

565-191AX-21

Bill No. CS/HB 563

Amendment No. ____ (for drafter's use only)

| | <u>Senate</u> | CHAMBER ACTION | <u>House</u> |
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Representative(s) Fasano offered the following:

Amendment (with title amendment)

Remove from the bill: Everything after the enacting clause
and insert in lieu thereof:

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

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

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

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

20.435 Department of Health; trust funds.--

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

(h) Biomedical Research Trust Fund.

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

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

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

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

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

18 215.5601 Lawton Chiles Endowment Fund.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (d) Beginning in fiscal year 2001-2002, \$150 million
31 of the existing principal in the endowment shall be reserved

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

11 (4) ADMINISTRATION.--

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

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

30 (c) In accordance with s. 215.44, the board shall
31 include separate sections on the financial status of the

1 endowment in its annual investment report to the Legislature.

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

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

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

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

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

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

31 (b) In order to ensure that the expenditure of funds

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1 earned from the Lawton Chiles Endowment Fund will be used for
2 the purposes intended by the Legislature, the Legislature
3 shall establish line item categories for the state agencies
4 describing the designated use of the appropriated funds as
5 provided in the General Appropriations Act.

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

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

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

31 (f) When advised by the Revenue Estimating Conference

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

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

20 (a) The advisory council shall consist of 14 members,
21 including:

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

24 2. The director of the Foster Parents Association, or
25 his or her designee;

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

28 4. The president of the Florida Association of Area
29 Agencies on Aging, or his or her designee;

30 5. The State Long-Term Care Ombudsman, or his or her
31 designee;

- 1 6. The director of the Florida Pediatric Society, or
- 2 his or her designee;
- 3 7. A representative of the Guardian Ad Litem Program,
- 4 appointed by the Governor;
- 5 8. A representative of a child welfare lead agency for
- 6 community-based care, appointed by the Governor;
- 7 9. A representative of an elder care lead agency for
- 8 community-based care, appointed by the Governor;
- 9 10. A representative of a statewide child advocacy
- 10 organization, appointed by the Governor;
- 11 11. One consumer caregiver for children, appointed by
- 12 the Governor;
- 13 12. One person over the age of 60 years to represent
- 14 the interests of elders, appointed by the Governor;
- 15 13. One person under the age of 18 years to represent
- 16 the interests of children, appointed by the Governor; and
- 17 14. One consumer caregiver for a functionally impaired
- 18 elderly person, appointed by the Governor.
- 19 (b) Before November 1 of each year, the advisory
- 20 council shall advise the Governor and the Legislature as to
- 21 its recommendations with respect to the priorities submitted
- 22 by the secretaries of the state agencies with respect to
- 23 endowment funding for health and human services programs for
- 24 children and elders. The responsibilities of the advisory
- 25 council include:
- 26 1. Evaluating the value of programs and services
- 27 submitted by the state agencies as they relate to the overall
- 28 enhancement of services to children and elders;
- 29 2. Developing criteria and guiding principles for
- 30 ranking the priorities submitted by the state agencies;
- 31 3. Providing recommendations with respect to funding

1 levels for the programs ranked by the advisory council;
 2 4. Participating in periodic evaluation of programs
 3 funded by the endowment to determine the need for continued
 4 funding; and

5 5. Soliciting input from child and elder advocacy
 6 organizations, community stakeholders, providers, and the
 7 public with respect to statewide child and elder needs and the
 8 effectiveness of program service delivery systems.

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

20 Section 4. Section 215.5602, Florida Statutes, is
 21 amended to read:

22 215.5602 Florida Biomedical Research Program.--

23 (1) There is established within the Department of
 24 Health the Florida Biomedical Research Program funded by the
 25 proceeds of the Lawton Chiles Endowment Fund pursuant to s.
 26 215.5601 ~~s. 215.5601(4)~~. The purpose of the Florida Biomedical
 27 Research Program is to provide an annual and perpetual source
 28 of funding in order to support research initiatives that
 29 address the health care problems of Floridians in the areas of
 30 tobacco-related cancer, cardiovascular disease, stroke, and
 31 pulmonary disease. The long-term goals of the program are to:

1 (a) Improve the health of Floridians by researching
2 better prevention, diagnoses, and treatments for cancer,
3 cardiovascular disease, stroke, and pulmonary disease.

