

By Senator Mitchell

4-1208A-00

1                                   A bill to be entitled  
2           An act relating to tobacco production relief;  
3           providing legislative intent; providing for use  
4           of state funds to assist persons and  
5           communities adversely affected by the  
6           settlement; providing for periodic  
7           appropriation and distribution of those funds;  
8           specifying what funds will be used for and  
9           specifying entities to receive funds; providing  
10          for appointment of trustees to administer the  
11          distribution of the funds and specifying their  
12          duties; authorizing reimbursement for per diem  
13          and travel; providing for public meetings and  
14          records; providing an effective date.

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16           WHEREAS, tobacco was one of the first export  
17          commodities in this country, becoming established as a staple  
18          crop as early as 1703 when over 23 million pounds were  
19          exported, and was the major export commodity to raise funds to  
20          finance the American Revolution, and

21           WHEREAS, from its beginnings the production of tobacco  
22          was, and continues to be, a legal enterprise in this state and  
23          nation, and

24           WHEREAS, tobacco has been produced by growers in this  
25          state every year since a federally controlled quota system was  
26          established in 1938, and

27           WHEREAS, tobacco has been one of the most stable and  
28          predictable crops for Florida farmers due to the federal quota  
29          system, which regulates the volume of production, and the  
30          producer-owned-and-operated Flue-Cured Stabilization

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1 Corporation, which provides market stability at no net cost to  
2 any taxpayer or governmental entity, and

3 WHEREAS, the production of tobacco, as compared to  
4 other agricultural commodities, requires a proportionally  
5 larger investment of capital per unit of production due to  
6 quotas and the infrastructure needed for production, which  
7 requires sufficient agricultural land and specialized barns  
8 and production equipment, and

9 WHEREAS, the necessarily large production costs to  
10 tobacco producers causes such producers to have very large  
11 asset investments and debt service requirements, which  
12 constitute a disproportionately large component of the local  
13 economies of tobacco-growing counties in this state, and

14 WHEREAS, in 1994 the Legislature passed, and the  
15 Governor subsequently signed into law, Committee Substitute  
16 for Committee Substitute for Senate Bill 2110, which became  
17 chapter 94-251, Laws of Florida, and which amended the  
18 "Medicaid Third-Party Liability Act" to effectively remove  
19 defenses in tortious litigation by the state against tobacco  
20 companies, and

21 WHEREAS, the state and the tobacco companies reached a  
22 settlement on August 25, 1997, in The State of Florida et al.  
23 v. American Tobacco Company et al., with the tobacco companies  
24 agreeing to pay the state \$11.3 billion over 25 years, and

25 WHEREAS, based on the "Most Favored Nation Status"  
26 section of the settlement, the state has increased its  
27 settlement amount to \$13 billion, an increase of \$1.7 billion,  
28 and

29 WHEREAS, as a direct result of this litigation and  
30 other governmental actions, in the 1998, 1999, and 2000  
31 production years a total quota reduction of 18 percent, 17

1 percent, and 18.5 percent, respectively, occurred, leaving  
2 many tobacco producers in serious financial peril from such a  
3 substantial loss of production, and additional reduction is  
4 anticipated in the 2001 production year, and

5 WHEREAS, while the tobacco quota holders in this state  
6 still possess sufficient infrastructure and equipment to  
7 produce the quota volume allocated in 1997, the loss of quota  
8 since then has severely affected the value of their  
9 investment, and

10 WHEREAS, other tobacco-producing states have either  
11 passed or are currently considering legislation to assist  
12 their tobacco quota holders with costs such as asset loss,  
13 stranded investment, and income and employment opportunities,  
14 and

15 WHEREAS, since the settlement agreement in The State of  
16 Florida et al. v. American Tobacco Company et al., the state  
17 has neglected to consider any method of assistance for tobacco  
18 quota holders, and such assistance is warranted because the  
19 decline in both consumption and the farmgate price of tobacco  
20 is a direct result of the state's tobacco litigation, and

21 WHEREAS, the assistance to tobacco quota holders  
22 provided by this act will help to ensure the stability of the  
23 economies of 20 Florida counties by assisting the family farms  
24 in this state which have been adversely affected by Florida's  
25 participation in the tobacco litigation, and

26 WHEREAS, this will entail efforts to diversify and  
27 retool farms that have for generations depended on tobacco for  
28 their primary source of income, and

