The Florida Senate

Interim Project Report 2000-01 *September 1999*

Committee on Agriculture and Consumer Services Senator Pat Thomas, Chairman

THE IMPACT ON FARMERS OF THE FEDERAL QUOTA SYSTEM VOLUME REDUCTION

SUMMARY

Tobacco is native to the western hemisphere and has been grown in North America since the colonization of Jamestown, Virginia. Since 1933 tobacco has been grown as a staple crop, with the United States Department of Agriculture participating to equalize supply with demand. Today the USDA continues to have oversight responsibility for tobacco production, provided at "no-net-cost" to the public. Flue-Cured Tobacco is the only variety of tobacco grown in Florida, primarily in counties near the Alabama and Georgia state lines.

The Office of Economic and Demographic Research, Legislative Support Services, predicts a reduction of $39.6 million in the value of goods and services produced in tobacco-growing counties and decreased earnings of $9.8 million centered in the areas of the state where tobacco is grown. It is more difficult to estimate the decreased employment impact, as tobacco is a seasonal crop, but employment opportunities certainly will diminish.

Both The University of Florida, and The Florida Agricultural and Mechanical University report that there appears to be no one farm crop that can reasonably be considered a full replacement for tobacco. However, new growing techniques may offer potential for a positive monetary return in future years, such as greenhouse vegetable production and early-season blueberries and peaches. Also, alternative "niche" enterprises such as hot peppers, amaranth, and pigeon peas are a few commodities that could be considered.

The National Conference of State Legislatures has tracked forty legislative bills, filed in 10 states pertaining to tobacco growers. Three major tobacco producing states have approved setting up trust funds for growers with funding from Phase I settlement monies.

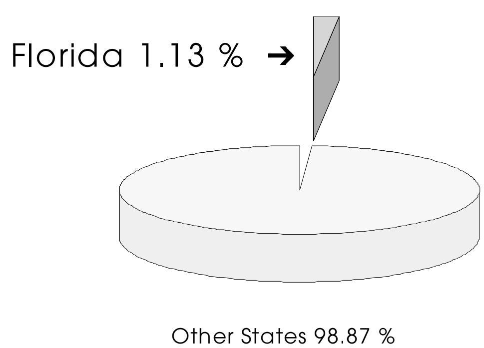
The Florida Legislature has addressed the situation of pending underemployment on agriculture/aquaculture-related issues on three occasions in recent years: the Net Ban Assistance Program, the Lake Okeechobee Drainage Basin Dairy Buy Out, and the Lake Apopka Restoration.

Florida's economic development options include an array of programs that may be used as part of a comprehensive strategy to assist a community that is affected by significant changes in the economic conditions of its major employer. Typically, such programs are linked to the location of a new business or the expansion of an existing business in the area, and, other than the Quick Response Training Program they are not job-training programs. These programs are administered cooperatively by state and local partners including the Governor's Office of Tourism, Trade, and Economic Development; Enterprise Florida, Inc.; and local economic development councils or similar local business recruitment organizations. To complement these programs there are public school district technical centers, community colleges with branch campuses, and three universities with branch campus class offerings, as well as private educational institutions located within the tobacco-growing region of the state.

BACKGROUND

In 1933, the United States Congress passed the Agricultural Adjustment Act to provide payments to farmers in return for agreements to reduce their acreage or their production of certain staple crops, including tobacco. This helped to equalize supply with demand, thus raising prices and encouraging more diversified farming. Farmers were given a floor price in return for limiting acreage devoted to staple crops. Specifically, in the case of cotton and tobacco, coercive taxes during the years 1934-35 forced farmers to cut the amounts that they marketed. Because of a United States Supreme Court ruling in 1936, Congress adopted the Soil Conservation and Domestic Allotment Act, which encouraged conservation by paying benefits for planting soil-building crops rather than staple crops. Congressional changes to the act in 1938 empowered the Agricultural Adjustment Administration (AAA) to make loans to farmers on staple crop yields in years of good crops and to store the surplus produced, which could then be released or sold in years of low yield. Soil conservation was continued, and farmers who grew cotton and tobacco could adopt compulsory marketing quotas by a two-thirds vote. During World War II, the AAA devoted its attention to increasing food production to meet war needs. It was renamed the Agricultural Adjustment Agency in 1942, and in 1945 its functions were taken over by the Production and Marketing Administration. Currently, the farming and marketing of tobacco are regulated by the Farm Service Agency (FSA) within the United States Department of Agriculture (USDA).

