

# Public Hearing

before

## SENATE SENIOR CITIZENS, VETERANS AFFAIRS AND AGRICULTURE COMMITTEE

"The 'Farmland Assessment Act of 1964'"

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**LOCATION:** Room 319  
State House  
Trenton, New Jersey

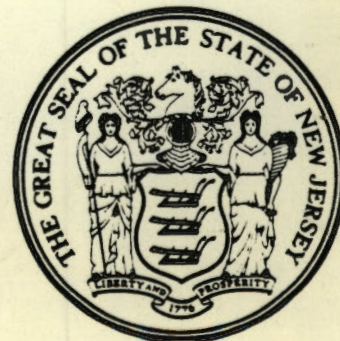
**DATE:** August 25, 1994  
10:00 a.m.

### MEMBERS OF COMMITTEE PRESENT:

Senator Robert W. Singer, Chairman  
Senator John "Jack" Casey

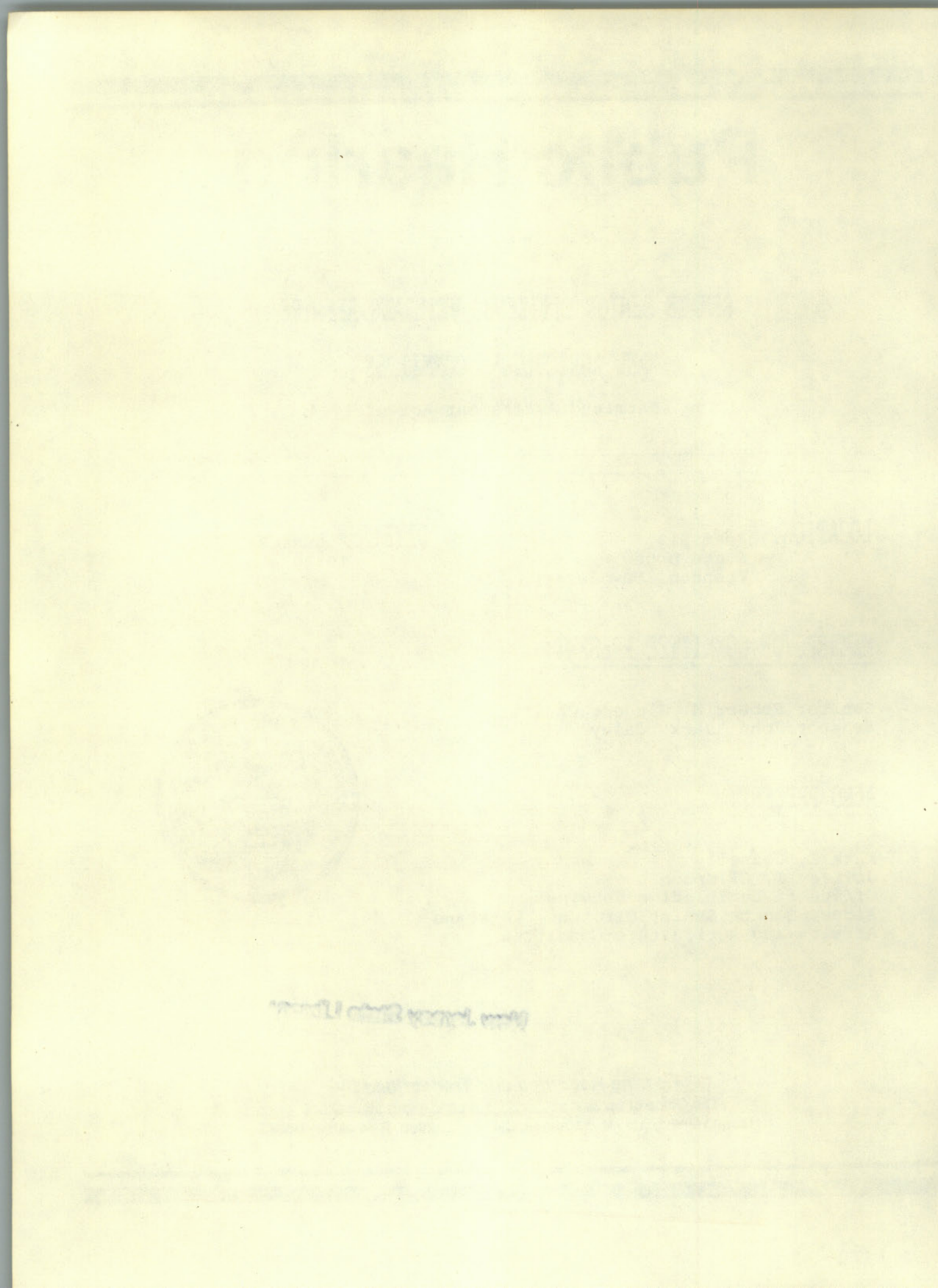
### ALSO PRESENT:

