

1 A bill to be entitled
 2 An act relating to cigarette user fees; providing
 3 legislative findings; amending s. 210.01, F.S.; defining
 4 the terms "council," "net collections," and "total
 5 collections"; revising the definitions of "counterfeit
 6 cigarettes," "exporter," "stamp" or "stamps," and
 7 "unstamped package" or "unstamped cigarettes"; amending s.
 8 210.02, F.S.; replacing all references to the term "tax"
 9 with the term "user fee"; increasing the amount of the
 10 cigarette user fee; amending ss. 210.021, 210.03, 210.04,
 11 210.05, 210.06, 210.07, 210.08, 210.09, 210.11, 210.13,
 12 210.14, 210.15, 210.18, 210.181, 210.185, 210.19, 210.25,
 13 and 951.22 F.S.; conforming provisions to changes made by
 14 the act; amending s. 210.20, F.S.; providing definitions;
 15 requiring the Division of Alcoholic Beverages and Tobacco
 16 to certify to the Chief Financial Officer the amount of
 17 net collections derived from the user fee on a monthly
 18 basis; requiring the division to credit a specific percent
 19 of the total base allocation to certain trust funds, the
 20 H. Lee Moffitt Cancer Center and Research Institute's
 21 Board of Directors, the Bankhead-Coley Program, and
 22 certain medical residency and fellowship programs;
 23 providing legislative intent to use the cigarette user fee
 24 collections to increase enrollment in the Florida Kidcare
 25 program; requiring that the amounts credited or
 26 transferred from the Cigarette Tax Collection Trust Fund
 27 be adjusted in proportion to the corresponding reference
 28 year allocation; providing a formula for calculating the

29 maximum total supplemental allocation; amending s.
 30 210.201, F.S.; requiring the Board of Directors of the H.
 31 Lee Moffitt Cancer Center and Research Institute to use
 32 funds to secure bonds or financial products for cancer
 33 facilities; amending s. 215.5602, F.S.; requiring the
 34 James and Esther King Biomedical Research Program to
 35 appropriate a certain percent of the program's annual
 36 funding to expand research conducted on tobacco-related
 37 illnesses; increasing the amount of funds allocated to the
 38 Florida Center for Universal Research to Eradicate
 39 Disease; extending certain expiration dates; amending s.
 40 381.922, F.S.; revising the purpose of the Bankhead-Coley
 41 Program to expand cancer research and treatment; requiring
 42 the program to provide grants for the recruitment of
 43 cancer researchers and research teams to institutions, for
 44 operational start-up grants for newly recruited
 45 researchers and research teams, and for fixed capital
 46 outlay expenditures; requiring that certain proceeds be
 47 used for certain purposes; extending certain expiration
 48 dates; requiring the Department of Health to submit a
 49 report to the Governor and the Legislature by a certain
 50 date and annually thereafter which contains an estimate of
 51 the financial impact of tobacco use and related illnesses
 52 on the economy and taxpayers; providing an effective date.

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

56 Section 1. The Legislature finds that cigarette

57 consumption dramatically impacts the state's Medicaid budget and
 58 a substantial deficit has been created between what consumers
 59 pay in related excise or privilege fees and what the state
 60 actually incurs in health care costs. The Legislature further
 61 finds that the imposition of a user fee on cigarettes should at
 62 least be commensurate with the projected governmental costs
 63 associated with the consumption of cigarettes. The Legislature
 64 further finds that revenues derived from such user fees should
 65 apply to health care, with an emphasis given to measures for
 66 which there is a connection between cigarette consumption and
 67 the user fee revenue generated from the consumption of
 68 cigarettes.

69 Section 2. Section 210.01, Florida Statutes, is amended to
 70 read:

71 210.01 Definitions.--When used in this part the following
 72 words shall have the meaning herein indicated:

73 (1)~~(9)~~ "Agent" means any person authorized by the Division
 74 of Alcoholic Beverages and Tobacco to purchase and affix
 75 adhesive or meter stamps under this part.

76 (2)~~(1)~~ "Cigarette" means any roll for smoking, except one
 77 of which the tobacco is fully naturally fermented, without
 78 regard to the kind of tobacco or other substances used in the
 79 inner roll or the nature or composition of the material in which
 80 the roll is wrapped, which is made wholly or in part of tobacco
 81 irrespective of size or shape and whether such tobacco is
 82 flavored, adulterated or mixed with any other ingredient.

83 (3) "Council" means the Biomedical Research Advisory
 84 Council within the Department of Health established in s.

85 215.5602.

86 (4)~~(22)~~ "Counterfeit cigarettes" means cigarettes that
 87 have false manufacturing labels, tobacco product packs with
 88 counterfeit user fee ~~tax~~ stamps, or any combination thereof.

89 (5) "Dealer" means any wholesale dealer as hereinafter
 90 defined.

91 (6)~~(14)~~ "Distributing agent" means every person, firm or
 92 corporation in this state who acts as an agent for any person,
 93 firm or corporation outside or inside the state by receiving
 94 cigarettes in interstate or intrastate commerce and storing such
 95 cigarettes subject to distribution or delivery upon order from
 96 said principal to wholesale dealers and other distributing
 97 agents inside or outside this state.

98 (7)~~(10)~~ "Division" means the Division of Alcoholic
 99 Beverages and Tobacco of the Department of Business and
 100 Professional Regulation.

101 (8)~~(17)~~ "Exporter" means a person who transports user-fee-
 102 exempt or tax-exempt cigarettes into this state under bond for
 103 delivery beyond the borders of this state. Each permit shall
 104 entitle the permittee to store such cigarettes under bond at one
 105 location in this state pending shipment beyond the borders of
 106 this state.

107 (9)~~(12)~~ "First sale" means the first use or consumption of
 108 cigarettes within this state.

109 (10)~~(20)~~ "Importer" means any person with a valid permit
 110 under 26 U.S.C. s. 5712 who imports into the United States,
 111 directly or indirectly, a finished cigarette for sale or
 112 distribution.

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113 ~~(11)-(21)~~ "Manufacturer" means any domestic person or
114 entity with a valid permit under 26 U.S.C. s. 5712 that
115 manufactures, fabricates, assembles, processes, or labels a
116 finished cigarette.

117 ~~(12)-(16)~~ "Manufacturer's representative" means a person
118 who represents a manufacturer of cigarettes but who has no place
119 of business in this state where cigarettes are stored. A
120 manufacturer's representative is required to obtain any
121 cigarettes required by her or him through a wholesale dealer in
122 this state and to make such reports as may be required by the
123 Division of Alcoholic Beverages and Tobacco of the Department of
124 Business and Professional Regulation.

125 (13) "Net collections" means 99.1 percent of total
126 collections less the service charge prescribed in s. 215.20.

127 ~~(14)-(13)~~ "Operating ad valorem millage" means all millages
128 other than those fixed for debt service.

129 ~~(15)-(8)~~ "Package" means the individual package, box or
130 other container in or from which retail sales of cigarettes are
131 normally made or intended to be made.

132 ~~(16)-(2)~~ "Persons" means any individual, copartnership,
133 society, club, association, corporation, joint stock company,
134 and any combination of individuals and also an executor,
135 administrator, receiver, trustee or other fiduciary.

136 ~~(17)-(15)~~ "Place of business" means any place where
137 cigarettes are sold or where cigarettes are stored or kept for
138 the purpose of sale or consumption; or if cigarettes are sold
139 from a vending machine the place in which the vending machine is
140 located.

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141 ~~(18)(7)~~ "Retail dealer" means any person located inside or
 142 outside this state other than a wholesale dealer engaged in the
 143 business of selling cigarettes, including persons issued a
 144 permit pursuant to s. 569.003.

145 ~~(19)(4)~~ "Retail sale" or "sale at retail" means a sale to
 146 a consumer or to any person for any purpose other than resale.

147 ~~(20)(3)~~ "Sale" means any transfer, exchange or barter in
 148 any manner, or by any means whatever.

149 ~~(21)(19)~~ "Stamp" or "stamps" means the indicia required to
 150 be placed on cigarette packages that evidence payment of the
 151 user fee tax on cigarettes under s. 210.02.

152 ~~(22)~~ "Total collections" means the total amount
 153 derived from the cigarette user fee during a specified
 154 period of time.

155 ~~(23)(18)~~ "Unstamped package" or "unstamped cigarettes"
 156 means a package on which the user fee tax required by this part
 157 has not been paid, regardless of whether or not such package is
 158 stamped or marked with the indicia of any other user fee
 159 assessment or taxing authority, or a package on which there has
 160 been affixed a counterfeit or fraudulent indicium or stamp.

161 ~~(24)(11)~~ "Use" means the consuming, giving away or
 162 disposing, in any manner, of cigarettes.

163 ~~(25)(6)~~ "Wholesale dealer" means any person located inside
 164 or outside this state who sells cigarettes to retail dealers or
 165 other persons for purposes of resale only. Such term shall not
 166 include any cigarette manufacturer, export warehouse proprietor,
 167 or importer with a valid permit under 26 U.S.C. s. 5712 if such
 168 person sells or distributes cigarettes in this state only to

169 dealers who are agents and who hold valid and current permits
 170 under s. 210.15 or to any cigarette manufacturer, export
 171 warehouse proprietor, or importer who holds a valid and current
 172 permit under 26 U.S.C. s. 5712.

