

Bill No. CS for CS for SB 2214

Amendment No.      Barcode 742202

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

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

14 Delete everything after the enacting clause

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16 and insert:

17 Section 1. Section 215.5601, Florida Statutes, is  
18 amended to read:

19 215.5601 Lawton Chiles Endowment Fund.--

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

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

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

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

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

31 (d) "Outdoor advertising" means billboards, as well as

Bill No. CS for CS for SB 2214

Amendment No. \_\_\_\_ Barcode 742202

1 all signs and placards in arenas and stadia, whether open-air  
2 or enclosed. It does not include:

3 1. Any advertisement placed on or outside the premises  
4 of retail establishments licensed to sell tobacco products or  
5 any retail point-of-sale; or

6 2. Any advertisement or billboard in connection with  
7 the sponsorship by a tobacco product manufacturer or importer  
8 of any entertainment, sporting, or similar event, such as the  
9 National Association for Stock Car Auto Racing (NASCAR) which  
10 appears in the State of Florida as part of a national or  
11 multi-state tour.

12 (e) "Participating manufacturer" means any  
13 manufacturer of tobacco products which meets the requirements  
14 of subsection (4)(a).

15 (f)(d) "State agency" or "state agencies" means the  
16 Department of Health, the Department of Children and Family  
17 Services, the Department of Elderly Affairs, or the Agency for  
18 Health Care Administration, or any combination thereof, as the  
19 context indicates.

20 (g) "Subscribing participating manufacturer" means any  
21 manufacturer of tobacco products which meets the requirements  
22 of subsection (4)(c).

23 (h) "Transit advertisements" means advertising on  
24 private or public vehicles and all advertisements placed at,  
25 on, or within any bus stop, taxi stand, waiting area, train  
26 station, airport, or similar location.

27 (3) LEGISLATIVE INTENT.--It is the intent of the  
28 Legislature to:

29 (a) Provide a perpetual source of funding for the  
30 future of state children's health programs, child welfare  
31 programs, children's community-based health and human services

Bill No. CS for CS for SB 2214

Amendment No. \_\_\_\_ Barcode 742202

1 initiatives, elder programs, and biomedical research  
2 activities.

3 (b) Ensure that enhancement revenues will be available  
4 to finance these important programs and initiatives.

5 (c) Use funds received from the Tobacco Settlement  
6 Clearing Trust Fund moneys to ensure the financial security of  
7 vital health and human services programs for children and  
8 elders.

9 (d) Encourage the development of community-based  
10 solutions to strengthen and improve the quality of life of  
11 Florida's most vulnerable citizens, its children and elders.

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

14 (f) Provide tobacco manufacturers the opportunity to  
15 voluntarily participate in mitigating the impact of the use of  
16 tobacco on the residents of this state.

17 (4) PARTICIPATING MANUFACTURERS; QUALIFICATIONS.--

18 (a) A tobacco manufacturer may become a participating  
19 manufacturer for purposes of this section if: (i) the  
20 manufacturer is a signatory to the August 25, 1997 and  
21 December 7, 1998 settlement agreements in The State of  
22 Florida, et al. v. American Tobacco Company, et al. Fifteenth  
23 Judicial Circuit Case No. 95-1466, who is in compliance with  
24 all economic and non-economic requirements in those agreements  
25 on the date of enactment of this act; and (ii) the  
26 manufacturer annually posts a performance bond payable to the  
27 Department of Business and Professional Regulation based upon  
28 the greater of the manufacturer's actual prior year's sales  
29 volume in Florida, or estimated annual Florida sales volume,  
30 in an amount sufficient to secure payment of all of the annual  
31 tobacco equity surcharge as prescribed at ss.210.0220,

Bill No. CS for CS for SB 2214

Amendment No. \_\_\_\_ Barcode 742202

1 210.0221, and 210.0222. The bond shall be in such a form as  
2 may be approved by the Department, executed by a surety  
3 company licensed to do business under the laws of this state  
4 as surety thereon, and conditioned upon the prompt filing of  
5 true reports, the timely payment to the State of Florida of  
6 the manufacturer's monetary agreement obligations, and  
7 generally upon faithful compliance with the provisions of the  
8 agreement and the laws of this state concerning sale and  
9 distribution of cigarettes. The manufacturer shall be the  
10 principal obligor, and the state shall be the obligee.

11 (b) Any such manufacturer whose obligations under such  
12 settlement agreements are abated, excused, nullified, or  
13 stayed, in total or in part, due to judicial action after the  
14 enactment of this act is not a "participating manufacturer"  
15 for purposes of this section.

16 (c) A tobacco manufacturer or importer may become a  
17 "subscribing participating manufacturer" for purposes of this  
18 section, by entering into an agreement with the State of  
19 Florida Department of Business and Professional Regulation and  
20 the Office of the Attorney General, which agreement provides  
21 for all of the following:

22 1. Elimination of the subscribing participating  
23 manufacturer's outdoor advertising and transit advertisements  
24 at the earlier of the expiration of applicable contracts or 4  
25 months after the date the final list of the subscribing  
26 participating manufacturer's outdoor advertising signs is  
27 supplied to the Attorney General. The manufacturer or importer  
28 shall provide a final list of all its outdoor advertising  
29 signs and transit advertisements to the Attorney General  
30 within 45 days after entering the agreement;

31 2. Support of legislative initiatives to enact new

Bill No. CS for CS for SB 2214

Amendment No. \_\_\_\_ Barcode 742202

1 laws and administrative initiatives to promulgate new rules  
2 intended to effectuate the following:

3 a. Prohibition of the sale of cigarettes in vending  
4 machines, except in adult-only locations and facilities;

5 b. Strengthening of civil penalties for sales of  
6 tobacco products to children under the age of 18, including  
7 the suspension or revocation of retail licenses; and