Mark T. Connelly  
Jeffrey T. Climpson  
Office of Legislative Services  
Aides, Senate Senior Citizens, Veterans  
Affairs and Agriculture Committee



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**New Jersey State Legislature**  
SENATE SENIOR CITIZENS, VETERANS AFFAIRS  
AND AGRICULTURE COMMITTEE  
LEGISLATIVE OFFICE BUILDING, CN-068  
TRENTON, NJ 08625-0068  
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## NOTICE OF PUBLIC HEARING

The Senate Senior Citizens, Veteran Affairs and Agriculture Committee will hold a public hearing on the following topic:

**The "Farmland Assessment Act of 1964"**

The hearing will be held on Thursday, August 25, 1994 at 10:00 AM in Room 319, State House, Trenton, New Jersey.

*The public may address comments and questions to Leonard J. Colner, Committee Aide, at (609) 292-7676 and persons wishing to testify should contact Lynn Rogers, secretary, at (609) 292-9106. Those persons presenting written testimony should provide 10 copies to the committee on the day of the hearing.*

Issued 08/18/94



**SENATOR ROBERT W. SINGER (Chairman):** I'm going to open the hearing up today. Senator Haines is in the building and will be up here, and Senator Casey is here today. I know that Senator Kosco is in Avenel, based on the Senate President asking him to take a look at the facility in Avenel concerning sex offenders. And I know Senator Rand had a previous engagement, and is not with us here today.

I did want to make a brief statement. There was an editorial in one of the regional newspapers semichastising the Committee for going forward with hearings and possibly coming up with some legislation. I did want to clear the air on this on several points.

Number one -- and we're going to hear from the Department of Agriculture -- in the editorial, it referred to the study being done by the Department of Agriculture with Rutgers. Although that study is important, that's not going to answer a lot of the questions concerning farmland assessment, and they will be in here today to explain that study and what it is doing. I believe in that editorial it was misleading, what that study is to accomplish.

Number two, that editorial referred directly to the fact that the Governor's Task Force is also looking into farmland assessment. Let's clarify that, also.

That Task Force was under, not legislation, but under an executive order by Governor Florio. That Task Force was to be formed and that report was supposed to be in already. Governor Florio never formed the Task Force, so therefore, there is no report. Before I started these hearings, back in March, April, and May, I reached out to the Governor's Office to clarify whether that committee would be appointed or not. The response that I got back through the Governor's Counsel was that I was to go forward with hearings, and that was certainly not a problem with the Governor.

A D E S O J I O. A D E L A J A, Ph. D.: Specifically, I think George pretty much states what I would have wanted to state.

SENATOR CASEY: No. I guess I'm looking at a different area, because I also represent the county where Senator Singer -- we kind of split with Senator Haines -- but I have very few farms in my district. But as a gentleman who was born and raised in Burlington County, I know a little bit about farms.

I agree with the Senator on what he is stating about the farmer who probably could have lost the whole area and

is. As a matter of fact, some people believe that it is primarily an open space law, and that maintaining an open space should be sufficient to qualify for farmland assessment.

