

By Senator Clary

41-1015B-01

1 A bill to be entitled
2 An act relating to state revenues; amending s.
3 215.5601, F.S.; defining the term
4 "participating manufacturer"; revising
5 legislative intent; specifying procedures by
6 which a tobacco product manufacturer may become
7 a participating manufacturer; providing that
8 certain tobacco product manufacturers are
9 participating manufacturers; providing for
10 funds received from participating manufacturers
11 to be deposited into the Department of Banking
12 and Finance Tobacco Settlement Clearing Trust
13 Fund; providing for a portion of unappropriated
14 funds to be deposited into the Lawton Chiles
15 Endowment Fund; amending s. 210.15, F.S.;
16 imposing a supplemental permit fee on wholesale
17 dealers; providing for calculating the amount
18 of the fee; amending s. 210.20, F.S.; providing
19 for the deposit of proceeds of the fee;
20 amending ss. 17.41, 20.435, and 215.5602, F.S.,
21 relating to the Department of Banking and
22 Finance Tobacco Settlement Clearing Trust Fund,
23 the Biomedical Research Trust Fund, and the
24 Florida Biomedical Research Program; conforming
25 provisions to changes made by the act;
26 providing an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:

29
30 Section 1. Section 215.5601, Florida Statutes, is
31 amended to read:

1 215.5601 Lawton Chiles Endowment Fund.--
2 (1) SHORT TITLE.--This section may be cited as the
3 "Lawton Chiles Endowment Fund."
4 (2) DEFINITIONS.--As used in this section:
5 (a) "Board" means the State Board of Administration
6 established by s. 16, Art. IX of the State Constitution of
7 1885 and incorporated into s. 9(c), Art. XII of the State
8 Constitution of 1968.
9 (b) "Endowment" means the Lawton Chiles Endowment
10 Fund.
11 (c) "Earnings" means all income generated by
12 investments and the net change in the market value of assets.
13 (d) "Participating manufacturer" means any
14 manufacturer of tobacco products which meets the requirements
15 of subsection (4).
16 ~~(e)~~ (d) "State agency" or "state agencies" means the
17 Department of Health, the Department of Children and Family
18 Services, the Department of Elderly Affairs, or the Agency for
19 Health Care Administration, or any combination thereof, as the
20 context indicates.
21 (3) LEGISLATIVE INTENT.--It is the intent of the
22 Legislature to:
23 (a) Provide a perpetual source of funding for the
24 future of state children's health programs, child welfare
25 programs, children's community-based health and human services
26 initiatives, elder programs, and biomedical research
27 activities.
28 (b) Ensure that enhancement revenues will be available
29 to finance these important programs and initiatives.
30 (c) Use funds received from the Department of Banking
31 and Finance Tobacco Settlement Clearing Trust Fund ~~moneys~~ to

1 ensure the financial security of vital health and human
2 services programs for children and elders.

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

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

8 (f) Provide tobacco product manufacturers the
9 opportunity to voluntarily participate in mitigating the
10 impact of the use of tobacco on the residents of this state.

11 (4) PARTICIPATING MANUFACTURERS; QUALIFICATIONS.--

12 (a)1. A tobacco product manufacturer may become a
13 participating manufacturer by entering into an agreement with
14 the Attorney General which provides for the following:

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

23 b. Support of the state's efforts to mitigate the
24 impact of the use of tobacco through annual payments to the
25 state. On January 1 of each year, the Division of Alcoholic
26 Beverages and Tobacco of the Department of Business and
27 Professional Regulation shall calculate the payment amount,
28 which is due by January 31 of that year. The payment amount
29 shall be based on the number of cigarette packages delivered
30 to wholesale dealers for sale in this state by the
31 manufacturer from January 1 until December 31 of the prior

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

8 2. Cigarettes produced by each manufacturer that fully
9 complies with the agreement entered into with the Attorney
10 General under subparagraph 1. and makes the annual payment by
11 January 31 are exempt from the permit fee imposed under s.
12 210.15(1)(g) for the 12-month period beginning on the
13 subsequent July 1.

