

IN THE SUPREME COURT OF FLORIDA  
CASE NO.: SC11-1611  
L.T. No.: 1D10-2820

---

AMANDA JEAN HALL, etc.,  
Petitioner,

vs.

R.J. REYNOLDS TOBACCO COMPANY  
Respondent.

---

**APPENDIX TO BRIEF OF THE STATE OF FLORIDA AS  
AMICUS CURIAE IN SUPPORT OF RESPONDENT**

---

On Discretionary Review from a Decision of the  
First District Court of Appeal

---

PAMELA JO BONDI  
Attorney General  
Louis F. Hubener (FBN 0410084)  
Chief Deputy Solicitor General  
Rachel E. Nordby (FBN 56606)  
Deputy Solicitor General  
Office of the Attorney General  
The Capitol, PL-01  
Tallahassee, FL 32399-1050  
(850) 414-3300  
(850) 410-2672 (fax)

## INDEX

- 1) Attorney General's Memorandum of Law in Support of the Constitutionality of s. 569.23, Fla. Stat. (Sept. 8, 2010).
- 2) Notice of Filing Exhibits in Support of Attorney General's Memorandum of Law (Sept. 10, 2010).
- 3) Off. of Econ. and Demog. Resch., Rev. Estimating Conf., Tobacco Settlement Payments Forecast (Jan. 6, 2012),  
<http://edr.state.fl.us/Content/conferences/tobaccosettlement/TobSettlementResults.pdf>
- 4) Off. of Econ. and Demog. Resch., Rev. Estimating Conf., Tobacco Settlement Trust Fund, Financial Outlook Statement (May 23, 2012),  
[http://edr.state.fl.us/Content/revenues/outlook-statements/tobacco-settlement-tf/120523\\_TSTFfaib\\_12.pdf](http://edr.state.fl.us/Content/revenues/outlook-statements/tobacco-settlement-tf/120523_TSTFfaib_12.pdf)
- 5) Tobacco Settlement Appropriations, FY 2011-2012 & 2012-2013 (data supplied by the House Health Care Appropriations Committee).

# **Tab 1**

**IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT  
IN AND FOR ALACHUA COUNTY, FLORIDA**

Case No. 07-CA-5098  
Division J

**AMANDA JEAN HALL,**

Plaintiff,

v.

**R.J. REYNOLDS TOBACCO COMPANY,**

Defendant.

---

FILED  
CLERK OF COURTS  
ALACHUA COUNTY FL

2010 SEP -9 PM 2:37

FILED  
OK 68

**ATTORNEY GENERAL'S MEMORANDUM OF LAW  
IN SUPPORT OF THE CONSTITUTIONALITY  
OF s. 569.23, FLA.STAT.**

The statute under constitutional attack, s. 569.23, Fla.Stat., serves a vital public purpose by protecting a significant stream of income that is used to provide essential supports and services to Florida citizens. If that funding stream diminishes or dries up, the Legislature will be faced with hard choices which could involve the reduction of services or even the elimination of programs. If the Legislature decides to keep intact programs currently receiving funds from the tobacco settlement, it may have to shift funds to make up any loss from other programs. Consequently, the court should be mindful of the important public interests at stake when passing on the validity of the statute.

The Attorney General concurs in the legal analysis and argument concerning the statute's constitutionality put forward by the defendants in the three cases consolidated for argument. The parties have amply briefed these issues. So, to conserve the court's limited time for study and reflection, the

Attorney General instead will focus briefly on the public purpose served by s. 569.23.

The funding stream in question flows from a settlement with several tobacco companies, including R.J. Reynolds Tobacco Co., in August 1997. In February 1995, Florida was one of the first states to sue tobacco companies claiming injunctive relief and damages for state costs associated with funding public health programs affected by the use of tobacco products by Florida citizens. Exhibit 1 p. 2.<sup>1</sup>

On March 3, 1996, Florida, along with West Virginia, Mississippi, Massachusetts and Louisiana, settled all of its claims against the Liggett Group. In August 1997, [R.J. Reynolds, Philip Morris, Brown & Williamson and Lorillard] entered into a *landmark* settlement agreement with Florida, known as the Florida Settlement Agreement (FSA), for all past, present and future claims by the state, including reimbursement of Medicaid expenses, fraud, RICO, and punitive damages.

Under the FSA, *Florida was to receive \$11.3 billion over the first 25 years of the agreement*, and payments are to continue in *perpetuity*. The annual payments are based on factors including the total volume of U.S. cigarette sales, each company's share of the national market, net operating profits, and consumer price indices. Additionally, Florida negotiated a "Most Favored Nations" clause in the FSA, which provides that Florida will obtain treatment at least as relatively favorable as a non-federal governmental entity. Under the clause, *Florida received an additional \$1.7 billion over the first five years of the settlement . . .*

*Id.* at 2-3, emphasis added.

---

<sup>1</sup> Exhibit 1 is the Senate staff analysis for the bill that became ch. 2009-188, Laws of Florida, amending s. 569.23 to its current form. The courts routinely rely on legislative staff analyses in determining the Legislature's intent. See e.g., *Samples v. Florida Birth-Related Neurological*, --- So.3d ----, 2010 WL 2425998 \*3 (Fla. 5th DCA June 18, 2010).

Past payments and projected future payments, as estimated by the Florida Revenue Estimating Conference, are as follows:

<b>Fiscal year</b>	<b>Amount In millions</b>
1997-98	\$562.5
1998-99	\$531
1999-2000	\$640.9
2000-01	\$743.4
2001-02	\$765.7
2002-03	\$546.4
2003-04	\$364
2004-05	\$378.3
2005-06	\$389.7
2006-07	\$396.4
2008-09	\$388.9
2009-10	\$361.2
2010-11	\$347
2012-13	\$349.5
2013-14	\$351.1

Exhibit 2 p. 8.<sup>2</sup>

Agencies receiving tobacco settlement funds in FY 2009-10 were:

Agency for Health Care Administration	\$140.2 million
Department of Children and Families	\$132.3 million
Department of Elder Affairs	\$24.8 million

---

<sup>2</sup> <http://edr.state.fl.us/conferences/tobacco/REC2010MAR.pdf>.

Department of Health	\$99.7 million
----------------------	----------------

Exhibit 3 p. 1.<sup>3</sup>

The 2010-11 general appropriations bill allocated tobacco settlement revenue as follows (after governor vetos)<sup>4</sup>:

Agency for Health Care  
Administration

Kidcare (Children's Health Insurance)	\$87,596,411
Medicaid Services to Individuals	\$50,238,330

\$137,834,741

Department of Children and  
Families

Child Welfare Services	\$129,188,112
Adult Community Mental Health	\$206,775
Children's Substance Abuse Services	\$2,860,907

\$132,255,794

Department of Health

Tobacco Control Program	\$61,596,367
Health Services for School Age Kids	\$18,402,925
Local Health Needs/Community Resources	\$3,919,999
Children's Special Health Care	\$15,592,752

\$99,512,043

<sup>3</sup> [http://edr.state.fl.us/conferences/tobacco/toboutl\\_7-7-10.pdf](http://edr.state.fl.us/conferences/tobacco/toboutl_7-7-10.pdf).

<sup>4</sup> Data supplied by the House Health Care Appropriations Committee.

Total

\$369,602,578

The state's ability to fund these programs turns on the continued receipt of settlement payments from the settling companies. Their ability to pay turns on their financial stability, which is threatened by the requirement to post large appeal bonds.

The threat such bond requirements pose became a concern shortly after the entry of the FSA. To address that concern, in 2000, the Legislature amended s. 768.733, Fla.Stat., to limit the bond required in a class action lawsuit. Exhibit 1, p. 4.

Then in 2003, the risk posed to tobacco settlements was driven home by events in *Price v. Philip Morris Inc.*, 2003 WL 22597608 (Ill. Cir. Ct. March 21, 2003). In *Price*, a class action, the court ordered Philip Morris to pay \$7 billion in compensatory damages and \$3 billion in punitive damages. To stay the judgment pending appeal, the court ordered Philip Morris to post a \$12 billion bond. The order provoked widespread concern "that Philip Morris, Inc., would not be financially able to post the bond and might seek bankruptcy protection, which would possibly require Philip Morris, Inc., to default on its installment" of one of the settlement agreements affecting Florida. Exhibit 1 p. 3. The Attorneys General of 37 states asked the trial court to reconsider the bond order, and it agreed to reduce the amount to \$6 billion, "and no tobacco settlement payments were missed by Philip Morris, Inc." Exhibit 1 p. 3.

In 2003, the Legislature reacted to *Price* by enacting s. 569.23 due to fears that s. 768.733 failed to provide sufficient protection to the settlement revenue stream. Exhibit 1 p. 4; ch. 2003-133, Laws of Florida.

Meanwhile, the class action *Engle v. Liggett Group Inc.* was working its way up through the courts. Exhibit 1 pp. 3-4. In 2000, the trial court ordered the



defendants to pay \$145 billion in punitive damages. The Supreme Court vacated the damage award and ordered decertification of the class on the ground that individualized proofs necessary made the case unsuitable for class action treatment. *Engle v. Liggett Group Inc.*, 945 So.2d 1246, 1268 (Fla. 2006).

The Supreme Court left open the ability of individual *Engle* class members to bring non-class action suits for their own damages. Exhibit 1 p. 5.

The Legislature foresaw potentially devastating consequences to its ability to continue to receive settlement funds arising from the Supreme Court's decision:

As a result of this case, there are approximately 3,000 separate lawsuits in which damages may be awarded. Prior to this decertification, the class action suit would have been covered by the supersedeas bond cap in s. 569.23, F.S. However, the separate 3,000 cases are not currently covered by [then existing] s. 569.23, F.S., which would mean that the tobacco companies may have to post supersedeas bonds in up to 3,000 separate cases that could cumulatively total billions of dollars.

Exhibit 1 p. 5.

As a result of these significant concerns and the substantial sums at stake flowing to Florida citizens from the settlement, the Legislature enacted ch. 2009-188, Laws of Florida, amending s. 569.23 to its current form. Exhibit 1 pp. 6-7.

Thus, the 2009 amendments to s. 569.23 are intended to benefit many, not a few. They are intended to preserve for all Floridians the fruits of the 1997 settlement, which support important public health programs that benefit all Florida citizens.


In fact, the tobacco settlement is of such importance to Florida citizens that they provided in the state Constitution for how some settlement proceeds shall be

spent. See Art. X, s. 27, Fla. Const.<sup>5</sup> The *statewide* public purpose underlying this constitutional provision is also placed at risk by bonding requirements that may cause settling companies to default on their settlement payments.

Therefore, the substantial, statewide public interest promoted by s. 569.23 compels a decision that ch. 2009-188 was not a prohibited special or local law.

Respectfully submitted,

BILL McCOLLUM  
ATTORNEY GENERAL

  
JASON VAIL  
Assistant Attorney General  
Florida Bar no. 298824

Office of the Attorney General  
PL-01  
The Capitol  
Tallahassee, FL 32399  
(850)414-3300  
[Jay.vail@myfloridalegal.com](mailto:Jay.vail@myfloridalegal.com)

#### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent via U.S. Mail this 8 day of September 2010 to:

---

<sup>5</sup> “[A] portion of the money that tobacco companies pay to the State of Florida under the Tobacco Settlement each year shall be used to fund a comprehensive statewide tobacco education and prevention program . . .”

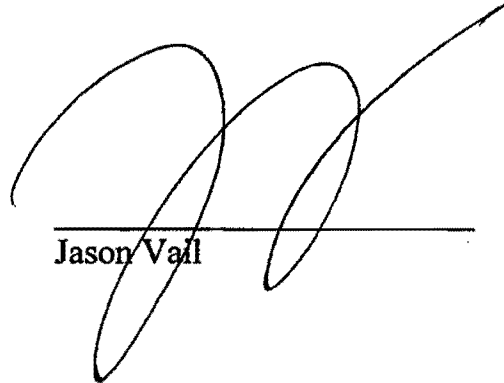
Rod Smith and Dawn Vallejos-Nichols  
Avera & Smith  
2814 SW 13th St.  
Gainesville, FL 32608

John Mills  
The Mills Firm  
One Independent Dr., suite 1700  
Jacksonville, FL 32202

Robert Parrish and Charles Trippe  
Moseley, Prichard, Parrish, Knight &  
Jones  
501 West Bay St.  
Jacksonville, FL 32202

Dennis Murphy  
Jones Day  
901 Lakeside Ave.  
Cleveland, OH 44114-1190

Kathryn Furfari  
Jones Day  
1420 Peachtree St. NE, suite 800  
Atlanta, GA 30309



A stylized, handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right. The signature is positioned above a horizontal line.

Jason Vail

# **Tab 2**

**IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT  
IN AND FOR ALACHUA COUNTY, FLORIDA**

Case No. 07-CA-5098  
Division J

**AMANDA JEAN HALL,**

Plaintiff,

v.

**R.J. REYNOLDS TOBACCO COMPANY,**

Defendant.

---

**NOTICE OF FILING EXHIBITS  
IN SUPPORT OF ATTORNEY GENERAL'S MEMORANDUM OF LAW**

The Attorney General files the attached exhibits in support of his memorandum in support of the constitutionality of s. 569.23, Fla.Stat.

