

**STORAGE NAME:** h0563.frc.doc  
**DATE:** March 8, 2001

**HOUSE OF REPRESENTATIVES**  
**FISCAL RESPONSIBILITY COUNCIL**  
**ANALYSIS**

**BILL #:** HB 563  
**RELATING TO:** Lawton Chiles Endowment Fund  
**SPONSOR(S):** Representative(s) Fasano  
**TIED BILL(S):**

**ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:**

- (1) HEALTH PROMOTION YEAS 11 NAYS 0
  - (2) FISCAL RESPONSIBILITY COUNCIL
  - (3)
  - (4)
  - (5)
- 

I. SUMMARY:

House Bill 563 substantially rewords s. 215.5601, F.S., and restructures the allocation of funds distributed from the Lawton Chiles Endowment Fund. The bill "carves out" of the principal appropriated to the Lawton Chiles Endowment Fund an annual and perpetual source of funding for biomedical research of diseases related to tobacco use, including cancer, heart disease, and lung disease. Specifically, beginning in fiscal year 2001-2002, \$150 million of the existing principal in the Endowment must be deposited in a separate account within the Endowment for sole use as funding source for biomedical research activities. The remaining principal is to be used to fund health and human services programs for children and elders. When a cure has been found for tobacco-related cancer, heart disease, and lung disease, the separate biomedical research account must be dissolved and the entire principal in the Endowment must be used exclusively for health and human services programs.

In addition, the 13-member Lawton Chiles Endowment Fund Advisory Council for Children and the 13-member Lawton Chiles Endowment Fund Advisory Council for Elders are not included in the substantial rewording of s. 215.5601, F.S. The practical effect of the omission of the advisory councils is to eliminate them as of the effective date of the bill.

The bill requires the Biomedical Research Advisory Council to include as part of an annual progress report on biomedical research in Florida statistics on the total amount of public-health research flowing into the state, new grants for public-health research funded based on research supported by grants or fellowships awarded under the program, and progress in the prevention and diagnosis of diseases related to tobacco use.

**A strike-everything amendment traveling with the bill changes many provisions, including those relating to the annual cash outflow from the endowment to be used for biomedical research and other purposes, and the restoration of an advisory process. See Section VI of this analysis for details.**

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |   |                             |   |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Chapter 99-167, Laws of Florida, provided for the creation of a recurring source of funds for services to children and elders, and for a biomedical research program to support research initiatives that address the health care problems of Floridians in the tobacco-related areas of cancer, cardiovascular disease, stroke, and pulmonary disease. Funds for these purposes are to be made available via the Lawton Chiles Endowment. More specifically, s. 215.5601, F.S., establishes the Lawton Chiles Endowment Fund, administered by the State Board of Administration and funded by settlement moneys received from the tobacco industry. The intent of the endowment fund is to provide a perpetual source of funding for the focus areas of children's health programs, child welfare, community-based health and human service initiatives and biomedical research into diseases linked to tobacco use. Additionally, s. 215.5601, F.S., provides an allocation formula, effective for fiscal year 2001-2002 (beginning July 1, 2001) and beyond, for the distribution of funds among the Department of Children and Family Services at 50 percent; the Department of Health Biomedical Research Trust Fund, at 33.5 percent; and Department of Elderly Affairs Tobacco Settlement Trust Fund at 16.5 percent.

Subsection 215.5601(9), F.S., establishes the 13-member Lawton Chiles Endowment Fund Advisory Council for Children within the Department of Children and Family Services, and the 13-member Lawton Chiles Endowment Fund Advisory Council for Elders within the Department of Elderly Affairs. These advisory councils are to provide the Legislature with a ranking of children's programs and elder programs submitted by the departments to the councils for evaluation. The advisory council members serve without compensation but may receive reimbursement for travel and other necessary expenses incurred in the performance of their official duties.