173 Section 3. Section 210.02, Florida Statutes, is amended to
 174 read:

175 210.02 Cigarette user fee ~~tax~~ imposed; collection.--

176 (1) A user fee ~~An excise or privilege tax~~, in addition to
 177 all other fees ~~taxes~~ of every kind imposed by law, is imposed
 178 upon the sale, receipt, purchase, possession, consumption,
 179 handling, distribution, and use of cigarettes in this state, in
 180 the following amounts, except as hereinafter otherwise provided,
 181 for cigarettes of standard dimensions:

182 (a) Upon all cigarettes weighing not more than 3 pounds
 183 per thousand, 66.95 ~~16.95~~ mills on each cigarette.

184 (b) Upon all cigarettes weighing more than 3 pounds per
 185 thousand and not more than 6 inches long, 133.9 ~~33.9~~ mills on
 186 each cigarette.

187 (c) Upon all cigarettes weighing more than 3 pounds per
 188 thousand and more than 6 inches long, 267.8 ~~67.8~~ mills on each
 189 cigarette.

190 (2) The description of cigarettes contained in paragraphs
 191 (a), (b), and (c) of subsection (1) are hereby declared to be
 192 standard as to dimensions for the taxing purposes of assessing a
 193 user fee as provided in this law and should any cigarette be
 194 received, purchased, possessed, sold, offered for sale, given
 195 away, or used of a size other than of standard dimensions, the
 196 same shall be assessed ~~taxed~~ at the rate of 5.69 ~~1.41~~ cents on

197 each such cigarette.

198 (3) When cigarettes as described in paragraph (1) (a) are
 199 packed in varying quantities of 20 cigarettes or less, except
 200 manufacturer's free samples authorized under s. 210.04(9), the
 201 following rate shall govern:

202 (a) Packages containing 10 cigarettes or less require a
 203 66.95-cent user fee ~~16.95-cent tax~~.

204 (b) Packages containing more than 10 but not more than 20
 205 cigarettes require a 133.9-cent user fee ~~33.9-cent tax~~.

206 (4) When cigarettes as described in paragraph (1) (b) are
 207 packed in varying quantities of 20 cigarettes or less, except
 208 manufacturer's free samples authorized under s. 210.04(9), the
 209 following rates shall govern:

210 (a) Packages containing 10 cigarettes or less require a
 211 133.9-cent user fee ~~33.9-cent tax~~.

212 (b) Packages containing more than 10 but not more than 20
 213 cigarettes require a 267.8-cent user fee ~~67.8-cent tax~~.

214 (5) When cigarettes as described in paragraph (1) (c) are
 215 packed in varying quantities of 20 cigarettes or less, except
 216 manufacturer's free samples authorized under s. 210.04(9), the
 217 following rates shall govern:

218 (a) Packages containing 10 cigarettes or less require a
 219 267.8-cent user fee ~~67.8-cent tax~~.

220 (b) Packages containing more than 10 but not more than 20
 221 cigarettes require a 535.6-cent user fee ~~135.6-cent tax~~.

222 (6) This user fee ~~tax~~ shall be paid by the dealer to the
 223 division for deposit and distribution as hereinafter provided
 224 upon the first sale or transaction within the state, whether or

225 not such sale or transfer be to the ultimate purchaser or
 226 consumer. The seller or dealer shall collect the user fee ~~tax~~
 227 from the purchaser or consumer, and the purchaser or consumer
 228 shall pay the user fee ~~tax~~ to the seller. The seller or dealer
 229 shall be responsible for the collection of the user fee ~~tax~~ and
 230 the payment of the same to the division. All user fees collected
 231 pursuant to this section ~~taxes~~ are due not later than the 10th
 232 day of the month following the calendar month in which they were
 233 incurred, and thereafter shall bear interest at the rate of 1
 234 percent per month. If the amount of user fee proceeds ~~tax~~ due
 235 for a given period is assessed without allocating it to any
 236 particular month, the interest shall begin with the date of the
 237 assessment. Whenever cigarettes are shipped from outside the
 238 state to anyone other than a distributing agent or wholesale
 239 dealer, the person receiving the cigarettes shall be responsible
 240 for the user fee ~~tax~~ on said cigarettes and the payment of same
 241 to the division.

242 (7) It is the legislative intent that the user fee ~~tax~~ on
 243 cigarettes shall be uniform throughout the state.

244 Section 4. Section 210.021, Florida Statutes, is amended
 245 to read:

246 210.021 Payment of user fees ~~taxes~~ by certified check or
 247 electronic funds transfer.--

248 (1) The Secretary of Business and Professional Regulation
 249 may require a dealer who sells cigarettes within the state to
 250 remit by certified check or electronic funds transfer any user
 251 fee ~~tax~~ imposed under s. 210.02.

252 (2) The Secretary of Business and Professional Regulation

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253 shall require for a period not to exceed 12 months that a dealer
 254 or agent, during the dealer's or agent's initial period of
 255 licensure or appointment, remit by certified check or electronic
 256 funds transfer any user fee ~~tax~~ imposed under s. 210.02.

257 (3) The division shall adopt rules pursuant to ss.
 258 120.536(1) and 120.54 to administer this section.

259 Section 5. Section 210.03, Florida Statutes, is amended to
 260 read:

261 210.03 Prohibition against levying of cigarette user fees
 262 ~~taxes~~ by municipalities.--No municipality shall, after July 1,
 263 1972, levy or collect any user fee ~~excise tax~~ on cigarettes.

264 Section 6. Section 210.04, Florida Statutes, is amended to
 265 read:

266 210.04 Construction; exemptions; collection.--

267 (1) The amount of user fees ~~taxes~~ advanced and paid to the
 268 state aforesaid shall be added to and collected as a part of the
 269 sales price of the cigarettes sold or distributed, which amount
 270 may be stated separately from the price of the cigarettes on all
 271 display signs, sales and delivery slips, bills and statements
 272 which advertise or indicate the price of the product.

273 (2) The cigarette user fee ~~tax~~ imposed shall be collected
 274 only once upon the same package or container of such cigarettes.

275 (3) No user fee ~~tax~~ shall be imposed by this part upon
 276 cigarettes not within the taxing power of the state under the
 277 Commerce Clause of the United States Constitution.

278 (4) No user fee ~~tax~~ shall be required to be paid:

279 (a) Upon cigarettes sold at post exchanges, ship service
 280 stores, ship stores, slop chests, or base exchanges to members

281 of the Armed Services of the United States when such post
 282 exchanges, ship service stores, or base exchanges are operated
 283 under regulations of the Army, Navy, or Air Force of the United
 284 States on military, naval, or air force reservations in this
 285 state or when such ship stores or slop chests are operated under
 286 the regulations of the United States Navy on ships of the United
 287 States Navy; however, it is unlawful for anyone, including
 288 members of the Armed Services of the United States, to purchase
 289 such user-fee-exempt or tax-exempt cigarettes for purposes of
 290 resale. Any person who resells, or offers for resale, user-fee-
 291 exempt or tax-exempt cigarettes purchased at post exchanges,
 292 ship service stores, ship stores, slop chests, or base exchanges
 293 is guilty of a violation of the cigarette user fee ~~tax~~ law,
 294 punishable as provided in s. 210.18(1).

295 (b) Upon the sale or gift of cigarettes by charitable
 296 organizations to bona fide patients in regularly established
 297 government veterans' hospitals in Florida for the personal use
 298 or consumption of such patients.

299 (5) It shall be presumed that all cigarettes are subject
 300 to the user fee ~~tax~~ imposed by this part until the contrary is
 301 established, and the burden of proof that they are not
 302 assessable ~~taxable~~ shall be upon the person having possession of
 303 them.

304 (6) The sale of single or loose unpacked cigarettes is
 305 prohibited. The division may authorize any person to give away
 306 sample packages of cigarettes, each to contain not less than two
 307 cigarettes upon which the user fees ~~taxes~~ have been paid.

308 (7) Nothing in this part shall be construed to prohibit

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309 the sale of cigarettes, upon which the user fee ~~tax~~ has been
 310 advanced, through the medium of vending machines where the user
 311 fee ~~tax~~ is collected by the said vending machines.

312 (8) Except as hereinafter provided, all agents shall be
 313 liable for the collection and payment of the user fee ~~tax~~
 314 imposed by this part and shall pay the user fee ~~tax~~ to the
 315 division by purchasing, under such regulations as it shall
 316 prescribe, adhesive stamps of such design and denominations as
 317 it shall prescribe.

318 (9) Agents, located within or without the state, shall
 319 purchase stamps and affix such stamps in the manner prescribed
 320 to packages or containers of cigarettes to be sold, distributed,
 321 or given away within the state, in which case any dealer
 322 subsequently receiving such stamped packages of cigarettes will
 323 not be required to purchase and affix stamps on such packages of
 324 cigarettes. However, the division may, in its discretion,
 325 authorize manufacturers to distribute in the state free sample
 326 packages of cigarettes containing not less than 2 or more than
 327 20 cigarettes without affixing any user fee ~~tax~~ stamps provided
 328 copies of shipping invoices on such cigarettes are furnished,
 329 and payment of all user fees ~~taxes~~ imposed on such cigarettes by
 330 law is made, directly to the division not later than the 10th
 331 day of each calendar month. The user fee ~~tax~~ on cigarettes in
 332 sample packages shall be based on a unit in accordance with the
 333 assessment ~~taxing~~ provisions of s. 210.02(1).

