

By Senator Peaden

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1                   A bill to be entitled  
2           An act relating to trust funds; amending s. 20.425,  
3           F.S.; providing an additional source of funds for the  
4           Grants and Donations Trust Fund within the Agency for  
5           Health Care Administration; amending s. 215.5601,  
6           F.S., relating to the Lawton Chiles Endowment Fund;  
7           revising the date of reversion of undisbursed balances  
8           in the fund; amending s. 400.179, F.S.; requiring that  
9           a leasehold licensee fee be deposited into the Grants  
10          and Donations Trust Fund of the agency; amending s.  
11          409.916, F.S.; requiring that funds from nursing home  
12          facility quality assessments, certain grants and  
13          donations, and leasehold licensee fees be deposited  
14          into the Grant and Donations Trust Fund of the agency;  
15          amending ss. 893.165 and 938.23, F.S.; requiring that  
16          certain assessments for alcohol and drug abuse  
17          treatment programs and collected by the clerks of the  
18          circuit courts be deposited into the Grants and  
19          Donations Trust Fund of the Department of Children and  
20          Family Services; providing an effective date.

21  
22 Be It Enacted by the Legislature of the State of Florida:

23  
24           Section 1. Subsection (2) of section 20.425, Florida  
25           Statutes, is amended to read:

26           20.425 Agency for Health Care Administration; trust funds.—  
27           The following trust funds shall be administered by the Agency  
28           for Health Care Administration:

29           (2) Grants and Donations Trust Fund.

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30 (a) Funds to be credited to and uses of the trust fund  
31 shall be administered in accordance with the provisions of ss.  
32 215.32, 400.179, and 409.916.

33 (b) Notwithstanding the provisions of s. 216.301 and  
34 pursuant to s. 216.351, any balance in the trust fund at the end  
35 of any fiscal year shall remain in the trust fund at the end of  
36 the year and shall be available for carrying out the purposes of  
37 the trust fund.

38 Section 2. Paragraph (e) of subsection (5) of section  
39 215.5601, Florida Statutes, as amended by section 3 of chapter  
40 2009-2, Laws of Florida, is amended to read:

41 215.5601 Lawton Chiles Endowment Fund.—

42 (5) AVAILABILITY OF FUNDS; USES.—

43 (e) Notwithstanding s. 216.301 and pursuant to s. 216.351,  
44 all unencumbered balances of appropriations from each  
45 department's respective Tobacco Settlement Trust Fund as of June  
46 30 or undisbursed balances as of September 30 ~~December 31~~ shall  
47 revert to the endowment's principal. Unencumbered balances in  
48 the Biomedical Research Trust Fund shall be managed as provided  
49 in s. 20.435(8)(b).

50 Section 3. Paragraph (d) of subsection 2 of section  
51 400.179, Florida Statutes, is amended to read:

52 400.179 Liability for Medicaid underpayments and  
53 overpayments.—

54 (2) Because any transfer of a nursing facility may expose  
55 the fact that Medicaid may have underpaid or overpaid the  
56 transferor, and because in most instances, any such underpayment  
57 or overpayment can only be determined following a formal field  
58 audit, the liabilities for any such underpayments or

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59 overpayments shall be as follows:

60 (d) Where the transfer involves a facility that has been  
61 leased by the transferor:

62 1. The transferee shall, as a condition to being issued a  
63 license by the agency, acquire, maintain, and provide proof to  
64 the agency of a bond with a term of 30 months, renewable  
65 annually, in an amount not less than the total of 3 months'  
66 Medicaid payments to the facility computed on the basis of the  
67 preceding 12-month average Medicaid payments to the facility.

68 2. A leasehold licensee may meet the requirements of  
69 subparagraph 1. by payment of a nonrefundable fee, paid at  
70 initial licensure, paid at the time of any subsequent change of  
71 ownership, and paid annually thereafter, in the amount of 1  
72 percent of the total of 3 months' Medicaid payments to the  
73 facility computed on the basis of the preceding 12-month average  
74 Medicaid payments to the facility. If a preceding 12-month  
75 average is not available, projected Medicaid payments may be  
76 used. The fee shall be deposited into the Grants and Donations  
77 ~~Health Care~~ Trust Fund and shall be accounted for separately as  
78 a Medicaid nursing home overpayment account. These fees shall be  
79 used at the sole discretion of the agency to repay nursing home  
80 Medicaid overpayments. ~~The agency is authorized to transfer~~  
81 ~~funds to the Grants and Donations Trust Fund for such~~  
82 ~~repayments.~~ Payment of this fee shall not release the licensee  
83 from any liability for any Medicaid overpayments, nor shall  
84 payment bar the agency from seeking to recoup overpayments from  
85 the licensee and any other liable party. As a condition of  
86 exercising this lease bond alternative, licensees paying this  
87 fee must maintain an existing lease bond through the end of the

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88 30-month term period of that bond. The agency is herein granted  
89 specific authority to promulgate all rules pertaining to the  
90 administration and management of this account, including  
91 withdrawals from the account, subject to federal review and  
92 approval. This provision shall take effect upon becoming law and  
93 shall apply to any leasehold license application. The financial  
94 viability of the Medicaid nursing home overpayment account shall  
95 be determined by the agency through annual review of the account  
96 balance and the amount of total outstanding, unpaid Medicaid  
97 overpayments owing from leasehold licensees to the agency as  
98 determined by final agency audits.