Respectfully submitted,

BILL McCOLLUM  
ATTORNEY GENERAL

JASON VAIL  
Assistant Attorney General  
Florida Bar no. 298824

Office of the Attorney General  
PL-01  
The Capitol  
Tallahassee, FL 32399  
(850)414-3300

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing  
was sent via ~~U.S. Mail~~ Hand this 10th day of September 2010 to:

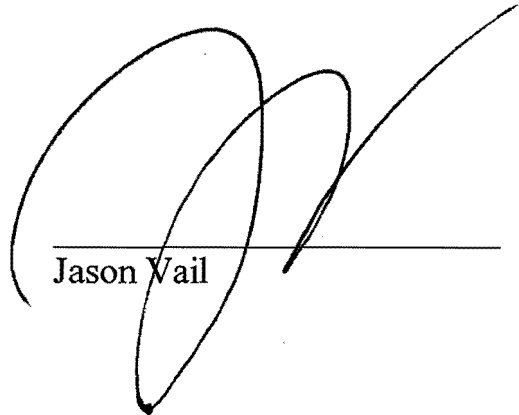
Rod Smith and Dawn Vallejos-Nichols  
Avera & Smith  
2814 SW 13th St.  
Gainesville, FL 32608

John Mills  
The Mills Firm  
One Independent Dr., suite 1700  
Jacksonville, FL 32202

Robert Parrish and Charles Trippe  
Moseley, Prichard, Parrish, Knight &  
Jones  
501 West Bay St.  
Jacksonville, FL 32202

Dennis Murphy  
Jones Day  
901 Lakeside Ave.  
Cleveland, OH 44114-1190

Kathryn Furfari  
Jones Day  
1420 Peachtree St. NE, suite 800  
Atlanta, GA 30309



Jason Vail

The Florida Senate  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**  
(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Judiciary Committee

BILL: CS/SB 2198

INTRODUCER: Judiciary Committee and Senator Haridopolos

SUBJECT: Tobacco Settlement Agreements

DATE: April 23, 2009

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Daniell	Maclure	JU	Fav/CS
2.				
3.				
4.				
5.				
6.				

**Please see Section VIII. for Additional Information:**

- A. COMMITTEE SUBSTITUTE..... ☒ Statement of Substantial Changes  
B. AMENDMENTS..... ☐ Technical amendments were recommended  
☐ Amendments were recommended  
☐ Significant amendments were recommended

**I. Summary:**

This bill provides that in civil actions against a signatory, successor, parent, or affiliate of a signatory (hereinafter appellants) to a tobacco settlement agreement, brought by persons who have been decertified from a class action lawsuit, the trial court must automatically stay the execution of any judgments during the pendency of all appeals, upon provision of security to the clerk of the Florida Supreme Court. Security must be provided by each appellant individually, in an amount based upon the appellant's proportionate share of liability in all cases pending appeal plus twice the statutory rate of interest. However, the total security for an individual appellant may not exceed the greater of either \$5 million, or \$100 million multiplied by the appellant's percentage share of all payments made to Florida in 2008 under the tobacco settlement agreement. Regardless of the total value or number of judgments, the total cumulative value of all security may not exceed \$100 million for all appellants collectively.

The bill provides that each appellee whose judgment against an appellant is stayed is considered a co-beneficiary of all security provided by that appellant. If an appellant does not pay a judgment within 30 days after the judgment becomes final, then the stay of execution in favor of that appellant is immediately lifted, and any judgment creditor against whom a stay of execution



was in effect may petition the court to equitably distribute any security that had been provided by the appellant.

The bill authorizes the clerk of the Florida Supreme Court to collect fees for receipt of security and provides that the clerk is entitled to receive the net investment income earned on such security. All fees collected are to be deposited in the State Courts Revenue Trust Fund.

The bill also provides that if a plaintiff proves that a defendant who provides security with the clerk of the Supreme Court is purposefully dissipating assets to avoid payment of the judgment, the court may enter any necessary order as to that defendant to protect the plaintiff.

This bill substantially amends section 569.23, Florida Statutes.

## II. Present Situation:

### Tobacco Settlement Background

In 1994, Mississippi became the first state to file suit against major tobacco manufacturers.<sup>1</sup> In February 1995, Florida followed Mississippi's lead and sued a number of tobacco manufacturers and other defendants asserting various claims for monetary and injunctive relief on behalf of the state.<sup>2</sup> On March 3, 1996, Florida, along with West Virginia, Mississippi, Massachusetts, and Louisiana, settled all of its claims against the Liggett Group.<sup>3</sup> In August 1997, the "Big Four"<sup>4</sup> tobacco companies entered into a landmark settlement agreement with Florida, known as the Florida Settlement Agreement (FSA), for all past, present, and future claims by the state, including reimbursement of Medicaid expenses, fraud, RICO, and punitive damages.<sup>5</sup>

Under the FSA, Florida was to receive \$11.3 billion over the first 25 years of the agreement, and payments are to continue in perpetuity.<sup>6</sup> The annual payments are based on factors including the total volume of U.S. cigarette sales, each company's share of the national market, net operating profits, and consumer price indices.<sup>7</sup> Additionally, Florida negotiated a "Most Favored Nations" clause in the FSA, which provides that Florida will obtain treatment at least as relatively favorable as a non-federal governmental entity.<sup>8</sup> Under the clause, Florida received an additional \$1.7 billion over the first five years of the settlement because Minnesota had settled on terms more favorable than Florida's.<sup>9</sup> Through April 2004, the state had received approximately \$4.1

<sup>1</sup> Nat'l Conference of State Legislatures, *Summary of the Attorneys General Master Tobacco Settlement Agreement* (Mar. 1999), available at <http://www.ncsl.org/statefed/tmsasumm.htm> (last visited April 18, 2009).

<sup>2</sup> Comm. on Regulated Industries, Fla. Senate, *Florida Tobacco Settlement and Nonsettling Manufacturers*, 1 (Report No. 2005-157) (Nov. 2004), available at [http://www.flsenate.gov/data/Publications/2005/Senate/reports/interim\\_reports/pdf/2005-157rilong.pdf](http://www.flsenate.gov/data/Publications/2005/Senate/reports/interim_reports/pdf/2005-157rilong.pdf) (last visited April 18, 2009).

<sup>3</sup> *Id.*; see also Nat'l Conference of State Legislatures, *supra* note 1.

<sup>4</sup> The "Big Four" are Philip Morris, Inc., R.J. Reynolds Tobacco Co., Brown & Williamson Tobacco Corp., and Lorillard Tobacco Co.

<sup>5</sup> *State v. American Tobacco Co.*, Case No. 95-1466 AH (Fla. 15th Cir. Ct. 1997).

<sup>6</sup> Comm. on Regulated Industries, *supra* note 2, at 1. Florida now receives 5.5 percent of \$8 billion, unadjusted, in perpetuity. See *State v. American Tobacco Co.*, Case No. 95-1466 AH.

<sup>7</sup> Comm. on Regulated Industries, *supra* note 2, at 2.

<sup>8</sup> *State v. American Tobacco Co.*, Case No. 95-1466 AH.

<sup>9</sup> Comm. on Regulated Industries, *supra* note 2, at 1.



billion under the settlement agreement.<sup>10</sup> The settlement payment for Fiscal Year 2008 was approximately \$380 million.<sup>11</sup>

The FSA also contained nonmonetary provisions, such as restrictions on billboard and transit advertisements, merchandise promotions, product placement, and lobbying relating to all tobacco products.<sup>12</sup>

Subsequent to Florida's settlement, the "Big Four" tobacco companies also entered into a master settlement agreement (MSA) with the remaining 46 states, the District of Columbia, and five U.S. territories on November 23, 1998.<sup>13</sup> Pursuant to the MSA, participating states were to receive between \$212 and \$246 billion over the first 25 years.<sup>14</sup> Payments made under the MSA are subject to a "previously settled states reduction," where the payments are reduced by approximately 12 percent for payments due between 2007 and 2018, and are reduced by 11 percent for payments due after 2018.<sup>15</sup>

Several factors have been identified that affect the stability of the tobacco settlement payments. One such factor is the cost of individual and class action lawsuits by private citizens against tobacco companies. On March 21, 2003, an Illinois court ordered Philip Morris, Inc., to pay \$7 billion in compensatory damages and \$3 billion in punitive damages in a class action lawsuit.<sup>16</sup> The court also ordered Philip Morris, Inc., to post a \$12 billion bond in order to stay the execution of the judgment past the initial 30 days from the date of the order.<sup>17</sup> Subsequently, there was speculation that Philip Morris, Inc., would not be financially able to post the bond and might seek bankruptcy protection, which would possibly require Philip Morris, Inc., to default on its installment of the MSA. Accordingly, Philip Morris, Inc., filed a Request for Reduction of Bond and Stay of Enforcement of the Judgment.<sup>18</sup> The Attorneys General of 37 states and the National Conference of State Legislatures filed an amicus brief urging the court to reduce the bond, so as to not interfere with the states' vital interests. The court granted the request by Philip Morris, Inc., and reduced the bond to \$6 billion, to be paid in installments, and no tobacco settlement payments were missed by Philip Morris, Inc.<sup>19</sup>

One of the most recognized lawsuits in Florida dealing with tobacco companies is *Engle v. Liggett Group, Inc.*, 945 So. 2d 1246 (2006). The procedural history of the case carries over 10 years. The *Engle* case began in 1994, when a trial court certified as a nationwide<sup>20</sup> class action a group of smokers (Engle Class), who sought compensatory and punitive damages against major

<sup>10</sup> *Id.* at 7.

<sup>11</sup> See Marc Caputo, *Big Tobacco Moves Closer to Florida Pack Tax Hike*, ST. PETERSBURG TIMES, Dec. 15, 2008; Conversation with Keith Teel, attorney for Philip Morris, Inc. (April 17, 2009).

<sup>12</sup> Comm. on Regulated Industries, *supra* note 2, at 1.

<sup>13</sup> *Id.* at 2.

<sup>14</sup> *Id.* at 10.

<sup>15</sup> *Id.*

<sup>16</sup> *Price v. Philip Morris, Inc.*, 2003 WL 22597608, \*29 (Ill. Cir. 2003), *rev'd*, 848 N.E.2d 1 (Ill. 2005).

<sup>17</sup> *Id.* at \*30.

<sup>18</sup> See Order on Def.'s Req. for Reduction of Bond and Stay of Enforcement of the Judgment (April 14, 2003), *available at* <http://fl1.findlaw.com/news.findlaw.com/hdocs/docs/tobacco/pricepm41403bo.pdf> (last visited April 18, 2009).

<sup>19</sup> *Id.*

<sup>20</sup> The class was reduced to include only Florida smokers based on an appeal by the tobacco companies challenging the order certifying the *Engle* class. See *R.J. Reynolds Tobacco Co. v. Engle*, 672 So. 2d 39 (Fla. 3d DCA 1996).

tobacco companies (Tobacco). In 2000, the trial court entered judgment in favor of the Engle Class, ordering Tobacco to pay \$145 billion in punitive damages. Tobacco appealed the judgment and the appellate court held that the trial court had improperly certified the class and reversed the judgment. Then the Engle Class appealed to the Florida Supreme Court. In *Engle*, the Florida Supreme Court held that the \$145 billion judgment should not have been entered because an award of compensatory damages must be determined before a determination of punitive damages, so that the award may be reviewed for reasonableness.<sup>21</sup> The Court also held that the trial court did not abuse its discretion in initially certifying the class; however, it held that continued class action treatment was not feasible because of the individualized issues such as causation, comparative fault, and damages.<sup>22</sup> Additionally, the Court authorized the individual plaintiffs within the class to proceed with individual lawsuits, if filed within one year of the judgment.<sup>23</sup>

### **Tobacco Supersedes Bond Caps**

In 2000, prior to the trial court in *Engle* entering the \$145 billion judgment, the Legislature enacted s. 768.733, F.S., relating to bonds in class action lawsuits.<sup>24</sup> Section 768.733, F.S., provides:

- (1) In any civil action that is brought as a certified class action, the trial court, upon the posting of a bond or equivalent surety as provided in this section, shall stay the execution of any judgment, or portion thereof, entered on account of punitive damages pending completion of any appellate review of the judgment.
- (2) The required bond or equivalent surety acceptable to the court for imposition of the stay shall be the lower of:
  - (a) The amount of the punitive-damages judgment, plus twice the statutory rate of interest; or
  - (b) Ten percent of the net worth of the defendant . . . ;

provided that in no case shall the amount of the required bond or equivalent surety exceed \$100 million, regardless of the amount of punitive damages.

As a result of this legislation, Tobacco's bond to appeal the \$145 billion judgment in *Engle* was limited to \$100 million.

After the *Price* case in Illinois, where the court entered a judgment for \$7 billion in compensatory damages, there was additional concern that, since s. 768.733, F.S., only applied to judgments for punitive damages, a defendant may still have to post a bond that could have the potential to bankrupt a company. While tobacco settlement payments under the FSA are to be made in perpetuity, there was concern by some that if the tobacco companies declare bankruptcy they would default on their obligations under the FSA. In an attempt to balance the competing interests between judgment creditors, the right to appeal large judgments, and the stability of the settlement payments to the state under the FSA, the Legislature enacted s. 569.23, F.S., in 2003.

<sup>21</sup> *Engle*, 945 So. 2d at 1265.

<sup>22</sup> *Id.* at 1267-68.

<sup>23</sup> *Id.* at 1277.

<sup>24</sup> Chapter 2000-128, s. 4, Laws of Fla.

Section 569.23, F.S., provides:

(1) In any civil action involving a signatory or successor or an affiliate of a signatory to the tobacco settlement agreement . . . , the appeal bond to be furnished during the pendency of all appeals or discretionary appellate reviews of any judgment in such litigation shall be set pursuant to applicable laws or court rules, except that the total bond for all defendants may not exceed \$100 million, regardless of the total value of the judgment.

In 2006, the Florida Supreme Court decertified a class action lawsuit, but authorized the members of the class to bring individual lawsuits within a certain time period.<sup>25</sup> As a result of this case, there are approximately 3,000 separate lawsuits in which damages may be awarded. Prior to this decertification, the class action suit would have been covered by the supersedeas bond cap in s. 569.23, F.S. However, the separate 3,000 cases are not currently covered by s. 569.23, F.S., which would mean that the tobacco companies may have to post supersedeas bonds in up to 3,000 separate cases that could cumulatively total billions of dollars.<sup>26</sup>

### **Supersedeas Bonds Generally**

Rule 9.310 of the Florida Rules of Appellate Procedure, governing stays pending review, provides that a party seeking to stay an order pending review must file a motion in the court having continuing jurisdiction. A stay pending review may be conditioned on the posting of a good and sufficient bond. Rule 9.310 provides an exception for money judgments. Specifically, if the judgment is solely for the payment of money, a party may obtain an automatic stay pending review by posting a good and sufficient bond equal to the principal amount of the judgment plus twice the statutory rate of interest on judgments.<sup>27</sup> The statutory rate of interest is set by the Chief Financial Officer pursuant to s. 55.03, F.S. The interest rate for 2009 is 8 percent per annum or .0002192 per day.<sup>28</sup>

A good and sufficient bond is defined as “a bond with a principal and surety company authorized to do business in the State of Florida, or cash deposited in the circuit court clerk’s office.”<sup>29</sup> The bond is conditioned on the party paying or complying with the order in full, including costs, if the review is dismissed or the order is affirmed. A stay entered by a court shall remain in effect during the pendency of all review proceedings in Florida courts.<sup>30</sup>

Supersedeas bonds are generally posted with the clerk of the court in the county where the trial court judgment was entered. The clerk of the circuit court is entitled to fees for examining bond

---

<sup>25</sup> *Engle*, 945 So. 2d at 1277.