334 Section 7. Section 210.05, Florida Statutes, is amended to
 335 read:

336 210.05 Preparation and sale of stamps; discount.--

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337 (1) The user fee ~~tax~~ imposed by this part shall be paid by
338 affixing stamps in the manner herein set forth or by affixing
339 stamp insignia through the device of metering machines
340 authorized in this part.

341 (2) The division shall prescribe, prepare, and furnish
342 stamps of such denominations and quantities as may be necessary
343 for the payment of the user fee ~~tax~~ imposed by this part, and
344 may from time to time and as often as it deems advisable provide
345 for the issuance and exclusive use of stamps of a new design and
346 forbid the use of stamps of any other design. However, all
347 stamps prescribed by the division must be designed and furnished
348 in a fashion that permits identification of the agent or
349 wholesale dealer that affixed the stamp to the particular
350 package of cigarettes by means of a serial number or other mark
351 on the stamp. The division shall make provisions for the sale of
352 such stamps at such places and at such time as it may deem
353 necessary.

354 (3) (a) The division may appoint dealers in cigarettes,
355 manufacturers of cigarettes, within or without the state as
356 agent to buy or affix stamps to be used in paying the user fee
357 ~~tax~~ herein imposed, but an agent shall at all times have the
358 right to appoint a person in his or her employ who is to affix
359 the stamps to any cigarettes under the agent's control;
360 provided, however, that any wholesale dealer in the state shall
361 have the right to buy and affix such stamps. Whenever the
362 division shall sell and deliver to any such agent or wholesaler
363 any such stamps, such agent or wholesaler shall be entitled to
364 receive as compensation for his or her services and expenses as

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365 such agent or wholesaler in affixing and accounting for the user
 366 fees ~~taxes~~ represented by such stamps and to retain out of the
 367 moneys to be paid by the agent or wholesaler for such stamps a
 368 discount of 2 percent of the par value of any amount of stamps
 369 purchased during any fiscal year from July 1 through June 30 of
 370 the following year, provided the discount shall be computed on
 371 the basis of 24 cents per pack. No such discount shall be
 372 allowed to a dealer, vendor, or distributor who sells or deals
 373 in any form of candy which resembles drug paraphernalia.
 374 Stamping locations approved by the division shall be responsible
 375 for computing the discount they receive pursuant to this
 376 paragraph, and said computations shall be retained by the
 377 stamping location for a period of 5 years and shall be available
 378 to the division. All stamps purchased from the division under
 379 this part shall be paid for in cash on delivery, except as
 380 hereinafter provided.

381 (b) Each agent appointed by the division to affix stamps
 382 shall be authorized to purchase stamps by furnishing an
 383 irrevocable letter of credit or unconditional guaranty contract
 384 or by executing bond with a solvent surety company qualified to
 385 do business in this state, in an amount of 110 percent of the
 386 agent's estimated user fee ~~tax~~ liability for 30 days, but not
 387 less than \$2,000, conditioned upon said agent paying all user
 388 fees ~~taxes~~ due the state arising hereunder. This form of payment
 389 in lieu of cash on delivery or its equivalent shall not preclude
 390 supplemental purchases for cash. Payment for each month's
 391 liability shall be due on or before the 10th day of the month
 392 following the month in which the stamps were sold. Default in

393 the aforesaid bonding and payment provisions by any agent may
 394 result in the revocation of his or her privilege to purchase
 395 stamps except for cash on delivery for a period up to 12 months
 396 in the discretion of the division.

397 (4) The division may in its discretion revoke the
 398 authority of any agent failing to comply with the requirements
 399 of this part or the rules and regulations promulgated hereunder
 400 and such agent may in addition be punished in accordance with
 401 the provisions of this part.

402 (5) Agents or wholesale dealers may sell stamped but
 403 unassessed ~~untaxed~~ cigarettes to the Seminole Indian Tribe, or
 404 to members thereof, for retail sale. Agents or wholesale dealers
 405 shall treat such cigarettes and the sale thereof in the same
 406 manner, with respect to reporting and stamping, as other sales
 407 under this part, but agents or wholesale dealers shall not
 408 collect from the purchaser the user fee ~~tax~~ imposed by s.
 409 210.02. The purchaser hereunder shall be responsible to the
 410 agent or wholesale dealer for the services and expenses incurred
 411 in affixing the stamps and accounting therefor.

412 Section 8. Subsections (1), (2), and (4) of section
 413 210.06, Florida Statutes, are amended to read:

414 210.06 Affixation of stamps; presumption.--

415 (1) Every dealer within the state shall affix or cause to
 416 be affixed to such package or container of such cigarettes such
 417 stamps as are required under this section within 10 days after
 418 receipt of such products. Dealers outside this state shall affix
 419 such stamps before the shipment of cigarettes into this state.

420 (a) A user fee ~~tax~~ stamp shall be applied to all cigarette

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421 packages intended for sale or distribution to consumers subject
 422 to the user fee ~~tax~~ imposed under s. 210.02, except as otherwise
 423 provided in this part.

424 (b) No stamp shall be applied to any cigarette package
 425 exempt from a user fee or tax under 26 U.S.C. s. 5704 that is
 426 distributed by a manufacturer pursuant to federal regulations.

427 (c) Dealers may apply stamps only to cigarette packages
 428 received directly from a manufacturer or importer of cigarettes,
 429 or a distributing agent representing a manufacturer or importer
 430 of cigarettes, who possesses a valid and current permit under
 431 this part.

432 (2) Each retail dealer shall open such box, carton, or
 433 other container of cigarettes prior to exposing for sale or
 434 selling such cigarettes and examine the packages contained
 435 therein for the purpose of ascertaining whether or not such ~~the~~
 436 ~~said~~ packages have affixed thereto the proper user fee ~~tax~~
 437 stamp. If unstamped or improperly stamped packages of cigarettes
 438 are discovered, the retail dealer shall immediately notify the
 439 dealer from whom said cigarettes were purchased. Upon such
 440 notification, the dealer from whom said cigarettes were
 441 purchased shall replace such unstamped or improperly stamped
 442 packages of cigarettes with those upon which stamps have been
 443 properly affixed, or immediately affix thereto the proper amount
 444 of stamps.

445 (4) Stamps shall be affixed to each package of cigarettes
 446 of an aggregate denomination not less than the amount of the
 447 user fee ~~tax~~ upon the contents therein, and shall be affixed in
 448 such manner as to be visible to the purchaser. All stamps shall

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449 be affixed in the manner prescribed by the division. The state
450 may not impose an additional charge on stamps for printing
451 costs.

452 Section 9. Subsections (1), (2), and (4) of section
453 210.07, Florida Statutes, are amended to read:

454 210.07 Metering machines.--

455 (1) (a) The user fee ~~tax~~ may also be paid through the use
456 of cigarette user fee ~~tax~~ stamp insignia to be applied by the
457 use of metering machines. The division shall prescribe and
458 promulgate appropriate rules and regulations governing the use
459 of metering machines, the procedure for the payment of such
460 cigarette user fees ~~taxes~~ through the use thereof, requiring
461 adequate surety bonds of the users thereof to assure the proper
462 use of such machines and payment of all cigarette user fees
463 ~~taxes~~ that might come due by the users thereof, and all other
464 rules and regulations necessary and proper to govern the use of
465 same.

466 (b) The provisions of s. 210.05(3)(a) and (b) shall be
467 applicable to cigarette user fees ~~taxes~~ paid through the use of
468 metering machines.

469 (2) All provisions of this part governing the use of
470 cigarette user fee ~~tax~~ stamps, the compiling of records, the
471 making of reports, permits and revocation of permits, seizures
472 and forfeitures, penalties, and all other provisions pertaining
473 to the payment of cigarette user fees ~~taxes~~ through the use of
474 stamps, shall likewise be applicable to the payment of said user
475 fees ~~taxes~~ through the use of metering machines.

476 (4) No vending machine shall be allowed to operate in the

477 | state that does not have affixed thereto the identification
 478 | sticker required by this section nor shall any vending machine
 479 | be allowed to operate in the state that does not display at all
 480 | times at least one package of each brand of the packages located
 481 | therein so the same are clearly visible and arranged in such a
 482 | manner that the cigarette user fee ~~tax~~ stamps or meter
 483 | impressions of stamps affixed thereto are clearly visible. It
 484 | shall be the duty of any person, firm, or corporation operating
 485 | a cigarette vending machine in this state to furnish the
 486 | division the location of the vending machine and to report
 487 | within 30 days to the division any change of location of the
 488 | vending machine.

489 | Section 10. Section 210.08, Florida Statutes, is amended
 490 | to read:

491 | 210.08 Bond for payment of user fees ~~taxes~~.--Each dealer,
 492 | agent, or distributing agent shall file with the division a
 493 | surety bond, certificate of deposit, or irrevocable letter of
 494 | credit acceptable to the division in an amount equal to 110
 495 | percent of the estimated user fee ~~tax~~ liability for 30 days, but
 496 | not less than \$2,000.

