

By Senator King

8-253C-01

1 A bill to be entitled
2 An act relating to the Lawton Chiles Endowment
3 Fund; amending ss. 17.41, 20.435, F.S.;
4 conforming statutory cross-references; amending
5 s. 215.5601, F.S.; providing legislative intent
6 to provide funds for the support of public
7 health and biomedical research; revising
8 procedures for the administration of the
9 endowment fund; revising provisions concerning
10 the availability and use of funds from the
11 endowment; establishing an advisory council;
12 amending s. 215.5602, F.S.; providing for
13 public health and biomedical research;
14 providing an appropriation; providing an
15 effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

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19 Section 1. Subsection (4) of section 17.41, Florida
20 Statutes, is amended to read:

21 17.41 Department of Banking and Finance Tobacco
22 Settlement Clearing Trust Fund.--

23 (4) Net proceeds of the sale of the tobacco settlement
24 agreement received by the state shall be immediately deposited
25 into the Lawton Chiles Endowment Fund, created in s. 215.5601
26 ~~s. 215.5601(4)~~, without deposit to the Tobacco Settlement
27 Clearing Trust Fund.

28 Section 2. Paragraph (h) of subsection (1) of section
29 20.435, Florida Statutes, is amended to read:

30 20.435 Department of Health; trust funds.--

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1 (1) The following trust funds are hereby created, to
2 be administered by the Department of Health:

3 (h) Biomedical Research Trust Fund.

4 1. Funds to be credited to the trust fund shall
5 consist of funds deposited pursuant to s. 215.5601 ~~s.~~
6 ~~215.5601(4)~~. Funds shall be used for the purposes of the
7 Florida Biomedical Research Program as specified in s.
8 215.5602. The trust fund is exempt from the service charges
9 imposed by s. 215.20.

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

15 3. The trust fund shall, unless terminated sooner, be
16 terminated on July 1, 2004.

17 Section 3. Section 215.5601, Florida Statutes, is
18 amended to read:

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

21 215.5601 Lawton Chiles Endowment Fund.--

22 (1) LEGISLATIVE INTENT.--It is the intent of the
23 Legislature to:

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

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

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

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

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

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

24 (a) "Board" means the State Board of Administration
25 established by s. 16, Art. IX of the State Constitution of
26 1885 and incorporated into s. 9(c), Art. XII of the State
27 Constitution of 1968.

28 (b) "Endowment" means the Lawton Chiles Endowment
29 Fund.

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

1 (d) "State agency" or "state agencies" means the
2 Department of Health, the Department of Children and Family
3 Services, the Department of Elderly Affairs, or the Agency for
4 Health Care Administration, or any combination thereof, as the
5 context indicates.

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

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

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

- 23 1. For fiscal year 1999-2000, \$1.1 billion;
24 2. For fiscal year 2000-2001, \$200 million;
25 3. For fiscal year 2001-2002, \$200 million; and
26 4. For fiscal year 2002-2003, \$200 million.

27 (c) Amounts to be transferred under subparagraphs 2.,
28 3., and 4. of paragraph (a) may be reduced by the amount the
29 endowment receives in that fiscal year from the sale of the
30 state's right, title, and interest in and to the tobacco
31 settlement agreement.

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

13 (4) ADMINISTRATION.--

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

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

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

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

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

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

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

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

26 2. Appropriations by the Legislature to the Department
27 of Children and Family Services or the Department of Elderly
28 Affairs for health and human services programs shall be from a
29 category called the Lawton Chiles Endowment Fund Programs and
30 shall be deposited into each department's respective Tobacco
31 Settlement Trust Fund as appropriated.

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

12 (c) Subject to legislative appropriations, state
13 agencies shall use distributions from the endowment to enhance
14 or support increases in clients served or to meet increases in
15 program costs in health and human services program areas.
16 Funds distributed from the endowment may not be used to
17 supplant existing revenues.

18 (d) Notwithstanding s. 216.301 and pursuant to s.
19 216.351, all unencumbered balances of appropriations as of
20 June 30 or undisbursed balances as of December 31 shall revert
21 to the endowment's principal. Unencumbered or undisbursed
22 balances appropriated for biomedical research shall revert to
23 the principal in the separately reserved and accounted-for
24 portion of the endowment established for biomedical research
25 activities.

26 (e) When advised by the Revenue Estimating Conference
27 that a deficit will occur with respect to the appropriations
28 from the tobacco settlement trust funds of the state agencies
29 in any fiscal year, the Governor shall develop a plan of
30 action to eliminate the deficit. Before implementing the plan
31 of action, the Governor must comply with s. 216.177(2). In

1 developing the plan of action, the Governor shall, to the
2 extent possible, preserve legislative policy and intent, and,
3 absent any specific directions to the contrary in the General
4 Appropriations Act, any reductions in appropriations from the
5 tobacco settlement trust funds of the state agencies for a
6 fiscal year shall be prorated among the purposes for which
7 funds were appropriated from the Tobacco Settlement Trust Fund
8 for that year.

