

By the Committee on Children and Families; and Senator King

300-1664-01

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.

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

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.--

31

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, the Department of Health, or
28 the Department of Elderly Affairs for health and human
29 services programs shall be from a category called the Lawton
30 Chiles Endowment Fund Programs and shall be deposited into
31

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

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 purposes for which
15 funds were appropriated from the Tobacco Settlement Trust Fund
16 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 16 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;

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1 4. The President of the Florida Association of Area
2 Agencies on Aging, or his or her designee;

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

5 6. State Director of Florida AARP, or his or her
6 designee;

7 7. Chair of Elder Law Section of The Florida Bar, or
8 his or her designee;

9 8. The Director of the Florida Pediatric Society, or
10 his or her designee;

11 9. A representative of the Guardian Ad Litem Program,
12 appointed by the Governor;

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

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

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

19 13. One consumer caregiver for children, appointed by
20 the Governor;

21 14. One person over the age of 60 years to represent
22 the interests of elders, appointed by the Governor;

23 15. One person under the age of 18 years to represent
24 the interests of children, appointed by the Governor; and

25 16. One consumer caregiver for a functionally impaired
26 elderly person, appointed by the Governor.

27 (b) Before November 1 of each year, the advisory
28 council shall advise the Governor and the Legislature as to
29 its recommendations with respect to the priorities submitted
30 by the secretaries of the state agencies with respect to
31 endowment funding for health and human services programs for

1 children and elders. The responsibilities of the advisory
2 council include:

3 1. Evaluating the value of programs and services
4 submitted by the agencies as they relate to the overall
5 enhancement of services to children and elders;

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

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

10 4. Participating in periodic evaluation of programs
11 funded by the endowment to determine the need for continued
12 funding; and

13 5. Soliciting input from child and elder advocacy
14 organizations, community stakeholders, providers, and the
15 public with respect to statewide child and elder needs and the
16 effectiveness of program service delivery systems.

17 (c) Members of the advisory council shall serve
18 without compensation, but may receive reimbursement as
19 provided in s. 112.061 for per diem and travel expenses
20 incurred in the performance of their official duties. The
21 Department of Children and Family Services shall provide staff
22 and other administrative assistance reasonably necessary to
23 assist the advisory council in carrying out its
24 responsibilities. Administrative costs of the council shall be
25 charged equally to endowment funds deposited in the Department
26 of Children and Family Services and the Department of Elderly
27 Affairs Tobacco Settlement Trust Funds.

28 Section 4. Section 215.5602, Florida Statutes, is
29 amended to read:

30 215.5602 Florida Biomedical Research Program.--

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

10 (a) Improve the health of Floridians by researching
11 better prevention, diagnoses, and treatments for cancer,
12 cardiovascular disease, stroke, and pulmonary disease.

13 (b) Expand the foundation of biomedical knowledge
14 relating to the prevention, diagnosis, and treatment of
15 diseases related to tobacco use, including cancer,
16 cardiovascular disease, stroke, and pulmonary disease.

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

20 (d) Increase the state's per capita funding for
21 ~~biomedical~~ research by undertaking new initiatives in public
22 health and biomedical research that will attract additional
23 funding from outside the state.

24 (e) Stimulate economic activity in the state in areas
25 related to biomedical research, such as the research and
26 production of pharmaceuticals, biotechnology, and medical
27 devices.

28 (2) Funds appropriated for the Florida Biomedical
29 Research Program shall be used exclusively for the award of
30 grants and fellowships as established in this section; for
31 research relating to the prevention, diagnosis, and treatment

1 of diseases related to tobacco use, including cancer,
2 cardiovascular disease, stroke, and pulmonary disease; and for
3 expenses incurred in the administration of this section.

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

6 (a) The council shall consist of nine members,
7 including: the chief executive officer of the Florida Division
8 of the American Cancer Society, or a designee; the chief
9 executive officer of the Florida/Puerto Rico Affiliate of the
10 American Heart Association, or a designee; and the chief
11 executive officer of the American Lung Association of Florida,
12 or a designee. The Governor shall appoint the remaining six
13 members of the council, as follows:

14 1. Two members with expertise in the field of
15 biomedical research.