Percentage of US Tobacco Grown in Florida

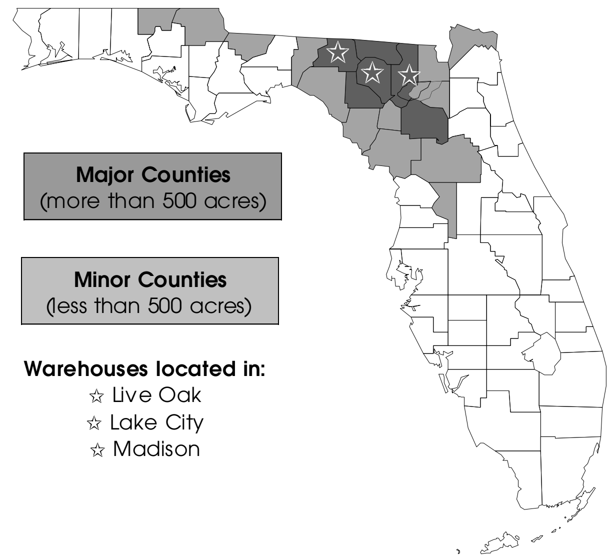


While there are several types of tobacco, Flue-Cured Tobacco is the only variety grown in Florida. The leaves are picked from the stalk and dried in heated barns.

Florida ranks eighth of fourteen states nationally in the value of its tobacco, with sales of $36 million in 1996 on 18 million pounds, while in 1998 that amount was reduced to $28 million on 17 million pounds. Cigarettes generally contain large amounts of flue-cured tobacco, blended with other types.

Within the state there are 288 allotment (or production) units, supporting approximately 523 farm families. These farms are generally family-owned-and-operated, and of small to medium size.

Tobacco Producing Counties



Florida's tobacco-growing region is located primarily along its northern boundaries with Alabama and Georgia, from Holmes County to Nassau County with smaller amounts of tobacco being grown as far south as Sumter County. Tobacco warehouses, used for the selling of tobacco by auction from the grower to cigarette manufacturers, are located in Live Oak, Lake City, and Madison.

Provided below are definitions of some of the more significant terms concerning tobacco:

***Price-Support Program:** The federally administered program to control the amount of tobacco grown each year and to guarantee farmers a stable price for their crop. The federal government sets a support price based on a formula that includes expected demand. The program is self-supporting by growers and buyers paying a fee -- the "no-net-cost assessment" -- on each pound of tobacco they sell or buy. The money is used to guarantee the loan used to buy and store tobacco that does not bring the support price and to buy surplus tobacco that companies do not buy.

***Tobacco quota:** The total pounds of tobacco that the USDA determines can be sold each year based on expected demand. The total is divided among individual farmers or allotment owners to determine their individual quota or growing rights.

***Tobacco allotment:** The amount of quota assigned toan individual property owner or farmer. A farmer might refer to an allotment as a quota.

*** Leased quota:** Someone who owns an allotment can lease the rights to grow and sell tobacco to someone else. Or, farmers who want to grow more than their allotments can rent allotments from others.

Phase I

In 1997, jury selection began in the case of the State of Florida v. The American Tobacco Company, et al. Similar but separate court filings were underway or being considered by the states of Mississippi, Texas, and Minnesota. On August 25, 1997, the Circuit Court in Palm Beach County was presented with a settlement agreement to resolve the issues under litigation, which it subsequently approved.

The initial tobacco settlement agreement contained monetary provisions which required both an initial payment and annual payments to the State of Florida. It also contained non-monetary provisions which provided for restrictions on advertising and billboards as well as requirements that the tobacco companies support legislation which restricts a minor's access to tobacco products. The settlement agreement further directed the use of $200 million from the initial payment for the development of a pilot program to reduce underage use of tobacco products through increased enforcement, media and educational campaigns and other programs. The core settlement amounts were anticipated to be used for children's health care coverage, enhancement of substance abuse and mental health services for children, for other health-related services, and for enforcement activities. The language in the settlement agreement used the words "anticipated and may" when referring to the use of funds provisions.

Provisions of the settlement agreement also delineated the dismissal, waiver and release of claims for the plaintiffs and the defendants. The State of Florida agreed that it will not sue or seek to establish civil liability against any released party based upon the released claims. The defendants waived any and all claims against the plaintiffs including the State and any of its agents or officers.