497 | Section 11. Subsections (2) and (3) of section 210.09,
 498 | Florida Statutes, are amended to read:

499 | 210.09 Records to be kept; reports to be made;
 500 | examination.--

501 | (2) The division is authorized to prescribe and promulgate
 502 | by rules and regulations, which shall have the force and effect
 503 | of the law, such records to be kept and reports to be made to
 504 | the division by any manufacturer, importer, distributing agent,

505 wholesale dealer, retail dealer, common carrier, or any other
 506 person handling, transporting, or possessing cigarettes for sale
 507 or distribution within the state as may be necessary to collect
 508 and properly distribute the user fees ~~taxes~~ imposed by s.
 509 210.02. All reports shall be made on or before the 10th day of
 510 the month following the month for which the report is made,
 511 unless the division by rule or regulation shall prescribe that
 512 reports be made more often.

513 (3) All manufacturers, importers, distributing agents,
 514 wholesale dealers, agents, or retail dealers shall maintain and
 515 keep for a period of 3 years at the place of business where any
 516 transaction takes place, such records of cigarettes received,
 517 sold, or delivered within the state as may be required by the
 518 division. The division or its duly authorized representative is
 519 hereby authorized to examine the books, papers, invoices, and
 520 other records, the stock of cigarettes in and upon any premises
 521 where the same are placed, stored, and sold, and the equipment
 522 of any such manufacturers, importers, distributing agents,
 523 wholesale dealers, agents, or retail dealers, pertaining to the
 524 sale and delivery of cigarettes assessable ~~taxable~~ under this
 525 part. To verify the accuracy of the user fee ~~tax~~ imposed and
 526 assessed by this part, each person is hereby directed and
 527 required to give to the division or its duly authorized
 528 representatives the means, facilities, and opportunity for such
 529 examinations as are herein provided for and required.

530 Section 12. Section 210.11, Florida Statutes, is amended
 531 to read:

532 210.11 Refunds; sales of stamps and payment of user fee

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533 ~~tax~~.--Whenever any cigarettes upon which stamps have been
534 placed, or upon which the user fee ~~tax~~ has been paid by metering
535 machine, have been sold and shipped into another state for sale
536 or use therein, or have become unfit for use and consumption or
537 unsalable, or have been destroyed, the dealer involved shall be
538 entitled to a refund or credit of the actual amount of the user
539 fee ~~tax~~ paid with respect to such cigarettes less any discount
540 allowed by the division in the sale of the stamps or payment of
541 the user fee ~~tax~~ by metering machine, upon receipt of
542 satisfactory evidence of the dealer's right to receive such
543 refund or credit, provided application for refund or credit is
544 made within 9 months of the date the cigarettes were shipped out
545 of the state, became unfit, or were destroyed. Only the division
546 shall sell, or offer for sale, any stamp or stamps issued under
547 this part. The division may redeem unused stamps lawfully in the
548 possession of any person. The division may prescribe necessary
549 rules and regulations concerning refunds, credits, sales of
550 stamps, and redemptions under the provisions of this part.
551 Appropriation is hereby made out of revenues collected under
552 this part for payment of such allowances.

553 Section 13. Section 210.13, Florida Statutes, is amended
554 to read:

555 210.13 Determination of user fee ~~tax~~ on failure to file a
556 return.--If a dealer fails to file any return required under
557 this part, or having filed an incorrect or insufficient return,
558 fails to file a correct or sufficient return, as the case may
559 require, within 10 days after the giving of notice to the dealer
560 by the Division of Alcoholic Beverages and Tobacco that such

561 return or corrected or sufficient return is required, the
 562 division shall determine the amount of user fee ~~tax~~ due by such
 563 dealer any time within 3 years after the making of the earliest
 564 sale included in such determination and give written notice of
 565 such determination to such dealer. Such a determination shall
 566 finally and irrevocably fix the user fee ~~tax~~ unless the dealer
 567 against whom it is assessed shall, within 30 days after the
 568 giving of notice of such determination, apply to the division
 569 for a hearing. Judicial review shall not be granted unless the
 570 amount of the user fee ~~tax~~ stated in the decision, with
 571 penalties thereon, if any, shall have been first deposited with
 572 the division, and an undertaking or bond filed in the court in
 573 which such cause may be pending in such amount and with such
 574 sureties as the court shall approve, conditioned that if such
 575 proceeding be dismissed or the decision of the division
 576 confirmed, the applicant for review will pay all costs and
 577 charges which may accrue against the applicant in the
 578 prosecution of the proceeding. At the option of the applicant,
 579 such undertaking or bond may be in an additional sum sufficient
 580 to cover the user fees ~~tax~~, penalties, costs, and charges
 581 aforesaid, in which event the applicant shall not be required to
 582 pay such user fees ~~tax~~ and penalties precedent to the granting
 583 of such review by such court.

584 Section 14. Subsection (1) of section 210.14, Florida
 585 Statutes, is amended to read:

586 210.14 Warrant for collection of user fees ~~taxes~~.--

587 (1) In addition to all other remedies for the collection
 588 of any user fees ~~taxes~~ due under the provisions of this part,

589 the division may issue a warrant under its official seal, which
 590 warrant may be filed by the division in the office of the clerk
 591 of the circuit court of any county where the delinquent person
 592 ~~taxpayer~~ owns property. Upon presentation of the warrant, the
 593 clerk of the circuit court shall enter it in the judgment
 594 docket. The name of the person mentioned in the warrant, the
 595 amount of the user fee tax and penalties for which the warrant
 596 was issued, and the date such copy was filed shall be included
 597 in the record of the warrant. The clerk shall be allowed the
 598 same fees as are allowed by law for similar services rendered in
 599 judgment execution proceedings. The warrant issued by the
 600 division may then be directed to the sheriff of any county
 601 commanding that sheriff to levy upon and sell the goods and
 602 chattels of the specified delinquent person found within the
 603 sheriff's jurisdiction, for the payment of the amount of such
 604 delinquency plus a penalty equal to 50 percent of the amount
 605 thereof, and interest on the total at 1 percent per month and
 606 the cost of executing the warrant, and to return such warrant to
 607 the division and to pay it the money collected by virtue thereof
 608 within 60 days after receipt of such warrant.

609 Section 15. Paragraphs (c) and (h) of subsection (1) and
 610 subsection (2) of section 210.15, Florida Statutes, are amended
 611 to read:

612 210.15 Permits.--

613 (1)

614 (c) No permit under this part or chapter 569 shall be
 615 issued, maintained, or renewed if the applicant, its officers,
 616 or any person or persons owning directly or indirectly, in the

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617 aggregate, more than 10 percent of the ownership interests in
 618 the applicant:

619 1. Has been finally adjudicated as owing \$500 or more in
 620 delinquent cigarette user fees ~~taxes~~;

621 2. Had a permit revoked by the division within the
 622 previous 2 years;

623 3. Has been convicted of selling stolen or counterfeit
 624 cigarettes, receiving stolen cigarettes, or being involved in
 625 the counterfeiting of cigarettes;

626 4. Has been convicted within the past 5 years of any
 627 offense against the cigarette laws of this state or convicted in
 628 this state, any other state, or the United States during the
 629 past 5 years of any offense designated as a felony by such state
 630 or the United States, or to a corporation, any of whose officers
 631 have been so convicted. The term "convicted" shall include an
 632 adjudication of guilt on a plea of guilty or a plea of nolo
 633 contendere, or the forfeiture of a bond when charged with a
 634 crime;

635 5. Has imported, or caused to be imported, into the United
 636 States any cigarette in violation of 19 U.S.C. s. 1681a; or

637 6. Has imported, or caused to be imported, into the United
 638 States, or manufactured for sale or distribution in the United
 639 States, any cigarette that does not fully comply with the
 640 Federal Cigarette Labeling and Advertising Act (15 U.S.C. ss.
 641 1331 et seq.).

642 (h) No retail sales of cigarettes may be made at a
 643 location for which a wholesale dealer, distributing agent, or
 644 exporter permit has been issued. The user fee ~~excise tax~~ on

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645 sales made to any traveling location, such as an itinerant store
 646 or industrial caterer, shall be paid into the General Revenue
 647 Fund unallocated. Cigarettes may be purchased for retail
 648 purposes only from a person holding a wholesale dealer permit.
 649 The invoice for the purchase of cigarettes must show the place
 650 of business for which the purchase is made and the cigarettes
 651 cannot be transferred to any other place of business for the
 652 purpose of resale.

653 (2) The division may not furnish stamps or approve the use
 654 of meter machines to evidence the payment of the user fees ~~taxes~~
 655 on cigarettes except to qualified wholesale dealers.