8 c. Strengthening of civil penalties for possession of  
9 tobacco products by children under the age of 18;

10 3. Prohibition on making or causing to be made, in  
11 connection with any motion picture made in the United States,  
12 any payment, direct or indirect, to any person to use,  
13 display, make reference to or use as a prop any cigarette,  
14 cigarette package, advertisement for cigarettes, or any other  
15 item bearing the brand name, logo, symbol, motto, selling  
16 message, recognizable color or pattern of colors, or any other  
17 indicia of product identification identical or similar to, or  
18 identifiable with, those used for any brand of domestic  
19 tobacco products;

20 4. Prohibition and permanent cessation on marketing,  
21 licensing, distributing, selling or offering, directly or  
22 indirectly, including by catalogue or direct mail, in the  
23 State of Florida, any item (other than tobacco products or any  
24 item of which the sole function is to advertise tobacco  
25 products) which bears the brand name (alone or in conjunction  
26 with any other word), logo, symbol, motto, selling message,  
27 recognizable color or pattern of colors, or any other indicia  
28 of product identification identical or similar to, or  
29 identifiable with, those used for any brand of domestic  
30 tobacco products;

31 5. Payment to the State of Florida, Department of

Bill No. CS for CS for SB 2214

Amendment No. \_\_\_\_ Barcode 742202

1 Business and Professional Regulation by the earlier of  
2 December 31, or the last business day of each calendar year,  
3 of a public health tobacco equity contribution for mitigation  
4 of Florida's taxpayer-borne health and other costs and  
5 expenses related to tobacco use;

6 6. The manufacturer annually posts a performance bond  
7 payable to the Department of Business and Professional  
8 Regulation based upon the greater of the manufacturer's  
9 actual prior year's sales volume in Florida, or estimated  
10 annual Florida sales volume, in an amount sufficient to secure  
11 payment of all of the annual tobacco equity contribution as  
12 required herein. The bond shall be in such a form as may be  
13 approved by the department, executed by a surety company  
14 licensed to do business under the laws of this state as surety  
15 thereon, and conditioned upon the prompt filing of true  
16 reports, the payment to the department of the tobacco equity  
17 contribution and tobacco equity surcharge, and generally upon  
18 faithful compliance with the provisions of the agreement and  
19 the laws of this state concerning sale and distribution of  
20 cigarettes. The manufacturer shall be the principal obligor,  
21 and the state shall be the obligee.

22 (c) The public health tobacco equity contribution  
23 received by the Department of Business and Professional  
24 Regulation from subscribing participating manufacturers shall  
25 be deposited into the Department of Banking and Finance  
26 Tobacco Settlement Clearing Trust Fund.

27 (5) Beginning July 1, 2001, \$10 million of the funds  
28 collected from subscribing participating manufacturers and the  
29 public health tobacco equity surcharge imposed by s. 210.0221  
30 shall be transferred from the Tobacco Settlement Clearing  
31 Trust Fund to the Florida Comprehensive Health Association

Bill No. CS for CS for SB 2214

Amendment No. \_\_\_\_ Barcode 742202

1 created in s. 627.6488, for coverage of new participants.  
2 Effective April 1, 2002, the association may provide coverage  
3 for up to 500 persons for the period ending December 31, 2002.  
4 On or after January 1, 2003, the association may enroll an  
5 additional 1,500 persons. At no time may the association  
6 provide coverage for more than 2000 persons.

7 (6)(4) LAWTON CHILES ENDOWMENT FUND; CREATION;  
8 PURPOSES AND USES.--

9 (a) There is created the Lawton Chiles Endowment Fund,  
10 to be administered by the State Board of Administration. The  
11 endowment shall serve as a clearing trust fund not subject to  
12 termination pursuant to s. 19(f), Art. III of the State  
13 Constitution and shall be funded by ~~settlement~~ moneys received  
14 from the Tobacco Settlement Clearing Trust Fund ~~industry~~ and  
15 by moneys received from the sale of the state's right, title,  
16 and interest in and to the tobacco settlement agreement,  
17 including the right to receive payments under such agreement.  
18 The endowment fund shall be exempt from the service charges  
19 imposed by s. 215.20.

20 (b) Funds from the endowment that are available for  
21 legislative appropriation pursuant to subsection(8)(6) shall  
22 be transferred by the board to the Tobacco Settlement Clearing  
23 Trust Fund, created in s. 17.41, in the amounts provided for  
24 in this paragraph.

25 1. For fiscal year 2000-2001, funds shall be  
26 distributed based on legislative appropriations.

27 2. For fiscal year 2001-2002 and beyond, funds shall  
28 be distributed annually as follows:

29 a. Fifty percent shall be deposited into a separate  
30 account in the Department of Children and Family Services  
31 Tobacco Settlement Trust Fund to be appropriated pursuant to

Bill No. CS for CS for SB 2214

Amendment No. \_\_\_\_ Barcode 742202

1 paragraph~~(10)(a)(8)(a)~~;

2           b. Thirty-three and one-half percent shall be  
3 deposited into the Biomedical Research Trust Fund in the  
4 Department of Health to be appropriated pursuant to paragraph  
5 ~~(10)(b)(8)(b)~~, if such a trust fund is created by law;  
6 otherwise, the funds shall be deposited into the Department of  
7 Health Tobacco Settlement Trust Fund; and

8           c. The remaining funds shall be deposited into a  
9 separate account in the Department of Elderly Affairs Tobacco  
10 Settlement Trust Fund to be appropriated pursuant to paragraph  
11 ~~(10)(a)(8)(a)~~.

12           (c) Subject to legislative appropriations, state  
13 agencies shall use distributions from the endowment fund to  
14 enhance services for children and elders or to support  
15 biomedical research initiatives pursuant to s. 215.5602.