<sup>26</sup> In the first four cases that have been tried, the first case resulted in a \$30 million judgment for the plaintiff, the second an \$8 million judgment for the plaintiff, the third approximately a \$3.5 million judgment for the plaintiff, and in the fourth case the tobacco industry prevailed. Conversation with Keith Teel, *supra* note 11.

<sup>27</sup> Fla. R. App. P. 9.310(b).

<sup>28</sup> Fla. Dep’t of Financial Servs., *Statutory Interest Rates Pursuant to Section 55.03, Florida Statutes*, <http://www.fldfs.com/aadir/interest.htm> (last visited April 18, 2009).

<sup>29</sup> Fla. R. App. P. 9.310(c).

<sup>30</sup> Fla. R. App. P. 9.310(e).

certificates issued by surety companies and for receiving registry deposits, which occurs if a party uses cash as a supersedeas bond.<sup>31</sup>

### III. Effect of Proposed Changes:

This bill amends s. 569.23, F.S., relating to bond requirements for tobacco settlement agreement signatories, successors, and affiliates. Specifically, the bill provides that in all civil actions against a signatory, successor, parent, or affiliate of a signatory (hereinafter appellants) to a tobacco settlement agreement brought by or on behalf of persons who have been decertified from a class action lawsuit, the trial court must automatically stay the execution of any judgments during the pendency of all appeals or discretionary appellate review, including reviews by the U.S. Supreme Court.

In order to qualify for the automatic stay, the appellant must post a supersedeas bond, other surety, or cash (security) in an amount based upon or equal to the appellant's proportionate share of liability in all cases pending appeal plus twice the statutory rate of interest with the clerk of the Florida Supreme Court. However, an individual appellant is not required to provide total security in excess of the greater of \$5 million, or \$100 million multiplied by the appellant's percentage share of all payments made to the state in 2008 under the Florida Tobacco Settlement. The total cumulative value of all security may not exceed \$100 million for all appellants collectively, regardless of the total value or number of judgments.

The bill defines "appellant's proportionate share of liability" as "the total liability for a judgment where there is a single defendant or appellant, and, in cases where there are multiple defendants or appellants, any amount specifically allocated against a particular defendant or appellant in the judgment, and, where liability is not specifically allocated in whole or in part among multiple defendants or appellants, the amount of the unallocated portion of the judgment divided equally among the defendants or appellants."

An appellant who has made payments into the registry of the clerk of the Supreme Court may petition the circuit court in any case still pending or the Supreme Court to refund any amount deposited that exceeds the total of the appellant's proportionate share of liability. The refund must be ordered, and made within 60 days of the order, upon a showing that the security provided is no longer necessary to pay outstanding judgments against the appellant.

The bill provides that each appellee whose judgment against an appellant is stayed is considered a co-beneficiary of all security provided by that appellant. If an appellant does not pay a judgment within 30 days after the judgment becomes final, then:

- Any stay of execution in favor of that appellant is immediately lifted, unless the stay is provided pursuant to another provision of law, rule, or judicial order; and
- Any judgment creditor against whom a stay of execution was in effect may petition the trial court or Florida Supreme Court to equitably distribute any security that had been provided by the appellant.

---

<sup>31</sup> Section 28.24(10), F.S.

The bill authorizes the clerk of the Supreme Court to collect fees for receipt of security as authorized by ss. 28.231 and 28.24(10)(a), F.S.<sup>32</sup> Additionally, the clerk is entitled to receive, as an additional fee, the net investment income earned on any cash provided as security. All fees collected are to be deposited in the State Courts Revenue Trust Fund. The bill requires the clerk to utilize the services of the Chief Financial Officer, as needed, for the custody and management of the security posted or deposited with the clerk.

No later than October 1, 2009, the Department of Revenue (DOR) must provide to the clerk of the Supreme Court a report showing the total tobacco settlement payments received by the state in 2008 and the percentage of that total received on behalf of each settling tobacco manufacturer. Upon request by certain judicial officers or any appellant that has provided security, the clerk of the Supreme Court shall certify to the trial court the amount of security provided by a subject appellant and whether such amount equals the maximum amount required by the bill, determined in reliance upon the report by DOR.

The bill defines "tobacco settlement agreement" as "any settlement agreement, as amended, entered into by the state and one or more cigarette manufacturers in settlement of *State of Florida v. American Tobacco Co.*, No. 95-1466AH (Fla. 15th Cir. Ct. 1996)."

The bill also provides that if a plaintiff proves that a defendant who provided security with the clerk of the Supreme Court is purposefully dissipating assets to avoid payment of the judgment, the court may enter any necessary order *as to that defendant* to protect the plaintiff.

The bill makes technical and conforming changes to the statute governing bond requirements for signatories to the tobacco settlement agreement.

The bill provides that the act shall take effect upon becoming a law, and applies to all judgments entered on or after that date.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

---

<sup>32</sup> Section 28.231, F.S., provides that the clerk of any state appellate or county or state trial court shall receive the same compensation as clerks of the circuit court for similar services. Section 28.24(10)(a), F.S., relating to service charges by the clerk of the circuit court, permits the clerk to receive 3 percent of the first \$500 received into the registry of the court and 1.5 percent for every \$100 after that.

**D. Other Constitutional Issues:**

The Legislature has the exclusive power to enact substantive laws, while article V, section 2 of the Florida Constitution gives the Florida Supreme Court the power to “adopt rules for the practice and procedure in all courts.” This bill may be challenged on a claim that it violates the separation of powers doctrine.<sup>33</sup>

Rule 9.310 of the Florida Rules of Appellate Procedure sets forth the requirements for obtaining a stay of execution of a monetary judgment pending review. Specifically, a party may obtain an automatic stay by posting a bond equal to the principle amount of the judgment plus twice the statutory rate of interest on judgments. This bill provides that in order to qualify for an automatic stay pending review, an appellant must provide security to the clerk of the Supreme Court, the total cumulative value of which may not exceed \$100 million for all appellants collectively, regardless of the total value or number of judgments.

It is not always clear what constitutes substantive law versus practice and procedure. Generally, substantive laws create, define, and regulate rights, whereas court rules of practice and procedure prescribe the method of process by which a party seeks to enforce substantive rights or obtain redress.<sup>34</sup> Courts have tended to decide the distinction on a case-by-case basis, often finding the following types of provisions unconstitutional:

- Provisions regarding timing and sequence of court procedures,
- Provisions creating expedited proceedings,
- Provisions issuing mandates to the courts to perform certain functions, and
- Provisions attempting to supersede or modify existing rules of court.<sup>35</sup>

To the extent a court views this provision of the bill as an encroachment on the court’s procedural rule-making authority, it may come under constitutional scrutiny.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

This bill provides that an appellant who is part of the Florida tobacco settlement agreement (FSA) can receive an automatic stay of execution on any judgments in civil actions brought by persons who have been decertified from a class action lawsuit, if the

<sup>33</sup> See FLA. CONST. art. II, s. 3.

<sup>34</sup> *Haven Fed. Savings & Loan Ass’n v. Kirian*, 579 So. 2d 730, 732 (Fla. 1991).

<sup>35</sup> See *Military Park Fire Control Tax District No. 4 v. DeMarois*, 407 So. 2d 1020 (Fla. 4th DCA 1981) (creating priorities among types of civil matters to be processed or appealed); *Allen v. Butterworth*, 756 So. 2d 52 (Fla. 2000) (timing and sequence of court procedures); and *Haven Fed. Savings & Loan Ass’n v. Kirian*, 579 So. 2d 730, 732 (Fla. 1991), and *Watson v. First Florida Leasing, Inc.*, 537 So. 2d 1370 (Fla. 1989) (attempting to supersede or modify existing rules of court).

appellant posts a supersedeas bond, other surety, or cash, not to exceed \$100 million for all appellants collectively and regardless of the total value or number of judgments. Although the fiscal impact on the private sector is indeterminate at this time,<sup>36</sup> the bill may save tobacco companies that are a part of the FSA money by placing a cap on the total amount of the bond. The bill should not affect the recovery of private plaintiffs because the tobacco companies must still be capable of paying all judgments against them.<sup>37</sup>

**C. Government Sector Impact:**

The bill has no direct impact on the state or the Department of Legal Affairs.<sup>38</sup> However, the bill may provide an indirect positive fiscal impact to the state by creating a cap on security. As discussed after *Price v. Philip Morris Inc.*, 2003 WL 22597608 (Ill. Cir. 2003), if a plaintiff receives a large judgment against a tobacco company and the tobacco company must post a supersedeas bond for the full amount of the judgment, the company may be forced to file bankruptcy. If a tobacco company that has entered into the Florida Settlement Agreement declares bankruptcy, the state may not be able to collect its money pursuant to the settlement.<sup>39</sup>

**VI. Technical Deficiencies:**

The bill provides that the security required by an appellant to stay the execution of a judgment can be in the form of a supersedeas bond, other surety, or cash. However, on line 80, the bill references only "supersedeas bonds or other surety." It appears that "cash" has been unintentionally left out of the bill in that sentence.

**VII. Related Issues:**

Starting on line 74, the bill provides that, if *any* individual appellant provides the maximum security required by the bill, the trial court shall stay the execution of judgments *in all other cases* during the pendency of all appeals. The way the bill is written, it appears that if one appellant reaches its cap, then all other cases, regardless of whether the cases are against that specific appellant or another appellant, are stayed. The Legislature may wish to amend the bill to read: "Upon the provision by any individual appellant of the maximum security required by this subsection, the trial courts shall stay the execution of judgments in all other cases *against that appellant* during the pendency of all appeals . . ."

Throughout the bill, the terms "trial court" and "circuit court" are used interchangeably. For example, on line 117 of the bill, the term "trial court" is used, but on line 124 "circuit court" is used. The Legislature may wish to amend the bill to make it consistent throughout.

---

<sup>36</sup> Dep't of Legal Affairs, *Senate Bill 2198: Relating to Tobacco Settlement Agreements* (Feb. 18, 2009) (on file with the Senate Committee on Judiciary).

<sup>37</sup> See Fla. R. App. P. 9.310(c)(2) (providing that a condition for posting a bond is to be able to pay the order in full if review is dismissed or the order is affirmed on appeal).

<sup>38</sup> Dep't of Legal Affairs, *supra* note 36.

<sup>39</sup> See letter to Representative Dean Cannon from Attorney General Bill McCollum (Feb. 4, 2009) (on file with the Senate Committee on Judiciary).

**VIII. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Judiciary on April 21, 2009:**

The committee substitute:

- Defines the term “appellant’s proportionate share of liability”;
- Permits an appellant to provide cash as a form of security;
- Requires all security to be deposited and maintained by the clerk of the Florida Supreme Court;
- Provides that an individual appellant is not required to provide security in excess of the greater of either \$5 million, or \$100 million multiplied by the appellant’s percentage share of all payments made to the state in 2008 under the tobacco settlement agreement;
- Provides that each appellee whose judgment against an appellant is stayed is deemed a co-beneficiary of all security provided by that appellant;
- Authorizes an appellant to petition the circuit court where a case is still pending or the Supreme Court to refund any amount of security deposited that exceeds the total of the appellant’s proportionate share of liability. Requires such a refund to be ordered if the security is no longer necessary and requires the refund to be done within 60 days after such an order;
- Provides consequences for failing to pay a judgment within 30 days of it becoming final;
- Authorizes the clerk of the Supreme Court to collect fees, which are to be deposited into the State Courts Revenue Trust Fund;
- Requires the Department of Revenue to provide a report showing the total tobacco settlement payments received by the state in 2008 and the percentage of that total received on behalf of each settling manufacturer; and
- Makes technical and conforming changes.

- B. **Amendments:**

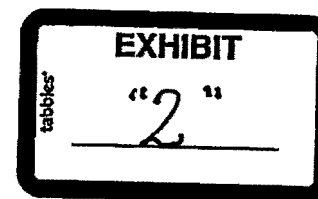
None.



**TOBACCO SETTLEMENT PAYMENTS FORECAST**

REVENUE ESTIMATING CONFERENCE

March 1, 2010



**Tobacco Settlement Payments to Florida**  
**Settlement Agreement Annual Payment Schedule (in \$ Millions)**

		<b>Settlement Agreement Gross Payments</b>	<b>Annual Payment Florida Share @ 5.5%</b>	<b>Initial Payment Florida Share @ 5.5%</b>	<b>Settlement Agreement Florida Annual Payments</b>
CY 1997	FY 1997-98		750.0		750.0
CY 1998	FY 1998-99	4,000	220.0	123.5	343.5
CY 1999	FY 1999-00	4,500	247.5	464.6	712.1
CY 2000	FY 2000-01	5,000	275.0	464.6	739.6
CY 2001	FY 2001-02	6,500	357.5	464.6	822.1
CY 2002	FY 2002-03	6,500	357.5	232.8	590.3
CY 2003	FY 2003-04	8,000	440.0		440.0
CY 2004	FY 2004-05	8,000	440.0		440.0
CY 2005	FY 2005-06	8,000	440.0		440.0
CY 2006	FY 2006-07	8,000	440.0		440.0
CY 2007	FY 2007-08	8,000	440.0		440.0
CY 2008	FY 2008-09	8,000	440.0		440.0
CY 2009	FY 2009-10	8,000	440.0		440.0
CY 2010	FY 2010-11	8,000	440.0		440.0
CY 2011	FY 2011-12	8,000	440.0		440.0
CY 2012	FY 2012-13	8,000	440.0		440.0
CY 2013	FY 2013-14	8,000	440.0		440.0
CY 2014	FY 2014-15	8,000	440.0		440.0
CY 2015	FY 2015-16	8,000	440.0		440.0
CY 2016	FY 2016-17	8,000	440.0		440.0
CY 2017	FY 2017-18	8,000	440.0		440.0
CY 2018	FY 2018-19	8,000	440.0		440.0
CY 2019	FY 2019-20	8,000	440.0		440.0
CY 2020	FY 2020-21	8,000	440.0		440.0
CY 2021	FY 2021-22	8,000	440.0		440.0
CY 2022	FY 2022-23	8,000	440.0		440.0
CY 2023	FY 2023-24	8,000	440.0		440.0
CY 2024	FY 2024-25	8,000	440.0		440.0
CY 2025	FY 2025-26	8,000	440.0		440.0
CY 2026	FY 2026-27	8,000	440.0		440.0
CY 2027	FY 2027-28	8,000	440.0		440.0
CY 2028	FY 2028-29	8,000	440.0		440.0
CY 2029	FY 2029-30	8,000	440.0		440.0
CY 2030	FY 2030-31	8,000	440.0		440.0
CY 2031	FY 2031-32	8,000	440.0		440.0
CY 2032	FY 2032-33	8,000	440.0		440.0

NOTE: Settlement payments continue in perpetuity. These payments reflect the base payment schedule before adjustments as described in the settlement agreement.