29 WHEREAS, there are precedents to the types of action  
30 taken by this legislation, NOW, THEREFORE,

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

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3           Section 1. It is the intent of the Legislature that  
4 Florida's tobacco quota holders, warehouse operators, and  
5 their respective workforces and communities be given  
6 assistance due to the adverse economic effects of the loss of  
7 tobacco quota occurring since the tobacco settlement  
8 agreements, beginning in 1997. The assistance is intended to  
9 be provided for losses incurred by persons involved in tobacco  
10 production because of actions brought against tobacco  
11 companies by the state, beginning in 1995 with the amendment  
12 of the "Medicaid Third-Party Liability Act," so that the  
13 persons incurring those losses may begin the process of  
14 seeking out, experimenting with, and developing diverse  
15 profitable enterprises and may also retain control of the  
16 ownership of their land and thereby ensure that farms can  
17 remain productive agricultural entities and provide ancillary  
18 environmental benefits. The assistance is also intended to  
19 reduce encumbered debt on stranded investment in specialized  
20 equipment and assist recipients in maintaining adequate cash  
21 flow in line with that projected for tobacco production before  
22 the litigation and subsequent settlements of 1997 and 1998. It  
23 is also intended to offer opportunities to quota holders and  
24 other qualified recipients who may desire additional training  
25 as a means of helping employees and communities make the  
26 transition to alternative crops or other economic development  
27 opportunities. It is also the intent of this act to provide  
28 economic development assistance for the six counties (Alachua,  
29 Columbia, Hamilton, Lafayette, Madison, and Suwannee) impacted  
30 most by the state's tobacco litigation.

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1           Section 2. (1) A portion of the proceeds paid to the  
2 State of Florida as a result of litigation entitled The State  
3 of Florida et al. v. American Tobacco Company et al., Case  
4 #95-1466AH, in the Circuit Court of the 15th Judicial Circuit,  
5 in and for Palm Beach County, totaling \$66,957,249, shall be  
6 appropriated in equal amounts by January 10 each calendar year  
7 for 5 years, beginning in 2001, to the Florida Indemnification  
8 and Community Revitalization Trust Fund, if created by law.

9           (2) The Trustees of the Florida Indemnification and  
10 Community Revitalization Trust Fund shall distribute all funds  
11 deposited into the trust fund under subsection (1) in equal  
12 amounts on March 1 each calendar year for 10 years, beginning  
13 in 2001, for the purposes of and in accordance with the  
14 distribution percentages set forth in subsection (3).

15           (3) The Trustees of the Florida Indemnification and  
16 Community Revitalization Trust Fund shall distribute each  
17 annual appropriation under subsection (2) as follows:

18           (a) \$500,000 per year for 10 years to the Institute of  
19 Food and Agricultural Sciences of the University of Florida to  
20 provide on-farm direct assistance to growers in the counties  
21 identified in section 1.

22           (b) \$1 million per year for 10 years to an economic  
23 development agency such as the North Central Florida Regional  
24 Planning Council, with proviso that these funds be used in the  
25 counties identified in section 1, based on the percentage of  
26 basic quota in each county using a base year of 1997. These  
27 funds will be used to develop alternative industries,  
28 employment opportunities, and other economic development  
29 initiatives in the designated counties. Fifty percent of the  
30 assistance must be used to enhance area agricultural  
31 opportunities and any other agricultural ventures considered

1 appropriate by the trustees, and 50 percent must be used for  
2 general economic development projects to enhance jobs and the  
3 local tax base through an entity such as the North Central  
4 Florida Regional Planning Council and local economic  
5 development agencies.

6 (c) A one-time, nonrecurring appropriation of \$50,000  
7 to the Florida Department of Agriculture and Consumer Services  
8 to determine the feasibility of marketing stranded tobacco  
9 equipment to other tobacco producing countries. The Florida  
10 Department of Agriculture and Consumer Services shall make  
11 special efforts to expand markets and develop new marketing  
12 opportunities for tobacco producers making a transition.

13 (d) An appropriation of \$150,000 per year for 3 years  
14 to the North Central Florida Regional Planning Council to  
15 assist tobacco warehouse marketing firms in making the  
16 transition from traditional tobacco marketing to alternative  
17 ventures.

18 (e) An appropriation of \$50 million to the Department  
19 of Agriculture and Consumer Services to be used as refinancing  
20 loans to tobacco farmers and quota holders. Each grower or  
21 quota holder shall be entitled to obtain an amount equal to no  
22 more than \$4 per pound of tobacco quota as received in the  
23 1997 crop year as identified by the Florida Trustees of the  
24 Phase II Tobacco Growers Settlement. Such loans shall be at 3  
25 percent simple interest and shall become due December 31,  
26 2010.