Although I'm not prepared today, on behalf of the Division, to recommend measures to improve an understanding of the law, I thought it might be appropriate to mention areas where the Division has been involved over the years to improve administration of the law by assessors and county boards of taxation.

I think it's fair to say that the Division has always had a keen interest in improving the administration of the law. As a matter of fact, back in the mid '70s, Director Sidney Glaser created a committee known as the Farmland Assessment Committee. Over the years, this committee has reviewed many farmland assessment issues. Any time there was a decision rendered by the courts, at our next meeting we'd be all over that decision, trying to interpret it: What does it mean? What is its impact? This committee still continues to meet and has held two meetings during this current year. As a

Over the years, many of the initiatives undertaken to improve the administration of farmland assessment were first discussed by the members of this committee.

Some of the accomplishments that can be traced to the committee's input over the years are as follows:

The Farmland Assessment Application itself was expanded, requiring an applicant to cite specific activity to support a claim for farmland assessment. Prior to this revision in the farmland form, there was no place to enter what the specific activity was to support the claim for farmland assessment. The courts have held that the Farmland Assessment Application is the source document upon which the assessor is to rely as one of the factors in determining qualification, and we felt it was important that there would be additional information on that form that the assessor could review.

Secondly, this information that is collected on the Farmland Assessment Application has resulted in providing improved data to Cook College in developing the ranges of value at which farmland is to be assessed each year.

Under the Farmland Assessment Act, there was a Farmland Evaluation Advisory Committee that was established. As a matter of fact, this committee is meeting next Tuesday, and its primary function is to establish ranges of value at which farmland is to be assessed. The data from these Farmland Assessment Application forms, where the activity is indicated, provide a lot of information for Cook College in developing these values at which the farmland is to be assessed.

Thirdly, the committee recognized, many years ago, that there is a distinction between two types of woodland. There has never been a question as to whether woodland as part of a farm -- whether that should be eligible. There was never a question on that. But early on, the court decided that, "Sure, woodland tracts could also be eligible and qualify for farmland assessment," so our committee recognized that there

are two different types of woodland, what we considered appurtenant woodland and nonappurtenant woodland. As a result, in 1986, because of this recognition by our committee and, I think, some of the many problems with the issue of woodland, Chapter 201, the laws of 1986, was enacted into law.

This amendment to the Farmland Assessment Act resolved many of the problems in the administration of the law with respect to determining whether woodland should or should not be qualified. An approved Woodland Management Plan and an annual certification of the use of the woodland now must be obtained by the applicant in order to be eligible to receive and maintain farmland assessment. So I think that's one major issue that has been resolved with respect to administering the Farmland Assessment Act.

Another area our Division is involved in -- and this is probably one of the most important areas that we've been involved in, and you can never do enough -- is educational programs. We very frequently are involved at conferences that assessors hold -- county tax board personnel hold. As a matter of fact, I have talked myself before groups at night from some of the agricultural clubs or what have you in municipalities. The issue of education cannot be overstressed, because of the fact that we have quite a turnover in assessors, and new people coming on board all the time. Things that you think you might have covered, aren't quite covered because of the change in the people who are out there.

We also supplement this with articles we put in our State tax newsletter. We make special mailings to assessors anytime there might be a significant court case or an issue that they should know about. We do our utmost in this regard to educate the assessors.

As a matter of fact, what I'd like to point out is another thing that I think could be attributable to the committee: The committee felt there was a need for a single

comprehensive source of information on farmland assessment to assessors, so several years ago we were successful in having quite an extensive handbook, solely devoted to the issue of farmland assessment, that we provided to every local tax official and county tax official in the State. It may be too early yet, but I think this has done probably the most to improve knowledge of the people who are on the front line in administering the law. We're very proud of the accomplishment of having this completed.

Another thing that our Division has done, too, over the years is, we've undertaken programs to review how farmland assessment is being administered. This has resulted in isolating problems. We have taken measures to improve the administration of the Farmland Act because of some of the problems we identified.

