sections on the financial status of the  
4 endowment in its annual investment report to the Legislature.

5 (d) Accountability for funds from the endowment which  
6 have been appropriated to a state agency and distributed by  
7 the board shall reside with the state agency. The board is not  
8 responsible for the proper expenditure of or accountability  
9 concerning funds from the endowment after distribution to a  
10 state agency.

11 (e) Costs and fees of the board for investment  
12 services shall be deducted from the earnings accruing to the  
13 endowment. Fees for investment services shall be no greater  
14 than fees charged to the Florida Retirement System.

15 (5) AVAILABILITY OF FUNDS; USES.--

16 (a) Funds from the endowment which are available for  
17 legislative appropriation shall be transferred by the board to  
18 the Department of Banking and Finance Tobacco Settlement  
19 Clearing Trust Fund, created in s. 17.41, and disbursed in  
20 accordance with the legislative appropriation.

21 1. Appropriations by the Legislature to the Department  
22 of Health from endowment earnings from the principal set aside  
23 for biomedical research shall be from a category called  
24 Florida Biomedical Research Program and shall be deposited  
25 into the Biomedical Research Trust Fund in the Department of  
26 Health established in s. 20.435.

27 2. Appropriations by the Legislature to the Department  
28 of Children and Family Services, the Department of Health, or  
29 the Department of Elderly Affairs for health and human  
30 services programs shall be from a category called the Lawton  
31 Chiles Endowment Fund Programs and shall be deposited into

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1 each department's respective Tobacco Settlement Trust Fund as  
2 appropriated.

3 (b) In order to ensure that the expenditure of funds  
4 earned from the Lawton Chiles Endowment Fund will be used for  
5 the purposes intended by the Legislature, the Legislature  
6 shall establish line item categories for the state agencies  
7 describing the designated use of the appropriated funds as  
8 provided in the General Appropriations Act.

9 (c) The secretaries of the state agencies shall  
10 conduct meetings to discuss priorities for endowment funding  
11 for health and human services programs for children and elders  
12 before submitting their legislative budget requests to the  
13 Executive Office of the Governor and the Legislature. The  
14 purpose of the meetings is to gain consensus for priority  
15 requests and recommended endowment funding levels for those  
16 priority requests. No later than September 1 of each year, the  
17 secretaries of the state agencies shall also submit their  
18 concensus priority requests to the Lawton Chiles Endowment  
19 Fund Advisory Council created in subsection (6).

20 (d) Subject to legislative appropriations, state  
21 agencies shall use distributions from the endowment to enhance  
22 or support increases in clients served or to meet increases in  
23 program costs in health and human services program areas.  
24 Funds distributed from the endowment may not be used to  
25 supplant existing revenues.

26 (e) Notwithstanding s. 216.301 and pursuant to s.  
27 216.351, all unencumbered balances of appropriations as of  
28 June 30 or undisbursed balances as of December 31 shall revert  
29 to the endowment's principal. Unencumbered or undisbursed  
30 balances appropriated for biomedical research shall revert to  
31 the principal in the separately reserved and accounted-for

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1 portion of the endowment established for biomedical research  
2 activities.

3 (f) When advised by the Revenue Estimating Conference  
4 that a deficit will occur with respect to the appropriations  
5 from the tobacco settlement trust funds of the state agencies  
6 in any fiscal year, the Governor shall develop a plan of  
7 action to eliminate the deficit. Before implementing the plan  
8 of action, the Governor must comply with s. 216.177(2). In  
9 developing the plan of action, the Governor shall, to the  
10 extent possible, preserve legislative policy and intent, and,  
11 absent any specific directions to the contrary in the General  
12 Appropriations Act, any reductions in appropriations from the  
13 tobacco settlement trust funds of the state agencies for a  
14 fiscal year shall be prorated among the specific  
15 appropriations made from all tobacco settlement trust funds of  
16 the state agencies for that year.

17 (6) ADVISORY COUNCIL.--The Lawton Chiles Endowment  
18 Fund Advisory Council is established for the purpose of  
19 reviewing the funding priorities of the state agencies,  
20 evaluating their requests against the mission and goals of the  
21 agencies and legislative intent for the use of endowment  
22 funds, and allowing for public input and advocacy.