9 (6) ADVISORY COUNCIL.--The Lawton Chiles Endowment
10 Fund Advisory Council is established for the purpose of
11 reviewing the funding priorities of the state agencies,
12 evaluating their requests against the mission and goals of the
13 agencies and legislative intent for the use of endowment
14 funds, and allowing for public input and advocacy.

15 (a) The advisory council shall consist of 13 members,
16 including:

17 1. The Director of the United Way of Florida, Inc., or
18 a designee;

19 2. The Director of the Foster Parents Association, or
20 a designee;

21 3. The Director of the Florida branch of the American
22 Association of Retired Persons, Inc., or a designee;

23 4. The Director of the Florida Council on Aging, or a
24 designee;

25 5. The State Long-Term Care Ombudsman, or a designee;

26 6. The Director of the Florida Pediatric Association,
27 or a designee;

28 7. A representative of the Guardian Ad Litem Program
29 appointed by the Governor;

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

1 9. A representative of an elder care lead agency for
2 community-based care appointed by the Governor;

3 10. A representative of a statewide child advocacy
4 organization appointed by the Governor;

5 11. One consumer caregiver for children appointed by
6 the Governor;

7 12. One person over the age of 60 years to represent
8 the interests of elders appointed by the Governor;

9 13. One consumer caregiver for a functionally impaired
10 elderly person appointed by the Governor.

11 (b) Before November 1 of each year, the advisory
12 council shall advise the Governor and the Legislature as to
13 its recommendations with respect to the priorities submitted
14 by the secretaries of the state agencies with respect to
15 endowment funding for health and human services programs for
16 children and elders. The responsibilities of the advisory
17 council include:

18 1. Evaluating the value of programs and services
19 submitted by the agencies as they relate to the overall
20 enhancement of services to children and elders;

21 2. Developing criteria and guiding principles for
22 ranking the priorities submitted by the state agencies;

23 3. Providing recommendations with respect to funding
24 levels for the programs ranked by the advisory council;

25 4. Participating in periodic evaluation of programs
26 funded by the endowment to determine the need for continued
27 funding; and

28 5. Soliciting input from child and elder advocacy
29 organizations, community stakeholders, providers, and the
30 public with respect to statewide child and elder needs and the
31 effectiveness of program service delivery systems.

1 (c) Members of the advisory council shall serve
2 without compensation, but may receive reimbursement as
3 provided in s. 112.061 for per diem and travel expenses
4 incurred in the performance of their official duties. The
5 Department of Children and Family Services shall provide staff
6 and other administrative assistance reasonably necessary to
7 assist the advisory council in carrying out its
8 responsibilities. Administrative costs of the council shall be
9 charged equally to endowment funds deposited in the Department
10 of Children and Family Services and the Department of Elderly
11 Affairs Tobacco Settlement Trust Funds.

12 Section 4. Section 215.5602, Florida Statutes, is
13 amended to read:

14 215.5602 Florida Biomedical Research Program.--

15 (1) There is established within the Department of
16 Health the Florida Biomedical Research Program funded by the
17 proceeds of the Lawton Chiles Endowment Fund pursuant to s.
18 215.5601 ~~s. 215.5601(4)~~. The purpose of the Florida Biomedical
19 Research Program is to provide an annual and perpetual source
20 of funding in order to support research initiatives that
21 address the health care problems of Floridians in the areas of
22 tobacco-related cancer, cardiovascular disease, stroke, and
23 pulmonary disease. The long-term goals of the program are to:

24 (a) Improve the health of Floridians by researching
25 better prevention, diagnoses, and treatments for cancer,
26 cardiovascular disease, stroke, and pulmonary disease.

27 (b) Expand the foundation of biomedical knowledge
28 relating to the prevention, diagnosis, and treatment of
29 diseases related to tobacco use, including cancer,
30 cardiovascular disease, stroke, and pulmonary disease.

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

4 (d) Increase the state's per capita funding for
5 ~~biomedical~~ research by undertaking new initiatives in public
6 health and biomedical research that will attract additional
7 funding from outside the state.

8 (e) Stimulate economic activity in the state in areas
9 related to biomedical research, such as the research and
10 production of pharmaceuticals, biotechnology, and medical
11 devices.

12 (2) Funds appropriated for the Florida Biomedical
13 Research Program shall be used exclusively for the award of
14 grants and fellowships as established in this section; for
15 research relating to the prevention, diagnosis, and treatment
16 of diseases related to tobacco use, including cancer,
17 cardiovascular disease, stroke, and pulmonary disease; and for
18 expenses incurred in the administration of this section.

