

CHAPTER 99-167

House Bill No. 1885

An act relating to trust funds; creating s. 215.5601, F.S.; creating the Lawton Chiles Endowment Fund for Health and Human Services; providing definitions; providing legislative intent; specifying the purposes and uses of endowment funds; providing for administration of the endowment by the State Board of Administration; providing for the availability of endowment funds; providing appropriations; providing for a plan of action when a deficit will occur with respect to appropriations from the Tobacco Settlement Trust Fund; creating s. 215.5602, F.S.; establishing the Florida Biomedical Research Program within the Lawton Chiles Endowment Fund; providing the goals of the program; specifying the use of funds appropriated under the program; creating the Biomedical Research Advisory Council within the Department of Health; providing for membership of the council; providing reimbursement for travel and other expenses for council members; providing duties of the council; providing for applications for funding under the program; requiring the Secretary of Health to award grants and fellowships, in consultation with the council; providing for the appointment of a peer review council to review proposals for funding; requiring the Department of Health to contract with an entity to administer the program; providing rulemaking authority; requiring the council to submit an annual report to the Governor, the Secretary of Health, and the Legislature; providing an effective date.

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

Section 1. Section 215.5601, Florida Statutes, is created to read:

215.5601 Lawton Chiles Endowment Fund.—

(1) SHORT TITLE.—This section may be cited as the “Lawton Chiles Endowment Fund.”

(2) DEFINITIONS.—As used in this section:

(a) “Board” means the State Board of Administration established by s. 16, Art. IX of the State Constitution of 1885 and incorporated into s. 9(c), Art. XII of the State Constitution of 1968.

(b) “Endowment” means the Lawton Chiles Endowment Fund.

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

(d) “State agency” or “state agencies” means the Department of Health, the Department of Children and Family Services, the Department of Elderly Affairs, or the Agency for Health Care Administration, or any combination thereof, as the context indicates.

(3) LEGISLATIVE INTENT.—It is the intent of the Legislature to:

(a) Provide a perpetual source of funding for the future of state children's health programs, child welfare programs, community-based health and human services initiatives, and biomedical research activities.

(b) Ensure that enhancement revenues will be available to finance these important initiatives.

(c) Use tobacco settlement moneys to ensure the financial security of vital health and human services programs.

(d) Encourage the development of community-based solutions to strengthen and improve the quality of life of Florida's most vulnerable citizens.

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

(4) LAWTON CHILES ENDOWMENT FUND; CREATION; PURPOSES AND USES.—

(a) There is created the Lawton Chiles Endowment Fund, to be administered by the State Board of Administration. The endowment shall serve as a clearing trust fund not subject to termination pursuant to s. 19(f), Art. III of the State Constitution and shall be funded by settlement moneys received from the tobacco industry. The endowment fund shall be exempt from the service charges imposed by s. 215.20.

(b) Funds from the endowment shall be distributed by the board to trust funds of the state agencies in the amounts indicated by reference to the legislative appropriations for the state agencies, except as otherwise provided in this section.

(c) The state agencies shall use the funds from the endowment to enhance or support increases in clients served or in program costs in health and human services program areas.

(d) The Secretary of Health, the Secretary of Children and Family Services, the Secretary of Elderly Affairs, and the Director of Health Care Administration shall conduct meetings to discuss program priorities for endowment funding prior to submitting their budget requests to the Executive Office of the Governor and the Legislature. The purpose of the meetings shall be to gain consensus for priority requests and recommended endowment funding levels for those priority requests. An agency head may not designate a proxy for these meetings.

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

(f) When advised by the Revenue Estimating Conference that a deficit will occur with respect to the appropriations from the Tobacco Settlement Trust Fund in any fiscal year, the Governor shall develop a plan of action

to eliminate the deficit. Before implementing the plan of action, the Governor must comply with the provisions of section 216.177(2), Florida Statutes. In developing the plan of action the Governor shall, to the extent possible, preserve legislative policy and intent, and, absent any specific directions to the contrary in the General Appropriations Act, any reductions in appropriations from the Tobacco Settlement Trust Fund for a fiscal year shall be prorated among the purposes for which funds were appropriated from the Tobacco Settlement Trust Fund for that year.