23 (a) The advisory council shall consist of 14 members,  
24 including:

25 1. The director of the United Way of Florida, Inc., or  
26 his or her designee;

27 2. The director of the Foster Parents Association, or  
28 his or her designee;

29 3. The chair of the Department of Elderly Affairs  
30 Advisory Council, or his or her designee;

31 4. The president of the Florida Association of Area



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1 Agencies on Aging, or his or her designee;

2 5. The State Long-Term Care Ombudsman, or his or her  
3 designee;

4 6. The director of the Florida Pediatric Society, or  
5 his or her designee;

6 7. A representative of the Guardian Ad Litem Program,  
7 appointed by the Governor;

8 8. A representative of a child welfare lead agency for  
9 community-based care, appointed by the Governor;

10 9. A representative of an elder care lead agency for  
11 community-based care, appointed by the Governor;

12 10. A representative of a statewide child advocacy  
13 organization, appointed by the Governor;

14 11. One consumer caregiver for children, appointed by  
15 the Governor;

16 12. One person over the age of 60 years to represent  
17 the interests of elders, appointed by the Governor;

18 13. One person under the age of 18 years to represent  
19 the interests of children, appointed by the Governor; and

20 14. One consumer caregiver for a functionally impaired  
21 elderly person, appointed by the Governor.

22 (b) Before November 1 of each year, the advisory  
23 council shall advise the Governor and the Legislature as to  
24 its recommendations with respect to the priorities submitted  
25 by the secretaries of the state agencies with respect to  
26 endowment funding for health and human services programs for  
27 children and elders. The responsibilities of the advisory  
28 council include:

29 1. Evaluating the value of programs and services  
30 submitted by the state agencies as they relate to the overall  
31 enhancement of services to children and elders;



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1 address the health care problems of Floridians in the areas of  
2 tobacco-related cancer, cardiovascular disease, stroke, and  
3 pulmonary disease. The long-term goals of the program are to:

4 (a) Improve the health of Floridians by researching  
5 better prevention, diagnoses, and treatments for cancer,  
6 cardiovascular disease, stroke, and pulmonary disease.

7 (b) Expand the foundation of biomedical knowledge  
8 relating to the prevention, diagnosis, and treatment of  
9 diseases related to tobacco use, including cancer,  
10 cardiovascular disease, stroke, and pulmonary disease.

11 (c) Improve the quality of the state's academic health  
12 centers by bringing the advances of biomedical research into  
13 the training of physicians and other health care providers.

14 (d) Increase the state's per capita funding for  
15 ~~biomedical~~ research by undertaking new initiatives in public  
16 health and biomedical research that will attract additional  
17 funding from outside the state.

18 (e) Stimulate economic activity in the state in areas  
19 related to biomedical research, such as the research and  
20 production of pharmaceuticals, biotechnology, and medical  
21 devices.

22 (2) Funds appropriated for the Florida Biomedical  
23 Research Program shall be used exclusively for the award of  
24 grants and fellowships as established in this section; for  
25 research relating to the prevention, diagnosis, and treatment  
26 of diseases related to tobacco use, including cancer,  
27 cardiovascular disease, stroke, and pulmonary disease; and for  
28 expenses incurred in the administration of this section.

29 (3) There is created within the Department of Health  
30 the Biomedical Research Advisory Council.

31 (a) The council shall consist of nine members,

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1 including: the chief executive officer of the Florida Division  
2 of the American Cancer Society, or a designee; the chief  
3 executive officer of the Florida/Puerto Rico Affiliate of the  
4 American Heart Association, or a designee; and the chief  
5 executive officer of the American Lung Association of Florida,  
6 or a designee. The Governor shall appoint the remaining six  
7 members of the council, as follows:

- 8           1. Two members with expertise in the field of  
9 biomedical research.
- 10           2. One member with expertise in the field of  
11 behavioral or social research.
- 12           3. One member from a professional medical  
13 organization.
- 14           4. One member from a research university in the state.
- 15           5. One member representing the general population of  
16 the state.

17

18 In making his or her appointments, the Governor shall select  
19 primarily, but not exclusively, Floridians with biomedical and  
20 lay expertise in the general areas of cancer, cardiovascular  
21 disease, stroke, and pulmonary disease. The Governor's  
22 appointments shall be for a 3-year term and shall reflect the  
23 diversity of the state's population. A council member  
24 appointed by the Governor may not serve more than two  
25 consecutive terms.

26           (b) The council shall adopt internal organizational  
27 procedures as necessary for its efficient organization.

28           (c) The department shall provide such staff,  
29 information, and other assistance as is reasonably necessary  
30 to assist the council in carrying out its responsibilities.

31           (d) Members of the council shall serve without

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1 compensation, but may receive reimbursement as provided in s.  
2 112.061 for travel and other necessary expenses incurred in  
3 the performance of their official duties.

4 (4) The council shall advise the Secretary of Health  
5 as to the direction and scope of the biomedical research  
6 program. The responsibilities of the council may include, but  
7 are not limited to:

8 (a) Providing advice on program priorities and  
9 emphases.

10 (b) Providing advice on the overall program budget.

11 (c) Participating in periodic program evaluation.

12 (d) Assisting in the development of guidelines to  
13 ensure fairness, neutrality, and adherence to the principles  
14 of merit and quality in the conduct of the program.

15 (e) Assisting in the development of appropriate  
16 linkages to nonacademic entities, such as voluntary  
17 organizations, health care delivery institutions, industry,  
18 government agencies, and public officials.