**Tobacco Settlement Payments to Florida**  
**Calculation of Inflation Adjustment to Annual Settlement Payment**

		<b>December Consumer Price Index</b>	<b>% chg</b>	<b>Settlement Inflation Factor</b>	<b>Settlement Inflation Index</b>	<b>Annual Payment Inflation Adjustment</b>
CY 1997	FY 1997-98	161.3		0.000%	100.000	1.0000
CY 1998	FY 1998-99	163.9	1.612%	3.000%	100.000	1.0000
CY 1999	FY 1999-00	168.3	2.685%	3.000%	103.000	1.0300
CY 2000	FY 2000-01	174.0	3.387%	3.387%	106.489	1.0649
CY 2001	FY 2001-02	176.7	1.552%	3.000%	109.683	1.0968
CY 2002	FY 2002-03	180.9	2.377%	3.000%	112.974	1.1297
CY 2003	FY 2003-04	184.3	1.879%	3.000%	116.363	1.1636
CY 2004	FY 2004-05	190.3	3.256%	3.256%	120.151	1.2015
CY 2005	FY 2005-06	196.8	3.416%	3.416%	124.255	1.2426
CY 2006	FY 2006-07	201.8	2.541%	3.000%	127.983	1.2798
CY 2007	FY 2007-08	210.0	4.063%	4.063%	133.183	1.3318
CY 2008	FY 2008-09	210.2	0.095%	3.000%	137.179	1.3718
CY 2009	FY 2009-10	215.9	2.712%	3.000%	141.294	1.4129
CY 2010	FY 2010-11	218.5	<b>1.198%</b>	3.000%	145.533	1.4553
CY 2011	FY 2011-12	223.3	<b>2.186%</b>	3.000%	149.899	1.4990
CY 2012	FY 2012-13	227.4	<b>1.835%</b>	3.000%	154.396	1.5440
CY 2013	FY 2013-14	232.1	<b>2.076%</b>	3.000%	159.028	1.5903
CY 2014	FY 2014-15	236.6	<b>1.941%</b>	3.000%	163.799	1.6380
CY 2015	FY 2015-16	241.5	<b>2.083%</b>	3.000%	168.713	1.6871
CY 2016	FY 2016-17	246.4	<b>2.011%</b>	3.000%	173.774	1.7377
CY 2017	FY 2017-18	251.2	<b>1.975%</b>	3.000%	178.987	1.7899
CY 2018	FY 2018-19	256.1	<b>1.935%</b>	3.000%	184.357	1.8436
CY 2019	FY 2019-20	260.7	<b>1.815%</b>	3.000%	189.888	1.8989
CY 2020	FY 2020-21	266.0	<b>2.000%</b>	3.000%	195.584	1.9558
CY 2021	FY 2021-22	271.3	<b>2.000%</b>	3.000%	201.452	2.0145
CY 2022	FY 2022-23	276.7	<b>2.000%</b>	3.000%	207.495	2.0750
CY 2023	FY 2023-24	282.2	<b>2.000%</b>	3.000%	213.720	2.1372
CY 2024	FY 2024-25	287.9	<b>2.000%</b>	3.000%	220.132	2.2013
CY 2025	FY 2025-26	293.6	<b>2.000%</b>	3.000%	226.736	2.2674
CY 2026	FY 2026-27	299.5	<b>2.000%</b>	3.000%	233.538	2.3354
CY 2027	FY 2027-28	305.5	<b>2.000%</b>	3.000%	240.544	2.4054
CY 2028	FY 2028-29	311.6	<b>2.000%</b>	3.000%	247.760	2.4776
CY 2029	FY 2029-30	317.8	<b>2.000%</b>	3.000%	255.193	2.5519
CY 2030	FY 2030-31	324.2	<b>2.000%</b>	3.000%	262.849	2.6285
CY 2031	FY 2031-32	330.7	<b>2.000%</b>	3.000%	270.734	2.7073
CY 2032	FY 2032-33	337.3	<b>2.000%</b>	3.000%	278.856	2.7886

**Tobacco Settlement Payments to Florida**  
**Calculation of Volume Ratio**

		<b>Forecasted U.S. Cigarette Volume (Billions)</b>	<b>% chg</b>	<b>Florida Definition Volume as share of U.S. volume</b>	<b>Florida Definition Volume (Billions)</b>	<b>% chg</b>	<b>Volume Ratio</b>
CY 1997	FY 1997-98	480.000		98.18%	471.248		1.0000
CY 1998	FY 1998-99	465.000	-3.13%	96.62%	449.288	-4.66%	0.9534
CY 1999	FY 1999-00	435.000	-6.45%	92.93%	404.252	-10.02%	0.8578
CY 2000	FY 2000-01	430.000	-1.15%	92.53%	397.858	-1.58%	0.8443
CY 2001	FY 2001-02	425.000	-1.16%	89.38%	379.860	-4.52%	0.8061
CY 2002	FY 2002-03	415.000	-2.35%	87.07%	361.335	-4.88%	0.7668
CY 2003	FY 2003-04	400.000	-3.61%	85.15%	340.603	-5.74%	0.7228
CY 2004	FY 2004-05	388.000	-3.00%	86.40%	335.232	-1.58%	0.7114
CY 2005	FY 2005-06	376.000	-3.09%	87.28%	328.173	-2.11%	0.6964
CY 2006	FY 2006-07	372.000	-1.06%	86.93%	323.395	-1.46%	0.6863
CY 2007	FY 2007-08	360.000	-3.23%	85.74%	308.676	-4.55%	0.6550
CY 2008	FY 2008-09	348.120	-3.30%	85.04%	296.025	-4.10%	0.6282
CY 2009	FY 2009-10	318.182	-8.60%	83.62%	266.055	-10.12%	0.5646
CY 2010	FY 2010-11	296.736	-6.74%	83.62%	248.123	-6.74%	0.5265
CY 2011	FY 2011-12	287.211	-3.21%	83.62%	240.158	-3.21%	0.5096
CY 2012	FY 2012-13	278.681	-2.97%	83.62%	233.025	-2.97%	0.4945
CY 2013	FY 2013-14	271.407	-2.61%	83.62%	226.943	-2.61%	0.4816
CY 2014	FY 2014-15	265.409	-2.21%	83.62%	221.928	-2.21%	0.4709
CY 2015	FY 2015-16	260.287	-1.93%	83.62%	217.645	-1.93%	0.4618
CY 2016	FY 2016-17	255.888	-1.69%	83.62%	213.967	-1.69%	0.4540
CY 2017	FY 2017-18	251.743	-1.62%	83.62%	210.501	-1.62%	0.4467
CY 2018	FY 2018-19	247.610	-1.64%	83.62%	207.045	-1.64%	0.4394
CY 2019	FY 2019-20	243.544	-1.64%	83.62%	203.645	-1.64%	0.4321
CY 2020	FY 2020-21	239.600	-1.62%	83.62%	200.347	-1.62%	0.4251
CY 2021	FY 2021-22	235.692	-1.63%	83.62%	197.080	-1.63%	0.4182
CY 2022	FY 2022-23	231.958	-1.58%	83.62%	193.957	-1.58%	0.4116
CY 2023	FY 2023-24	228.293	-1.58%	83.62%	190.893	-1.58%	0.4051
CY 2024	FY 2024-25	224.764	-1.55%	83.62%	187.942	-1.55%	0.3988
CY 2025	FY 2025-26	221.330	-1.53%	83.62%	185.070	-1.53%	0.3927
CY 2026	FY 2026-27	217.980	-1.51%	83.62%	182.269	-1.51%	0.3868
CY 2027	FY 2027-28	214.748	-1.48%	83.62%	179.567	-1.48%	0.3810
CY 2028	FY 2028-29	211.618	-1.46%	83.62%	176.949	-1.46%	0.3755
CY 2029	FY 2029-30	208.571	-1.44%	83.62%	174.402	-1.44%	0.3701
CY 2030	FY 2030-31	205.598	-1.43%	83.62%	171.915	-1.43%	0.3648
CY 2031	FY 2031-32	202.771	-1.37%	83.62%	169.552	-1.37%	0.3598
CY 2032	FY 2032-33	200.043	-1.35%	83.62%	167.270	-1.35%	0.3550

**Tobacco Settlement Payments to Florida**  
**Calculation of Volume Adjustment to Annual Settlement Payment**

		<u>Volume Ratio</u>	<u>Volume Adjustment (1 - vol. ratio)</u>	<u>Youth Adjustment (volume adj. X .98)</u>	<u>Annual Payment Volume Adjustment (1 - youth adj.)</u>
CY 1997	FY 1997-98	1.0000			
CY 1998	FY 1998-99	0.9534			
CY 1999	FY 1999-00	0.8578	0.1422	0.1393	0.8607
CY 2000	FY 2000-01	0.8443	0.1557	0.1526	0.8474
CY 2001	FY 2001-02	0.8061	0.1939	0.1900	0.8100
CY 2002	FY 2002-03	0.7668	0.2332	0.2286	0.7714
CY 2003	FY 2003-04	0.7228	0.2772	0.2717	0.7283
CY 2004	FY 2004-05	0.7114	0.2886	0.2829	0.7171
CY 2005	FY 2005-06	0.6964	0.3036	0.2975	0.7025
CY 2006	FY 2006-07	0.6863	0.3137	0.3075	0.6925
CY 2007	FY 2007-08	0.6550	0.3450	0.3381	0.6619
CY 2008	FY 2008-09	0.6282	0.3718	0.3644	0.6356
CY 2009	FY 2009-10	0.5646	0.4354	0.4267	0.5733
CY 2010	FY 2010-11	0.5265	0.4735	0.4640	0.5360
CY 2011	FY 2011-12	0.5096	0.4904	0.4806	0.5194
CY 2012	FY 2012-13	0.4945	0.5055	0.4954	0.5046
CY 2013	FY 2013-14	0.4816	0.5184	0.5081	0.4919
CY 2014	FY 2014-15	0.4709	0.5291	0.5185	0.4815
CY 2015	FY 2015-16	0.4618	0.5382	0.5274	0.4726
CY 2016	FY 2016-17	0.4540	0.5460	0.5350	0.4650
CY 2017	FY 2017-18	0.4467	0.5533	0.5422	0.4578
CY 2018	FY 2018-19	0.4394	0.5606	0.5494	0.4506
CY 2019	FY 2019-20	0.4321	0.5679	0.5565	0.4435
CY 2020	FY 2020-21	0.4251	0.5749	0.5634	0.4366
CY 2021	FY 2021-22	0.4182	0.5818	0.5702	0.4298
CY 2022	FY 2022-23	0.4116	0.5884	0.5766	0.4234
CY 2023	FY 2023-24	0.4051	0.5949	0.5830	0.4170
CY 2024	FY 2024-25	0.3988	0.6012	0.5892	0.4108
CY 2025	FY 2025-26	0.3927	0.6073	0.5951	0.4049
CY 2026	FY 2026-27	0.3868	0.6132	0.6010	0.3990
CY 2027	FY 2027-28	0.3810	0.6190	0.6066	0.3934
CY 2028	FY 2028-29	0.3755	0.6245	0.6120	0.3880
CY 2029	FY 2029-30	0.3701	0.6299	0.6173	0.3827
CY 2030	FY 2030-31	0.3648	0.6352	0.6225	0.3775
CY 2031	FY 2031-32	0.3598	0.6402	0.6274	0.3726
CY 2032	FY 2032-33	0.3550	0.6450	0.6321	0.3679

**Tobacco Settlement Payments to Florida**  
**Calculation of Annual Settlement Payment Schedule after Adjustments**

		<b>Settlement Agreement Annual Payment (\$ Millions)</b>	<b>Annual Payment Inflation Adjustment</b>	<b>Annual Payment Volume Adjustment</b>	<b>Adjusted Settlement Annual Payment (\$ Millions)</b>
CY 1997	FY 1997-98	750.0			750.0
CY 1998	FY 1998-99	343.5			343.5
CY 1999	FY 1999-00	712.1	1.0300	0.8607	631.3
CY 2000	FY 2000-01	739.6	1.0649	0.8474	667.4
CY 2001	FY 2001-02	822.1	1.0968	0.8100	730.3
CY 2002	FY 2002-03	590.3	1.1297	0.7714	514.5
CY 2003	FY 2003-04	440.0	1.1636	0.7283	372.9
CY 2004	FY 2004-05	440.0	1.2015	0.7171	379.1
CY 2005	FY 2005-06	440.0	1.2426	0.7025	384.1
CY 2006	FY 2006-07	440.0	1.2798	0.6925	390.0
CY 2007	FY 2007-08	440.0	1.3318	0.6619	387.9
CY 2008	FY 2008-09	440.0	1.3718	0.6356	383.6
CY 2009	FY 2009-10	440.0	1.4129	0.5733	356.4
CY 2010	FY 2010-11	440.0	1.4553	0.5360	343.2
CY 2011	FY 2011-12	440.0	1.4990	0.5194	342.6
CY 2012	FY 2012-13	440.0	1.5440	0.5046	342.8
CY 2013	FY 2013-14	440.0	1.5903	0.4919	344.2
CY 2014	FY 2014-15	440.0	1.6380	0.4815	347.0
CY 2015	FY 2015-16	440.0	1.6871	0.4726	350.8
CY 2016	FY 2016-17	440.0	1.7377	0.4650	355.5
CY 2017	FY 2017-18	440.0	1.7899	0.4578	360.5
CY 2018	FY 2018-19	440.0	1.8436	0.4506	365.5
CY 2019	FY 2019-20	440.0	1.8989	0.4435	370.5
CY 2020	FY 2020-21	440.0	1.9558	0.4366	375.8
CY 2021	FY 2021-22	440.0	2.0145	0.4298	381.0
CY 2022	FY 2022-23	440.0	2.0750	0.4234	386.5
CY 2023	FY 2023-24	440.0	2.1372	0.4170	392.1
CY 2024	FY 2024-25	440.0	2.2013	0.4108	397.9
CY 2025	FY 2025-26	440.0	2.2674	0.4049	403.9
CY 2026	FY 2026-27	440.0	2.3354	0.3990	410.0
CY 2027	FY 2027-28	440.0	2.4054	0.3934	416.4
CY 2028	FY 2028-29	440.0	2.4776	0.3880	423.0
CY 2029	FY 2029-30	440.0	2.5519	0.3827	429.7
CY 2030	FY 2030-31	440.0	2.6285	0.3775	436.6
CY 2031	FY 2031-32	440.0	2.7073	0.3726	443.8
CY 2032	FY 2032-33	440.0	2.7886	0.3679	451.3

