

By Representatives Stansel, Casey and Harrington

1 A bill to be entitled
2 An act relating to tobacco production relief;
3 providing legislative intent; providing for use
4 of a portion of the state's tobacco settlement
5 funds to compensate persons and communities
6 adversely affected by the settlement; providing
7 for periodic appropriation and distribution of
8 such funds; providing for appointment of
9 trustees to administer the distribution of such
10 funds and specifying their duties; authorizing
11 reimbursement for per diem and travel;
12 providing for public meetings and records;
13 providing a contingent effective date.

14
15 WHEREAS, tobacco was one of the first export
16 commodities in this country, becoming established as a staple
17 crop as early as 1703 when over 23 million pounds was
18 exported, and was the major export commodity to raise funds to
19 finance the American Revolution, and

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

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

26 WHEREAS, the production of tobacco has been one of the
27 most stable and predictable crops for Florida farmers due to
28 the federal quota system, which regulates the volume of
29 production, and the producer-owned-and-operated Flue-Cured
30 Stabilization Corporation, which provides market stability at
31 no net cost to any taxpayer or governmental entity, and

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

7 WHEREAS, the necessary encumbering of large production
8 costs by tobacco producers ensures that they have a very large
9 asset investment, including debt service, which is a
10 proportionally large component of the local economies of
11 tobacco-growing counties in this state, and

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

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

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

27 WHEREAS, as a direct result of this litigation and
28 other governmental actions, in the 1998 and 1999 production
29 years a total quota reduction of 18 percent and 17 percent,
30 respectively, occurred, leaving many tobacco producers in
31 serious financial peril from such a substantial loss of

1 production, and additional reduction is anticipated in the
2 2000 production year, and

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

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

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

20 WHEREAS, the compensation of tobacco quota holders
21 provided by this legislation will help to ensure the stability
22 of the economies of 20 Florida counties by compensating the
23 family farms in this state that have been adversely impacted
24 by Florida's participation in the tobacco litigation, and

25 WHEREAS, there are precedents to such actions as will
26 be caused by this legislation, NOW, THEREFORE,

27

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

29

30 Section 1. It is the intent of the Legislature that
31 Florida's tobacco quota holders, warehouse operators, and

1 their respective workforces and communities be compensated for
2 the adverse economic effects of the loss of tobacco quota
3 occurring subsequent to the tobacco settlement agreements,
4 beginning in 1997. Such compensation is intended to be
5 provided for losses that were incurred by persons involved in
6 tobacco production because of the actions brought against the
7 tobacco companies by the State of Florida, beginning in 1995
8 with the amendment of the "Medicaid Third-Party Liability
9 Act," so that the persons incurring such losses may begin the
10 process of seeking out, experimenting with, and developing
11 alternative profitable enterprises and may also retain control
12 of the ownership of their land and thereby ensure that farms
13 can remain productive agricultural entities and not succumb to
14 the pressures of development. Such compensation is also
15 intended to reduce encumbered debt on stranded investment in
16 specialized equipment and assure the recipients of adequate
17 cash flow in line with that projected for tobacco production
18 before the litigation and subsequent settlements of 1997 and
19 1998. It is also intended to offer opportunities to quota
20 holders and other qualified recipients who may desire
21 additional training as a method to improve the financial
22 futures not only of themselves and their dependents but also
23 those of their employees and their dependents. It is also the
24 intent of this legislation to provide economic development
25 assistance for the six counties impacted most by the state's
26 tobacco litigation.

27 Section 2. (1) A portion of the proceeds paid to the
28 State of Florida as a result of litigation entitled The State
29 of Florida et al. v. American Tobacco Company et al., Case
30 #95-1466AH, in the Circuit Court of the 15th Judicial Circuit,
31 in and for Palm Beach County, totaling, shall be

1 appropriated in equal amounts by January 10 each calendar year
2 for 5 years, beginning in 2001, to the Florida Indemnification
3 and Community Revitalization Trust Fund.

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

10 (3) The Trustees of the Florida Indemnification and
11 Community Revitalization Trust Fund shall distribute each
12 annual payment under subsection (2) as follows:

13 (a) 74.5 percent to eligible quota holders and, as
14 provided in this paragraph, a portion of this amount to
15 eligible producers. Quota holders of record when this act
16 becomes a law are to be compensated for the amount of reduced
17 quota in any one or more of the crop years of 1998, 1999, and
18 2000. Quota holders who purchased quota in any or all of the
19 above years and subsequently experienced a reduction are
20 eligible for compensation for any losses of quota after the
21 purchase date of record as recorded by the Farm Service Agency
22 of the United State Department of Agriculture. Quota holders
23 who relinquish ownership of their quotas for any reason,
24 except cancellation of the National Quota/Stabilization
25 Program, after this act becomes a law are not entitled to any
26 further compensation as provided by this act. The recipient of
27 quota for any reason after this act becomes a law is not
28 entitled to any compensation as provided by this act. Any
29 person who, as a lessor of record at the Farm Service Agency
30 of the United States Department of Agriculture, produced quota
31 not owned by him or her in any or all of the quota reduction

1 years of 1998, 1999, and 2000 is entitled to 33.34 percent of
2 the amount due the quota holder for each year of the specified
3 years in which the lessor produced quota for that quota
4 holder.

5 (b) 16.5 percent to the Florida tobacco warehouse
6 operators engaged in the marketing of tobacco at the time this
7 act becomes a law, to be distributed based on the loss
8 percentages that quota holders have experienced since 1997 as
9 follows:

- 10 1. Lake City Tobacco Warehouse, Lake City, 31 percent.
- 11 2. Big Independent Tobacco Warehouse, Live Oak, 29
12 percent.
- 13 3. Madison Tobacco Warehouse, Madison, 25 percent.
- 14 4. Farmers Tobacco Warehouse, Live Oak, 15 percent.