656 Section 16. Subsections (1) through (6) and subsections
 657 (8) and (10) of section 210.18, Florida Statutes, are amended to
 658 read:

659 210.18 Penalties for user fee ~~tax~~ evasion; reports by
 660 sheriffs.--

661 (1) Any person who possesses or transports any unstamped
 662 packages of cigarettes upon the public highways, roads, or
 663 streets in the state for the purpose of sale; or who sells or
 664 offers for sale unstamped packages of cigarettes in violation of
 665 the provisions of this part; or who willfully attempts in any
 666 manner to evade or defeat any user fee ~~tax~~ imposed by this part,
 667 or the payment thereof, commits ~~is guilty of~~ a misdemeanor of
 668 the first degree, punishable as provided in s. 775.082 or s.
 669 775.083. Any person who has been convicted of a violation of any
 670 provision of the cigarette user fee ~~tax~~ law and who is
 671 thereafter convicted of a further violation of the cigarette
 672 user fee ~~tax~~ law is, upon conviction of such further offense,

673 guilty of a felony of the third degree, punishable as provided
 674 in s. 775.082, s. 775.083, or s. 775.084.

675 (2) Except as otherwise provided in this section, any
 676 person who fails, neglects, or refuses to comply with, or
 677 violates the provisions of, this part or the rules adopted by
 678 the division under this part commits a misdemeanor of the first
 679 degree, punishable as provided in s. 775.082 or s. 775.083. Any
 680 person who has been convicted of a violation of any provision of
 681 the cigarette user fee ~~tax~~ law and who is thereafter convicted
 682 of a further violation of the cigarette user fee ~~tax~~ law is,
 683 upon conviction of such further offense, guilty of a felony of
 684 the third degree, punishable as provided in s. 775.082, s.
 685 775.083, or s. 775.084.

686 (3) Any person who falsely or fraudulently makes, forges,
 687 alters, or counterfeits any stamp or impression die used in
 688 meter machines prescribed by the division under the provisions
 689 of this part; or, with intent to evade user fees ~~taxes~~, jams,
 690 tampers with, or alters such a machine; or causes or procures to
 691 be falsely or fraudulently made, forged, altered, or
 692 counterfeited any such stamp or die; or knowingly and willfully
 693 utters, purchases, passes or tenders as true any such false,
 694 altered, or counterfeited stamp or die impression; or, with the
 695 intent to defraud the state, fails to comply with any other
 696 requirement of this part commits a felony of the third degree,
 697 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

698 (4) (a) Any person or corporation that owns or is in
 699 possession of any cigarettes upon which a user fee ~~tax~~ is
 700 imposed by the cigarette law, or would be imposed if such

701 cigarettes were manufactured in or brought into this state in
 702 accordance with the regulatory provisions of the cigarette law,
 703 and upon which such user fee ~~tax~~ has not been paid is, in
 704 addition to the fines and penalties otherwise provided in the
 705 cigarette law, personally liable for the amount of the user fee
 706 ~~tax~~ imposed on such cigarettes; and the division may collect
 707 such user fee ~~tax~~ from such person or corporation by suit or by
 708 restitution if the person ~~taxpayer~~ is convicted, found guilty,
 709 or pleads nolo contendere or guilty to any crime under this
 710 chapter. This paragraph is applicable even if adjudication is
 711 withheld.

712 (b) This subsection does not apply to a manufacturer or
 713 distributor licensed under the cigarette law, to a state bonded
 714 warehouse, or to a person possessing not in excess of three
 715 cartons of such cigarettes, which cigarettes were purchased by
 716 such possessor outside the state in accordance with the laws of
 717 the place where purchased and brought into this state by such
 718 possessor. The burden of proof that such cigarettes were
 719 purchased outside the state and in accordance with the laws of
 720 the place where purchased shall in all cases be upon the
 721 possessor of such cigarettes.

722 (5) (a) All cigarettes on which user fees ~~taxes~~ are imposed
 723 by the cigarette law, or would be imposed if such cigarettes
 724 were manufactured in or brought into this state in accordance
 725 with the regulatory provisions of such law, which are found in
 726 the possession or custody or within the control of any person
 727 for the purpose of being sold or removed by him or her in fraud
 728 of the cigarette law or with design to evade payment of such

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729 user fees ~~taxes~~ may be seized by the division or any supervisor,
 730 sheriff, deputy sheriff, or other law enforcement agent and
 731 shall be forfeited to the state.

732 (b) This subsection does not apply to a person possessing
 733 not in excess of three cartons of cigarettes, which cigarettes
 734 were purchased by such possessor outside the state in accordance
 735 with the laws of the place where purchased and brought into this
 736 state by such possessor.

737 (6) (a) Every person, firm, or corporation, other than a
 738 licensee under the provisions of this part, who possesses,
 739 removes, deposits, or conceals, or aids in the possessing,
 740 removing, depositing, or concealing of, any unstamped cigarettes
 741 not in excess of 50 cartons commits ~~is guilty of~~ a misdemeanor
 742 of the second degree, punishable as provided in s. 775.082 or s.
 743 775.083. In lieu of the penalties provided in those sections,
 744 however, the person, firm, or corporation may pay the user fee
 745 ~~tax~~ plus a penalty equal to the amount of the user fee ~~tax~~
 746 authorized under s. 210.02 on the unstamped cigarettes.

747 (b) Every person, firm, or corporation, other than a
 748 licensee under the provisions of this part, who possesses,
 749 removes, deposits, or conceals, or aids in the possessing,
 750 removing, depositing, or concealing of, any unstamped cigarettes
 751 in excess of 50 cartons is presumed to have knowledge that they
 752 have not been assessed the user fee ~~taxed~~ and commits ~~is guilty~~
 753 ~~of~~ a felony of the third degree, punishable as provided in s.
 754 775.082, s. 775.083, or s. 775.084.

755 (c) This section does not apply to a person possessing not
 756 in excess of three cartons of such cigarettes purchased by such

757 | possessor outside the state in accordance with the laws of the
 758 | place where purchased and brought into this state by such
 759 | possessor. The burden of proof that such cigarettes were
 760 | purchased outside the state and in accordance with the laws of
 761 | the place where purchased shall in all cases be upon the
 762 | possessor of such cigarettes.

763 | (8) (a) It is unlawful for any person to conspire with any
 764 | other person or persons to do any act in violation of the
 765 | provisions of this part, when any one or more of such persons
 766 | does or commits any act to effect the object of the conspiracy.

767 | (b) Any person who violates the provisions of this
 768 | subsection:

769 | 1. If the act conspired to be done would constitute a
 770 | misdemeanor, commits ~~is guilty of~~ a misdemeanor of the second
 771 | degree, punishable as provided in s. 775.082 or s. 775.083.

772 | 2. If the act conspired to be done would constitute a
 773 | felony, commits ~~is guilty of~~ a felony of the third degree,
 774 | punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

775 | (10) It is unlawful to sell or possess with the intent to
 776 | sell counterfeit cigarettes, as defined in s. 210.01~~(22)~~.

777 | (a) A person who does not hold a permit or holds a retail
 778 | permit under the provisions of this chapter and who violates
 779 | this subsection commits a felony of the third degree, punishable
 780 | as provided in s. 775.082, s. 775.083, or s. 775.084, and is
 781 | subject to the imposition of fines and additional penalties as
 782 | follows:

783 | 1. If the quantity of counterfeit cigarettes sold or
 784 | possessed with the intent to sell is less than two cartons or

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785 the equivalent, the fine for a first violation shall not exceed
786 \$1,000 or five times the retail value of the counterfeit
787 cigarettes, whichever is greater. A subsequent violation may
788 result in the imposition of a fine not to exceed \$5,000 or five
789 times the retail value of the counterfeit cigarettes, whichever
790 is greater, and shall result in revocation of the retail permit
791 by the division.

792 2. If the quantity of counterfeit cigarettes sold or
793 possessed with the intent to sell is two cartons or more or the
794 equivalent, the fine for a first violation shall not exceed
795 \$2,000 or five times the retail value of the counterfeit
796 cigarettes, whichever is greater. A subsequent violation may
797 result in the imposition of a fine not to exceed \$50,000 or five
798 times the retail value of the counterfeit cigarettes, whichever
799 is greater, and shall result in revocation of the retail permit
800 by the division.

801 (b) A person who holds a permit, other than a retail
802 permit, under the provisions of this chapter and who violates
803 this subsection commits a felony of the third degree, punishable
804 as provided in s. 775.082, s. 775.083, or s. 775.084, and is
805 subject to the imposition of fines and additional penalties as
806 follows:

807 1. If the quantity of counterfeit cigarettes sold or
808 possessed with the intent to sell is less than 10 cartons or the
809 equivalent, the fine for a first violation shall not exceed
810 \$1,000 or five times the retail value of the counterfeit
811 cigarettes, whichever is greater. A subsequent violation may
812 result in the imposition of a fine not to exceed \$5,000 or five

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813 times the retail value of the counterfeit cigarettes, whichever
814 is greater, and shall result in revocation of the permit by the
815 division.

816 2. If the quantity of counterfeit cigarettes sold or
817 possessed with the intent to sell is 10 cartons or more or the
818 equivalent, the fine for a first violation shall not exceed
819 \$2,000 or five times the retail value of the counterfeit
820 cigarettes, whichever is greater. A subsequent violation may
821 result in the imposition of a fine not to exceed \$50,000 or five
822 times the retail value of the counterfeit cigarettes, whichever
823 is greater, and shall result in revocation of the permit by the
824 division.