A number of years ago one of the problems we identified was that, in a number of cases, assessors were just assigning arbitrary values to this farmland. Maybe, in some cases, it could be viewed at what values they thought they could get away with. What we did was, we were successful in having a regulation adopted to provide that the assessor must give the utmost consideration to the ranges of value as published by Cook College and adopted by the Farmland Evaluation Advisory Committee to at least alleviate the abuse on the part of some assessors to assess this land at what they thought they could get away with, without any type of appeal. So that problem, I think, has been resolved.

In our review of the Farmland Assessment Act, the issue of whether the \$500 gross sales requirement of agricultural/horticultural products should be increased is a question that has continually been asked. Increasing the amount of the minimum gross sales could result in more active devotion of small parcels of land where activity to obtain the \$500 in gross income is often minimum. Although you may find

the \$500 in sales is met, whether the small parcel is sufficiently devoted to warrant the granting of the farmland assessment very often presents a problem to the tax assessor. It has been suggested by some that by increasing the gross income requirement, it could alleviate this problem, and that by effectuating more intense agricultural activity for small land parcels, it would alleviate subterfuge on the part of certain applicants who have no legitimate interest in farming, but rather are only concerned with reducing their local property taxes. At this date, the Division of Taxation really has taken no position with regard to the issue of increasing the \$500.

A complaint that is often heard is that rollback taxes, which are applicable to the year that the land changes in use and the two prior years, do not provide sufficient deterrent to keep the land in farming. Advocates for a longer rollback period claim that currently the benefit afforded under farmland assessment far outweighs the penalty if you are going to construe rollback as a penalty, when the land use changes.

Of course, any changes to modify rollback tax provisions would most likely require revision to our constitutional amendment, which received approval of the voters back in November of 1963.

There are certain issues concerning the implementation of rollback taxes which, in accordance with the law, are to be triggered when the land is applied to a use other than agriculture or horticulture. Issues that are mentioned from time to time include: Should land, where there is less than five acres after the property is subdivided, be subject to rollback taxes, although agricultural activity continues on that parcel? Although it is less than five acres, it would not qualify for farmland assessment in the ensuing tax years, but should rollback taxes be invoked because of the fact it is less than five acres, although farming is continuing?

Other issues involve where there is less than five acres of land discovered by the assessor being devoted to agricultural/horticultural use, should that be construed as a change in use to invoke rollback taxes? We've had a decision rendered by the courts that held, where an assessor did discover less than five acres actually being devoted, therefore, the land was never in compliance with the requirements of the law, and that rollback was not to be invoked because there was some agricultural activity. It's just that the land would not any longer be eligible for the preferential treatment under farmland assessment with five acres not being devoted.

Another issue relating to the implementation of rollback taxes is, what constitutes fallow land? For example, should the law require that certain management practices be followed in order for the land to be construed as fallow and therefore eligible to maintain its farmland assessment status? I don't think anyone would argue that leaving land to rest is an acceptable agricultural practice. The issue is whether there are abuses of this where farmland assessment is trying to be maintained when, in fact, no management practices whatsoever are being followed, when this land is being allowed to lay fallow. It's just really growing up in weeds, and nothing is being done. So that is one of the issues.

The Division of Taxation, as always, will continue in our efforts to improve the administration of the law in its present framework. We do stand ready to provide input that might be of aid in developing solutions to problems identified through corrective action.

I thank you for the opportunity today to be able to make these remarks.

SENATOR SINGER: Thank you. There are a couple of comments I want to just throw out to you, for your own information.

We have found, also, in listening at the hearings the concerns -- there were some concerns from the other side, too. One is the concern that in many cases, as you are well aware, the house where the person who has the farm lives is fully assessed at full valuation. There is a feeling that many times the assessors tend to overvalue that to make up for the fact that money is lost by having farmland assessment on the rest of the land. Probably, in a lot of cases, they really feel their house is overassessed. They tend not to want to fight that because they are getting farmland assessment. But I think that we may have to make that very clear to assessors; that we're not looking to make up lost values in properties based on overassessing what someone's home is worth.

I think the public doesn't understand that a house that someone lives in is fully assessed and not subject to farmland assessment.