27 (f) For those farmers with tobacco quota for the 2000  
28 crop year, 13 cents per pound for a total of \$1,457,249, shall  
29 be paid to growers owning tobacco barns for the purpose of  
30 upgrading and improving those barns to meet the standards for  
31 nitrosamine removal set by tobacco-buying companies.

1           (g) It is the intent of the Legislature to hold  
2 harmless Florida's share of the Phase II National Tobacco  
3 Growers Settlement through the remaining 12-year schedule  
4 adopted at the time of the signing of the agreement. The state  
5 shall deposit \$53,901,000 in the Florida Indemnification and  
6 Community Revitalization Trust Fund upon the effective date of  
7 this act. Annually, funds equal to the amount paid to the  
8 Phase II trustees shall be reimbursed to the state from the  
9 Florida Indemnification and Community Revitalization Trust  
10 Fund upon receipt of annual payment from the tobacco companies  
11 to Florida's Phase II Trustees.

12           (4) Any costs incurred by the trust and other  
13 administrative costs must be paid from the funds available for  
14 distribution under this section.

15           Section 3. (1) The Trustees of the Florida  
16 Indemnification and Community Revitalization Trust Fund shall  
17 be the Florida Trustees for the Phase II National Settlement  
18 Fund and four additional individuals appointed as follows: one  
19 by the President of the Senate, one by the Speaker of the  
20 House of Representatives, one by the Commissioner of  
21 Agriculture, and one by the Executive Director of the North  
22 Central Florida Regional Planning Council.

23           (2)(a) The trustees shall meet, organize, and  
24 establish administrative guidelines as soon as possible after  
25 the effective date of this act. In accordance with their  
26 adopted procedures, the trustees shall provide for  
27 certification of eligible participants and recipients under  
28 this act and, for that purpose, shall verify the amount of  
29 quota reduction on an individual basis from the 1997 basic  
30 quota amounts to the effective date of this act. All  
31 distributions of funds under this act must be authorized by

1 the trustees, and only recipients certified by the trustees as  
2 eligible for compensation under this act may receive  
3 compensation.

4 (b) All meetings of the trustees are public meetings  
5 within the meaning of chapter 286, Florida Statutes, and all  
6 records made or received by the trustees in connection with  
7 their duties under this act are public records within the  
8 meaning of chapter 119, Florida Statutes.

9 (c) The trustees shall serve without compensation, but  
10 shall be entitled to reimbursement for per diem and travel  
11 expenses incurred in the performance of their official duties,  
12 in accordance with section 112.061, Florida Statutes.

13 (3) State agencies shall provide the trustees with any  
14 information necessary to fulfill their duties under this act.  
15 The trustees may also request the assistance of the Farm  
16 Service Agency of the United States Department of Agriculture.  
17 Trustees shall ensure that the funds appropriated by the  
18 Legislature for distribution under this act are used in  
19 accordance with the intent and purposes established by this  
20 act. The trustees may use any outside sources, consultants,  
21 methods, or means they consider necessary to accomplish the  
22 intent and goals established by this act. The trustees shall  
23 prepare and submit an annual report to .....,  
24 detailing Florida Indemnification and Community Revitalization  
25 Trust Fund activities for the just-completed fiscal year. All  
26 costs for assistance by the Farm Service Agency or outside  
27 sources are considered administrative costs under this act.

28 Section 4. Section 196.33, Florida Statutes, is  
29 created to read:

30 196.33 Tobacco barns and equipment.--Tobacco barns and  
31 tobacco farming equipment are exempt from the tangible

1 personal property tax through fiscal year 2010. Counties  
2 affected shall be reimbursed annually upon application to the  
3 Department of Revenue from the Florida Indemnification and  
4 Community Revitalization Trust Fund for any loss of revenue as  
5 a result of this exemption.

6 Section 5. This act shall take effect July 1, 2000.

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9 LEGISLATIVE SUMMARY

10 Provides for use of a portion of the state's tobacco  
11 settlement funds to compensate persons and communities  
12 adversely affected by the settlement. Provides for  
13 appropriation of the funds over a 5-year period and  
14 distribution of the funds over a 10-year period. Provides  
15 for appointment of trustees to administer the  
16 distribution of the funds and specifies their duties.  
17 Authorizes reimbursement of trustees for per diem and  
18 travel expenses incurred in the performance of their  
19 official duties. Provides that meetings of the trustees  
20 and records made or received by the trustees are public.  
21 (See bill for details.)  
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