**Tobacco Settlement Payments to Florida**  
**Calculation of Net Operating Profit Adjustment Liability**

		<b>Settlement Inflation Factor</b>	<b>Base Profit Inflation Adjustment</b>	<b>Inflation Adjusted Net Operating Base Profits (\$ Millions)</b>	<b>Estimated Net Operating Profits (\$ Millions)</b>	<b>% chg</b>	<b>Increase in profit from adjusted base (\$ Millions)</b>	<b>Florida Profit Adjustment Liability (5.5% of 25%) (\$ Millions)</b>
CY 1997	FY 1997-98	0.000%		3,114.6	3,114.6			
CY 1998	FY 1998-99	3.000%	1.0300	3,208.0	#N/A			
CY 1999	FY 1999-00	3.000%	1.0609	3,304.3	4,667.3		1,363.0	18.7
CY 2000	FY 2000-01	3.387%	1.0968	3,416.2	4,898.1	4.9%	1,481.9	20.4
CY 2001	FY 2001-02	3.000%	1.1297	3,519.2	4,885.2	-0.3%	1,366.0	18.8
CY 2002	FY 2002-03	3.000%	1.1636	3,624.8	4,530.6	-7.3%	905.8	12.5
CY 2003	FY 2003-04	3.000%	1.1985	3,732.9	854.7	-81.1%	-2,878.2	0.0
CY 2004	FY 2004-05	3.256%	1.2376	3,854.5	3,783.6	342.7%	-70.9	0.0
CY 2005	FY 2005-06	3.416%	1.2798	3,986.2	4,306.2	13.8%	320.0	4.4
CY 2006	FY 2006-07	3.000%	1.3182	4,105.7	4,665.4	8.3%	559.7	7.7
CY 2007	FY 2007-08	4.063%	1.3718	4,272.6	4,727.3	1.3%	454.7	6.2
CY 2008	FY 2008-09	3.000%	1.4129	4,400.7	4,938.5	4.5%	537.8	7.4
CY 2009	FY 2009-10	3.000%	1.4553	4,532.8	4,976.6	0.8%	443.8	6.1
CY 2010	FY 2010-11	3.000%	1.4990	4,668.8	5,125.9	3.0%	457.1	6.3
CY 2011	FY 2011-12	3.000%	1.5440	4,808.8	5,279.7	3.0%	470.9	6.5
CY 2012	FY 2012-13	3.000%	1.5903	4,953.1	5,438.1	3.0%	485.0	6.7
CY 2013	FY 2013-14	3.000%	1.6380	5,101.7	5,601.2	3.0%	499.5	6.9
CY 2014	FY 2014-15	3.000%	1.6871	5,254.7	5,769.2	3.0%	514.5	7.1
CY 2015	FY 2015-16	3.000%	1.7377	5,412.4	5,942.3	3.0%	530.0	7.3
CY 2016	FY 2016-17	3.000%	1.7899	5,574.7	6,120.6	3.0%	545.9	7.5
CY 2017	FY 2017-18	3.000%	1.8436	5,742.0	6,304.2	3.0%	562.2	7.7
CY 2018	FY 2018-19	3.000%	1.8989	5,914.2	6,493.3	3.0%	579.1	8.0
CY 2019	FY 2019-20	3.000%	1.9558	6,091.7	6,688.1	3.0%	596.5	8.2
CY 2020	FY 2020-21	3.000%	2.0145	6,274.4	6,888.8	3.0%	614.4	8.4
CY 2021	FY 2021-22	3.000%	2.0750	6,462.6	7,095.4	3.0%	632.8	8.7
CY 2022	FY 2022-23	3.000%	2.1372	6,656.5	7,308.3	3.0%	651.8	9.0
CY 2023	FY 2023-24	3.000%	2.2013	6,856.2	7,527.6	3.0%	671.3	9.2
CY 2024	FY 2024-25	3.000%	2.2674	7,061.9	7,753.4	3.0%	691.5	9.5
CY 2025	FY 2025-26	3.000%	2.3354	7,273.8	7,986.0	3.0%	712.2	9.8
CY 2026	FY 2026-27	3.000%	2.4054	7,492.0	8,225.6	3.0%	733.6	10.1
CY 2027	FY 2027-28	3.000%	2.4776	7,716.7	8,472.3	3.0%	755.6	10.4
CY 2028	FY 2028-29	3.000%	2.5519	7,948.2	8,726.5	3.0%	778.3	10.7
CY 2029	FY 2029-30	3.000%	2.6285	8,186.7	8,988.3	3.0%	801.6	11.0
CY 2030	FY 2030-31	3.000%	2.7073	8,432.3	9,257.9	3.0%	825.7	11.4
CY 2031	FY 2031-32	3.000%	2.7886	8,685.3	9,535.7	3.0%	850.4	11.7
CY 2032	FY 2032-33	3.000%	2.8722	8,945.8	9,821.8	3.0%	875.9	12.0

**Tobacco Settlement Payments to Florida**  
**Cash Payments (\$ Millions)**

	<u>Calculated Annual Payment Liability</u>	<u>Adjustments For over/under Payments</u>	<u>Estimated Cash Annual Payments</u>	<u>Calculated Florida Profit Adjustment Liability</u>	<u>Adjustments For over/under Payments</u>	<u>Estimated Cash Profit Adjustment Payments</u>	<u>Estimated Combined Payments</u>	<u>Actual Combined Payments</u>
FY 1997-98	750.0	0.0	750.0				750.0	562.5
FY 1998-99	343.5	0.0	343.5				343.5	531.0
FY 1999-00	631.3	0.0	631.3	37.4	3.3	40.7	672.0	640.9
FY 2000-01	667.4	0.0	667.4	40.8	0.0	40.8	708.2	743.4
FY 2001-02	730.3	-5.6	724.7	37.6	0.0	37.6	762.3	765.7
FY 2002-03	514.5	-3.7	510.8	25.0	-3.0	22.0	532.8	546.4
FY 2003-04	372.9	-11.5	361.4	0.0	0.0	0.0	361.4	364.0
FY 2004-05	379.1	-2.5	376.6	0.0	0.0	0.0	376.6	378.3
FY 2005-06	384.1	-1.8	382.3	4.4	-0.7	3.7	386.0	389.7
FY 2006-07	390.0	-3.3	386.7	7.7	-0.2	7.5	394.2	396.4
FY 2007-08	387.9	-1.5	386.4	6.2	-0.1	6.1	392.5	398.5
FY 2008-09	383.6	-5.9	377.7	7.4	0.0	7.4	385.1	388.9
FY 2009-10	356.4	-3.8	352.6	6.1	0.0	6.1	358.7	361.2
FY 2010-11	343.2	-2.5	340.7	6.3	0.0	6.3	347.0	
FY 2011-12	342.6	0.0	342.6	6.5	0.0	6.5	349.1	
FY 2012-13	342.8	0.0	342.8	6.7	0.0	6.7	349.5	
FY 2013-14	344.2	0.0	344.2	6.9	0.0	6.9	351.1	
FY 2014-15	347.0	0.0	347.0	7.1	0.0	7.1	354.1	
FY 2015-16	350.8	0.0	350.8	7.3	0.0	7.3	358.1	
FY 2016-17	355.5	0.0	355.5	7.5	0.0	7.5	363.0	
FY 2017-18	360.5	0.0	360.5	7.7	0.0	7.7	368.2	
FY 2018-19	365.5	0.0	365.5	8.0	0.0	8.0	373.5	
FY 2019-20	370.5	0.0	370.5	8.2	0.0	8.2	378.7	
FY 2020-21	375.8	0.0	375.8	8.4	0.0	8.4	384.2	
FY 2021-22	381.0	0.0	381.0	8.7	0.0	8.7	389.7	
FY 2022-23	386.5	0.0	386.5	9.0	0.0	9.0	395.5	
FY 2023-24	392.1	0.0	392.1	9.2	0.0	9.2	401.3	
FY 2024-25	397.9	0.0	397.9	9.5	0.0	9.5	407.4	
FY 2025-26	403.9	0.0	403.9	9.8	0.0	9.8	413.7	
FY 2026-27	410.0	0.0	410.0	10.1	0.0	10.1	420.1	
FY 2027-28	416.4	0.0	416.4	10.4	0.0	10.4	426.8	
FY 2028-29	423.0	0.0	423.0	10.7	0.0	10.7	433.7	
FY 2029-30	429.7	0.0	429.7	11.0	0.0	11.0	440.7	
FY 2030-31	436.6	0.0	436.6	11.4	0.0	11.4	448.0	
FY 2031-32	443.8	0.0	443.8	11.7	0.0	11.7	455.5	
FY 2032-33	451.3	0.0	451.3	12.0	0.0	12.0	463.3	



**Tobacco Settlement Payments to Florida**  
**Old vs. New Forecast of Total Payments (\$ Millions)**

	<b>New Forecast of Cash Settlement Payments</b>	<b>Old Forecast of Cash Settlement Payments</b>	<b>Difference</b>
FY 1997-98	562.5	562.5	0.0
FY 1998-99	531.0	531.0	0.0
FY 1999-00	640.9	640.9	0.0
FY 2000-01	743.4	743.4	0.0
FY 2001-02	765.7	765.7	0.0
FY 2002-03	546.4	546.4	0.0
FY 2003-04	364.0	364.0	0.0
FY 2004-05	378.3	378.3	0.0
FY 2005-06	389.7	389.7	0.0
FY 2005-06	389.7	389.7	0.0
FY 2006-07	396.4	396.4	0.0
FY 2008-09	388.9	388.0	0.9
FY 2009-10	361.2	372.3	-11.1
FY 2010-11	347.0	367.3	-20.3
FY 2011-12	349.1	367.7	-18.6
FY 2012-13	349.5	371.2	-21.7
FY 2013-14	351.1	375.5	-24.4
FY 2014-15	354.1	380.1	-26.0
FY 2015-16	358.1	385.2	-27.1
FY 2016-17	363.0	390.4	-27.4
FY 2017-18	368.2	395.5	-27.3
FY 2018-19	373.5	400.8	-27.3
FY 2019-20	378.7	406.3	-27.6
FY 2020-21	384.2	412.4	-28.2
FY 2021-22	389.7	419.0	-29.3
FY 2022-23	395.5	425.8	-30.3
FY 2023-24	401.3	432.8	-31.5
FY 2024-25	407.4	439.9	-32.5
FY 2025-26	413.7	447.2	-33.5
FY 2026-27	420.1	454.6	-34.5
FY 2027-28	426.8	462.1	-35.3
FY 2028-29	433.7	469.9	-36.2
FY 2029-30	440.7	477.7	-37.0
FY 2030-31	448.0	485.8	-37.8
FY 2031-32	455.5	494.0	-38.5
FY 2032-33	463.3	502.3	-39.0

**TOBACCO SETTLEMENT TRUST FUND  
FINANCIAL OUTLOOK STATEMENT**  
from the 2010 Regular Legislative Session  
FY 2009-10 and FY 2010-11  
(\$ MILLIONS)

**CORRECTED**

DATE: 07-Jul-10

	<u>RECURRING</u>	<u>NON- RECURRING</u>	<u>TOTAL</u>
<b>FUNDS AVAILABLE 2009-10</b>			
Balance forward from 2008-09	0.0	21.1	21.1
Annual settlement payment	355.1	0.0	355.1
Profit adjustment payment estimate	6.1	0.0	6.1
Transfer from Lawton Chiles Endowment Fund	15.7	0.0	15.7
Interest earnings	1.5	0.0	1.5
Total 2009-10 funds available	378.4	21.1	399.5
<b>APPROPRIATIONS 2009-10</b>			
Agency for Health Care Administration	140.2	0.0	140.2
Department of Children and Family Services	132.3	0.0	132.3
Department of Elder Affairs	24.8	0.0	24.8
Department of Health	99.7	0.0	99.7
Reappropriations	0.0	2.0	2.0
HB5001, Section 81	0.0	(7.3)	(7.3)
Total 2009-10 effective appropriations	396.9	(5.3)	391.6
AVAILABLE RESERVES	(18.5)	26.4	7.9
<b>FUNDS AVAILABLE 2010-11</b>			
Balance forward from 2009-10	0.0	7.9	7.9
Annual settlement payment estimate	340.7	0.0	340.7
Profit adjustment payment estimate	6.3	0.0	6.3
Transfer from Lawton Chiles Endowment Fund	13.7	0.0	13.7
Interest earnings	2.0	0.0	2.0
Total 2010-11 funds available	362.7	7.9	370.6
<b>APPROPRIATIONS 2010-11</b>			
Agency for Health Care Administration	137.8	0.0	137.8
Department of Children and Family Services	132.3	0.0	132.3
Department of Elder Affairs	0.0	0.0	0.0
Department of Health	37.9	0.0	37.9
Tobacco Prevention and Education	61.6	0.0	61.6
Total 2010-11 effective appropriations	369.6	0.0	369.6
AVAILABLE RESERVES	(6.9)	7.9	1.0

This financial outlook statement does not include the transfer from the Lawton Chiles Endowment Fund to the Biomedical Research Trust Fund under section 215.5601, Florida Statutes, nor does it include the appropriation from the trust fund. The projected amount of the transfer is \$2.2 million for FY 09-10 and \$1.3 million for FY 2010-11.