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

21 (a) The council shall consist of nine members,
22 including: the chief executive officer of the Florida Division
23 of the American Cancer Society, or a designee; the chief
24 executive officer of the Florida/Puerto Rico Affiliate of the
25 American Heart Association, or a designee; and the chief
26 executive officer of the American Lung Association of Florida,
27 or a designee. The Governor shall appoint the remaining six
28 members of the council, as follows:

29 1. Two members with expertise in the field of
30 biomedical research.

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1 2. One member with expertise in the field of
2 behavioral or social research.

3 3. One member from a professional medical
4 organization.

5 4. One member from a research university in the state.

6 5. One member representing the general population of
7 the state.

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9 In making his or her appointments, the Governor shall select
10 primarily, but not exclusively, Floridians with biomedical and
11 lay expertise in the general areas of cancer, cardiovascular
12 disease, stroke, and pulmonary disease. The Governor's
13 appointments shall be for a 3-year term and shall reflect the
14 diversity of the state's population. A council member
15 appointed by the Governor may not serve more than two
16 consecutive terms.

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

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

22 (d) Members of the council shall serve without
23 compensation, but may receive reimbursement as provided in s.
24 112.061 for travel and other necessary expenses incurred in
25 the performance of their official duties.

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

30 (a) Providing advice on program priorities and
31 emphases.

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

2 (c) Participating in periodic program evaluation.

3 (d) Assisting in the development of guidelines to
4 ensure fairness, neutrality, and adherence to the principles
5 of merit and quality in the conduct of the program.

6 (e) Assisting in the development of appropriate
7 linkages to nonacademic entities, such as voluntary
8 organizations, health care delivery institutions, industry,
9 government agencies, and public officials.

10 (f) Developing criteria and standards for the award of
11 research grants.

12 (g) Developing administrative procedures relating to
13 solicitation, review, and award of research grants and
14 fellowships, to ensure an impartial, high-quality peer review
15 system.

16 (h) Developing and supervising research peer review
17 panels.

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

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

22 (5)(a) Applications for biomedical research funding
23 under the program may be submitted from any university or
24 established research institute in the state. All qualified
25 investigators in the state, regardless of institution
26 affiliation, shall have equal access and opportunity to
27 compete for the research funding.

28 (b) Grants and fellowships shall be awarded by the
29 Secretary of Health, after consultation with the council, on
30 the basis of scientific merit, as determined by an open
31 competitive peer review process that ensures objectivity,

1 consistency, and high quality. The following types of
2 applications shall be considered for funding:

- 3 1. Investigator-initiated research grants.
- 4 2. Institutional research grants.
- 5 3. Predoctoral and postdoctoral research fellowships.

6 (6) To ensure that all proposals for research funding
7 are appropriate and are evaluated fairly on the basis of
8 scientific merit, the Secretary of Health, in consultation
9 with the council, shall appoint a peer review panel of
10 independent, scientifically qualified individuals to review
11 the scientific content of each proposal and establish its
12 scientific priority score. The priority scores shall be
13 forwarded to the council and must be considered in determining
14 which proposals shall be recommended for funding.

15 (7) The council and the peer review panel shall
16 establish and follow rigorous guidelines for ethical conduct
17 and adhere to a strict policy with regard to conflict of
18 interest. A ~~No~~ member of the council or panel may not ~~shall~~
19 participate in any discussion or decision with respect to a
20 research proposal by any firm, entity, or agency with which
21 the member is associated as a member of the governing body or
22 as an employee, or with which the member has entered into a
23 contractual arrangement. Meetings of the council and the peer
24 review panels shall be subject to the provisions of chapter
25 119, s. 286.011, and s. 24, Art. I of the State Constitution.

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

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

4 (10) The council shall submit an annual progress
5 report on the state of biomedical research in this state to
6 the Governor, the Secretary of Health, the President of the
7 Senate, and the Speaker of the House of Representatives by
8 February 1. The report must include:

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

11 (b) A list of recipients of program grants or
12 fellowships.

13 (c) A list of publications in peer reviewed journals
14 involving research supported by grants or fellowships awarded
15 under the program.

16 (d) The total amount of public-health and biomedical
17 research funding currently flowing into the state.

18 (e) New grants for public-health and biomedical
19 research which were funded based on research supported by
20 grants or fellowships awarded under the program.

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

24 Section 5. There is appropriated \$25,000 each to the
25 Department of Children and Family Services and the Department
26 of Elderly Affairs from Lawton Chiles endowment funds
27 deposited into each department's Tobacco Settlement Trust Fund
28 to pay for administrative costs associated with the Lawton
29 Chiles Endowment Fund Advisory Council established in section
30 215.5601, Florida Statutes.

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

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SENATE SUMMARY

Revises procedures for the administration of the Lawton Chiles Endowment Fund and revises the availability and use of funds from the endowment fund. Provides for the support of public health and biomedical research.