14 (b) In lieu of paragraph (a), a tobacco product
15 manufacturer may also become a participating manufacturer by:

16 1. Certifying to the Attorney General that the
17 manufacturer was not manufacturing and selling its cigarette
18 brands in this state before January 1, 1994;

19 2. Certifying to the Attorney General that the
20 manufacturer is not engaging in outdoor or transit advertising
21 of its cigarettes in this state;

22 3. Certifying to the Attorney General that the
23 manufacturer will terminate its cigarette sales in this state
24 on or before January 1, 2008;

25 4. Undertaking to sell cigarettes in this state that
26 are manufactured to deliver less toxins through the use of
27 very low-TSNA flue-cured tobacco and activated
28 charcoal/acetate filters. To meet the requirements of this
29 subparagraph, the manufacturer shall certify to the Attorney
30 General within 90 days after the effective date of this act
31 that all of its cigarettes sold in this state have at least 20

1 percent very low-TSNA flue-cured tobacco, as well as activated
2 charcoal/acetate filters with at least 30 milligrams of
3 charcoal, and shall certify to the Attorney General within 2
4 years after the effective date of this act that all of its
5 cigarettes sold in this state have 100 percent very low-TSNA
6 flue-cured tobacco, as well as activated charcoal/acetate
7 filters with at least 30 milligrams of charcoal. For purposes
8 of this subparagraph, "very low-TSNA flue-cured tobacco" means
9 tobacco having less than 400 parts per billion of the
10 carcinogenic tobacco specific nitrosamines, NNN and NNK; and
11 5. Filing a copy of its annual SEC Form 10K with the
12 Attorney General.

13
14 Failure of the tobacco product manufacturer to comply with
15 this paragraph shall result in the manufacturer becoming
16 immediately liable for payment of the permit fee imposed under
17 s. 210.15(1)(g) for all 12-month periods from inception of the
18 fee plus interest as provided in s. 210.15(1)(g)2. and a
19 penalty equal to the amount of the permit fee imposed under s.
20 210.15(1)(g).

21 (c) Any tobacco product manufacturer that was a
22 defendant in the case of The State of Florida et al., v.
23 American Tobacco Company et al., but was dismissed from such
24 case and is not a signatory to the settlement agreement
25 entered on August 25, 1997, and that certifies to the Attorney
26 General that it will comply with the noneconomic provisions of
27 the settlement agreement is a participating manufacturer. Any
28 tobacco product manufacturer that files a certification under
29 this paragraph and subsequently fails to comply with the
30 noneconomic provisions of the settlement agreement shall
31 become immediately liable for payment of the permit fee

1 imposed under s. 210.15(1)(g) for all 12-month periods from
2 inception of the fee plus interest as provided in s.
3 210.15(1)(g)2. and a penalty equal to the amount of the permit
4 fee imposed under s. 210.15(1)(g).

5 (d) All tobacco product manufacturers that are
6 signatories to the settlement agreement entered on August 25,
7 1997, in the case of The State of Florida et al., v. American
8 Tobacco Company et al., and the settlement agreement entered
9 on March 15, 1996, in the case of State of West Virginia,
10 State of Florida, State of Mississippi, Commonwealth of
11 Massachusetts, and State of Louisiana v. Brooke Group Ltd. and
12 Liggett Group, Inc., are participating manufacturers.
13 Cigarettes produced by each such manufacturer that fully
14 complies with the applicable settlement agreement and makes
15 the annual payment required under the agreement by December 31
16 are exempt from the permit fee imposed under s. 210.15(1)(g)
17 for the 12-month period beginning on the subsequent July 1.

18 (e) Funds received from participating manufacturers
19 shall be deposited into the Department of Banking and Finance
20 Tobacco Settlement Clearing Trust Fund.

21 (5)(4) LAWTON CHILES ENDOWMENT FUND; CREATION;
22 PURPOSES AND USES.--

23 (a) There is created the Lawton Chiles Endowment Fund,
24 to be administered by the State Board of Administration. The
25 endowment shall serve as a clearing trust fund not subject to
26 termination pursuant to s. 19(f), Art. III of the State
27 Constitution and shall be funded by ~~settlement~~ moneys received
28 from the Department of Banking and Finance Tobacco Settlement
29 Clearing Trust Fund industry and by moneys received from the
30 sale of the state's right, title, and interest in and to the
31 tobacco settlement agreement, including the right to receive

1 payments under such agreement. The endowment fund shall be
2 exempt from the service charges imposed by s. 215.20.

3 (b) Funds from the endowment that are available for
4 legislative appropriation pursuant to subsection~~(7)(6)~~ shall
5 be transferred by the board to the Department of Banking and
6 Finance Tobacco Settlement Clearing Trust Fund, created in s.
7 17.41, in the amounts provided for in this paragraph.