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

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

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

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

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

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

28 (a) The council shall consist of nine members,
29 including: the chief executive officer of the Florida Division
30 of the American Cancer Society, or a designee; the chief
31 executive officer of the Florida/Puerto Rico Affiliate of the

1 American Heart Association, or a designee; and the chief
2 executive officer of the American Lung Association of Florida,
3 or a designee. The Governor shall appoint the remaining six
4 members of the council, as follows:

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

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

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

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

28 (d) Members of the council shall serve without
29 compensation, but may receive reimbursement as provided in s.
30 112.061 for travel and other necessary expenses incurred in
31 the performance of their official duties.

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

5 (a) Providing advice on program priorities and
6 emphases.

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

8 (c) Participating in periodic program evaluation.

9 (d) Assisting in the development of guidelines to
10 ensure fairness, neutrality, and adherence to the principles
11 of merit and quality in the conduct of the program.

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

16 (f) Developing criteria and standards for the award of
17 research grants.

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

22 (h) Developing and supervising research peer review
23 panels.

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

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

28 (5)(a) Applications for biomedical research funding
29 under the program may be submitted from any university or
30 established research institute in the state. All qualified
31 investigators in the state, regardless of institution

1 affiliation, shall have equal access and opportunity to
2 compete for the research funding.

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

- 9 1. Investigator-initiated research grants.
- 10 2. Institutional research grants.
- 11 3. Predoctoral and postdoctoral research fellowships.

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

21 (7) The council and the peer review panel shall
22 establish and follow rigorous guidelines for ethical conduct
23 and adhere to a strict policy with regard to conflict of
24 interest. ~~A No~~ member of the council or panel ~~may not shall~~
25 participate in any discussion or decision with respect to a
26 research proposal by any firm, entity, or agency with which
27 the member is associated as a member of the governing body or
28 as an employee, or with which the member has entered into a
29 contractual arrangement. Meetings of the council and the peer
30 review panels shall be subject to the provisions of chapter
31 119, s. 286.011, and s. 24, Art. I of the State Constitution.

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

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

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

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

15 (b) A list of recipients of program grants or
16 fellowships.

17 (c) A list of publications in peer reviewed journals
18 involving research supported by grants or fellowships awarded
19 under the program.

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

22 (e) New grants for biomedical research which were
23 funded based on research supported by grants or fellowships
24 awarded under the program.

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

28 Section 5. There is appropriated \$25,000 each to the
29 Department of Children and Family Services and the Department
30 of Elderly Affairs from Lawton Chiles endowment funds
31 deposited into each department's Tobacco Settlement Trust Fund

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1 to pay for administrative costs associated with the Lawton
2 Chiles Endowment Fund Advisory Council established in section
3 215.5601, Florida Statutes.

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

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6

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

8 And the title is amended as follows:

9 remove from the title of the bill: everything before the
10 enacting clause

11

12 and insert in lieu thereof:

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A bill to be entitled

14

An act relating to the Lawton Chiles Endowment
15 Fund; amending ss. 17.41, 20.435, F.S.;

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conforming statutory cross-references; amending

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s. 215.5601, F.S.; providing legislative intent

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to provide funds for the support of public

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health and biomedical research; revising

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procedures for the administration of the

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endowment fund; revising provisions concerning

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the availability and use of funds from the

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endowment; establishing an advisory council;

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amending s. 215.5602, F.S.; providing for

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public health and biomedical research;

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providing an appropriation; providing an

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effective date.

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