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

18 3. One member from a professional medical
19 organization.

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

21 5. One member representing the general population of
22 the state.

23

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

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

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

6 (d) Members of the council shall serve without
7 compensation, but may receive reimbursement as provided in s.
8 112.061 for travel and other necessary expenses incurred in
9 the performance of their official duties.

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

14 (a) Providing advice on program priorities and
15 emphases.

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

17 (c) Participating in periodic program evaluation.

18 (d) Assisting in the development of guidelines to
19 ensure fairness, neutrality, and adherence to the principles
20 of merit and quality in the conduct of the program.

21 (e) Assisting in the development of appropriate
22 linkages to nonacademic entities, such as voluntary
23 organizations, health care delivery institutions, industry,
24 government agencies, and public officials.

25 (f) Developing criteria and standards for the award of
26 research grants.

27 (g) Developing administrative procedures relating to
28 solicitation, review, and award of research grants and
29 fellowships, to ensure an impartial, high-quality peer review
30 system.

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1 (h) Developing and supervising research peer review
2 panels.

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

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

7 (5)(a) Applications for biomedical research funding
8 under the program may be submitted from any university or
9 established research institute in the state. All qualified
10 investigators in the state, regardless of institution
11 affiliation, shall have equal access and opportunity to
12 compete for the research funding.

13 (b) Grants and fellowships shall be awarded by the
14 Secretary of Health, after consultation with the council, on
15 the basis of scientific merit, as determined by an open
16 competitive peer review process that ensures objectivity,
17 consistency, and high quality. The following types of
18 applications shall be considered for funding:

- 19 1. Investigator-initiated research grants.
- 20 2. Institutional research grants.
- 21 3. Predoctoral and postdoctoral research fellowships.

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

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1 (7) The council and the peer review panel shall
2 establish and follow rigorous guidelines for ethical conduct
3 and adhere to a strict policy with regard to conflict of
4 interest. A ~~No~~ member of the council or panel may not ~~shall~~
5 participate in any discussion or decision with respect to a
6 research proposal by any firm, entity, or agency with which
7 the member is associated as a member of the governing body or
8 as an employee, or with which the member has entered into a
9 contractual arrangement. Meetings of the council and the peer
10 review panels shall be subject to the provisions of chapter
11 119, s. 286.011, and s. 24, Art. I of the State Constitution.

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

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

19 (10) The council shall submit an annual progress
20 report on the state of biomedical research in this state to
21 the Governor, the Secretary of Health, the President of the
22 Senate, and the Speaker of the House of Representatives by
23 February 1. The report must include:

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

26 (b) A list of recipients of program grants or
27 fellowships.

28 (c) A list of publications in peer reviewed journals
29 involving research supported by grants or fellowships awarded
30 under the program.

31

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

3 (e) New grants for biomedical research which were
4 funded based on research supported by grants or fellowships
5 awarded under the program.

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

9 Section 5. There is appropriated \$25,000 each to the
10 Department of Children and Family Services and the Department
11 of Elderly Affairs from Lawton Chiles endowment funds
12 deposited into each department's Tobacco Settlement Trust Fund
13 to pay for administrative costs associated with the Lawton
14 Chiles Endowment Fund Advisory Council established in section
15 215.5601, Florida Statutes.

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

17
18 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
19 COMMITTEE SUBSTITUTE FOR
20 Senate Bill 1286

21 Adds the Department of Health as one of the state agencies
22 that may be appropriated funds from the Lawton Chiles
23 Endowment by the Legislature for health and human services
24 programs.

25 Adds three members to the Lawton Chiles Endowment Fund
26 Advisory Council:

- 27 - Chair of the Department of Elderly Affairs
28 Advisory Council, or a designee;
- 29 - Chair of Elder Law Section of the Florida Bar, or
30 a designee; and
- 31 - One person under the age of 18 years to represent
the interests of children, appointed by the
Governor.

30 Removes the Director of the Florida Council on Aging from the
31 Lawton Chiles Endowment Fund Advisory Council.