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

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

12 a. Fifty percent shall be deposited into a separate
13 account in the Department of Children and Family Services
14 Tobacco Settlement Trust Fund to be appropriated pursuant to
15 paragraph~~(9)(a)(8)(a)~~;

16 b. Thirty-three and one-half percent shall be
17 deposited into the Biomedical Research Trust Fund in the
18 Department of Health to be appropriated pursuant to paragraph
19 ~~(9)(a)(8)(b)~~, if such a trust fund is created by law;
20 otherwise, the funds shall be deposited into the Department of
21 Health Tobacco Settlement Trust Fund; and

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

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

30 (d) No later than October 1 of each year, the
31 Secretary of Health, the Secretary of Children and Family

1 Services, and the Secretary of Health Care Administration
2 shall develop a list of the top five funding priorities for
3 children's services eligible for funding from the endowment
4 funds, and the Secretary of Health, the Secretary of Elderly
5 Affairs, and the Secretary ~~Director~~ of Health Care
6 Administration shall develop a list of the top five funding
7 priorities for elder services eligible for funding from the
8 endowment funds. No later than November 15 of each year, the
9 list for children's services must be submitted to the advisory
10 council for children's services created in paragraph(10)(a)
11 ~~(9)(a)~~, and the list for elder services must be submitted to
12 the advisory council for elder services created in paragraph
13 (10)(a)~~(9)(b)~~. The purposes of using the advisory councils
14 are to evaluate the funding priorities of the agencies, to
15 evaluate the request against the mission and goals of the
16 agencies, to allow for public input and advocacy, and to gain
17 consensus for priority requests and recommended endowment
18 funding levels for those priority requests.

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

21 (f) When advised by the Revenue Estimating Conference
22 that a deficit will occur with respect to the appropriations
23 from the tobacco settlement trust funds of the state agencies
24 in any fiscal year, the Governor shall develop a plan of
25 action to eliminate the deficit. Before implementing the plan
26 of action, the Governor must comply with the provisions of s.
27 216.177(2). In developing the plan of action, the Governor
28 shall, to the extent possible, preserve legislative policy and
29 intent, and, absent any specific directions to the contrary in
30 the General Appropriations Act, any reductions in
31 appropriations from the tobacco settlement trust funds of the

1 state agencies for a fiscal year shall be prorated among the
2 purposes for which funds were appropriated from the Department
3 of Banking and Finance ~~that~~ Tobacco Settlement Clearing Trust
4 Fund for that year.

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

6 (a) The board is authorized to invest and reinvest
7 funds of the endowment in those securities listed in s.
8 215.47, in accordance with the fiduciary standards set forth
9 in s. 215.47(9) and consistent with an investment plan
10 developed by the executive director and approved by the board.
11 Costs and fees of the board for investment services shall be
12 deducted from the earnings accruing to the endowment.

13 (b) The endowment shall be managed as an annuity. The
14 investment objective shall be long-term preservation of the
15 real value of the principal and a specified regular annual
16 cash outflow for appropriation, as nonrecurring revenue. The
17 schedule of annual cash outflow shall be included within the
18 investment plan adopted pursuant to paragraph (a).

19 (c) The board shall establish a separate account for
20 the funds of the endowment. The board shall design and operate
21 an investment portfolio that maximizes the financial return to
22 the endowment, consistent with the risks inherent in each
23 investment, and that is designed to preserve an appropriate
24 diversification of the portfolio.

25 (d) No later than August 15 and February 15 of each
26 year, the board shall report on the financial status of the
27 endowment to the Governor, the Speaker of the House of
28 Representatives, the President of the Senate, the chairs of
29 the respective appropriations and appropriate substantive
30 committees of each chamber, and the Revenue Estimating
31 Conference.

1 (e) Accountability for funds from the endowment which
2 have been appropriated to a state agency shall reside with the
3 state agency. The board is not responsible for the proper
4 expenditure or accountability of funds from the endowment
5 after transfer to the Department of Banking and Finance
6 Tobacco Settlement Clearing Trust Fund.

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

10 ~~(7)(6)~~ AVAILABILITY OF FUNDS.--

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

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

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

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

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

25 (b) Notwithstanding the provisions of s. 216.301 and
26 pursuant to s. 216.351, all unencumbered balances of
27 appropriations as of June 30 or undisbursed balances as of
28 December 31 shall revert to the endowment's principal.