(5) ADMINISTRATION OF THE ENDOWMENT.—

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

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

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

(d) No later than February 15, 2000, the board shall report on the financial status of the endowment to the Governor, the Speaker of the House of Representatives, the President of the Senate, the chairs of the respective appropriations and appropriate substantive committees of each chamber, and the Revenue Estimating Conference. Thereafter, the board shall make a status report to such persons no later than August 15 and February 15 of each year.

(e) Accountability for funds from the endowment which have been appropriated to a state agency and distributed by the board shall reside with the state agency. The board is not responsible for the proper expenditure or accountability of funds from the endowment after distribution to a state agency.

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

(6) AVAILABILITY OF FUNDS.—

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

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

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

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

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

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

(7) ENDOWMENT PRINCIPAL; APPROPRIATION OF EARNINGS.— The following amounts are appropriated from the Department of Banking and Finance Tobacco Settlement Clearing Trust Fund to the Lawton Chiles Endowment Fund for Health and Human Services:

1. For Fiscal Year 1999-2000, \$1,100,000,000;

2. For Fiscal Year 2000-2001, \$200,000,000;

3. For Fiscal Year 2001-2002, \$200,000,000; and

4. For Fiscal Year 2002-2003, \$200,000,000.

Section 2. Section 215.5602, Florida Statutes, is created to read:

215.5602 Florida Biomedical Research Program.—

(1) There is established within the Lawton Chiles Endowment Fund the Florida Biomedical Research Program to support research initiatives that address the health care problems of Floridians in the areas of cancer, cardiovascular disease, stroke, and pulmonary disease. The long-term goals of the program are to:

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

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

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

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

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

(2) Funds appropriated from the Lawton Chiles Endowment Fund to the Department of Health for the purposes of this section shall be used exclusively for the award of grants and fellowships under the program established in this section; for research relating to the diagnosis and treatment of diseases related to tobacco use, including cancer, cardiovascular disease, stroke, and pulmonary disease; and for expenses incurred in the administration of this section.

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

(a) The council shall consist of nine members, including: the chief executive officer of the Florida Division of the American Cancer Society, or a designee; the chief executive officer of the Florida/Puerto Rico Affiliate of the American Heart Association, or a designee; and the chief executive officer of the American Lung Association of Florida, or a designee. The Governor shall appoint the remaining six members of the council, as follows:

1. Two members with expertise in the field of biomedical research.
2. One member with expertise in the field of behavioral or social research.
3. One member from a professional medical organization.
4. One member from a research university in the state.
5. One member representing the general population of the state.

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

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

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

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

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

- (a) Providing advice on program priorities and emphases.
- (b) Providing advice on the overall program budget.
- (c) Participating in periodic program evaluation.
- (d) Assisting in the development of guidelines to ensure fairness, neutrality, and adherence to the principles of merit and quality in the conduct of the program.
- (e) Assisting in the development of appropriate linkages to nonacademic entities, such as voluntary organizations, health care delivery institutions, industry, government agencies, and public officials.
- (f) Developing criteria and standards for the award of research grants.
- (g) Developing administrative procedures relating to solicitation, review, and award of research grants and fellowships, to ensure an impartial, high-quality peer review system.
- (h) Developing and supervising research peer review panels.
- (i) Reviewing reports of peer review panels and making recommendations for research grants and fellowships.
- (j) Developing and providing oversight regarding mechanisms for the dissemination of research results.

(5)(a) Applications for biomedical research funding under the program may be submitted from any university or established research institute in the state. All qualified investigators in the state, regardless of institution affiliation, shall have equal access and opportunity to compete for the research funding.

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

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

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

(7) The council and the peer review panel shall establish and follow rigorous guidelines for ethical conduct and adhere to a strict policy with regard to conflict of interest. No member of the council or panel shall participate in any discussion or decision with respect to a research proposal by any firm, entity, or agency with which the member is associated as a member of the governing body or as an employee, or with which the member has entered into a contractual arrangement. Meetings of the council and the peer review panels shall be subject to the provisions of chapter 119, s. 286.011, and s. 24, Art. I of the State Constitution.

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

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

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

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

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

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

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

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

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

Section 3. This act shall take effect July 1, 1999.

Approved by the Governor May 13, 1999.

Filed in Office Secretary of State May 13, 1999.