**TOBACCO SETTLEMENT TRUST FUND**  
**FINANCIAL OUTLOOK STATEMENT, continued**  
from the 2010 Regular Legislative Session  
FY 2011-12 through FY 2013-14  
(\$ MILLIONS)

DATE: 07-Jul-10  
TIME: 10:06 AM

	<u>RECURRING</u>	<u>NON-RECURRING</u>	<u>TOTAL</u>
<b>FUNDS AVAILABLE 2011-12</b>			
Balance forward from 2010-11	0.0	1.0	1.0
Annual settlement payment estimate	342.6	0.0	342.6
Profit adjustment payment estimate	6.5	0.0	6.5
Transfer from Lawton Chiles Endowment Fund	13.7	0.0	13.7
Interest earnings	2.0	0.0	2.0
Total 2011-12 funds available	364.8	1.0	365.8

The above funds available figures are not adjusted for any financial obligation related to the constitutional funding requirement for tobacco education and prevention. The amount of the financial obligation for FY 2011-12 is estimated to be \$62.7 million.

<b>FUNDS AVAILABLE 2012-13</b>			
Balance forward from 2011-12	0.0	0.0	0.0
Annual settlement payment estimate	342.8	0.0	342.8
Profit adjustment payment estimate	6.7	0.0	6.7
Transfer from Lawton Chiles Endowment Fund	13.7	0.0	13.7
Interest earnings	2.0	0.0	2.0
Total 2012-13 funds available	365.2	0.0	365.2

The above funds available figures are not adjusted for any financial obligation related to the constitutional funding requirement for tobacco education and prevention. The amount of the financial obligation for FY 2012-13 is estimated to be \$64.0 million.

<b>FUNDS AVAILABLE 2013-14</b>			
Balance forward from 2012-13	0.0	0.0	0.0
Annual settlement payment estimate	344.2	0.0	344.2
Profit adjustment payment estimate	6.9	0.0	6.9
Transfer from Lawton Chiles Endowment Fund	13.7	0.0	13.7
Interest earnings	2.0	0.0	2.0
Total 2013-14 funds available	366.8	0.0	366.8

The above funds available figures are not adjusted for any financial obligation related to the constitutional funding requirement for tobacco education and prevention. The amount of the financial obligation for FY 2012-13 is estimated to be \$65.2 million.

# Tab 3

# **TOBACCO SETTLEMENT PAYMENTS FORECAST**

REVENUE ESTIMATING CONFERENCE

January 6, 2012

**Tobacco Settlement Payments to Florida**  
**Settlement Agreement Annual Payment Schedule (in \$ Millions)**

		<b>Settlement Agreement Gross Payments</b>	<b>Annual Payment Florida Share @ 5.5%</b>	<b>Initial Payment Florida Share @ 5.5%</b>	<b>Settlement Agreement Florida Annual Payments</b>
CY 1997	FY 1997-98		750.0		750.0
CY 1998	FY 1998-99	4,000	220.0	123.5	343.5
CY 1999	FY 1999-00	4,500	247.5	464.6	712.1
CY 2000	FY 2000-01	5,000	275.0	464.6	739.6
CY 2001	FY 2001-02	6,500	357.5	464.6	822.1
CY 2002	FY 2002-03	6,500	357.5	232.8	590.3
CY 2003	FY 2003-04	8,000	440.0		440.0
CY 2004	FY 2004-05	8,000	440.0		440.0
CY 2005	FY 2005-06	8,000	440.0		440.0
CY 2006	FY 2006-07	8,000	440.0		440.0
CY 2007	FY 2007-08	8,000	440.0		440.0
CY 2008	FY 2008-09	8,000	440.0		440.0
CY 2009	FY 2009-10	8,000	440.0		440.0
CY 2010	FY 2010-11	8,000	440.0		440.0
CY 2011	FY 2011-12	8,000	440.0		440.0
CY 2012	FY 2012-13	8,000	440.0		440.0
CY 2013	FY 2013-14	8,000	440.0		440.0
CY 2014	FY 2014-15	8,000	440.0		440.0
CY 2015	FY 2015-16	8,000	440.0		440.0
CY 2016	FY 2016-17	8,000	440.0		440.0
CY 2017	FY 2017-18	8,000	440.0		440.0
CY 2018	FY 2018-19	8,000	440.0		440.0
CY 2019	FY 2019-20	8,000	440.0		440.0
CY 2020	FY 2020-21	8,000	440.0		440.0
CY 2021	FY 2021-22	8,000	440.0		440.0
CY 2022	FY 2022-23	8,000	440.0		440.0
CY 2023	FY 2023-24	8,000	440.0		440.0
CY 2024	FY 2024-25	8,000	440.0		440.0
CY 2025	FY 2025-26	8,000	440.0		440.0
CY 2026	FY 2026-27	8,000	440.0		440.0
CY 2027	FY 2027-28	8,000	440.0		440.0
CY 2028	FY 2028-29	8,000	440.0		440.0
CY 2029	FY 2029-30	8,000	440.0		440.0
CY 2030	FY 2030-31	8,000	440.0		440.0
CY 2031	FY 2031-32	8,000	440.0		440.0
CY 2032	FY 2032-33	8,000	440.0		440.0

NOTE: Settlement payments continue in perpetuity. These payments reflect the base payment schedule before adjustments as described in the settlement agreement.

**Tobacco Settlement Payments to Florida**  
**Calculation of Inflation Adjustment to Annual Settlement Payment**

		<u>December Consumer Price Index</u>	<u>% chg</u>	<u>Settlement Inflation Factor</u>	<u>Settlement Inflation Index</u>	<u>Annual Payment Inflation Adjustment</u>
CY 1997	FY 1997-98	161.3		0.000%	100.000	1.0000
CY 1998	FY 1998-99	163.9	1.612%	3.000%	100.000	1.0000
CY 1999	FY 1999-00	168.3	2.685%	3.000%	103.000	1.0300
CY 2000	FY 2000-01	174.0	3.387%	3.387%	106.489	1.0649
CY 2001	FY 2001-02	176.7	1.552%	3.000%	109.683	1.0968
CY 2002	FY 2002-03	180.9	2.377%	3.000%	112.974	1.1297
CY 2003	FY 2003-04	184.3	1.879%	3.000%	116.363	1.1636
CY 2004	FY 2004-05	190.3	3.256%	3.256%	120.151	1.2015
CY 2005	FY 2005-06	196.8	3.416%	3.416%	124.255	1.2426
CY 2006	FY 2006-07	201.8	2.541%	3.000%	127.983	1.2798
CY 2007	FY 2007-08	210.0	4.081%	4.081%	133.206	1.3321
CY 2008	FY 2008-09	210.2	0.091%	3.000%	137.202	1.3720
CY 2009	FY 2009-10	215.9	2.721%	3.000%	141.318	1.4132
CY 2010	FY 2010-11	219.2	1.496%	3.000%	145.558	1.4556
CY 2011	FY 2011-12	225.3	<b>2.800%</b>	3.000%	149.925	1.4992
CY 2012	FY 2012-13	228.2	<b>1.300%</b>	3.000%	154.422	1.5442
CY 2013	FY 2013-14	232.6	<b>1.900%</b>	3.000%	159.055	1.5906
CY 2014	FY 2014-15	237.9	<b>2.300%</b>	3.000%	163.827	1.6383
CY 2015	FY 2015-16	242.5	<b>1.900%</b>	3.000%	168.742	1.6874
CY 2016	FY 2016-17	247.1	<b>1.900%</b>	3.000%	173.804	1.7380
CY 2017	FY 2017-18	251.3	<b>1.700%</b>	3.000%	179.018	1.7902
CY 2018	FY 2018-19	255.8	<b>1.800%</b>	3.000%	184.389	1.8439
CY 2019	FY 2019-20	259.9	<b>1.600%</b>	3.000%	189.920	1.8992
CY 2020	FY 2020-21	264.3	<b>1.700%</b>	3.000%	195.618	1.9562
CY 2021	FY 2021-22	268.8	<b>1.700%</b>	3.000%	201.486	2.0149
CY 2022	FY 2022-23	273.4	<b>1.700%</b>	3.000%	207.531	2.0753
CY 2023	FY 2023-24	278.0	<b>1.700%</b>	3.000%	213.757	2.1376
CY 2024	FY 2024-25	282.7	<b>1.700%</b>	3.000%	220.170	2.2017
CY 2025	FY 2025-26	287.5	<b>1.700%</b>	3.000%	226.775	2.2677
CY 2026	FY 2026-27	292.4	<b>1.700%</b>	3.000%	233.578	2.3358
CY 2027	FY 2027-28	297.4	<b>1.700%</b>	3.000%	240.585	2.4059
CY 2028	FY 2028-29	302.4	<b>1.700%</b>	3.000%	247.803	2.4780
CY 2029	FY 2029-30	307.6	<b>1.700%</b>	3.000%	255.237	2.5524
CY 2030	FY 2030-31	312.8	<b>1.700%</b>	3.000%	262.894	2.6289
CY 2031	FY 2031-32	318.1	<b>1.700%</b>	3.000%	270.781	2.7078
CY 2032	FY 2032-33	323.5	<b>1.700%</b>	3.000%	278.904	2.7890

**Tobacco Settlement Payments to Florida**  
**Calculation of Volume Ratio**

		<b>Forecasted U.S. Cigarette Volume (Billions)</b>	<b>% chg</b>	<b>Florida Definition Volume as share of U.S. volume</b>	<b>Florida Definition Volume (Billions)</b>	<b>% chg</b>	<b>Volume Ratio</b>
CY 1997	FY 1997-98	480.000		98.18%	471.248		1.0000
CY 1998	FY 1998-99	465.000	-3.13%	96.62%	449.288	-4.66%	0.9534
CY 1999	FY 1999-00	435.000	-6.45%	92.93%	404.252	-10.02%	0.8578
CY 2000	FY 2000-01	430.000	-1.15%	92.53%	397.858	-1.58%	0.8443
CY 2001	FY 2001-02	425.000	-1.16%	89.38%	379.860	-4.52%	0.8061
CY 2002	FY 2002-03	415.000	-2.35%	87.07%	361.335	-4.88%	0.7668
CY 2003	FY 2003-04	400.000	-3.61%	85.15%	340.603	-5.74%	0.7228
CY 2004	FY 2004-05	388.000	-3.00%	86.40%	335.232	-1.58%	0.7114
CY 2005	FY 2005-06	376.000	-3.09%	87.28%	328.173	-2.11%	0.6964
CY 2006	FY 2006-07	372.000	-1.06%	86.93%	323.395	-1.46%	0.6863
CY 2007	FY 2007-08	360.000	-3.23%	85.74%	308.676	-4.55%	0.6550
CY 2008	FY 2008-09	348.120	-3.30%	85.04%	296.025	-4.10%	0.6282
CY 2009	FY 2009-10	318.182	-8.60%	83.62%	266.055	-10.12%	0.5646
CY 2010	FY 2010-11	306.091	-3.80%	83.60%	255.883	-3.82%	0.5430
CY 2011	FY 2011-12	294.766	-3.70%	84.62%	249.432	-2.52%	0.5293
CY 2012	FY 2012-13	284.920	<b>-3.34%</b>	<b>84.52%</b>	240.815	-3.45%	0.5110
CY 2013	FY 2013-14	276.088	<b>-3.10%</b>	<b>84.52%</b>	233.350	-3.10%	0.4952
CY 2014	FY 2014-15	268.854	<b>-2.62%</b>	<b>84.52%</b>	227.236	-2.62%	0.4822
CY 2015	FY 2015-16	262.832	<b>-2.24%</b>	<b>84.52%</b>	222.146	-2.24%	0.4714
CY 2016	FY 2016-17	257.497	<b>-2.03%</b>	<b>84.52%</b>	217.636	-2.03%	0.4618
CY 2017	FY 2017-18	252.810	<b>-1.82%</b>	<b>84.52%</b>	213.675	-1.82%	0.4534
CY 2018	FY 2018-19	248.407	<b>-1.74%</b>	<b>84.52%</b>	209.953	-1.74%	0.4455
CY 2019	FY 2019-20	244.080	<b>-1.74%</b>	<b>84.52%</b>	206.296	-1.74%	0.4378
CY 2020	FY 2020-21	240.127	<b>-1.62%</b>	<b>84.52%</b>	202.955	-1.62%	0.4307
CY 2021	FY 2021-22	236.211	<b>-1.63%</b>	<b>84.52%</b>	199.645	-1.63%	0.4237
CY 2022	FY 2022-23	232.468	<b>-1.58%</b>	<b>84.52%</b>	196.482	-1.58%	0.4169
CY 2023	FY 2023-24	228.795	<b>-1.58%</b>	<b>84.52%</b>	193.378	-1.58%	0.4104
CY 2024	FY 2024-25	225.258	<b>-1.55%</b>	<b>84.52%</b>	190.388	-1.55%	0.4040
CY 2025	FY 2025-26	221.817	<b>-1.53%</b>	<b>84.52%</b>	187.480	-1.53%	0.3978
CY 2026	FY 2026-27	218.681	<b>-1.41%</b>	<b>84.52%</b>	184.829	-1.41%	0.3922
CY 2027	FY 2027-28	215.439	<b>-1.48%</b>	<b>84.52%</b>	182.089	-1.48%	0.3864
CY 2028	FY 2028-29	212.513	<b>-1.36%</b>	<b>84.52%</b>	179.616	-1.36%	0.3812
CY 2029	FY 2029-30	209.454	<b>-1.44%</b>	<b>84.52%</b>	177.031	-1.44%	0.3757
CY 2030	FY 2030-31	206.468	<b>-1.43%</b>	<b>84.52%</b>	174.507	-1.43%	0.3703
CY 2031	FY 2031-32	203.712	<b>-1.33%</b>	<b>84.52%</b>	172.177	-1.33%	0.3654
CY 2032	FY 2032-33	200.992	<b>-1.34%</b>	<b>84.52%</b>	169.878	-1.34%	0.3605