19 (f) Developing criteria and standards for the award of  
20 research grants.

21 (g) Developing administrative procedures relating to  
22 solicitation, review, and award of research grants and  
23 fellowships, to ensure an impartial, high-quality peer review  
24 system.

25 (h) Developing and supervising research peer review  
26 panels.

27 (i) Reviewing reports of peer review panels and making  
28 recommendations for research grants and fellowships.

29 (j) Developing and providing oversight regarding  
30 mechanisms for the dissemination of research results.

31 (5)(a) Applications for biomedical research funding

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1 under the program may be submitted from any university or  
2 established research institute in the state. All qualified  
3 investigators in the state, regardless of institution  
4 affiliation, shall have equal access and opportunity to  
5 compete for the research funding.

6 (b) Grants and fellowships shall be awarded by the  
7 Secretary of Health, after consultation with the council, on  
8 the basis of scientific merit, as determined by an open  
9 competitive peer review process that ensures objectivity,  
10 consistency, and high quality. The following types of  
11 applications shall be considered for funding:

- 12 1. Investigator-initiated research grants.
- 13 2. Institutional research grants.
- 14 3. Predoctoral and postdoctoral research fellowships.

15 (6) To ensure that all proposals for research funding  
16 are appropriate and are evaluated fairly on the basis of  
17 scientific merit, the Secretary of Health, in consultation  
18 with the council, shall appoint a peer review panel of  
19 independent, scientifically qualified individuals to review  
20 the scientific content of each proposal and establish its  
21 scientific priority score. The priority scores shall be  
22 forwarded to the council and must be considered in determining  
23 which proposals shall be recommended for funding.

24 (7) The council and the peer review panel shall  
25 establish and follow rigorous guidelines for ethical conduct  
26 and adhere to a strict policy with regard to conflict of  
27 interest. A ~~No~~ member of the council or panel may not ~~shall~~  
28 participate in any discussion or decision with respect to a  
29 research proposal by any firm, entity, or agency with which  
30 the member is associated as a member of the governing body or  
31 as an employee, or with which the member has entered into a

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1 contractual arrangement. Meetings of the council and the peer  
2 review panels shall be subject to the provisions of chapter  
3 119, s. 286.011, and s. 24, Art. I of the State Constitution.

4 (8) The department may contract on a competitive-bid  
5 basis with an appropriate entity to administer the program.  
6 Administrative expenses may not exceed 15 percent of the total  
7 funds available to the program in any given year.

8 (9) The department, after consultation with the  
9 council, may adopt rules as necessary to implement this  
10 section.

11 (10) The council shall submit an annual progress  
12 report on the state of biomedical research in this state to  
13 the Governor, the Secretary of Health, the President of the  
14 Senate, and the Speaker of the House of Representatives by  
15 February 1. The report must include:

16 (a) A list of research projects supported by grants or  
17 fellowships awarded under the program.

18 (b) A list of recipients of program grants or  
19 fellowships.

20 (c) A list of publications in peer reviewed journals  
21 involving research supported by grants or fellowships awarded  
22 under the program.

23 (d) The total amount of biomedical research funding  
24 currently flowing into the state.

25 (e) New grants for biomedical research which were  
26 funded based on research supported by grants or fellowships  
27 awarded under the program.

28 (f) Progress in the prevention, diagnosis, and  
29 treatment of diseases related to tobacco use, including  
30 cancer, cardiovascular disease, stroke, and pulmonary disease.

31 Section 5. There is appropriated \$25,000 each to the

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1 Department of Children and Family Services and the Department  
2 of Elderly Affairs from Lawton Chiles endowment funds  
3 deposited into each department's Tobacco Settlement Trust Fund  
4 to pay for administrative costs associated with the Lawton  
5 Chiles Endowment Fund Advisory Council established in section  
6 215.5601, Florida Statutes.

7 Section 6. This act shall take effect July 1, 2001.

8  
9

10 ===== T I T L E A M E N D M E N T =====

11 And the title is amended as follows:

12 Delete everything before the enacting clause

13  
14

and insert:

15 A bill to be entitled  
16 An act relating to the Lawton Chiles Endowment  
17 Fund; amending ss. 17.41, 20.435, F.S.;  
18 conforming statutory cross-references; amending  
19 s. 215.5601, F.S.; providing legislative intent  
20 to provide funds for the support of public  
21 health and biomedical research; revising  
22 procedures for the administration of the  
23 endowment fund; revising provisions concerning  
24 the availability and use of funds from the  
25 endowment; providing for a portion of  
26 unappropriated funds to be deposited into the  
27 endowment fund; establishing an advisory  
28 council; amending s. 215.5602, F.S.; providing  
29 for public health and biomedical research;  
30 providing an appropriation; providing an  
31 effective date.