29 ~~(8)(7)~~ ENDOWMENT PRINCIPAL.--The endowment shall
30 receive moneys from the sale of the state's right, title, and
31 interest in and to the tobacco settlement agreement and from

1 amounts transferred from the Department of Banking and Finance
2 Tobacco Settlement Clearing Trust Fund. Amounts to be
3 transferred from the clearing trust fund shall be in the
4 following amounts for the following fiscal years:

- 5 (a) For fiscal year 1999-2000, \$1.1 billion;
6 (b) For fiscal year 2000-2001, \$200 million;
7 (c) For fiscal year 2001-2002, \$200 million; ~~and~~
8 (d) For fiscal year 2002-2003, \$200 million; ~~and-~~
9 (e) For all subsequent fiscal years, an amount equal
10 to the greater of \$40 million or 10 percent of the payments
11 deposited into the Department of Banking and Finance Tobacco
12 Settlement Clearing Trust Fund pursuant to subsection (4) and
13 s. 210.20(4).

14
15 Amounts to be transferred pursuant to paragraphs (b), (c), ~~and~~
16 (d), and (e) shall be reduced by an amount equal to the lesser
17 of the amount scheduled to be transferred in that fiscal year
18 pursuant to such paragraph ~~\$200 million~~ or the amount the
19 endowment receives in that fiscal year pursuant to the sale of
20 the state's right, title, and interest in and to the tobacco
21 settlement agreement.

22 (9)~~(8)~~ APPROPRIATIONS OF THE ENDOWMENT

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

- 24 (a) Appropriations by the Legislature to the
25 Department of Children and Family Services or the Department
26 of Elderly Affairs from the endowment earnings distributed to
27 those departments shall be from a category called Lawton
28 Chiles Endowment Fund Programs. The departments shall
29 distribute such appropriations pursuant to any directions or
30 limitations provided for in the General Appropriations Act and
31 consistent with this section.

1 (b) Appropriations by the Legislature to the
2 Department of Health from the endowment earnings distributed
3 to the department shall be from a category called Florida
4 Biomedical Research Program. The department shall spend such
5 funds in accordance with s. 215.5602.

6 (10)~~(9)~~ LAWTON CHILES ENDOWMENT FUND ADVISORY
7 COUNCILS.--There are established the Lawton Chiles Endowment
8 Fund Advisory Councils, the purpose of which is to evaluate
9 and rank for legislative consideration recommendations
10 submitted to the councils by the agencies for evaluation under
11 paragraph~~(5)~~(d)~~(4)~~~~(d)~~.

12 (a) There is created within the Department of Children
13 and Family Services the Lawton Chiles Endowment Fund Advisory
14 Council for Children.

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 Foster
19 Parents Association or a designee, and the director of the
20 Florida Pediatric Association or a designee. The Governor
21 shall appoint the remaining council members, including:

- 22 a. An academic expert in child health policy.
23 b. A representative of a children's services council.
24 c. A representative of the Guardian Ad Litem Program.
25 d. A representative of a child welfare lead agency for
26 community-based care.
27 e. A representative of a statewide child advocacy
28 organization.
29 f. A youth representing a statewide youth
30 organization.
31

1 g. A professional who has expertise in the area of
2 child development.

3 h. Two consumer caregivers of children.

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

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

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

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

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

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

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

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

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

1 delivery systems, business and industry, government agencies,
2 and children's service providers.

3 (b) There is created within the Department of Elderly
4 Affairs the Lawton Chiles Endowment Fund Advisory Council for
5 Elders.

6 1. The council shall consist of 13 members, including
7 the director of the United Way of Florida, Inc., or a
8 designee, the director of the Florida Federation of Community
9 Foundations or a designee, the director of the Florida branch
10 of the American Association of Retired Persons or a designee,
11 the director of the Florida Council on Aging or a designee,
12 and the State Long-Term Care Ombudsman or a designee. The
13 Governor shall appoint the remaining council members,
14 including:

15 a. An academic expert in elder health policy.

16 b. A professional who has experience with the delivery
17 of home care services.

18 c. A physician who is certified in geriatric medical
19 care.

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

22 e. A professional who has experience with the delivery
23 of services in a nursing home.

24 f. Two persons who are over the age of 60 years to
25 represent elders.