16           (d) No later than October 1 of each year, the  
17 Secretary of Health, the Secretary of Children and Family  
18 Services, and the Secretary of Health Care Administration  
19 shall develop a list of the top five funding priorities for  
20 children's services eligible for funding from the endowment  
21 funds, and the Secretary of Health, the Secretary of Elderly  
22 Affairs, and the ~~Secretary~~ Director of Health Care  
23 Administration shall develop a list of the top five funding  
24 priorities for elder services eligible for funding from the  
25 endowment funds. No later than November 15 of each year, the  
26 list for children's services must be submitted to the advisory  
27 council for children's services created in paragraph~~(11)(a)~~  
28 ~~(9)(a)~~, and the list for elder services must be submitted to  
29 the advisory council for elder services created in paragraph  
30 ~~(11)(b)(9)(b)~~. The purposes of using the advisory councils  
31 are to evaluate the funding priorities of the agencies, to



Bill No. CS for CS for SB 2214

Amendment No. \_\_\_\_ Barcode 742202

1 evaluate the request against the mission and goals of the  
2 agencies, to allow for public input and advocacy, and to gain  
3 consensus for priority requests and recommended endowment  
4 funding levels for those priority requests.

5 (e) Funds distributed from the endowment fund may not  
6 be used to supplant existing revenues.

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

21 ~~(7)(5)~~ ADMINISTRATION OF THE ENDOWMENT.--

22 (a) The board is authorized to invest and reinvest  
23 funds of the endowment in those securities listed in s.  
24 215.47, in accordance with the fiduciary standards set forth  
25 in s. 215.47(9) and consistent with an investment plan  
26 developed by the executive director and approved by the board.  
27 Costs and fees of the board for investment services shall be  
28 deducted from the earnings accruing to the endowment.

29 (b) The endowment shall be managed as an annuity. The  
30 investment objective shall be long-term preservation of the  
31 real value of the principal and a specified regular annual

Bill No. CS for CS for SB 2214

Amendment No. \_\_\_\_ Barcode 742202

1 cash outflow for appropriation, as nonrecurring revenue. The  
2 schedule of annual cash outflow shall be included within the  
3 investment plan adopted pursuant to paragraph (a).

4 (c) The board shall establish a separate account for  
5 the funds of the endowment. The board shall design and operate  
6 an investment portfolio that maximizes the financial return to  
7 the endowment, consistent with the risks inherent in each  
8 investment, and that is designed to preserve an appropriate  
9 diversification of the portfolio.

10 (d) No later than August 15 and February 15 of each  
11 year, the board shall report on the financial status of the  
12 endowment to the Governor, the Speaker of the House of  
13 Representatives, the President of the Senate, the chairs of  
14 the respective appropriations and appropriate substantive  
15 committees of each chamber, and the Revenue Estimating  
16 Conference.

17 (e) Accountability for funds from the endowment which  
18 have been appropriated to a state agency shall reside with the  
19 state agency. The board is not responsible for the proper  
20 expenditure or accountability of funds from the endowment  
21 after transfer to the Tobacco Settlement Clearing Trust Fund.

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

25 (8)~~(6)~~ AVAILABILITY OF FUNDS.--

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

31 1. Beginning July 1, 2000, no more than a level of

Bill No. CS for CS for SB 2214

Amendment No. \_\_\_\_ Barcode 742202

1 spending representing earnings at a rate of 3 percent.

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

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

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

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

13 (9)(7) ENDOWMENT PRINCIPAL.--The endowment shall  
14 receive moneys from the sale of the state's right, title, and  
15 interest in and to the tobacco settlement agreement and from  
16 amounts transferred from the Department of Banking and Finance  
17 Tobacco Settlement Clearing Trust Fund. Amounts to be  
18 transferred from the clearing trust fund shall be in the  
19 following amounts for the following fiscal years:

- 20 (a) For fiscal year 1999-2000, \$1.1 billion;  
21 (b) For fiscal year 2000-2001, \$200 million;  
22 (c) For fiscal year 2001-2002, \$200 million; ~~and~~  
23 (d) For fiscal year 2002-2003, \$200 million; ~~and~~;  
24 (e) For all subsequent fiscal years, \$30 million.

25  
26 Amounts to be transferred pursuant to paragraphs (b), (c), ~~and~~  
27 (d), and (e) shall be reduced by an amount equal to the lesser  
28 of the amount scheduled to be transferred in that fiscal year  
29 pursuant to such paragraphs ~~\$200 million~~ or the amount the  
30 endowment receives in that fiscal year pursuant to the sale of  
31 the state's right, title, and interest in and to the tobacco

Bill No. CS for CS for SB 2214

Amendment No. \_\_\_\_ Barcode 742202

1 settlement agreement.

2 (10)~~(8)~~ APPROPRIATIONS OF THE ENDOWMENT

3 EARNINGS.--Beginning with fiscal year 2001-2002:

4 (a) Appropriations by the Legislature to the  
5 Department of Children and Family Services or the Department  
6 of Elderly Affairs from the endowment earnings distributed to  
7 those departments shall be from a category called Lawton  
8 Chiles Endowment Fund Programs. The departments shall  
9 distribute such appropriations pursuant to any directions or  
10 limitations provided for in the General Appropriations Act and  
11 consistent with this section.

12 (b) Appropriations by the Legislature to the  
13 Department of Health from the endowment earnings distributed  
14 to the department shall be from a category called Florida  
15 Biomedical Research Program. The department shall spend such  
16 funds in accordance with s. 215.5602.

17 (11)~~(9)~~ LAWTON CHILES ENDOWMENT FUND ADVISORY

18 COUNCILS.--There are established the Lawton Chiles Endowment  
19 Fund Advisory Councils, the purpose of which is to evaluate  
20 and rank for legislative consideration recommendations  
21 submitted to the councils by the agencies for evaluation under  
22 paragraph~~(6)~~(d)~~(4)~~~~(d)~~.