15
16 If any tobacco warehouse operator designated to receive
17 compensation under this paragraph relinquishes ownership of
18 his or her tobacco marketing facilities or his or her tobacco
19 marketing rights for any reason other than cancellation of the
20 National Quota/Stabilization Program, that operator shall
21 receive compensation for 1 additional year from date of record
22 of that relinquishment and shall not receive any further
23 compensation under this act. The purchaser of such marketing
24 facilities or marketing rights after this act becomes a law is
25 not entitled to any compensation under this act. All funds
26 that would otherwise go to a tobacco warehouse operator under
27 this paragraph, if not for a relinquishment of marketing
28 facilities or rights, shall revert to the Florida
29 Indemnification and Community Revitalization Trust Fund.

30 (c) 4 percent for workforce development and
31 employer-employee training or retraining, including

1 vocational-technical training, college, or any other type of
2 enhancement program deemed appropriate by the trustees for
3 quota holders and warehouse operators, their immediate
4 families, their employees and their immediate families, and
5 any other affected groups as determined by the trustees. The
6 trustees may approve programs of and administer funds to any
7 person or institution deemed appropriate by the trustees to
8 assist recipients in utilizing the benefits provided under
9 this paragraph.

10 (d) 5 percent for economic development assistance to
11 organizations and agencies in Alachua, Columbia, Hamilton,
12 Lafayette, Madison, and Suwannee Counties deemed appropriate
13 by the trustees. Funds provided under this paragraph shall be
14 apportioned in the designated counties based on the percentage
15 of basic quota in each county for the base year 1997.
16 Recipients of funds under this paragraph shall be encouraged
17 to seek interests that would be compatible with and assist in
18 creating new markets for agricultural products produced
19 regionally. Upon request of the applicant and approval by the
20 trustees, funds provided to an applicant under this paragraph
21 may be used in cooperation with Florida Agricultural and
22 Mechanical University or the Institute of Food and
23 Agricultural Sciences at the University of Florida to assist
24 in developing new and innovative products and markets that
25 might be accessed and utilized by quota holders.

26 (4)(a) All funds available for distribution under this
27 section shall be less any incurred trust and other
28 administrative costs.

29 (b) Any compensation an eligible recipient is to
30 receive from the Florida Indemnification and Community
31 Revitalization Trust Fund under this section for a given

1 calendar year shall be less, dollar for dollar, by the amount
2 of any compensation received in that calendar year by such
3 recipient from the prior agreement between the tobacco-growing
4 states and the major tobacco companies known as the "National
5 Tobacco Grower Settlement Trust," more commonly known as the
6 "Phase II Settlement."

7 Section 3. (1) The Trustees of the Florida
8 Indemnification and Community Revitalization Trust Fund shall
9 consist of the three individuals who are currently serving as
10 Florida Trustees for the Phase II National Settlement Fund and
11 four additional individuals appointed as follows: one by the
12 President of the Senate, one by the Speaker of the House of
13 Representatives, one by the Commissioner of Agriculture, and
14 one by the Board of Directors of Enterprise Florida, Inc.

15 (2)(a) The trustees shall meet, organize, and
16 establish administrative procedures as soon as possible after
17 the effective date of this act. In accordance with their
18 adopted procedures, the trustees shall provide for
19 certification of eligible participants and recipients under
20 this act and for that purpose shall verify the amount of quota
21 reduction on an individual basis from the 1997 basic quota
22 amounts to the effective date of this act. All distributions
23 of funds under this act must be authorized by the trustees,
24 and only recipients certified by the trustees as eligible for
25 compensation under this act may receive such compensation.

26 (b) All meetings of the trustees shall be public
27 meetings within the meaning of chapter 286, Florida Statutes,
28 and all records made or received by the trustees in connection
29 with their duties under this act shall be public records
30 within the meaning of chapter 119, Florida Statutes.
31

1 (c) The trustees shall serve without compensation, but
2 shall be reimbursed for per diem and travel expenses incurred
3 in the performance of their official duties, in accordance
4 with s. 112.061, Florida Statutes.

5 (3) State agencies shall provide the trustees with any
6 information requested to carry out their duties under this
7 act. The trustees may also request the assistance of the Farm
8 Service Agency of the United States Department of Agriculture.
9 Trustees shall ensure that the funds appropriated by the
10 Legislature for distribution under this act are used in
11 accordance with the intent and purposes established by the
12 Legislature in this act. The trustees may use any outside
13 sources, consultants, methods, or means they deem necessary to
14 accomplish the intent and goals established by the Legislature
15 in this act. All costs for assistance by the Farm Service
16 Agency or outside sources shall be considered administrative
17 costs under this act.

18 Section 4. This act shall take effect July 1, 2000, if
19 HB or similar legislation is adopted in the same
20 legislative session or an extension thereof.

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23 HOUSE SUMMARY

24
25 Provides for use of a portion of the state's tobacco
26 settlement funds to compensate persons and communities
27 adversely affected by the settlement. Provides for
28 appropriation of such funds over a 5-year period and
29 distribution of such funds over a 10-year period.
30 Provides for appointment of trustees to administer the
31 distribution of such funds and specifies their duties.
 Authorizes reimbursement of trustees for per diem and
 travel expenses incurred in the performance of their
 official duties. Provides that meetings of the trustees
 and records made or received by the trustees are public.
 See bill for details.