825

826 For purposes of this subsection, any counterfeit cigarettes
827 seized by the division shall be destroyed.

828 Section 17. Subsection (2) of section 210.181, Florida
829 Statutes, is amended to read:

830 210.181 Civil penalties.--

831 (2) Whoever fails to pay any user fee ~~tax~~ imposed by this
832 part at the time prescribed by law or rules shall, in addition
833 to any other penalty provided in this part, be liable for a
834 penalty of five times the unpaid user fees ~~tax~~ due.

835 Section 18. Subsection (2) and paragraph (c) of subsection
836 (6) of section 210.185, Florida Statutes, are amended to read:

837 210.185 Prohibition on sale or distribution of cigarettes;
838 criminal penalties; administrative sanctions; applicability.--

839 (2) DOCUMENTATION.--On or before the 10th day of each
840 month, each person permitted to affix the user fee ~~tax~~ stamp to

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841 cigarettes shall file with the division, for all cigarettes
 842 imported into the United States to which the person has affixed
 843 the user fee ~~tax~~ stamp in the preceding month, a copy of the
 844 permit issued under the Internal Revenue Code, 26 U.S.C. s.
 845 5713, to the person importing the cigarettes into the United
 846 States which allows that person to import those cigarettes; a
 847 copy of the customs form containing, with respect to the
 848 cigarettes, the internal revenue tax information required by the
 849 United States Bureau of Alcohol, Tobacco and Firearms; and a
 850 statement, signed by an officer of the manufacturer or importer
 851 under penalty of perjury, certifying that the manufacturer or
 852 importer has complied with the package health warning and
 853 ingredient reporting requirements of the Federal Cigarette
 854 Labeling and Advertising Act, 15 U.S.C. ss. 1333 and 1335a, with
 855 respect to those cigarettes.

856 (6) GENERAL PROVISIONS.--

857 (c) In addition to any other remedy provided by law,
 858 including enforcement as provided in paragraph (a), any person
 859 may bring an action for appropriate injunctive or other
 860 equitable relief for a violation of this section; for actual
 861 damages, if any, sustained by reason of the violation; and, as
 862 determined by the court, for interest on the damages from the
 863 date of the complaint, assessable ~~taxable~~ costs, and reasonable
 864 attorney's fees. If the trier of fact finds that the violation
 865 is flagrant, it may increase recovery to an amount not in excess
 866 of 3 times the actual damages sustained by reason of the
 867 violation.

868 Section 19. Section 210.19, Florida Statutes, is amended

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869 to read:

870 210.19 Records to be kept by division.--The division shall
871 keep records showing the total amount of user fees ~~taxes~~
872 collected, which records shall be open to the public during the
873 regular office hours of the division. The division shall
874 maintain records that identify which agent or wholesale dealer
875 affixed the user fee ~~tax~~ stamp to each package of cigarettes.
876 The identifying records must be made available for public
877 inspection and retained for at least 3 years.

878 Section 20. Subsection (2) of section 210.20, Florida
879 Statutes, is amended to read:

880 210.20 Employees and assistants; distribution of funds.--

881 (2)(a) For purposes of this subsection, the term:

882 1. "Agency" means the Agency for Health Care
883 Administration.

884 2. "Cigarette user fee" means the user fee imposed by s.
885 210.02.

886 3. "Council" means the Biomedical Research Advisory
887 Council within the Department of Health as established in s.
888 215.5602.

889 4. "Net collections" means 99.1 percent of the total
890 collections less the service charges provided for in s. 215.20.

891 5. "Reference year" means July 1, 2008, to June 30, 2009.

892 6. "Reference year allocation" means the total amount
893 credited or transferred from the Cigarette Tax Collection Trust
894 Fund to a particular trust fund or the General Revenue Fund
895 during the reference year divided by 12.

896 7. "Total base allocation" means, for a given month, 8.333

897 percent of the average of the projected net collections for the
 898 fiscal year containing such month, based on the most recent
 899 estimates generated by a Revenue Estimating Conference convened
 900 pursuant to s. 216.136(3), or net collections for such month,
 901 whichever is less.

902 8. "Total collections" means the total amount derived from
 903 the cigarette user fee during a specified period of time.

904 (b) As collections are received by the division from the
 905 user fee on cigarettes ~~such cigarette taxes,~~ it shall pay the
 906 same into a trust fund in the State Treasury designated
 907 "Cigarette Tax Collection Trust Fund." ~~which shall be paid and~~
 908 ~~distributed as follows:~~

909 (c)-(a) The division shall from month to month certify to
 910 the Chief Financial Officer the amount of net collections
 911 derived from the cigarette user fee ~~tax~~ imposed by s. 210.02,
 912 ~~less the service charges provided for in s. 215.20 and less 0.9~~
 913 ~~percent of the amount derived from the cigarette tax imposed by~~
 914 ~~s. 210.02, which shall be deposited into the Alcoholic Beverage~~
 915 ~~and Tobacco Trust Fund,~~ specifying the amounts to be transferred
 916 from the Cigarette Tax Collection Trust Fund and credited on the
 917 following bases; however, the division shall first deposit
 918 monthly into the Alcoholic Beverage and Tobacco Trust Fund an
 919 amount equal to the sum of 0.9 percent of total collections and
 920 the service charge on total collections provided for in this
 921 section as follows:

922 1. The sum of 0.8345 ~~basis of 2.9~~ percent of the total
 923 base allocation ~~net collections~~ to the Revenue Sharing Trust
 924 Fund for Counties for distribution pursuant to the Florida

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925 Revenue Sharing Act.

926 2. The sum of 8.5857 and 29.3 percent of the total base
 927 allocation to the Public Medical Assistance Trust Fund ~~net~~
 928 ~~collections~~ for the funding of indigent health care pursuant to
 929 s. 409.918 to the Public Medical Assistance Trust Fund.

930 3. The sum of 7.737 percent of the total base allocation
 931 to the Public Medical Assistance Trust Fund specifically to
 932 contribute to the state share of funding for the low-income
 933 pool.

934 4. The sum of 4.06 percent of the total base allocation to
 935 the H. Lee Moffitt Cancer Center and Research Institute
 936 established in s. 1004.43, which shall be paid on a monthly
 937 basis to the center's board of directors by warrant drawn by the
 938 Chief Financial Officer upon the State Treasury. The revenues
 939 derived from this allocation are separate and distinct from any
 940 funds allocated to the H. Lee Moffitt Cancer Center and Research
 941 Institute through the James and Esther King Biomedical Research
 942 Program or the Bankhead-Coley Program. Funds derived pursuant
 943 this subparagraph are to be used for the purpose of
 944 constructing, furnishing, and equipping cancer research,
 945 treatment, and related facilities. The appropriation to the H.
 946 Lee Moffitt Cancer Center and Research Institute authorized by
 947 this subparagraph shall not be less than the amount that would
 948 have been paid to the H. Lee Moffitt Cancer Center and Research
 949 Institute for fiscal year 2007-2008 had this subparagraph been
 950 in effect.

951 5. The sum of 6.01 percent of the total base allocation to
 952 the Biomedical Research Trust Fund for distribution by the

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953 Biomedical Research Advisory Council to grantees of the James
954 and Esther King Biomedical Research Program authorized pursuant
955 to s. 215.5602 and the Bankhead-Coley Program authorized
956 pursuant to s. 381.922, with such programs dividing equally the
957 allocation derived from this subparagraph. The provisions of ss.
958 215.5602 and 381.922 shall determine the methods of distribution
959 under the respective programs.

960 6. The sum of 15.13 percent of the total base allocation
961 to the Medical Care Trust Fund for the funding of the Medically
962 Needy program established pursuant to s. 409.904(2) and 42
963 U.S.C. s. 1396(a) and (d).

964 7. The sum of 13.68 percent of the total base allocation
965 to the Medical Care Trust Fund for the funding of annual
966 adjustments to fee reimbursements made to physicians for
967 services provided for children under the Medicaid program so
968 that reimbursement rates for such services are made equal to the
969 Medicaid reimbursement rates as such rates existed on January 1,
970 2008.

971 8. The sum of 1.01 percent of the total base allocation to
972 the Medical Care Trust Fund for the funding of children's health
973 care coverage through the Florida Kidcare program established in
974 ss. 409.810-409.820. It is the intent of the Legislature to use
975 cigarette user fee collections to increase enrollment of
976 previously uninsured children in the Florida Kidcare program and
977 minimize disruption of such coverage for children at risk for
978 involuntary or premature disenrollment from the program.
979 Therefore, for the purposes of this subparagraph, such credits
980 shall be made each month to the Medical Care Trust Fund as

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981 follows:

982 a. A percentage of the total base allocation shall first
983 be credited to fund efforts to ensure appropriate retention of
984 coverage by, and prevention of, the involuntary or premature
985 disenrollment from coverage for children enrolled in the Florida
986 Kidcare program during any month in which such children are not
987 subject to disenrollment under the laws and policies in effect,
988 but would have been subject to disenrollment if the laws and
989 policies governing the Florida Kidcare program in effect on June
990 30, 2008, had remained in effect during such month. The
991 percentage shall be determined by the agency for each fiscal
992 year based on the estimated amount needed to fully fund such
993 retention and prevention efforts, except that such percentage
994 shall not exceed one-tenth of the allocation in this
995 subparagraph and shall remain fixed throughout the fiscal year.