99 3. The leasehold licensee may meet the bond requirement  
100 through other arrangements acceptable to the agency. The agency  
101 is herein granted specific authority to promulgate rules  
102 pertaining to lease bond arrangements.

103 4. All existing nursing facility licensees, operating the  
104 facility as a leasehold, shall acquire, maintain, and provide  
105 proof to the agency of the 30-month bond required in  
106 subparagraph 1., above, on and after July 1, 1993, for each  
107 license renewal.

108 5. It shall be the responsibility of all nursing facility  
109 operators, operating the facility as a leasehold, to renew the  
110 30-month bond and to provide proof of such renewal to the agency  
111 annually.

112 6. Any failure of the nursing facility operator to acquire,  
113 maintain, renew annually, or provide proof to the agency shall  
114 be grounds for the agency to deny, revoke, and suspend the  
115 facility license to operate such facility and to take any  
116 further action, including, but not limited to, enjoining the

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117 facility, asserting a moratorium pursuant to part II of chapter  
118 408, or applying for a receiver, deemed necessary to ensure  
119 compliance with this section and to safeguard and protect the  
120 health, safety, and welfare of the facility's residents. A lease  
121 agreement required as a condition of bond financing or  
122 refinancing under s. 154.213 by a health facilities authority or  
123 required under s. 159.30 by a county or municipality is not a  
124 leasehold for purposes of this paragraph and is not subject to  
125 the bond requirement of this paragraph.

126 Section 4. Section 409.916, Florida Statutes, is amended to  
127 read:

128 409.916 Grants and Donations Trust Fund.—

129 (1) The agency shall deposit any funds received from  
130 pharmaceutical manufacturers and all other funds received by the  
131 agency from any other person as the result of a Medicaid cost  
132 containment strategy, in the nature of a rebate, grant, or other  
133 similar mechanism into the Grants and Donations Trust Fund.

134 (2) Funds received from pharmaceutical manufacturers shall  
135 be used as the state portion for funding Medicaid prescribed  
136 drug services. However, at least \$75,000 may be appropriated  
137 from the Grants and Donations Trust Fund for Medicaid research  
138 and development activities as specified in the General  
139 Appropriations Act.

140 (3) Receipts from the agency's share of Medicaid fraud and  
141 abuse recoupments and fines shall be deposited into the Grants  
142 and Donations Trust Fund for purposes established by law and the  
143 General Appropriations Act.

144 (4) Funds received from nursing home facility quality  
145 assessments shall be deposited into the Grants and Donations

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146 Trust Fund and used as the state portion for funding Medicaid  
 147 nursing home and hospice services pursuant to s. 409.9082 and  
 148 the General Appropriations Act.

149 (5) Funds received through grants and donations from the  
 150 state and from counties, local governments, public entities, and  
 151 taxing districts shall be deposited into the Grants and  
 152 Donations Trust Fund and used for purposes established by law  
 153 and the General Appropriations Act.

154 (6) Funds received from the leasehold licensee fee pursuant  
 155 to s. 400.179(2)(d)2. shall be deposited into the Grants and  
 156 Donations Trust Fund and used for purposes established by law  
 157 and the General Appropriations Act.

158 Section 5. Paragraph (b) of subsection (3) of section  
 159 893.165, Florida Statutes, is amended to read:

160 893.165 County alcohol and other drug abuse treatment or  
 161 education trust funds.—

162 (3)

163 (b) Assessments collected by clerks of circuit courts  
 164 having more than one county in the circuit, for any county in  
 165 the circuit which does not have a County Alcohol and Other Drug  
 166 Abuse Trust Fund, shall be remitted to the Department of  
 167 Children and Family Services, in accordance with administrative  
 168 rules adopted, for deposit into the department's ~~Community~~  
 169 ~~Alcohol and Other Drug Abuse Services~~ Grants and Donations Trust  
 170 Fund for distribution pursuant to the guidelines and priorities  
 171 developed by the department.

172 Section 6. Subsection (2) of section 938.23, Florida  
 173 Statutes, is amended to read:

174 938.23 Assistance grants for alcohol and other drug abuse

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175 programs.-

176 (2) All assessments authorized by this section shall be  
177 collected by the clerk of court and remitted to the  
178 jurisdictional county as described in s. 893.165(2) for deposit  
179 into the County Alcohol and Other Drug Abuse Trust Fund or  
180 remitted to the Department of Revenue for deposit into the  
181 ~~Community Alcohol and Other Drug Abuse Services~~ Grants and  
182 Donations Trust Fund of the Department of Children and Family  
183 Services pursuant to guidelines and priorities developed by the  
184 department. If a County Alcohol and Other Drug Abuse Trust Fund  
185 has not been established for any jurisdictional county,  
186 assessments collected by the clerk of court shall be remitted to  
187 the Department of Revenue for deposit into the ~~Community Alcohol~~  
188 ~~and Other Drug Abuse Services~~ Grants and Donations Trust Fund of  
189 the Department of Children and Family Services.

190 Section 7. This act shall take effect July 1, 2009.