26 g. One consumer caregiver for an elderly person.

27 2. The council shall adopt internal organizational
28 procedures, including the appointment of a chair, as necessary
29 for its efficient organization.

30
31

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

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

8 5. Before February 1 of each year, the council shall
9 advise the Legislature as to its ranking of the elder programs
10 submitted by the agencies for evaluation under paragraph
11 (5)(d)(4)(d). The responsibilities of the council may
12 include, but are not limited to:

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

15 b. Evaluating the value of programs or services
16 submitted by the agencies as they relate to overall
17 enhancement for elders.

18 c. Providing recommendations on the funding levels to
19 be allocated for the ranked programs.

20 d. Participating in periodic program evaluation to
21 determine the need for continued funding.

22 e. Soliciting appropriate input from elder advocates
23 and community stakeholders, such as voluntary organizations,
24 community-based carelead agencies, health care delivery
25 systems, business and industry, government agencies, and
26 elder-service providers.

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

29 210.15 Permits.--

30 (1)(a) Every person, firm, or corporation desiring to
31 deal in cigarettes as a distributing agent, wholesale dealer,

1 or exporter within this state shall file an application for a
2 cigarette permit for each place of business with the Division
3 of Alcoholic Beverages and Tobacco. Every application for a
4 cigarette permit shall be made on forms furnished by the
5 division and shall set forth the name under which the
6 applicant transacts or intends to transact business, the
7 location of the applicant's place of business within the
8 state, and such other information as the division may require.
9 If the applicant has or intends to have more than one place of
10 business dealing in cigarettes within this state, the
11 application shall state the location of each place of
12 business. If the applicant is an association, the application
13 shall set forth the names and addresses of the persons
14 constituting the association, and if a corporation, the names
15 and addresses of the principal officers thereof and any other
16 information prescribed by the division for the purpose of
17 identification. The application shall be signed and verified
18 by oath or affirmation by the owner, if a natural person, and
19 in the case of an association or partnership, members or
20 partners thereof, and in the case of a corporation, by an
21 executive officer thereof or by any person specifically
22 authorized by the corporation to sign the application, to
23 which shall be attached the written evidence of this
24 authority. The cigarette permit for a distributing agent
25 shall be issued annually for which an annual fee of \$5 shall
26 be charged.

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

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

21 (d) The division may refuse to issue a distributing
22 agent, wholesale, or exporter permit to any person, firm, or
23 corporation whose permit under the cigarette law has been
24 revoked or to any corporation, an officer of which has had his
25 or her permit under the cigarette law revoked, or to any
26 person who is or has been an officer of a corporation whose
27 permit has been revoked under the cigarette law. Any permit
28 issued to a firm or corporation prohibited from obtaining such
29 permit under the cigarette law may be revoked by the division.

30 (e) Prior to an application for a distributing agent,
31 wholesale dealer, or exporter permit being approved, the

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

19 (f) The cigarette permit for a wholesale dealer or
20 exporter shall be renewed from year to year as a matter of
21 course, at an annual cost of \$100, on or before July 1, upon
22 making application to the division and upon payment of the
23 annual renewal fee.

24 (g)1. In addition to the permit fee required by
25 paragraph (f), there shall be a supplemental permit fee for
26 wholesale dealers, applicable to permits granted for periods
27 beginning July 1, 2002, and thereafter. The division shall
28 calculate the supplemental permit fee on January 1 of each
29 year, and the fee shall apply on the following July 1. The fee
30 shall be on a per package basis and shall be calculated as the
31 total annual payment due to the state pursuant to the

1 settlement agreement in the case of The State of Florida et
2 al., v. American Tobacco Company et al., divided by the total
3 number of packages of cigarettes delivered to wholesale
4 dealers for sale in this state by the four settling
5 manufacturers during the previous 12 months, rounded to the
6 nearest tenth of a cent. Cigarettes produced by participating
7 manufacturers, as defined in s. 215.5601, shall be exempt from
8 the supplemental permit fee.