23 (a) There is created within the Department of Children  
24 and Family Services the Lawton Chiles Endowment Fund Advisory  
25 Council for Children.

26 1. The council shall consist of 13 members, including  
27 the director of the United Way of Florida, Inc., or a  
28 designee, the director of the Florida Federation of Community  
29 Foundations or a designee, the director of the Florida Foster  
30 Parents Association or a designee, and the director of the  
31 Florida Pediatric Association or a designee. The Governor

Bill No. CS for CS for SB 2214

Amendment No. \_\_\_\_ Barcode 742202

- 1 shall appoint the remaining council members, including:
- 2 a. An academic expert in child health policy.
- 3 b. A representative of a children's services council.
- 4 c. A representative of the Guardian Ad Litem Program.
- 5 d. A representative of a child welfare lead agency for
- 6 community-based care.
- 7 e. A representative of a statewide child advocacy
- 8 organization.
- 9 f. A youth representing a statewide youth
- 10 organization.
- 11 g. A professional who has expertise in the area of
- 12 child development.
- 13 h. Two consumer caregivers of children.
- 14 2. The council shall adopt internal organizational
- 15 procedures, including procedures for the appointment of a
- 16 chair, as necessary for its efficient organization.
- 17 3. The department shall provide such staff,
- 18 information, and other assistance as is reasonably necessary
- 19 to assist the council in carrying out its responsibilities.
- 20 4. Members of the council shall serve without
- 21 compensation, but may receive reimbursement as provided in s.
- 22 112.061 for travel and other necessary expenses incurred in
- 23 the performance of their official duties.
- 24 5. Before February 1 of each year, the council shall
- 25 advise the Legislature as to its ranking of the children's
- 26 programs submitted by the agencies for evaluation under
- 27 paragraph(6)(d)(4)(d). The responsibilities of the council
- 28 may include, but are not limited to:
- 29 a. Developing criteria and guiding principles for the
- 30 ranking of programs to be recommended to the Legislature.
- 31 b. Evaluating the value of programs or services

Bill No. CS for CS for SB 2214

Amendment No. \_\_\_\_ Barcode 742202

1 submitted by the agencies as they relate to overall  
2 enhancement for children.

3 c. Providing recommendations on the funding levels to  
4 be allocated for the ranked programs.

5 d. Participating in periodic program evaluation to  
6 determine the need for continued funding.

7 e. Soliciting appropriate input from children's  
8 advocates and community stakeholders, such as voluntary  
9 organizations, community-based care lead agencies, health care  
10 delivery systems, business and industry, government agencies,  
11 and children's service providers.

12 (b) There is created within the Department of Elderly  
13 Affairs the Lawton Chiles Endowment Fund Advisory Council for  
14 Elders.

15 1. The council shall consist of 13 members, including  
16 the director of the United Way of Florida, Inc., or a  
17 designee, the director of the Florida Federation of Community  
18 Foundations or a designee, the director of the Florida branch  
19 of the American Association of Retired Persons or a designee,  
20 the director of the Florida Council on Aging or a designee,  
21 and the State Long-Term Care Ombudsman or a designee. The  
22 Governor shall appoint the remaining council members,  
23 including:

24 a. An academic expert in elder health policy.

25 b. A professional who has experience with the delivery  
26 of home care services.

27 c. A physician who is certified in geriatric medical  
28 care.

29 d. A professional who has experience with the delivery  
30 of services in adult congregate care facilities.

31 e. A professional who has experience with the delivery

Bill No. CS for CS for SB 2214

Amendment No. \_\_\_\_ Barcode 742202

1 of services in a nursing home.

2 f. Two persons who are over the age of 60 years to  
3 represent elders.

4 g. One consumer caregiver for an elderly person.

5 2. The council shall adopt internal organizational  
6 procedures, including the appointment of a chair, as necessary  
7 for its efficient organization.

8 3. The department shall provide such staff,  
9 information, and other assistance as is reasonably necessary  
10 to assist the council in carrying out its responsibilities.

11 4. Members of the council shall serve without  
12 compensation, but may receive reimbursement as provided in s.  
13 112.061 for travel and other necessary expenses incurred in  
14 the performance of their official duties.

15 5. Before February 1 of each year, the council shall  
16 advise the Legislature as to its ranking of the elder programs  
17 submitted by the agencies for evaluation under paragraph  
18 ~~(6)(d)(4)(d)~~. The responsibilities of the council may  
19 include, but are not limited to:

20 a. Developing criteria and guiding principles for the  
21 ranking of programs to be recommended to the Legislature.

22 b. Evaluating the value of programs or services  
23 submitted by the agencies as they relate to overall  
24 enhancement for elders.

25 c. Providing recommendations on the funding levels to  
26 be allocated for the ranked programs.

27 d. Participating in periodic program evaluation to  
28 determine the need for continued funding.

29 e. Soliciting appropriate input from elder advocates  
30 and community stakeholders, such as voluntary organizations,  
31 community-based care lead agencies, health care delivery

Bill No. CS for CS for SB 2214

Amendment No. \_\_\_\_ Barcode 742202

1 systems, business and industry, government agencies, and  
2 elder-service providers.