Section 215.5602, F.S., establishes the Florida Biomedical Research Program to be funded from earnings of the endowment fund and provides that funds appropriated to the program will be devoted to competitive grants and fellowships in research relating to diagnosis and treatment of tobacco-related illnesses including cancer, cardiovascular disease, stroke and pulmonary disease. The Biomedical Research Advisory Council was established in the Department of Health to assist the Secretary in establishing the criteria and guidelines for the competitive grant program. Grants and fellowships are to be awarded on the basis of scientific merit, as determined by an open, objective peer-review process. The council is required to submit an annual progress report to the Governor, Secretary of the Department of Health, President of the Senate, and Speaker of the House of Representatives by February 1 of each year.

Chapter 2000-255, Laws of Florida, provided that the Lawton Chiles Endowment Fund distributions for health and human services and biomedical research for fiscal year 2000-2001 be specifically appropriated by the Legislature. In subsequent years, the distribution of the funds would be as follows: fifty percent to the Department of Children and Family Services; thirty-three and a half percent to the Department of Health for biomedical research; and the remainder to the Department of Elderly Affairs. Each year, the Secretaries of Children and Family Services, Elderly Affairs, Health, and Health Care Administration are required to meet to establish funding priorities for the various focus areas. Advisory councils were created in the Department of Children and Family Services and the Department of Elderly Affairs to provide input on priorities for those respective services.

The General Appropriations Act for 2000-2001 provided a \$2 million appropriation for the Biomedical Research Program.

**C. EFFECT OF PROPOSED CHANGES:**

See the SECTION-BY-SECTION ANALYSIS, which follows.

**D. SECTION-BY-SECTION ANALYSIS:**

**Section 1.** Amends s. 17.41(4), F.S., relating to the Department of Banking and Finance Tobacco Settlement Clearing Trust Fund, to conform a cross-reference consistent with section 3 of the bill.

**Section 2.** Amends s. 20.435(1)(h), F.S., relating to the Biomedical Research Trust Fund of the Department of Health, to conform a cross-reference consistent with section 3 of the bill.

**Section 3.** Substantially rewords s. 215.5601, F.S., relating to the Lawton Chiles Endowment Fund, as follows:

Subsection (1) provides Legislative intent, addressing: a perpetual source of enhanced funding for specified programs and biomedical research activities related to tobacco use; use of tobacco settlement funds as a source of enhanced funding for specified purposes; availability of enhanced funds for specified purposes; biomedical research—funding, knowledge, training, and per capita funding; and community-based solutions relating to the state's most vulnerable citizens.

Subsection (2) defines "board," "endowment," "earnings," and "state agencies" for purposes of this section.

Subsection (3) provides for the Lawton Chiles Endowment Fund, creation, and principal, as follows.

Paragraph (a) creates the fund, to be administered by the State Board of Administration. The endowment is to serve as a clearing fund, not subject to termination under the constitutionally required 4-year review cycle and exempt from statutorily-required trust fund service charges.

Paragraph (b) specifies that the endowment receive moneys from the sale of the state's right, title, and interest in and to the tobacco settlement agreement, and from accounts transferred from the Department of Banking and Finance. Annual amounts for transfer from the Tobacco Settlement Clearing Trust fund to the endowment are specified.

Paragraph (c) authorizes that the annual amounts transferred be adjusted to reflect the amount the endowment receives from the sale of the state's right, title, and interest in and to the tobacco settlement agreement.

Paragraph (d) stipulates that, beginning in fiscal year 2001-2002, \$150 million of the existing endowment principal will be deposited in a separate account within the endowment to be used solely as funding for biomedical research activities under s. 215.5602, F.S. The remaining principle will be used solely as funding for health and human services programs for children and elders as provided in subsection (5) of this section. The separate biomedical research account will be dissolved and the entire endowment principal will be used exclusively for health and human services programs when cures have been found for tobacco-related cancer, heart, and lung disease.

Subsection (4) addresses administration, as follows.

- The board is authorized to invest and reinvest endowment funds as allowed by law, and consistent with a specific investment plan, which must include the schedule of annual cash outflow.
- The endowment is to be managed as an annuity, with a specified investment objective. From the annual cash outflow, 8.82 percent will be used solely for biomedical research activities as provided in s. 215.5602, F.S., until such time as cures have been found for tobacco-related cancer, heart, and lung disease.
- The responsibilities relating to accountability for the receiving state agencies are specified. Board costs and fees for investment services will be deducted from the earnings accruing to the endowment, and investment services fees must be no greater than those charged to the Florida Retirement System.