The settlement resulted in the State receiving $367.9 million for Fiscal Year 1997-98 and $402.1 million for FY 1998-99. Beginning in FY 1999-00 and continuing thereafter the settlement payments are to be based on the volume of domestic tobacco product sales, as provided in the proposed resolution, and adjusted annually by the greater of 3% or the Consumer Price Index applied each year on the previous year. For FY 1999-00 Florida estimates it will receive $255 million which will increase gradually, based on the escalation factors, to $457.2 million by FY 2006-07. Florida's settlement agreement also contains a most favored nation provision which requires the defendants to agree to increase our settlement if they settle with another non-federal governmental plaintiff on a more favorable basis. This did occur and as a result Florida will receive an estimated $1.75 billion over the next five years.

Resources from the settlement agreement have been appropriated by the Legislature during the past two legislative sessions. A total of $1.845 billion has been appropriated which includes FY 1999-00 appropriations of $517.4 million for operations and $1.1 billion for the Lawton Chiles Endowment. Appropriated funds have been utilized for child health issues, Medicaid health programs, developmental services programs, child welfare programs, mental health and substance abuse programs, school health services, AIDS health programs, immunization programs, health department construction, children's medical services clinic construction, home and community-based care for the elderly, veterans nursing homes, other health and social services issues and the pilot program to reduce underage use of tobacco products through increased enforcement, media and educational campaigns and other programs.

Phase II

Separate and apart from the original Florida health-related lawsuit and resulting settlement is the impact that reduced growing quota is having on tobacco farmers in the state. Evidence of a negative impact to farmers can be found in the USDA announcement outlining the provisions of the 1999 Flue-cured Tobacco Program. In part the announcement reads:

> "The national marketing quota for the 1999 crop is 666.2 million pounds, down from the 1998 quota of 807.6 million pounds. The national acreage allotment for the 1999 crop is 319,061 acres, down from the 1998 allotment of 386,782 acres."

Each Florida tobacco grower's allotment was reduced by 16-percent as a result of this USDA announcement for the 1999 growing season. In anticipation of continued quota reductions, tobacco farmers nationwide have recently negotiated a settlement with cigarette manufacturers. This negotiation was complicated by the fact that often the tobacco allotment holder is not the actual grower. In many cases the actual growers must lease or buy all or part of the quota they need each year to grow and sell their tobacco leaf under the federal program.

While Florida is not a party to the Master Settlement Agreement (MSA) it has been included as a beneficiary of the Phase II National Tobacco Grower Settlement Trust. Phillip Morris Incorporated, Brown and Williamson Tobacco Corporation, Lorillard Tobacco Company, and R.J. Reynolds Tobacco Company are "Settlors of the Trust" (Settlors) and have agreed to establish this Trust to provide aid to tobacco growers and tobacco quota owners to reduce the impact of potential adverse consequences to the Grower States from the MSA.

Parties to the Trust Agreement are the Settlors, the Grower States (including Florida), and The Chase Manhattan Bank as Trustee. Annually, the Trustee is required to transfer the funds received by it from the Settlors directly to the tobacco growers and tobacco quota owners. No funds under the Phase II agreement are subject to the control of the Legislature.

Projected Phase II Payments to Florida's Tobacco Growers

Yearly Schedule	Millions $
1999-00	4.3
2000-01	3.2
2001-02	4.5
2002-03	5.7
2003-04	5.7
2004-05	5.7
2005-06	5.7
2006-07	5.7
2007-08	5.7
2008-09	5.7
2009-10	3.3
2010-11	3.3
	$ 58.5 mil.

The funds of the trust consists of amounts that total $5.150 billion to be distributed to tobacco growers and tobacco quota owners and are subject to inflation adjustments, volume adjustments, and tax offset adjustments. Florida, a Class B State due to its relatively low volume of production, will receive 1.13% of the annual amount to be distributed, estimated to be approximately $58.5 million over 12 years.

For Class B States (such as Florida), a Certification Entity, consisting of the Governor, Attorney General, and Commissioner of Agriculture, is to submit a plan annually to the Trustee describing the methodology it intends to use to determine specific amounts of money due to individual tobacco growers and tobacco quota owners. The Trustee will solicit from the State a signed statement by those officials (including a representation that they have made a good faith, reasonable effort to determine the accuracy of the information) specifying the names, addresses, and Tax ID Numbers of each recipient, the amount each is to receive, and administrative expenses. Each Certification Entity must also certify that payments are consistent with the plan, that each recipient is either a grower or a quota owner, and that no improper condition has been placed on payment. (The certification entity, documentation, and procedures for Class A [major grower] States, such as North Carolina, Kentucky, and Georgia, are significantly more complex). A Release Letter, signed by the Attorney General, releases the named tobacco companies from any claims for damages incurred by the State as a result of adverse economic consequences suffered by the grower communities in the State.