3 Section 2. Subsection (1) of section 210.15, Florida  
4 Statutes, is amended to read:

5 210.15 Permits.--

6 (1)(a) Every person, firm, or corporation desiring to  
7 deal in cigarettes as a distributing agent, wholesale dealer,  
8 or exporter within this state shall file an application for a  
9 cigarette permit for each place of business with the Division  
10 of Alcoholic Beverages and Tobacco. Every application for a  
11 cigarette permit shall be made on forms furnished by the  
12 division and shall set forth the name under which the  
13 applicant transacts or intends to transact business, the  
14 location of the applicant's place of business within the  
15 state, and such other information as the division may require.  
16 If the applicant has or intends to have more than one place of  
17 business dealing in cigarettes within this state, the  
18 application shall state the location of each place of  
19 business. If the applicant is an association, the application  
20 shall set forth the names and addresses of the persons  
21 constituting the association, and if a corporation, the names  
22 and addresses of the principal officers thereof and any other  
23 information prescribed by the division for the purpose of  
24 identification. The application shall be signed and verified  
25 by oath or affirmation by the owner, if a natural person, and  
26 in the case of an association or partnership, members or  
27 partners thereof, and in the case of a corporation, by an  
28 executive officer thereof or by any person specifically  
29 authorized by the corporation to sign the application, to  
30 which shall be attached the written evidence of this  
31 authority. The cigarette permit for a distributing agent shall



Bill No. CS for CS for SB 2214

Amendment No. \_\_\_\_ Barcode 742202

1 be issued annually for which an annual fee of \$5 shall be  
2 charged.

3 (b) The holder of any duly issued, annual permit for a  
4 distributing agent shall be entitled to a renewal of his or  
5 her annual permit from year to year as a matter of course, on  
6 or before July 1, upon making application to the division and  
7 upon payment of this annual permit fee.

8 (c) The permit for a distributing agent, wholesale  
9 dealer, or exporter shall be issued only to persons of good  
10 moral character, who are not less than 18 years of age.  
11 Distributing agent, wholesale dealer, or exporter permits to  
12 corporations shall be issued only to corporations whose  
13 officers are of good moral character and not less than 18  
14 years of age. There shall be no exemptions from the permit  
15 fees herein provided to any persons, association of persons or  
16 corporation, any law to the contrary notwithstanding. No  
17 distributing agent, wholesale dealer, or exporter permit shall  
18 be issued to any person who has been convicted within the past  
19 5 years of any offense against the cigarette laws of this  
20 state or who has been convicted in this state, any other  
21 state, or the United States during the past 5 years of any  
22 offense designated as a felony by such state or the United  
23 States, or to a corporation, any of whose officers have been  
24 so convicted. The term "conviction" shall include an  
25 adjudication of guilt on a plea of guilty or a plea of nolo  
26 contendere, or the forfeiture of a bond when charged with a  
27 crime.

28 (d) The division may refuse to issue a distributing  
29 agent, wholesale, or exporter permit to any person, firm, or  
30 corporation whose permit under the cigarette law has been  
31 revoked or to any corporation, an officer of which has had his

Bill No. CS for CS for SB 2214

Amendment No. \_\_\_\_ Barcode 742202

1 or her permit under the cigarette law revoked, or to any  
2 person who is or has been an officer of a corporation whose  
3 permit has been revoked under the cigarette law. Any permit  
4 issued to a firm or corporation prohibited from obtaining such  
5 permit under the cigarette law may be revoked by the division.

6 (e) Prior to an application for a distributing agent,  
7 wholesale dealer, or exporter permit being approved, the  
8 applicant shall file a set of fingerprints on forms provided  
9 by the division. The applicant shall also file a set of  
10 fingerprints for any person or persons interested directly or  
11 indirectly with the applicant in the business for which the  
12 permit is being sought, when so required by the division. If  
13 the applicant or any person interested with the applicant,  
14 either directly or indirectly, in the business for which the  
15 permit is sought shall be such a person as is within the  
16 definition of persons to whom a distributing agent, wholesale  
17 dealer, or exporter permit shall be denied, then the  
18 application may be denied by the division. If the applicant  
19 is a partnership, all members of the partnership are required  
20 to file said fingerprints, or if a corporation, all principal  
21 officers of the corporation are required to file said  
22 fingerprints. The cigarette permit for a wholesale dealer or  
23 exporter shall be originally issued at a fee of \$100, which  
24 sum is to cover the cost of the investigation required before  
25 issuing such permit.

26 (f) The cigarette permit for a wholesale dealer or  
27 exporter shall be renewed from year to year as a matter of  
28 course, at an annual cost of \$100, on or before July 1, upon  
29 making application to the division and upon payment of the  
30 annual renewal fee and public health tobacco equity surcharge  
31 required in this chapter.

Bill No. CS for CS for SB 2214

Amendment No. \_\_\_\_ Barcode 742202

1           (g) No tobacco product manufacturer, importer,  
2 distributing agent, wholesale dealer, exporter or other  
3 person shall use the State of Florida as a conduit to avoid or  
4 evade taxes or other payments (including statutorily mandated  
5 escrow payments) due or owing to another state, under the law  
6 of that state. Each such manufacturer, importer, distributing  
7 agent, wholesale exporter or other person shall provide a  
8 sworn certification to the distributing agent, wholesale  
9 dealer, exporter, or other person of its compliance with the  
10 laws of the receiving state. A distributing agent, wholesale  
11 dealer, exporter or other person who is transporting or  
12 trans-shipping tobacco products through this state for sale  
13 and consumption in another state in violation of this  
14 subsection shall be subject to revocation of its permits,  
15 licenses and bonds in this state. Tobacco products in Florida  
16 that are in violation of this part are subject to seizure and  
17 destruction by the department.