996 b. A percentage of the total base allocation shall next be
997 credited to fund the coverage of children who are enrolled in
998 the Florida Kidcare program and covered under Title XXI of the
999 Social Security Act during any month. The percentage shall be
1000 determined by the agency based on the estimated amount needed to
1001 fund coverage for a number of children equal to the number
1002 enrolled in the Florida Kidcare program and covered under Title
1003 XXI of the Social Security Act during such month, as certified
1004 to the Chief Financial Officer by the agency less the number of
1005 children similarly enrolled and covered as of June 30, 2008.
1006 Such percentage shall not exceed a percentage equal to 1.01
1007 percent less the percentage established pursuant to sub-
1008 subparagraph a.

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1009 9. The sum of 3.452 percent of the total base allocation
1010 for the funding of medical residency and fellowship programs, as
1011 determined by the Legislature, with primary emphasis given to
1012 the establishment of residencies in the fields of oncology,
1013 cardiology, and pulmonary medicine.

1014 10. The sum of 15.2409 percent of the total base
1015 allocation to the Medical Care Trust Fund for the funding of the
1016 MEDS-AD Waiver Program.

1017 (d) During any month, the total amount credited or
1018 transferred from the Cigarette Tax Collection Trust Fund for any
1019 of the uses provided in subparagraph (c)1., subparagraph (c)2.,
1020 or subparagraph (c)4. may not be less than the corresponding
1021 reference year allocation; otherwise, all other amounts to be
1022 transferred or credited pursuant to paragraph (c) must be
1023 reduced proportionately by the minimum amount necessary so that
1024 a reassignment of the total reduction amounts proportionately
1025 increases the amounts to be credited or transferred pursuant to
1026 subparagraph (c)1., subparagraph (c)2., or subparagraph (c)4. to
1027 their corresponding reference year allocation levels, except
1028 that if the sum of all reference year allocations exceeds the
1029 total base allocation, credits or transfers shall be made only
1030 for the latter three purposes in relatively proportionate
1031 amounts.

1032 (e) If the total base allocation for a particular month
1033 exceeds the total base allocation for any previous month within
1034 the same fiscal year, the amounts to be credited or transferred
1035 for each of the purposes described in paragraph (c) shall be
1036 increased proportionately, subject to the availability of

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1037 appropriations; however, the total supplemental allocation may
 1038 not exceed an amount in accordance with the formula: SA = M x
 1039 TBA(c) - TBA(i), where:

1040 1. "SA" is the maximum total supplemental allocation for
 1041 the current month.

1042 2. "M" is the number of prior months in the current fiscal
 1043 year.

1044 3. "TBA(c)" is the total base allocation for the current
 1045 month.

1046 4. "TBA(i)" is the sum of total base allocations for all
 1047 of the prior months in the current fiscal year.

1048 ~~(b)1. Beginning January 1, 1999, and continuing for 10~~
 1049 ~~years thereafter, the division shall from month to month certify~~
 1050 ~~to the Chief Financial Officer the amount derived from the~~
 1051 ~~cigarette tax imposed by s. 210.02, less the service charges~~
 1052 ~~provided for in s. 215.20 and less 0.9 percent of the amount~~
 1053 ~~derived from the cigarette tax imposed by s. 210.02, which shall~~
 1054 ~~be deposited into the Alcoholic Beverage and Tobacco Trust Fund,~~
 1055 ~~specifying an amount equal to 2.59 percent of the net~~
 1056 ~~collections, and that amount shall be paid to the Board of~~
 1057 ~~Directors of the H. Lee Moffitt Cancer Center and Research~~
 1058 ~~Institute, established under s. 1004.43, by warrant drawn by the~~
 1059 ~~Chief Financial Officer upon the State Treasury. These funds are~~
 1060 ~~hereby appropriated monthly out of the Cigarette Tax Collection~~
 1061 ~~Trust Fund, to be used for the purpose of constructing,~~
 1062 ~~furnishing, and equipping a cancer research facility at the~~
 1063 ~~University of South Florida adjacent to the H. Lee Moffitt~~
 1064 ~~Cancer Center and Research Institute. In fiscal years 1999-2000~~

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1065 ~~and thereafter with the exception of fiscal year 2008-2009, the~~
1066 ~~appropriation to the H. Lee Moffitt Cancer Center and Research~~
1067 ~~Institute authorized by this subparagraph shall not be less than~~
1068 ~~the amount that would have been paid to the H. Lee Moffitt~~
1069 ~~Cancer Center and Research Institute for fiscal year 1998-1999~~
1070 ~~had payments been made for the entire fiscal year rather than~~
1071 ~~for a 6-month period thereof.~~

1072 ~~2. Beginning July 1, 2002, and continuing through June 30,~~
1073 ~~2004, the division shall, in addition to the distribution~~
1074 ~~authorized in subparagraph 1., from month to month certify to~~
1075 ~~the Chief Financial Officer the amount derived from the~~
1076 ~~cigarette tax imposed by s. 210.02, less the service charges~~
1077 ~~provided for in s. 215.20 and less 0.9 percent of the amount~~
1078 ~~derived from the cigarette tax imposed by s. 210.02, which shall~~
1079 ~~be deposited into the Alcoholic Beverage and Tobacco Trust Fund,~~
1080 ~~specifying an amount equal to 0.2632 percent of the net~~
1081 ~~collections, and that amount shall be paid to the Board of~~
1082 ~~Directors of the H. Lee Moffitt Cancer Center and Research~~
1083 ~~Institute, established under s. 1004.43, by warrant drawn by the~~
1084 ~~Chief Financial Officer. Beginning July 1, 2004, and continuing~~
1085 ~~through June 30, 2016, the division shall, in addition to the~~
1086 ~~distribution authorized in subparagraph 1., from month to month~~
1087 ~~certify to the Chief Financial Officer the amount derived from~~
1088 ~~the cigarette tax imposed by s. 210.02, less the service charges~~
1089 ~~provided for in s. 215.20 and less 0.9 percent of the amount~~
1090 ~~derived from the cigarette tax imposed by s. 210.02, which shall~~
1091 ~~be deposited into the Alcoholic Beverage and Tobacco Trust Fund,~~
1092 ~~specifying an amount equal to 1.47 percent of the net~~

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1093 ~~collections, and that amount shall be paid to the Board of~~
 1094 ~~Directors of the H. Lee Moffitt Cancer Center and Research~~
 1095 ~~Institute, established under s. 1004.43, by warrant drawn by the~~
 1096 ~~Chief Financial Officer. These funds are appropriated monthly~~
 1097 ~~out of the Cigarette Tax Collection Trust Fund, to be used for~~
 1098 ~~the purpose of constructing, furnishing, and equipping a cancer~~
 1099 ~~research facility at the University of South Florida adjacent to~~
 1100 ~~the H. Lee Moffitt Cancer Center and Research Institute. In~~
 1101 ~~fiscal years 2004-2005 and thereafter, the appropriation to the~~
 1102 ~~H. Lee Moffitt Cancer Center and Research Institute authorized~~
 1103 ~~by this subparagraph shall not be less than the amount that~~
 1104 ~~would have been paid to the H. Lee Moffitt Cancer Center and~~
 1105 ~~Research Institute in fiscal year 2001-2002, had this~~
 1106 ~~subparagraph been in effect.~~

1107 Section 21. Section 210.201, Florida Statutes, is amended
 1108 to read:

1109 210.201 Cancer facilities ~~research facility at the~~
 1110 ~~University of South Florida; establishment; funding.--The Board~~
 1111 ~~of Directors of the H. Lee Moffitt Cancer Center and Research~~
 1112 ~~Institute shall construct, furnish, and equip, and shall~~
 1113 ~~covenant to complete, the cancer research facility at the~~
 1114 ~~University of South Florida adjacent to the H. Lee Moffitt~~
 1115 ~~Cancer Center and Research Institute. Moneys transferred to the~~
 1116 ~~Board of Directors of the H. Lee Moffitt Cancer Center and~~
 1117 ~~Research Institute pursuant to s. 210.20 shall be used to secure~~
 1118 ~~financing to pay or secure bonds or financial products issued or~~
 1119 ~~incurred in connection with the financing of costs related to~~
 1120 ~~constructing, furnishing, and equipping the cancer research,~~

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1121 treatment, and related facilities ~~facility~~. Such financing may
 1122 include the issuance of tax-exempt bonds or other forms of
 1123 indebtedness by a local authority, municipality, or county
 1124 pursuant to parts II and III of chapter 159. Such bonds shall
 1125 not constitute state bonds for purposes of s. 11, Art. VII of
 1126 the State Constitution, but shall constitute bonds of a "local
 1127 agency," as defined in s. 159.27(4). The cigarette user fee tax
 1128 dollars pledged to the facilities ~~this facility~~ pursuant to s.
 1129 210.20 may be replaced annually by the Legislature from tobacco
 1130 litigation settlement proceeds.