During the 1999 Legislative Session, House Bill 2257, relating to Tobacco Producers, and House Bill 2255, relating to the Florida Tobacco Producers Compensation Trust Fund, were introduced by Representative Dwight Stansel. House Bill 2257 directed the Department of Agriculture and Consumer Services, in conjunction with the Florida Tobacco Advisory Council and the USDA Farm Service Agency, to design and implement a program to provide both direct and indirect compensation to Florida's tobacco farmers and allotment holders. House Bill 2255 created the Florida Tobacco Producers Compensation Trust Fund, which is to be administered by the Department of Agriculture and Consumer Services. Both bills were placed on the agenda of the House Agriculture Committee late in the session and were heard under a "workshop" format, with Representative Stansel explaining the bills and growers presenting testimony in support of the legislation. At that time the growers were requesting that the Governor and Legislature set aside 2 percent of the health-related award under Phase I to offset quota losses sustained by the growers since 1997 and into the future.

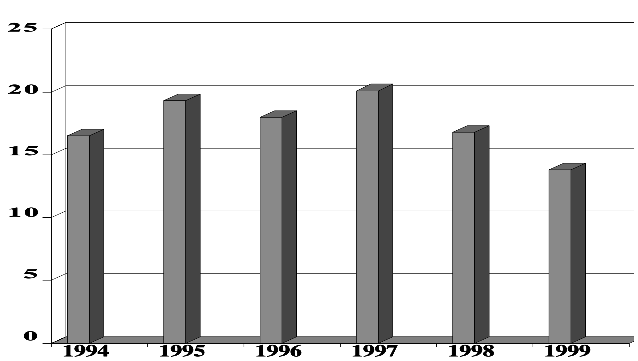
METHODOLOGY

Personal interviews were conducted with staff of the Department of Agriculture and Consumer Services, followed by telephone interviews with staff of the United States Department of Agriculture to gain a general understanding of the program. Florida's two land grant universities, The University of Florida and The Florida Agricultural and Mechanical University were consulted regarding agricultural replacement crops. The National Conference of State Legislatures and the Office of the Governor, State Federal Relations (Washington Office) contributed information through telephone interviews and computer Internet service regarding legislative action in other states. Economic impacts using data from the IMPLAN input-output economic model, were provided by the Office of Economic and Demographic Research, Legislative Support Services and other legislative committees were involved regarding issues pertaining to their areas of expertise. An on-site tour of tobacco operations was made to observe tobacco gathering, curing, and baling by use of customized equipment and warehouse sales of tobacco by auction were observed. A meeting with Florida Farm Bureau Federation and tobacco growers was attended to gain information through that forum.

FINDINGS

Tobacco production has been a stable and predictably profitable crop for Florida farmers since at least 1938. For that reason, farmers in the tobacco-growing region of the state have continued over time to make substantial capital investments to purchase tobacco allotments, agricultural lands, and specialized equipment such as curing barns, mechanical balers, and cropping machines. However, in recent years the national quota for tobacco production has declined. The 1999 quota as announced by the United States Department of Agriculture represents a 31.6-percent reduction since 1997.

Florida Tobacco Quota
(million pounds)



The effect of this drop in demand for U.S. grown tobacco has placed many farmers in serious financial trouble as their ability to repay long-term loans on land and equipment has diminished.

While farmers and allotment owners will be first and most directly financially affected, all businesses in the predominantly rural areas that serve the tobacco growing industry will suffer some impact. Businesses in those communities such as banks, farm supply stores (selling fertilizer, pesticide, seeds, and other related items), and L.P. gas distributors will be impacted to some degree. While it is difficult to predict the annual reduction in tobacco quota by the USDA for the coming years, it is generally acknowledged that under the present circumstances reductions will continue for some period of time. Economic projections of the impact to farmers and communities as a result of the Federal Quota System Volume Reduction as estimated by the Office of Economic and Demographic Research, Legislative Support Services, predict a reduction of $39.6 million in the value of goods and services produced in tobacco-growing counties and decreased earnings of $9.8 million centered disproportionately in the more rural areas where a substantial amount of tobacco is grown. While projections of full-time-equivalent employment can be estimated, it is more difficult to translate that information into meaningful form since tobacco is a seasonal crop. It can be reasonably assumed that as tobacco production decreases, employment opportunities will diminish. Projecting how great the overall impact will actually be is somewhat difficult to do, and projections vary significantly depending on the actual pounds of tobacco produced, the price-per-pound of the tobacco, and the "multiplier" used in the model for calculating the impact. The IMPLAN model used for the estimates in this report are somewhat conservative and use a multiplier of 1.54.