**Tobacco Settlement Payments to Florida**  
**Calculation of Volume Adjustment to Annual Settlement Payment**

		<b>Volume Ratio</b>	<b>Volume Adjustment (1 - vol. ratio)</b>	<b>Youth Adjustment (volume adj. X .98)</b>	<b>Annual Payment Volume Adjustment (1 - youth adj.)</b>
CY 1997	FY 1997-98	1.0000			
CY 1998	FY 1998-99	0.9534			
CY 1999	FY 1999-00	0.8578	0.1422	0.1393	0.8607
CY 2000	FY 2000-01	0.8443	0.1557	0.1526	0.8474
CY 2001	FY 2001-02	0.8061	0.1939	0.1900	0.8100
CY 2002	FY 2002-03	0.7668	0.2332	0.2286	0.7714
CY 2003	FY 2003-04	0.7228	0.2772	0.2717	0.7283
CY 2004	FY 2004-05	0.7114	0.2886	0.2829	0.7171
CY 2005	FY 2005-06	0.6964	0.3036	0.2975	0.7025
CY 2006	FY 2006-07	0.6863	0.3137	0.3075	0.6925
CY 2007	FY 2007-08	0.6550	0.3450	0.3381	0.6619
CY 2008	FY 2008-09	0.6282	0.3718	0.3644	0.6356
CY 2009	FY 2009-10	0.5646	0.4354	0.4267	0.5733
CY 2010	FY 2010-11	0.5430	0.4570	0.4479	0.5521
CY 2011	FY 2011-12	0.5293	0.4707	0.4613	0.5387
CY 2012	FY 2012-13	0.5110	0.4890	0.4792	0.5208
CY 2013	FY 2013-14	0.4952	0.5048	0.4947	0.5053
CY 2014	FY 2014-15	0.4822	0.5178	0.5074	0.4926
CY 2015	FY 2015-16	0.4714	0.5286	0.5180	0.4820
CY 2016	FY 2016-17	0.4618	0.5382	0.5274	0.4726
CY 2017	FY 2017-18	0.4534	0.5466	0.5356	0.4644
CY 2018	FY 2018-19	0.4455	0.5545	0.5434	0.4566
CY 2019	FY 2019-20	0.4378	0.5622	0.5510	0.4490
CY 2020	FY 2020-21	0.4307	0.5693	0.5579	0.4421
CY 2021	FY 2021-22	0.4237	0.5763	0.5648	0.4352
CY 2022	FY 2022-23	0.4169	0.5831	0.5714	0.4286
CY 2023	FY 2023-24	0.4104	0.5896	0.5779	0.4221
CY 2024	FY 2024-25	0.4040	0.5960	0.5841	0.4159
CY 2025	FY 2025-26	0.3978	0.6022	0.5901	0.4099
CY 2026	FY 2026-27	0.3922	0.6078	0.5956	0.4044
CY 2027	FY 2027-28	0.3864	0.6136	0.6013	0.3987
CY 2028	FY 2028-29	0.3812	0.6188	0.6065	0.3935
CY 2029	FY 2029-30	0.3757	0.6243	0.6118	0.3882
CY 2030	FY 2030-31	0.3703	0.6297	0.6171	0.3829
CY 2031	FY 2031-32	0.3654	0.6346	0.6219	0.3781
CY 2032	FY 2032-33	0.3605	0.6395	0.6267	0.3733

**Tobacco Settlement Payments to Florida**  
**Calculation of Annual Settlement Payment Schedule after Adjustments**

		<b>Settlement Agreement Annual Payment (\$ Millions)</b>	<b>Annual Payment Inflation Adjustment</b>	<b>Annual Payment Volume Adjustment</b>	<b>Adjusted Settlement Annual Payment (\$ Millions)</b>
CY 1997	FY 1997-98	750.0			750.0
CY 1998	FY 1998-99	343.5			343.5
CY 1999	FY 1999-00	712.1	1.0300	0.8607	631.3
CY 2000	FY 2000-01	739.6	1.0649	0.8474	667.4
CY 2001	FY 2001-02	822.1	1.0968	0.8100	730.3
CY 2002	FY 2002-03	590.3	1.1297	0.7714	514.5
CY 2003	FY 2003-04	440.0	1.1636	0.7283	372.9
CY 2004	FY 2004-05	440.0	1.2015	0.7171	379.1
CY 2005	FY 2005-06	440.0	1.2426	0.7025	384.1
CY 2006	FY 2006-07	440.0	1.2798	0.6925	390.0
CY 2007	FY 2007-08	440.0	1.3321	0.6619	388.0
CY 2008	FY 2008-09	440.0	1.3720	0.6356	383.7
CY 2009	FY 2009-10	440.0	1.4132	0.5733	356.5
CY 2010	FY 2010-11	440.0	1.4556	0.5521	353.6
CY 2011	FY 2011-12	440.0	1.4992	0.5387	355.4
CY 2012	FY 2012-13	440.0	1.5442	0.5208	353.9
CY 2013	FY 2013-14	440.0	1.5906	0.5053	353.6
CY 2014	FY 2014-15	440.0	1.6383	0.4926	355.1
CY 2015	FY 2015-16	440.0	1.6874	0.4820	357.8
CY 2016	FY 2016-17	440.0	1.7380	0.4726	361.4
CY 2017	FY 2017-18	440.0	1.7902	0.4644	365.8
CY 2018	FY 2018-19	440.0	1.8439	0.4566	370.5
CY 2019	FY 2019-20	440.0	1.8992	0.4490	375.2
CY 2020	FY 2020-21	440.0	1.9562	0.4421	380.5
CY 2021	FY 2021-22	440.0	2.0149	0.4352	385.8
CY 2022	FY 2022-23	440.0	2.0753	0.4286	391.4
CY 2023	FY 2023-24	440.0	2.1376	0.4221	397.0
CY 2024	FY 2024-25	440.0	2.2017	0.4159	402.9
CY 2025	FY 2025-26	440.0	2.2677	0.4099	409.0
CY 2026	FY 2026-27	440.0	2.3358	0.4044	415.6
CY 2027	FY 2027-28	440.0	2.4059	0.3987	422.0
CY 2028	FY 2028-29	440.0	2.4780	0.3935	429.1
CY 2029	FY 2029-30	440.0	2.5524	0.3882	435.9
CY 2030	FY 2030-31	440.0	2.6289	0.3829	442.9
CY 2031	FY 2031-32	440.0	2.7078	0.3781	450.4
CY 2032	FY 2032-33	440.0	2.7890	0.3733	458.1

**Tobacco Settlement Payments to Florida**  
**Calculation of Net Operating Profit Adjustment Liability**

		<b>Settlement Inflation Factor</b>	<b>Base Profit Inflation Adjustment</b>	<b>Inflation Adjusted Net Operating Base Profits (\$ Millions)</b>	<b>Estimated Net Operating Profits (\$ Millions)</b>	<b>% chg</b>	<b>Difference in profit from adjusted base (\$ Millions)</b>	<b>Florida Profit Adjustment Liability (5.5% of 25%) (\$ Millions)</b>
CY 1997	FY 1997-98	0.000%		<b>3,114.6</b>	3,114.6			
CY 1998	FY 1998-99	3.000%	1.0300	3,208.0	#N/A			
CY 1999	FY 1999-00	3.000%	1.0609	3,304.3	4,667.3		1,363.0	18.7
CY 2000	FY 2000-01	3.387%	1.0968	3,416.2	4,898.1	4.9%	1,481.9	20.4
CY 2001	FY 2001-02	3.000%	1.1297	3,519.2	4,885.2	-0.3%	1,366.0	18.8
CY 2002	FY 2002-03	3.000%	1.1636	3,624.8	4,530.6	-7.3%	905.8	12.5
CY 2003	FY 2003-04	3.000%	1.1985	3,732.9	854.7	-81.1%	-2,878.2	0.0
CY 2004	FY 2004-05	3.256%	1.2376	3,854.5	3,783.6	342.7%	-70.9	0.0
CY 2005	FY 2005-06	3.416%	1.2798	3,986.2	4,306.2	13.8%	320.0	4.4
CY 2006	FY 2006-07	3.000%	1.3182	4,105.7	4,665.4	8.3%	559.7	7.7
CY 2007	FY 2007-08	4.081%	1.3720	4,273.3	4,727.3	1.3%	454.0	6.2
CY 2008	FY 2008-09	3.000%	1.4132	4,401.5	4,938.5	4.5%	537.0	7.4
CY 2009	FY 2009-10	3.000%	1.4556	4,533.5	5,161.2	4.5%	627.7	8.6
CY 2010	FY 2010-11	3.000%	1.4992	4,669.6	5,465.0	5.9%	795.4	10.8
CY 2011	FY 2011-12	3.000%	1.5442	4,809.6	<b>5,707.8</b>	4.4%	898.2	12.3
CY 2012	FY 2012-13	3.000%	1.5906	4,953.9	5,879.0	<b>3.0%</b>	925.1	12.7
CY 2013	FY 2013-14	3.000%	1.6383	5,102.5	6,055.4	<b>3.0%</b>	952.9	13.1
CY 2014	FY 2014-15	3.000%	1.6874	5,255.6	6,237.1	<b>3.0%</b>	981.4	13.5
CY 2015	FY 2015-16	3.000%	1.7380	5,413.3	6,424.2	<b>3.0%</b>	1,010.9	13.9
CY 2016	FY 2016-17	3.000%	1.7902	5,575.7	6,616.9	<b>3.0%</b>	1,041.2	14.3
CY 2017	FY 2017-18	3.000%	1.8439	5,743.0	6,815.4	<b>3.0%</b>	1,072.4	14.7
CY 2018	FY 2018-19	3.000%	1.8992	5,915.3	7,019.9	<b>3.0%</b>	1,104.6	15.2
CY 2019	FY 2019-20	3.000%	1.9562	6,092.7	7,230.5	<b>3.0%</b>	1,137.8	15.6
CY 2020	FY 2020-21	3.000%	2.0149	6,275.5	7,447.4	<b>3.0%</b>	1,171.9	16.1
CY 2021	FY 2021-22	3.000%	2.0753	6,463.8	7,670.8	<b>3.0%</b>	1,207.0	16.6
CY 2022	FY 2022-23	3.000%	2.1376	6,657.7	7,900.9	<b>3.0%</b>	1,243.3	17.1
CY 2023	FY 2023-24	3.000%	2.2017	6,857.4	8,138.0	<b>3.0%</b>	1,280.6	17.6
CY 2024	FY 2024-25	3.000%	2.2677	7,063.1	8,382.1	<b>3.0%</b>	1,319.0	18.1
CY 2025	FY 2025-26	3.000%	2.3358	7,275.0	8,633.6	<b>3.0%</b>	1,358.5	18.7
CY 2026	FY 2026-27	3.000%	2.4059	7,493.3	8,892.6	<b>3.0%</b>	1,399.3	19.2
CY 2027	FY 2027-28	3.000%	2.4780	7,718.1	9,159.3	<b>3.0%</b>	1,441.3	19.8
CY 2028	FY 2028-29	3.000%	2.5524	7,949.6	9,434.1	<b>3.0%</b>	1,484.5	20.4
CY 2029	FY 2029-30	3.000%	2.6289	8,188.1	9,717.1	<b>3.0%</b>	1,529.1	21.0
CY 2030	FY 2030-31	3.000%	2.7078	8,433.7	10,008.7	<b>3.0%</b>	1,574.9	21.7
CY 2031	FY 2031-32	3.000%	2.7890	8,686.7	10,308.9	<b>3.0%</b>	1,622.2	22.3
CY 2032	FY 2032-33	3.000%	2.8727	8,947.4	10,618.2	<b>3.0%</b>	1,670.8	23.0

**Tobacco Settlement Payments to Florida**  
**Cash Payments (\$ Millions)**

	<b>Calculated Annual Payment <u>Liability</u></b>	<b>Adjustments for over/under Payments</b>	<b>Estimated Annual Payment <u>Liability</u></b>	<b>Calculated Florida Profit Adjustment <u>Liability</u></b>	<b>Adjustments for over/under Payments</b>	<b>Estimated Cash Profit Adjustment Payments</b>	<b>Liggett Settlement Agreement</b>	<b>Estimated Combined Payments <u>Liability</u></b>	<b>Estimated Actual Cash Combined Payments</b>
FY 1997-98	750.0	0.0	750.0					750.0	562.5
FY 1998-99	343.5	0.0	343.5					343.5	531.0
FY 1999-00	631.3	0.0	631.3	37.4	3.3	40.7		672.0	640.9
FY 2000-01	667.4	0.0	667.4	40.8	0.0	40.8		708.2	743.4
FY 2001-02	730.3	-5.6	724.7	37.6	0.0	37.6		762.3	765.7
FY 2002-03	514.5	-3.7	510.8	25.0	-3.0	22.0		532.8	546.4
FY 2003-04	372.9	-11.5	361.4	0.0	0.0	0.0		361.4	364.0
FY 2004-05	379.1	-2.5	376.6	0.0	0.0	0.0		376.6	378.3
FY 2005-06	384.1	-1.8	382.3	4.4	-0.7	3.7		386.0	389.7
FY 2006-07	390.0	-3.3	386.7	7.7	-0.2	7.5		394.2	396.4
FY 2007-08	388.0	-1.5	386.5	6.2	-0.1	6.1		392.6	398.5
FY 2008-09	383.7	-5.9	377.8	7.4	0.0	7.4		385.2	388.9
FY 2009-10	356.5	-3.8	352.7	8.6	0.0	8.6		361.3	363.7
FY 2010-11	353.6	-2.5	351.1	10.8	-0.1	10.7	1.5	363.3	366.9
FY 2011-12	355.4	-10.5	344.9	12.3	0.0	12.3	0.3	357.5	358.0
FY 2012-13	353.9	-1.5	352.4	12.7	0.0	12.7	0.3	365.4	365.4
FY 2013-14	353.6	0.0	353.6	13.1	0.0	13.1	0.3	367.0	367.0
FY 2014-15	355.1	0.0	355.1	13.5	0.0	13.5	0.3	368.9	368.9
FY 2015-16	357.8	0.0	357.8	13.9	0.0	13.9	0.3	372.0	372.0
FY 2016-17	361.4	0.0	361.4	14.3	0.0	14.3	0.3	376.0	376.0
FY 2017-18	365.8	0.0	365.8	14.7	0.0	14.7	0.3	380.8	380.8
FY 2018-19	370.5	0.0	370.5	15.2	0.0	15.2	0.3	386.0	386.0
FY 2019-20	375.2	0.0	375.2	15.6	0.0	15.6	0.3	391.1	391.1
FY 2020-21	380.5	0.0	380.5	16.1	0.0	16.1	0.3	396.9	396.9
FY 2021-22	385.8	0.0	385.8	16.6	0.0	16.6	0.3	402.7	402.7
FY 2022-23	391.4	0.0	391.4	17.1	0.0	17.1	0.3	408.8	408.8
FY 2023-24	397.0	0.0	397.0	17.6	0.0	17.6	0.3	414.9	414.9
FY 2024-25	402.9	0.0	402.9	18.1	0.0	18.1	0.3	421.3	421.3
FY 2025-26	409.0	0.0	409.0	18.7	0.0	18.7	0.3	428.0	428.0
FY 2026-27	415.6	0.0	415.6	19.2	0.0	19.2	0.4	435.2	435.2
FY 2027-28	422.0	0.0	422.0	19.8	0.0	19.8	0.4	442.2	442.2
FY 2028-29	429.1	0.0	429.1	20.4	0.0	20.4	0.4	449.9	449.9
FY 2029-30	435.9	0.0	435.9	21.0	0.0	21.0	0.4	457.3	457.3
FY 2030-31	442.9	0.0	442.9	21.7	0.0	21.7	0.4	465.0	465.0
FY 2031-32	450.4	0.0	450.4	22.3	0.0	22.3		472.7	472.7
FY 2032-33	458.1	0.0	458.1	23.0	0.0	23.0		481.1	481.1