9 2. The supplemental fee shall be paid by the dealer to
10 the division upon the first sale or transaction within the
11 state, whether or not such sale or transfer be to the ultimate
12 purchaser or consumer. The seller or dealer shall collect the
13 fee from the purchaser or consumer, and the purchaser or
14 consumer shall pay the fee to the seller. The seller or dealer
15 shall be responsible for the collection of the fee and the
16 payment of the fee to the division. The supplemental permit
17 fee is due not later than the 10th day of the month following
18 the calendar month in which it was incurred, and thereafter
19 shall bear interest at the rate of 1 percent per month. If the
20 amount of fee due for a given period is assessed without
21 allocating it to any particular month, the interest shall
22 begin with the date of the assessment. Whenever cigarettes are
23 shipped from outside the state to anyone other than a
24 wholesale dealer, the person receiving the cigarettes shall be
25 responsible for the supplemental fee and the payment of the
26 fee to the division.

27 (h)(g) Permitees, by acceptance of their permits,
28 agree that their places of business or vehicles transporting
29 cigarettes shall always be subject to be inspected and
30 searched without a search warrant for the purpose of
31 ascertaining that all provisions of this part are complied

1 with by authorized employees of the division and also by
2 sheriffs, deputy sheriffs, and police officers during business
3 hours or during any other time such premises are occupied by
4 the permittee or other persons. Retail cigarette dealers and
5 manufacturers' representatives, by dealing in cigarettes,
6 agree that their places of business or vehicles transporting
7 cigarettes shall always be subject to inspection and search
8 without a search warrant for the purpose of ascertaining that
9 all provisions of this part are complied with by authorized
10 employees of the division and also by sheriffs, deputy
11 sheriffs, and police officers during business hours or other
12 times when the premises are occupied by the retail dealer or
13 manufacturers' representatives or other persons.

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

25 Section 3. Subsection (4) is added to section 210.20,
26 Florida Statutes, to read:

27 210.20 Employees and assistants; distribution of
28 funds.--

29 (4) The division shall from month to month certify to
30 the Comptroller the amount derived from the supplemental
31 permit fee imposed by s. 210.15(1)(g), and that amount shall

1 be transferred from the Alcoholic Beverage and Tobacco Trust
2 Fund and credited to the Department of Banking and Finance
3 Tobacco Settlement Clearing Trust Fund.

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

6 17.41 Department of Banking and Finance Tobacco
7 Settlement Clearing Trust Fund.--

8 (4) Net proceeds of the sale of the tobacco settlement
9 agreement received by the state shall be immediately deposited
10 into the Lawton Chiles Endowment Fund, created in s. 215.5601
11 ~~s. 215.5601(4)~~, without deposit to the Tobacco Settlement
12 Clearing Trust Fund.

13 Section 5. Paragraph (h) of subsection (1) of section
14 20.435, Florida Statutes, is amended to read:

15 20.435 Department of Health; trust funds.--

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

18 (h) Biomedical Research Trust Fund.

19 1. Funds to be credited to the trust fund shall
20 consist of funds deposited pursuant to s. 215.5601(5)~~s.~~
21 ~~215.5601(4)~~. Funds shall be used for the purposes of the
22 Florida Biomedical Research Program as specified in s.
23 215.5602. The trust fund is exempt from the service charges
24 imposed by s. 215.20.

25 2. Notwithstanding the provisions of s. 216.301 and
26 pursuant to s. 216.351, any balance in the trust fund at the
27 end of any fiscal year shall remain in the trust fund at the
28 end of the year and shall be available for carrying out the
29 purposes of the trust fund.

30 3. The trust fund shall, unless terminated sooner, be
31 terminated on July 1, 2004.

1 Section 6. Subsection (1) of section 215.5602, Florida
2 Statutes, is amended to read:

3 215.5602 Florida Biomedical Research Program.--

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

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

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

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

22 (d) Increase the state's per capita funding for
23 biomedical research by undertaking new initiatives in
24 biomedical research that will attract additional funding from
25 outside the state.

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

30 Section 7. This act shall take effect upon becoming a
31 law.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

SENATE SUMMARY

Revises legislative intent relating to state revenues derived from tobacco manufacturers. Defines the term "participating manufacturer." Specifies procedures by which a tobacco product manufacturer may become a participating manufacturer. Provides that certain tobacco product manufacturers are participating manufacturers. Provides for funds received from participating manufacturers to be deposited into the Department of Banking and Finance Tobacco Settlement Clearing Trust Fund. Provides for a portion of unappropriated funds to be deposited into the Lawton Chiles Endowment Fund. Imposes a supplemental permit fee on wholesale dealers. Provides for calculating the amount of the supplemental fee. Provides for the deposit of proceeds of the fee.