18           (h)(g) Permittees, by acceptance of their permits,  
19 agree that their places of business or vehicles transporting  
20 cigarettes shall always be subject to be inspected and  
21 searched without a search warrant for the purpose of  
22 ascertaining that all provisions of this part are complied  
23 with by authorized employees of the division and also by  
24 sheriffs, deputy sheriffs, and police officers during business  
25 hours or during any other time such premises are occupied by  
26 the permittee or other persons. Retail cigarette dealers and  
27 manufacturers' representatives, by dealing in cigarettes,  
28 agree that their places of business or vehicles transporting  
29 cigarettes shall always be subject to inspection and search  
30 without a search warrant for the purpose of ascertaining that  
31 all provisions of this part are complied with by authorized

Bill No. CS for CS for SB 2214

Amendment No. \_\_\_\_ Barcode 742202

1 employees of the division and also by sheriffs, deputy  
2 sheriffs, and police officers during business hours or other  
3 times when the premises are occupied by the retail dealer or  
4 manufacturers' representatives or other persons.

5 (i)~~(h)~~ No retail sales of cigarettes may be made at a  
6 location for which a wholesale dealer, distributing agent, or  
7 exporter permit has been issued. The excise tax on sales made  
8 to any traveling location, such as an itinerant store or  
9 industrial caterer, shall be paid into the General Revenue  
10 Fund unallocated. Cigarettes may be purchased for retail  
11 purposes only from a person holding a wholesale dealer permit.  
12 The invoice for the purchase of cigarettes must show the place  
13 of business for which the purchase is made and the cigarettes  
14 cannot be transferred to any other place of business for the  
15 purpose of resale.

16 Section 3. Subsections (19), (20), and (21) are added  
17 to section 210.01, Florida Statutes, to read:

18 210.01 Definitions.--When used in this part the  
19 following words shall have the meaning herein indicated:

20 (19) "Surcharge" means the Public Health Tobacco  
21 Equity Surcharge as prescribed in ss. 210.0220, 210.0221, and  
22 210.0222.

23 (20) "Participating Manufacturer" has the meaning  
24 ascribed in s. 215.5601(2). However, any such manufacturer  
25 whose obligations under such agreements are abated, excused,  
26 nullified, or stayed, in total or in part, due to judicial  
27 action after the enactment of this act is not a "participating  
28 manufacturer" for purposes of this part.

29 (21) "Subscribing Participating Manufacturer" has the  
30 meaning ascribed in s. 215.5601(2).

31 Section 4. Section 210.0220, Florida Statutes, is

Bill No. CS for CS for SB 2214

Amendment No. \_\_\_\_ Barcode 742202

1 created to read:

2 210.0220 Public Health Tobacco Equity Surcharge;  
3 Legislative intent and general provisions.--

4 (1)(a) It is the legislative intent that the Public  
5 Health Tobacco Equity Surcharge imposed in this part shall be  
6 in addition to all other taxes imposed under this chapter and  
7 other provisions of law.

8 (b) It is the legislative intent that the Public  
9 Health Tobacco Equity Surcharge imposed in this part shall be  
10 added to the tax imposed by s.210.02; that the Public Health  
11 Tobacco Equity Surcharge imposed in this part shall not be a  
12 substitute for or replace the tax imposed by s.210.02; and  
13 that the Public Health Tobacco Equity Surcharge imposed in  
14 this part shall supplement the tax imposed by s.210.02.

15 (c) The application of any one tax under this part  
16 shall not preclude application of any or all of the other  
17 taxes or the Public Health Tobacco Equity Surcharge provided  
18 herein.

19 (2) The provisions of ss. 210.02, 210.04, 210.05,  
20 210.06, 210.021, 210.07, 210.08, 210.09, 210.10, 210.11,  
21 210.12, 210.13, 210.14, 210.15, 210.16, 210.1605, 210.161,  
22 210.18, 210.185, 210.19, and 210.20 shall, as far as lawful or  
23 practicable, be applicable to the levy and collection of the  
24 Public Health Tobacco Equity Surcharge imposed pursuant to  
25 this section as if fully set out in this section and made  
26 expressly applicable to the surcharge imposed herein.

27 Section 5. Section 210.0221, Florida Statutes, is  
28 created to read:

29 210.0221 Public Health Tobacco Equity Surcharge  
30 Imposed.--

31 (1) A surcharge, in addition to all other taxes of

Bill No. CS for CS for SB 2214Amendment No.      Barcode 742202

1 every kind imposed by law, is imposed upon the sale, receipt,  
2 purchase, possession, consumption, handling, distribution, and  
3 use of cigarettes in this state per package of cigarettes  
4 after October 1, 2001 in the amount of \$0.36 per package of  
5 cigarettes.

6 (2) Cigarettes packed in packages containing less than  
7 20 cigarettes require the same surcharge of \$0.36 per such  
8 package.

9 (3) The surcharge shall be added to the amount of the  
10 tax imposed by s. 210.02.

11 (4) This surcharge, like the tax imposed by s. 210.02,  
12 shall be paid by the wholesale dealer to the division for  
13 deposit and distribution as hereinafter provided upon the  
14 first sale or transaction within the state, whether or not  
15 such sale or transfer is to the ultimate purchaser or  
16 consumer.

17 (5) The wholesale dealer shall collect the surcharge  
18 from the retail dealer upon the sale of the cigarettes to the  
19 retail dealer. The retail dealer shall collect the surcharge  
20 from the purchaser or consumer, and the purchaser or consumer  
21 shall pay the surcharge to the seller.

22 (6) The wholesale dealer shall be responsible for the  
23 collection of the surcharge and the payment of the same to the  
24 division. The remittance of the surcharge is due not later  
25 than the 10th day of the month following the calendar month in  
26 which they were incurred, and thereafter shall bear interest  
27 at the rate of 1 percent per month. If the amount of  
28 surcharge due for a given period is paid without allocating it  
29 to any particular month, the interest shall begin with the  
30 date of the assessment.

31 (7) Whenever cigarettes are shipped from outside the

Bill No. CS for CS for SB 2214

Amendment No. \_\_\_\_ Barcode 742202

1 state to anyone in Florida other than a distributing agent or  
2 wholesale dealer, the person receiving the cigarettes shall be  
3 responsible for the surcharge on said cigarettes and the  
4 payment of same to the division.