There appears to be no one farm crop that can reasonably be considered a full replacement for tobacco. All other crops with developed markets which could be grown in the North Florida area return fewer dollars per acre than tobacco, thus requiring large production areas for equivalent returns, and those crops are subject to widely varying commodity prices. Additionally, recent multi-crop trends in the region (if tobacco is not grown in conjunction with other crops not presently in place) will require research and development for both production and marketing strategies.

However, The University of Florida Institute of Food and Agricultural Sciences projects that new growing techniques being researched may offer the potential for a positive monetary return in future years. These include greenhouse vegetable production in North Florida and early-season blueberries and peaches. Additionally, the Division of Agricultural Sciences at The Florida Agricultural and Mechanical University has determined that there are tropical crops that could be successfully grown as alternative “niche” enterprises, such as hot peppers, amaranth, and pigeon peas.

The National Conference of State Legislatures reports 40 legislative bills being filed in 10 states pertaining to tobacco growers. Three major tobacco-producing states have approved setting up trust funds for growers with funds coming from Phase I monies. Virginia has allocated 50 percent of its funds to go to growers and the growing communities to offset losses. North Carolina has set aside 25 percent for the growers and 25 percent for the growing communities. South Carolina has established a trust fund for this purpose as well.

Legislative Initiatives Addressing Underemployment and Unemployment

The Florida Legislature has addressed the situation of pending underemployment and unemployment on agriculture/aquaculture-related issues on three occasions in recent years.

1. Net Ban Assistance Program

The Net Ban Assistance Program was established to provide economic assistance to the net fishers adversely impacted by the passage of Art. X, section 16 of the Florida Constitution, which has prohibited the use of many nets since July 1, 1995. Direct economic assistance has taken two forms: lost income replacement and net buy-backs. In addition, program assistance is provided in the forms of job search and retraining programs, state employment hiring preferences, development of alternative industries, and designation of additional enterprise zones. The Department of Labor and Employment Security (DLES) administers the program.

The lost-income component was funded by affected fishers who chose to make retroactive unemployment compensation contributions for themselves and their employees in order to qualify for unemployment compensation benefits. The program authorized the Executive Office of the Governor to transfer up to $20 million to the Seafood Workers Economic Assistance Account within the Special Employment Security Administration Trust Fund for the net buy-back component of the program. These funds come from two sources:

a. State funds appropriated to match federally funded programs but unexpended as of June 30, 1995, and

b. Unobligated and unappropriated trust fund balances of the DLES, so long as the use of the funds does not jeopardize agency operations.

The program appropriated the above-identified $20 million to the DLES for the net buy-back component.

2. Lake Apopka Restoration

In 1996, the Legislature enacted ch. 96-207, L.O.F., which provided that the acquisition of certain agricultural lands around Lake Apopka is in the public interest. The program also provided for the sale of certain tangible personal property and the retraining of displaced farm workers.

3. Lake Okeechobee Drainage Basin Dairy Buy Out

The project offers dairy farmers the option of relocating their dairies out of the Lake Okeechobee Drainage Basin. In exchange for $602 per cow, the dairy owner must agree to move the herd to a less environmentally sensitive area. This program allows the dairy owner to retain the property, but a deed restriction prohibiting high intensive livestock operations on the land must be signed and recorded into public record. The farmer can then use the property for a variety of other purposes, such as vegetable production, citrus production, or beef cattle operations.

Economic Development and Workforce Development Assistance

Florida’s economic development options include an array of programs that may be used as part of a comprehensive strategy to assist a community that is affected by significant changes in the economic conditions of its major employer. Typically, however, such programs are linked to the location of a new business or the expansion of an existing business in the area, and, other than the Quick Response Training Program described below, these programs are not job-training programs. These economic development incentives or programs are marketed and administered cooperatively by state and local partners including the

Governor's Office of Tourism, Trade, and Economic Development (OTTED); Enterprise Florida, Inc. (EFI); and local economic development councils or similar local business recruitment organizations. Following are brief descriptions of the principal economic development programs:

- *Quick Response Training* (s. 288.047, F.S.), under which specially tailored job training is provided on behalf of a new, expanding, or existing Florida business. The training is delivered through, and funds are allocated to, Florida's community colleges, school districts, area vocational-technical centers, state universities, and, under certain conditions, private post-secondary institutions. The instruction, which cannot exceed 18 months, must promote economic development by providing specialized entry-level skills to new workers or supplemental skills to current employees whose job descriptions are changing. Program funds may not be expended to subsidize the ongoing staff-development program of any business or industry or to provide training related to retail businesses.