1131 Section 22. Subsection (11) of section 210.25, Florida
 1132 Statutes, is amended to read:

1133 210.25 Definitions.--As used in this part:

1134 (11) "Tobacco products" means loose tobacco suitable for
 1135 smoking; snuff; snuff flour; cavendish; plug and twist tobacco;
 1136 fine cuts and other chewing tobaccos; shorts; refuse scraps;
 1137 clippings, cuttings, and sweepings of tobacco, and other kinds
 1138 and forms of tobacco prepared in such manner as to be suitable
 1139 for chewing; but "tobacco products" does not include cigarettes,
 1140 as defined by s. 210.01~~(1)~~, or cigars.

1141 Section 23. Subsections (1), (2), (12), (13), (14), and
 1142 (15) of section 215.5602, Florida Statutes, are amended to read:

1143 215.5602 James and Esther King Biomedical Research
 1144 Program.--

1145 (1) There is established within the Department of Health
 1146 the James and Esther King Biomedical Research Program funded by
 1147 the designated proceeds of s. 210.20(2)(c)5., as well as any
 1148 prescribed portion of the Lawton Chiles Endowment Fund pursuant

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1149 | to s. 215.5601. The purpose of the James and Esther King
 1150 | Biomedical Research Program is to provide an annual and
 1151 | perpetual source of funding in order to support research
 1152 | initiatives that address the health care problems of Floridians
 1153 | in the areas of tobacco-related cancer, cardiovascular disease,
 1154 | stroke, and pulmonary disease. The long-term goals of the
 1155 | program are to:

1156 | (a) Improve the health of Floridians by researching better
 1157 | prevention, diagnoses, treatments, and cures for cancer,
 1158 | cardiovascular disease, stroke, and pulmonary disease.

1159 | (b) Expand the foundation of biomedical knowledge relating
 1160 | to the prevention, diagnosis, treatment, and cure of diseases
 1161 | related to tobacco use, including cancer, cardiovascular
 1162 | disease, stroke, and pulmonary disease.

1163 | (c) Improve the quality of the state's academic health
 1164 | centers by bringing the advances of biomedical research into the
 1165 | training of physicians and other health care providers.

1166 | (d) Increase the state's per capita funding for research
 1167 | by undertaking new initiatives in public health and biomedical
 1168 | research that will attract additional funding from outside the
 1169 | state.

1170 | (e) Stimulate economic activity in the state in areas
 1171 | related to biomedical research, such as the research and
 1172 | production of pharmaceuticals, biotechnology, and medical
 1173 | devices.

1174 | (f) Expand the research capacity and infrastructure needed
 1175 | to conduct research on tobacco-related illnesses, with the
 1176 | provision of fixed capital outlay project funding as deemed

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1177 appropriate by the Biomedical Research Advisory Council within
 1178 the program's annual appropriation and with up to 25 percent of
 1179 the program's annual funding allocation applied for this purpose
 1180 by the council.

1181 (2) Funds appropriated for the James and Esther King
 1182 Biomedical Research Program shall be used exclusively for the
 1183 award of grants and fellowships as established in this section;
 1184 for research relating to the prevention, diagnosis, treatment,
 1185 and cure of diseases related to tobacco use, including cancer,
 1186 cardiovascular disease, stroke, and pulmonary disease; for
 1187 expenditures related to the expansion of tobacco-related
 1188 research capacity and infrastructure within the state, including
 1189 the provision of capital outlay costs to achieve such purpose;
 1190 and for expenses incurred in the administration of this section.
 1191 Priority shall be granted to research designed to prevent or
 1192 cure disease.

1193 (12) Beginning in fiscal year 2006-2007, the sum of \$6
 1194 million is appropriated annually from recurring funds in the
 1195 General Revenue Fund to the Biomedical Research Trust Fund
 1196 within the Department of Health for purposes of the James and
 1197 Esther King Biomedical Research Program pursuant to this
 1198 section. From these funds up to \$1 million ~~\$250,000~~ shall be
 1199 available for the operating costs of the Florida Center for
 1200 Universal Research to Eradicate Disease.

1201 (13) By June 1, 2009, the Division of Statutory Revision
 1202 of the Office of Legislative Services shall certify to the
 1203 President of the Senate and the Speaker of the House of
 1204 Representatives the language and statutory citation of this

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1205 section, which is scheduled to expire January 1, 2016 ~~2011~~.

1206 (14) The Legislature shall review the performance, the
 1207 outcomes, and the financial management of the James and Esther
 1208 King Biomedical Research Program during the 2015 ~~2010~~ Regular
 1209 Session of the Legislature and shall determine the most
 1210 appropriate funding source and means of funding the program
 1211 based on its review.

1212 (15) This section expires January 1, 2016 ~~2011~~, unless
 1213 reviewed and reenacted by the Legislature before that date.

1214 Section 24. Subsections (1) and (2) of section 381.922,
 1215 Florida Statutes, are amended, present subsections (6), (7), and
 1216 (8) of that section are amended and redesignated as subsections
 1217 (7), (8), and (9), respectively, and a new subsection (6) is
 1218 added to that section, to read:

1219 381.922 William G. "Bill" Bankhead, Jr., and David Coley
 1220 Cancer Research Program.--

1221 (1) The William G. "Bill" Bankhead, Jr., and David Coley
 1222 Cancer Research Program, which may be otherwise cited as the
 1223 "Bankhead-Coley Program," is created within the Department of
 1224 Health. The purpose of the program shall be to advance progress
 1225 towards cures for cancer through grants awarded through a peer-
 1226 reviewed, competitive process, and to expand cancer research and
 1227 treatment capacity in the state.

1228 (2) The program shall provide grants for cancer research
 1229 to further the search for cures for cancer, for the recruitment
 1230 of cancer researchers and research teams to institutions within
 1231 the state, for operational start-up grants for newly recruited
 1232 cancer researchers and research teams, and for fixed capital

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1233 outlay expenditures related to the expansion of cancer research
 1234 and treatment capacity in Florida, with up to 25 percent of the
 1235 program's annual allocation applied to these purposes.

1236 (a) Emphasis shall be given to the goals enumerated in s.
 1237 381.921, as those goals support the advancement of such cures.

1238 (b) Preference may be given to grant proposals that foster
 1239 collaborations among institutions, researchers, and community
 1240 practitioners, as such proposals support the advancement of
 1241 cures through basic or applied research, including clinical
 1242 trials involving cancer patients and related networks.

1243 (6) Beginning in the 2009-2010 fiscal year, and every year
 1244 thereafter, designated proceeds generated by s. 210.20(2)(c)5.
 1245 shall be employed to enhance the purposes prescribed in this
 1246 section.

1247 (7)~~(6)~~ By June 1, 2010 ~~2009~~, the Division of Statutory
 1248 Revision of the Office of Legislative Services shall certify to
 1249 the President of the Senate and the Speaker of the House of
 1250 Representatives the language and statutory citation of this
 1251 section, which is scheduled to expire January 1, 2016 ~~2011~~.

1252 (8)~~(7)~~ The Legislature shall review the performance, the
 1253 outcomes, and the financial management of the Bankhead-Coley
 1254 William G. "Bill" Bankhead, Jr., and David Coley Cancer Research
 1255 Program during the 2015 2010 Regular Session of the Legislature
 1256 and shall determine the most appropriate funding source and
 1257 means of funding the program based on its review.

1258 (9)~~(8)~~ This section expires January 1, 2016 ~~2011~~, unless
 1259 reviewed and reenacted by the Legislature before that date.

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1260 Section 25. Subsection (1) of section 951.22, Florida
 1261 Statutes, is amended to read:

1262 951.22 County detention facilities; contraband articles.--

1263 (1) It is unlawful, except through regular channels as
 1264 duly authorized by the sheriff or officer in charge, to
 1265 introduce into or possess upon the grounds of any county
 1266 detention facility as defined in s. 951.23 or to give to or
 1267 receive from any inmate of any such facility wherever said
 1268 inmate is located at the time or to take or to attempt to take
 1269 or send therefrom any of the following articles which are hereby
 1270 declared to be contraband for the purposes of this act, to wit:
 1271 Any written or recorded communication; any currency or coin; any
 1272 article of food or clothing; any tobacco products as defined in
 1273 s. 210.25(11); any cigarette as defined in s. 210.01~~(1)~~; any
 1274 cigar; any intoxicating beverage or beverage which causes or may
 1275 cause an intoxicating effect; any narcotic, hypnotic, or
 1276 excitative drug or drug of any kind or nature, including nasal
 1277 inhalators, sleeping pills, barbiturates, and controlled
 1278 substances as defined in s. 893.02(4); any firearm or any
 1279 instrumentality customarily used or which is intended to be used
 1280 as a dangerous weapon; and any instrumentality of any nature
 1281 that may be or is intended to be used as an aid in effecting or
 1282 attempting to effect an escape from a county facility.

1283 Section 26. By December 1, 2010, and before December 1 of
 1284 each year thereafter, the Department of Health shall submit to
 1285 the Governor, the President of the Senate, and the Speaker of
 1286 the House of Representatives a report containing an estimate of
 1287 the financial impact of tobacco use and related illnesses on the

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1288 state's economy and its taxpayers for each of the prior 10
1289 years, as well as an estimate of the value of cost savings
1290 associated with the expenditure of revenues generated by the
1291 cigarette user fee imposed by s. 210.02, Florida Statutes,
1292 during the same period.

1293 Section 27. This act shall take effect July 1, 2009.