**Tobacco Settlement Payments to Florida**  
**Old vs. New Forecast of Total Payments (\$ Millions)**

	<b>Old Forecast of Cash Settlement <u>Payments</u></b>	<b>New Forecast of Cash Settlement <u>Payments</u></b>	<b><u>Difference</u></b>
FY 1997-98	562.5	562.5	0.0
FY 1998-99	531.0	531.0	0.0
FY 1999-00	640.9	640.9	0.0
FY 2000-01	743.4	743.4	0.0
FY 2001-02	765.7	765.7	0.0
FY 2002-03	546.4	546.4	0.0
FY 2003-04	364.0	364.0	0.0
FY 2004-05	378.3	378.3	0.0
FY 2005-06	389.7	389.7	0.0
FY 2005-06	389.7	389.7	0.0
FY 2006-07	396.4	396.4	0.0
FY 2008-09	388.9	388.9	0.0
FY 2009-10	363.7	363.7	0.0
FY 2010-11	366.1	366.9	0.8
FY 2011-12	363.4	358.0	-5.4
FY 2012-13	367.9	365.4	-2.5
FY 2013-14	370.2	367.0	-3.2
FY 2014-15	374.2	368.9	-5.3
FY 2015-16	379.0	372.0	-7.0
FY 2016-17	384.6	376.0	-8.6
FY 2017-18	390.2	380.8	-9.4
FY 2018-19	396.2	386.0	-10.2
FY 2019-20	402.5	391.1	-11.4
FY 2020-21	409.1	396.9	-12.2
FY 2021-22	415.9	402.7	-13.2
FY 2022-23	422.9	408.8	-14.1
FY 2023-24	430.2	414.9	-15.3
FY 2024-25	437.6	421.3	-16.3
FY 2025-26	445.3	428.0	-17.3
FY 2026-27	453.7	435.2	-18.5
FY 2027-28	461.8	442.2	-19.6
FY 2028-29	470.7	449.9	-20.8
FY 2029-30	479.4	457.3	-22.1
FY 2030-31	488.3	465.0	-23.3
FY 2031-32	497.8	472.7	-25.1
FY 2032-33	507.5	481.1	-26.4

# Tab 4

**TOBACCO SETTLEMENT TRUST FUND**  
**FINANCIAL OUTLOOK STATEMENT**  
Including effective FY 2012-13 appropriations  
FY 2011-12 through FY 2015-16  
(\$ MILLIONS)

DATE: 23-May-12

	<u>RECURRING</u>	<u>NON- RECURRING</u>	<u>TOTAL</u>
<b>FUNDS AVAILABLE 2011-12</b>			
Balance forward from 2010-11	0.0	25.7	25.7
Annual settlement payment	345.4	0.0	345.4
Liggett Settlement Agreements	0.3	0.0	0.3
Profit adjustment payment estimate	12.3	0.0	12.3
Transfer from Lawton Chiles Endowment Fund	12.6	0.0	12.6
Interest earnings	1.0	0.0	1.0
Total 2011-12 funds available	371.6	25.7	397.3
<b>EFFECTIVE APPROPRIATIONS 2011-12</b>			
Agency for Health Care Administration	153.7	0.4	154.1
Department of Children and Family Services	132.3	2.7	135.0
Department of Health	29.2	12.3	41.5
Tobacco Prevention and Education	62.6	0.0	62.6
Total 2011-12 effective appropriations	377.8	15.4	393.2
AVAILABLE RESERVES	(6.2)	10.3	4.1
<b>FUNDS AVAILABLE 2012-13</b>			
Balance forward from 2011-12	0.0	4.1	4.1
Annual settlement payment estimate	352.4	0.0	352.4
Profit adjustment payment estimate	12.7	0.0	12.7
Liggett Settlement Agreements	0.3	0.0	0.3
Transfer from Lawton Chiles Endowment Fund	12.1	0.0	12.1
Measures affecting revenue	(5.2)	0.0	(5.2)
Interest earnings	1.4	0.0	1.4
Total 2012-13 funds available (A)	373.7	4.1	377.8
<b>EFFECTIVE APPROPRIATIONS 2012-13</b>			
Agency for Health Care Administration	153.7	0.0	153.7
Department of Children and Family Services	132.2	0.0	132.2
Department of Health	27.1	0.0	27.1
Tobacco Prevention and Education	64.6	0.0	64.6
Total 2012-13 effective appropriations	377.7	0.0	377.7
AVAILABLE RESERVES	(4.0)	4.1	0.1
<b>FUNDS AVAILABLE 2013-14</b>			
Balance forward from 2011-12	0.0	0.1	0.1
Annual settlement payment estimate	353.6	0.0	353.6
Profit adjustment payment estimate	13.1	0.0	13.1
Liggett Settlement Agreements	0.3	0.0	0.3
Transfer from Lawton Chiles Endowment Fund	11.9	0.0	11.9
Measures affecting revenue	(4.0)	0.0	(4.0)
Interest earnings	2.0	0.0	2.0
Total 2013-14 funds available (B)	376.9	0.1	377.0
<b>FUNDS AVAILABLE 2014-15</b>			
Annual settlement payment estimate	355.1	0.0	355.1
Profit adjustment payment estimate	13.5	0.0	13.5
Liggett Settlement Agreements	0.3	0.0	0.3
Transfer from Lawton Chiles Endowment Fund	12.1	0.0	12.1
Measures affecting revenue	(3.8)	0.0	(3.8)
Interest earnings	2.0	0.0	2.0
Total 2014-15 funds available (B)	379.2	0.0	379.2

**TOBACCO SETTLEMENT TRUST FUND**  
**FINANCIAL OUTLOOK STATEMENT**  
including effective FY 2012-13 appropriations  
FY 2011-12 through FY 2015-16  
(\$ MILLIONS)

DATE: 23-May-12

	<u>RECURRING</u>	<u>NON- RECURRING</u>	<u>TOTAL</u>
<b>FUNDS AVAILABLE 2015-16</b>			
Annual settlement payment estimate	357.8	0.0	357.8
Profit adjustment payment estimate	13.9	0.0	13.9
Liggett Settlement Agreements	0.3	0.0	0.3
Transfer from Lawton Chiles Endowment Fund	12.7	0.0	12.7
Measures affecting revenue	(3.9)	0.0	(3.9)
Interest earnings	2.0	0.0	2.0
Total 2015-16 funds available (B)	382.8	0.0	382.8

FOOTNOTES

(A) This financial outlook statement does not include the transfer from the Lawton Chiles Endowment Fund to the Biomedical Research Trust Fund under section 215.5601, Florida Statutes, nor does it include the appropriation from the trust fund. The projected amount of the transfer is \$0.7 million for FY 2012-13.

(B) The funds available figures are not adjusted for any financial obligation related to the constitutional funding requirement for tobacco education and prevention. The amount of the financial obligation for FY 2013-14 is estimated to be \$65.2 million, 2014-15 is estimated to be \$66.4 million, and 2015-16 is estimated to be \$67.9 million.



# Tab 5

**Tobacco Settlement Appropriations**  
(Data supplied by the House Health Care Appropriations Committee)

	<b><u>2012-13</u></b> <b><u>Amount</u></b>	<b><u>2011-12</u></b> <b><u>Amount</u></b>
<b><u>Agency for Health Care Administration</u></b>		
Kidcare	\$94,996,411	\$94,996,411
Medicaid Services to Individuals	\$58,738,330	\$59,138,330
<b>AHCA Total</b>	<b>\$153,734,741</b>	<b>\$154,134,741</b>
<b><u>Department of Children and Families</u></b>		
Child Welfare	\$129,032,997	\$129,188,112
Adult Community Mental Health	\$206,775	\$2,936,775
Children's Substance Abuse Services	\$2,993,758	\$2,860,907
<b>DCF Total</b>	<b>\$132,233,530</b>	<b>\$134,985,794</b>
<b><u>Department of Health</u></b>		
Tobacco Control	\$64,584,530	\$62,857,353
School Health Services	\$9,902,925	\$10,384,632
Local Health Needs/Community Resources	\$1,651,522	\$11,747,742
Children's Special Health Care	\$15,592,752	\$19,064,048
<b>DOH Total</b>	<b>\$91,731,729</b>	<b>\$104,053,775</b>
<b>Grand Total</b>	<b>\$377,700,000</b>	<b>\$393,174,310</b>

## **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that the foregoing has been furnished by e-mail<sup>1</sup> this  
1st day of June, 2012 to:

### **Counsel for Petitioner**

John S. Mills  
jmills@mills-appeals.com  
Courtney Brewer  
cbrewer@mills-appeals.com  
The Mills Firm, P.A.  
203 N. Gadsden Street, Suite 1A  
Tallahassee, Florida 32301

Rodney Smith  
rodsmith@avera.com  
Mark Avera  
mavera@avera.com  
Dawn M. Vallejos-Nichols  
dvallejos-nichols@avera.com  
Avera & Smith, LLP  
2814 SW 13th Street  
Gainesville, Florida 32608

### **Counsel for Respondent**

Gregory G. Katsas  
ggkatsas@jonesday.com  
Charles R.A. Morse  
cramorse@jonesday.com  
Jones Day  
51 Louisiana Avenue N.W.  
Washington, D.C. 20001  
Telephone: 202.879.3939  
Facsimile: 202.626.1700

Elliot H. Scherker  
scherkere@gtlaw.com  
Julissa Rodriguez  
rodriguezju@gtlaw.com  
Greenberg Traurig, P.A.  
Wells Fargo Center, Suite 4400  
300 Southeast Second Avenue  
Miami, Florida 33131  
Telephone: 305.579.0500  
Facsimile: 305.579.0717

---

<sup>1</sup> The parties have agreed to accept service by e-mail at the e-mail addresses listed herein in lieu of service by U.S. mail and have further agreed that electronic service will be deemed service by mail for purposes of Florida Rule of Appellate Procedure 9.420.

Robert B. Parrish  
bparrish@mppkj.com  
David C. Reeves  
dcreeves@mppkj.com  
Jeffrey A. Yarbrough  
jyarbrough@mppkj.com  
Karen Fitzpatrick  
kfitzpatrick@mppkj.com  
Lynn Scott  
ldscott@mppkj.com  
Moseley Prichard Parrish  
Knight & Jones  
501 West Bay Street  
Jacksonville, Florida 32202  
Telephone: 904.356.1306  
Facsimile: 904.354.0194

**Counsel for Amici**  
Steven L. Brannock  
sbrannock@bhappeals.com  
Celene Humphries  
chumphries@bhappeals.com  
Brannock & Humphries  
100 South Ashley Drive, Suite 1130  
Tampa, Florida 33602

Christopher V. Carlyle  
ccarlyle@appellatelawfirm.com  
The Carlyle Appellate Law Firm  
1950 Laurel Manor Drive, Suite 130  
The Villages, Florida 32162

Lincoln J. Connolly  
ljc@rbrlaw.com  
Rossman Baumberger Reboso Spier &  
Connolly, P.A.  
44 West Flagler Street, Floor 23  
Miami, Florida 33130

Robert S. Glazier  
glazier@fla-law.com  
Law Office of Robert S. Glazier  
540 Brickell Key Drive, Suite C-1  
Miami, Florida 33131

Christopher J. Lynch  
clynch@hunterwilliamsllaw.com  
Hunter Williams & Lynch, P.A.  
75 Valencia Avenue  
Coral Gables, Florida 33134

Joel S. Perwin  
jperwin@perwinlaw.com  
Joel S. Perwin, P.A.  
169 East Flagler Street, Suite 1422  
Miami, Florida 33131

Richard B. Rosenthal  
rbr@rosenthalappeals.com  
The Law Offices of Richard B.  
Rosenthal, P.A.  
169 East Flagler Street, Suite 1422  
Miami, Florida 33131

Bard D. Rockenbach  
bdr@FLappellateLaw.com  
Burlington & Rockenbach, P.A.  
444 West Railroad Avenue, Suite 430  
West Palm Beach, Florida 33401

David J. Sales  
david@salesappeals.com  
David J. Sales, P.A.  
1001 North U.S. Highway One,  
Suite 200  
Jupiter, Florida 33477

Matthew Schultz  
mschultz@levinlaw.com  
Levin Papantonio Thomas Mitchell  
Rafferty & Proctor, P.A.  
316 S. Baylen Street, Suite 600  
Pensacola, Florida 332502

/s/ Louis F. Hubener  
Attorney