

By the Committee on Agriculture and Consumer Services; and
 Senator Mitchell

303-1876-00

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. This act shall take effect July 1, 2000.
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 2446

The Committee Substitute deletes language which exempts the tangible personal property tax for tobacco barns and farming equipment which would be a violation of Article VII, s. 3(a) of the Florida Constitution.