- *Contracts for transportation projects ("Road Fund")* (s. 288.063, F.S.), under which funds are provided to local governments for the elimination of transportation problems that adversely impact a specific company's location or expansion decision. Elimination of the transportation problem must serve as an inducement for the company's decision to locate, remain, or expand in the community.

- *Qualified Target Industry Tax Refund Program* (s. 288.106, F.S.), under which new or expanding businesses in certain key industrial sectors or corporate headquarters may be eligible to be approved for tax refunds of $3,000 per job created ($6,000 in an enterprise zone or certain rural communities). To be eligible, a new business must create at least 10 full-time jobs, and an expansion of an existing business must result in a 10-percent increase in employment. An exception to the requirement for a net increase in employment may be granted in special circumstances, such as in the case of a rural community, as defined under the statute, if the merits of the individual project or the specific circumstances in the community in relationship to the project warrant such an exception. Approved applicants may receive refunds based on the payment of sales and use taxes, corporate income taxes, intangible personal property taxes, insurance premium taxes, and certain other taxes. Tax refunds are approved by OTTED, with initial application evaluation being conducted by EFI.

- *Rural Areas of Critical Economic Concern*: Legislation adopted during the 1999 Session (ch. 99-251, L.O.F.) authorizes the Governor to designate up to three rural areas of critical economic concern, defined as a community adversely affected by an extraordinary economic event or a natural disaster, or one that presents a unique economic development opportunity of regional impact that will create more than 1,000 jobs over a five-year period. In communities that receive such designation, the Governor may waive criteria, requirements, or similar provisions of any economic development incentive.

With respect to workforce development, assistance may also be available through the successor to the federal Job Training Partnership Act (JTPA). Title III of the JTPA was known as the Economically Dislocated Worker Adjustment Act (EDWA), and under its authority federal funding was made available to the states for the provision of job training designed to assist dislocated workers, such as individuals who are terminated and unlikely to return to their previous industry. In August 1998, President Clinton signed the federal Workforce Investment Act (WIA), which consolidates several federal job-training initiatives, including JTPA. Chapter 5 of WIA is the component of the new federal law targeted toward dislocated workers. The WIA definition of "dislocated worker" includes an individual who was self-employed (including employment as a farmer, a rancher, or a fisher) but is now unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters. Acting under the authority and funding formulas provided under Chapter 5 of WIA, the state Workforce Development Board, which is part of EFI, and its network of regional workforce development boards may coordinate training activities directed toward helping dislocated workers obtain skills for new careers.

To complement the economic development and workforce development assistance programs currently available, there are public school district technical centers, community colleges with branch campuses, and three universities with branch campus class offerings, as well as private educational institutions, located within the tobacco-growing region of the state.

RECOMMENDATIONS

Tobacco production in Florida is centered primarily in rural northern counties with smaller production levels taking place as far south as Sumter County. The growing of tobacco has provided a stable source of income over many years to the farmers and surrounding communities. The continued reduction in the amount of tobacco grown under an allotment program is predicted to bring economic stress to the farmers and communities disproportionately with the more rural, major tobacco growing counties being most affected.

Inasmuch as there is no agricultural commodity which is projected to return the same level of income to the farmer, it is appropriate for the Legislature to give attention and deliberation to this issue. It is recommended that legislative consideration be given to determine if funding to farmers through the Phase II National Tobacco Grower Settlement Trust coupled with Economic Development and Workforce Development Assistance and the compliment of public school district technical centers, community colleges, universities, as well as private educational institutions located within the tobacco growing region of the state will adequately address the needs of the region or if additional resources should be dedicated to the area.

COMMITTEE(S) INVOLVED IN REPORT ***(Contact first committee for more information.)***
Committee on Agriculture and Consumer Services, 404 South Monroe Street, Tallahassee, FL 32399-1100, (850) 487-5133 SunCom 277-5133

MEMBER OVERSIGHT
Senators Pat Thomas and Richard Mitchell