5 Section 6. Section 210.0222, Florida Statutes, is  
6 created to read:

7 210.0222 Credit on the Payment of the Surcharge.--

8 (1)(a) A \$0.36 per package of cigarettes credit of  
9 this public health tobacco equity surcharge shall be extended  
10 for cigarettes sold in Florida after October 1, 2001 that have  
11 been produced or manufactured by each Participating  
12 Manufacturer, as defined in s. 215.5601(4)(a).

13 (b) The credit to each Participating Manufacturer  
14 shall be computed per package on an annual basis by the  
15 division. The total annual credit shall not exceed the amount  
16 annually owed by each Participating Manufacturer to the State  
17 of Florida under the qualifying settlement agreements  
18 enumerated in s. 215.5601(4)(a).

19 (2)(a) Cigarettes produced by each Subscribing  
20 Participating Manufacturer that fully comply with the  
21 agreement entered into with the Attorney General under s.  
22 215.5601(4)(c) shall receive a credit of this public health  
23 tobacco equity surcharge for each package of cigarettes sold  
24 in Florida after October 1, 2001 that has been produced or  
25 manufactured by each Subscribing Participating Manufacturer as  
26 defined in s. 215.5601(4)(c).

27 (b) A \$0.36 per package of cigarettes credit of this  
28 public health tobacco equity surcharge shall be extended for  
29 each package of cigarettes sold in Florida after October 1,  
30 2001 that has been produced or manufactured by each  
31 Subscribing Participating Manufacturer, as defined in s.

Bill No. CS for CS for SB 2214

Amendment No. \_\_\_\_ Barcode 742202

1 215.5601(4)(c).

2 (c) The credit to each Subscribing Participating  
3 Manufacturer shall be computed per package on an annual basis  
4 by the division. The total annual credit shall not exceed the  
5 amount annually paid by each Subscribing Participating  
6 Manufacturer to the State of Florida under the qualifying  
7 settlement agreements enumerated in s. 215.5601(4)(c).

8 Section 7. Section 210.0223, Florida Statutes, is  
9 created to read:

10 210.0223 Deposit of Proceeds.--The proceeds of the  
11 public health tobacco equity surcharge received by the  
12 Department of Business and Professional Regulation shall be  
13 deposited into the Department of Banking and Finance Tobacco  
14 Settlement Clearing Trust Fund. For the purposes of this  
15 section, "proceeds" of the surcharge shall mean all funds  
16 collected and received by the division hereunder, including  
17 interest and penalties on delinquent surcharge payments.

18 Section 8. Section 210.0224, Florida Statutes, is  
19 created to read:

20 210.0224 Administration.--

21 (1) The division shall administer, collect, and  
22 enforce the surcharge imposed under this part pursuant to the  
23 same procedures used in the administration, collection, and  
24 enforcement of the general state excise tax imposed under part  
25 I of this chapter, except as provided in this section.

26 (2) The division is authorized to adopt rules to  
27 implement the provisions of this part.

28 (3) The participating manufacturers and subscribing  
29 participating manufacturers shall provide to the division on a  
30 quarterly basis a complete list of those products produced by  
31 such manufacturers and shipped into the State of Florida.



Bill No. CS for CS for SB 2214

Amendment No. \_\_\_\_ Barcode 742202

1 Failure to timely provide the information required by this  
2 section shall constitute a waiver of the credit for the  
3 reporting period.

4 (4) The division will quarterly provide the wholesale  
5 dealers with a list of those products produced by the  
6 Participating Manufacturers and Subscribing Participating  
7 Manufacturers that qualify for the credit allowed under s.  
8 210.0222.

9 Section 9. Section 210.0225, Florida Statutes, is  
10 created to read:

11 210.0225 Declaration of Legislative Intent.--

12 (1) If any section, subsection, sentence, clause,  
13 phrase or word of this law is for any reason held or declared  
14 to be unconstitutional, invalid, inoperative, ineffective,  
15 inapplicable, or void, such invalidity or unconstitutionality  
16 shall not be construed to affect the portions of this law not  
17 so held to be unconstitutional, void, invalid, or ineffective,  
18 or affect the application of this law to other circumstances  
19 not so held to be invalid, it being hereby declared to be the  
20 express legislative intent that any such unconstitutional,  
21 illegal, invalid, ineffective, inapplicable, or void portion  
22 or portions of this law did not induce its passage, and that  
23 without the inclusion of any such unconstitutional, illegal,  
24 invalid, ineffective, or void portions of this law, the  
25 Legislature would have enacted the valid and constitutional  
26 portions thereof.

27 (2) It is hereby declared to be the specific  
28 legislative intent to impose the public health tobacco equity  
29 surcharge on each and every pack of cigarettes sold in the  
30 State of Florida after October 1, 2001. It is further  
31 declared to be the specific legislative intent that should any

Bill No. CS for CS for SB 2214

Amendment No. \_\_\_\_ Barcode 742202

1 credit or attempted credit from the public health tobacco  
2 equity surcharge or from the operation or imposition of the  
3 public health tobacco equity surcharge be declared to be  
4 invalid, ineffective, inapplicable, unconstitutional, or void  
5 for any reason, such declaration shall not affect the public  
6 health tobacco equity surcharge imposed herein, but such sales  
7 of cigarettes for which a credit is given or a credit is  
8 attempted to be given from the public health tobacco equity  
9 surcharge, shall be subject to the public health tobacco  
10 equity surcharge and the operation and imposition thereof to  
11 the same extent as if such credit or attempted credit had  
12 never been included herein.

13 (3) It is further declared to be the specific  
14 legislative intent to provide a credit from the public health  
15 tobacco equity surcharge or from the operation or the  
16 imposition thereof only to the extent that such credits are in  
17 accordance with the provisions of the constitutions of the  
18 state and of the United States.