Subsection (5) addresses availability of funds and uses of those funds, as follows.

- Funds from the endowment, which are available for legislative appropriation, will be transferred by the board to the Tobacco Settlement Clearing Trust Fund, and disbursed in accordance with the legislative appropriation. Fund sources and funds destinations are specified for funds being appropriated to the respective state agencies for specified purposes.
- The Secretaries of the state agencies are directed to meet to discuss priorities for endowment funding for health and human services programs for children and elders prior to submitting their Legislative Budget Requests. These meetings are to result in consensus for priority requests and recommended endowment funding levels.
- Subject to Legislative appropriations, state agencies must use endowment distributions to enhance or support increases in clients served or meet increases in program costs, but funds are not to be used to supplant existing revenues.
- Unencumbered or undisbursed balances revert to the endowment as of dates certain, and such biomedical research funds revert to the biomedical account.
- Directs the Governor to develop a plan of action should the Revenue Estimating Conference project a deficit to occur with respect to tobacco settlement trust funds of the respective state agencies in any fiscal year. Approaches are specified for developing and implementing such plan of action.

[NOTE: The rewording modifies the distribution of funds for purposes of biomedical research. The rewording also omits any reference to the endowment advisory councils under the Department of Children and Family Services and the Department of Elderly Affairs.]

**Section 4.** Amends s. 215.5602, F.S., relating to the Florida Biomedical Research Program, to: conform a cross-reference consistent with section 3 of the bill; clarify that the purpose of the program is **to provide an annual and perpetual source of funding** to support research initiatives that address health related problems of Floridians in the areas of **tobacco related** cancer, cardiovascular disease, stroke, and pulmonary disease; specify that the program goals include an increase in the state's per capita spending for research (as opposed to biomedical research, as the statute currently reads) by undertaking new initiatives in **public health and** biomedical research that will attract additional funding from outside the state; incorporate a technical revision; and specify that the annual biomedical research progress report include the total amount of **public health and** biomedical research funding currently flowing into the state, and progress in the **prevention, diagnosis, and** treatment of diseases related to tobacco use. [NOTE: Bold indicates added language.]

**Section 5.** Provides for a July 1, 2001, effective date.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS below.

2. Expenditures:

See FISCAL COMMENTS below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To the extent that biomedical research is conducted in the private sector, that sector will benefit from enhanced funding. The private sector will also benefit from the spin-off effect of enhanced university-related biomedical research.

D. FISCAL COMMENTS:

According to the Department of Health, no start-up or nonrecurring costs will occur as the program is currently in its first year of operation using a one-time \$2 million appropriation. The \$150 million in dedicated funding proposed in the bill, with an annualized return of approximately 4.5 percent, is expected to yield a net trust fund income of \$6.75 million for biomedical research in fiscal year 2001-2002 and beyond.

The Department of Health will require a portion of the \$6.75 million for program administration. However, at this time, the department is not furnishing an estimate of administrative costs.

The State Board of Administration concurs with the Department of Health estimate of trust fund income that would be generated from the set aside \$150 million.

In its analysis of this bill, the Department of Elderly Affairs offered the following fiscal comments:

Under current law, s. 215.5601, F.S., the distribution of the Endowment earnings is as follows:

50%	Children & Family Services Tobacco Settlement Trust Fund
33.5 %	Biomedical Research Trust Fund
16.5 %	Department of Elderly Affairs

House Bill 563, in paragraph 215.5601(4)(b), F.S., provides that from the annual cash outflow, 8.82 percent must be used solely for biomedical research activities. It is unclear how the current year appropriation, as provided for in subparagraph 215.5601(4)(b)1., F.S., for biomedical research, compares, in actual dollars, to the 33.5 percent allocation for biomedical research from the Endowment funds that is scheduled for first-time disbursement beginning in fiscal year 2001-2002, or no earlier than July 1, 2001, as provided for under subparagraph 215.5601(4)(b)2., F.S. Furthermore, it is unclear how the current year appropriation and the 33.5 percent fiscal year 2001-2002 allocation compares, in actual dollars, to the 8.82 percent of annual cash outflow allocated for biomedical research in paragraph 215.5601(4)(b), as stated in section 3 of the bill.

Paragraph 215.5601(3)(d), F.S., of section 3 of the bill, does not specify an allocation of earnings to the Department of Children and Family Services or the Department of Elderly Affairs, either by percentage or amount. That paragraph states that the remaining principal must be used solely as the source of funding for health and human services programs for children and elders utilizing appropriations by the Legislature to the Department of Children and Family Services or the Department of Elderly Affairs, as provided in subparagraph 215.5601(5)(a)2., F.S., in section 3 of the bill, and in accordance with paragraphs 215.5601(5)(b) and (c), F.S., in section 3 of the bill, which require the secretaries of the departments to conduct meetings to discuss priorities for endowment funding before submitting their legislative budget request to the Executive Office of the Governor and the Legislature and, subject to appropriation, use Endowment funds to enhance or support increases in clients served or to meet increases in program costs, respectively.

**IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:**

**A. APPLICABILITY OF THE MANDATES PROVISION:**

This bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

**B. REDUCTION OF REVENUE RAISING AUTHORITY:**

This bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

**C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:**

This bill does not reduce the percentage of state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

The State Board of Administration offered the following comment on the bill: "In our opinion, creating a differential treatment of biomedical research funds would best be handled through the creation of a new (separate) endowment."

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 6, 2001, the Committee on Health Promotion adopted a strike-everything amendment to the bill to address a variety of issues, including those relating to the annual cash outflow from the endowment to be used for biomedical research and other purposes, and the restoration of an advisory process. More specifically, the amendment:

- Modifies the Legislative intent language for the Lawton Chiles Endowment fund to revise the wording relating to the provision of funds to help support public-health and biomedical research for the prevention, diagnosis, and treatment of diseases related to tobacco use by creating an annual and perpetual source of funding for biomedical research.
- Specifies that, beginning in fiscal year 2001-2002, the \$150 million of existing principal in the endowment be "reserved and accounted for" (rather than "deposited in a separate account") within the endowment, and made subsequent reference to reserved funds.
- Specifies that a pro rata share (rather than 8.82 percent) of the annual cash outflow from the endowment be used for biomedical research.
- Adds a requirement that 5 percent of the annual cash outflow dedicated to the public-health and biomedical research portion of the endowment be reinvested and applied to that portion of the endowment's principal, with the remainder to be spent on biomedical research activity.
- Requires the State Board of Administration to include separate sections on the financial status of the endowment in its annual report to the Legislature.
- Specifies that, no later than September 1 of each year, the Secretaries of the state agencies must submit their consensus priority requests to the Lawton Chiles Endowment Fund Advisory Council, as created.
- Establishes the 13-member Lawton Chiles Endowment Fund Advisory Council, the purpose of which is to review the funding priorities of the state agencies, evaluating their requests against the mission and goals of the agencies and the Legislative intent for use of endowment funds. The council is made up of 6 representatives of children's interests and 6 representatives of elders' interests, plus the Director of the United Way of Florida, or a designee. The Council is

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directed to advise the Governor and the Legislature as to its recommendations for funding priorities by November 1 of each year. Council responsibilities are specified.

- Provides appropriations of \$25,000 each to the Department of Children and Family Services and to the Department of Elderly Affairs from endowment funds deposited in each agency's Tobacco Settlement Trust Fund to pay administrative costs associated with the council.

VII. SIGNATURES:

COMMITTEE ON HEALTH PROMOTION:

Prepared by:

Staff Director:

Phil E. Williams

Phil E. Williams

AS REVISED BY THE FISCAL RESPONSIBILITY COUNCIL:

Prepared by:

Staff Director:

Richard E. Herring

David K. Coburn