19 (4) It is further declared to be the specific  
20 legislative intent to impose the public health tobacco equity  
21 surcharge on each and every sale of cigarettes in the State of  
22 Florida specifically providing a credit therefrom by this law  
23 to the extent that such credits are in accordance with the  
24 provisions of the constitutions of the state and of the United  
25 States.

26 (5) It being further declared to be the specific  
27 legislative intent that in the event any credit or attempted  
28 credit from the public health tobacco equity surcharge imposed  
29 by this law is for any reason declared to be unconstitutional,  
30 ineffective, inapplicable, or void, that then and in such  
31 event each and every such sale of cigarettes shall be subject

Bill No. CS for CS for SB 2214

Amendment No. \_\_\_\_ Barcode 742202

1 to the public health tobacco equity surcharge imposed by this  
 2 law as fully and to the same extent as if such credit or  
 3 attempted credit had never been included herein, it being  
 4 declared to be the specific legislative intent that no  
 5 unconstitutional, invalid, ineffective, inapplicable, or void  
 6 credit or attempted credit induced the passage of this law, it  
 7 being further declared to be the specific legislative intent  
 8 that without the inclusion herein of any such  
 9 unconstitutional, invalid, ineffective, inapplicable, or void  
 10 credit or attempted credit, the valid portions of this law  
 11 would have been enacted.

12 (6) It is the legislative intent that the repeal of  
 13 any provision heretofore providing a credit in whole or part  
 14 of any item or transaction from the public health tobacco  
 15 equity surcharge imposed by this law shall result in the full  
 16 imposition of the public health tobacco equity surcharge to  
 17 any such item or transaction.

18 Section 10. Subsection (4) of section 17.41, Florida  
 19 Statutes, is amended to read:

20 17.41 Department of Banking and Finance Tobacco  
 21 Settlement Clearing Trust Fund.--

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

27 Section 11. Paragraph (h) of subsection (1) of section  
 28 20.435, Florida Statutes, is amended to read:

29 20.435 Department of Health; trust funds.--

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

Bill No. CS for CS for SB 2214

Amendment No. \_\_\_\_ Barcode 742202

1 (h) Biomedical Research Trust Fund.

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

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

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

15 Section 12. Subsection (1) of section 215.5602,  
 16 Florida Statutes, is amended to read:

17 215.5602 Florida Biomedical Research Program.--

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

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

29 (b) Expand the foundation of biomedical knowledge  
 30 relating to the prevention, diagnosis, and treatment of  
 31 diseases related to tobacco use, including cancer,

Bill No. CS for CS for SB 2214

Amendment No. \_\_\_\_ Barcode 742202

1 cardiovascular disease, stroke, and pulmonary disease.

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

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

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

13 Section 13. This act shall take effect upon becoming a  
14 law.

15  
16

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

18 And the title is amended as follows:

19 Delete everything before the enacting clause

20

21 and insert:

22 An act relating to tobacco; amending s.  
23 215.5601, F.S.; defining the terms  
24 "participating manufacturer," "subscribing  
25 participating manufacturer," "outdoor  
26 advertising," and "transit advertisements";  
27 revising legislative intent; specifying  
28 procedures by which a tobacco manufacturer may  
29 become a "participating manufacturer"; or a  
30 "subscribing participating manufacturer";  
31 providing for funds received from participating

Bill No. CS for CS for SB 2214

Amendment No. \_\_\_\_ Barcode 742202

1 manufacturers and subscribing participating  
2 manufacturers to be deposited into the Tobacco  
3 Settlement Clearing Trust Fund; providing a  
4 portion of such funds to the Florida  
5 Comprehensive Health Association; providing for  
6 a portion of unappropriated funds to be  
7 deposited into the Lawton Chiles Endowment  
8 Fund; amending s. 210.15, F.S.; directing  
9 wholesalers to pay surcharges required by  
10 chapter; prohibiting specific practices by  
11 tobacco product manufacturers, importers,  
12 distributing agents, wholesale dealers,  
13 exporters or others; amending s. 210.01, F.S.;  
14 defining the terms "surcharges," "participating  
15 manufacturer," and "subscribing participating  
16 manufacturer"; creating s. 210.0220, F.S.;  
17 providing for imposition of the public health  
18 tobacco equity surcharge; providing legislative  
19 intent; providing applicability of specified  
20 provisions of law; creating s. 210.0221, F.S.;  
21 imposing the public health tobacco equity  
22 surcharge on the sale, receipt, purchase,  
23 possession, consumption, handling,  
24 distribution, and use of cigarettes in this  
25 state; specifying the amount of the surcharge;  
26 providing that the surcharge will be paid by  
27 the wholesale dealer; providing for collection  
28 of surcharge; requiring collection and payment  
29 to the division; providing for interest on  
30 unpaid amount; providing for responsible party  
31 when cigarettes shipped to other than wholesale

Bill No. CS for CS for SB 2214

Amendment No. \_\_\_\_ Barcode 742202

1 dealer; creating s. 210.0222, F.S.; providing  
2 credit against surcharge for participating  
3 manufacturers and subscribing participating  
4 manufacturers; providing amount of credit;  
5 creating s. 210.0223, F.S.; providing for  
6 deposit of proceeds to the Tobacco Settlement  
7 Clearing Trust Fund; defining "proceeds";  
8 creating s.210.0224, F.S.; providing for duties  
9 of the division; providing for reports from  
10 participating manufacturers and subscribing  
11 participating manufacturers; creating s.  
12 210.0225, F.S.; providing intent related to  
13 severability and impact of declaration of  
14 unconstitutionality; amending s. 17.41, F.S.,  
15 correcting a cross reference; providing an  
16 effective date.

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