Number two, which becomes the real question to some extent, deals with the horse farms. That has some concern also. For example, there was a horse farm that had 95 horses that were stabled and boarded there. Their stud fees did not exceed greater than the boarding, and they were going to lose their farmland assessment because of that. That's not someone who has two horses in his backyard and says, "Look, these are my horses for private use." This is a farming business, per se, an agricultural aspect, and if we're going to do that we're going to hurt the horse industry in our State, which needs some help, and I think you're aware of that. Take a look into that aspect of it.

Another aspect that came into being was that many of the towns -- especially in my district -- that are very small-- Let me give you one example. Chesterfield Township, which is in my district-- We had a hearing there recently on some other issues. The Mayor was kidding: "The population of Chesterfield Township is 5000 people. Of course, 3000 are in

the prison, and only 2000 are residents." Although the population is 5000, again, they don't have a full-time assessor. They can't afford to have someone full time there, and therefore, it is quite costly to the township to have someone go out and check these farmland assessments on a yearly basis.

I would think that having legislation that says, "Wait a second, you don't have to go out every year. Maybe every other year. But, of course, a person having farmland assessment must file and certify that they are doing that for the year," might make more sense and be more cost-effective, because we are not dealing with large communities that have full-time assessors and full-time staff. To be realistic, you're dealing with small communities and here-- You know, the Governor is saying, "Look at government more wisely and do things more sensibly." Maybe we have to administrate it realistically to the type of communities we're dealing with, as opposed to my community of 47,000 that I live in, that has a full-time assessor's office and full-time staff. Yes, we do look at our farmland assessment as small, as it is in my community yearly, because we can afford to do that. Smaller communities can't.

Maybe there has to be, in those small communities to help out, a \$20 dollar fee to go out -- allowed to be charged every other year to do that to be able to offset it. I don't know. These are some questions raised.

But we want to work directly with your Division on this to tighten up those areas of concern, to look at those gray areas, and realize that the aspect of the horse industry, it is very important in our State. It is in serious trouble because of the problems at the tracks and everything else like that. We're not looking at some wealthy person just wanting to have open space; we're looking at legitimate businesspeople, trying to make a go of it. If they were assessed at full

evaluation, they couldn't have the horse farms here. They wouldn't be able to stable those horses here. We're certainly not looking at the person who has two horses in his backyard for his own private riding situation. We're looking at legitimate businesspeople who need help.

So I think there are some areas that we have to look at together. Your Committee, I've always thought of as a very positive thing, and we're going to work with that. I appreciate your comments on that.

Senator Casey?

SENATOR CASEY: Nothing.

SENATOR SINGER: Thank you for coming.

Our next person is Al Leister, The Committee for Truth in Farmland Assessment.

Good morning, Al. How are you?

**A L L E I S T E R:** Good morning, fine.

I'm pleased to be here today to represent the members of The Committee for Truth in Farmland Assessment. The Committee for Truth in Farmland Assessment was formed in October of 1993, when two residents of our township were able to subject other residents to three audits of their farmland assessment in the course of one year.

For the record, none of the Executive Board members of The Committee for Truth in Farmland Assessment have been denied their farmland assessment. Some newspaper reports have described us as disgruntled farmers. We're not disgruntled, but we are concerned. We are concerned about the future of the Farmland Assessment Act, and I think a more appropriate description of us would be as "guardians" of the Farmland Assessment Act, as opposed to "disgruntled."

Many people without farmland assessment do not understand how they benefit from the Act, so one of the goals we have is to inform as many people as possible how all New Jersey citizens benefit from the Farmland Assessment Act.

Another goal is to encourage simplification of the law so that it is less subject to interpretation by local assessors. But at the same time, we don't want to see any deviation from the original intent of the law.

Some opponents of farmland assessment think that they subsidize farmland because their residential properties are assessed at a rate higher than farmland. It's been said many times, and I have a copy of a statewide study that was done by Cook College in 1988 that clearly states, that tax money collected from farmland subsidizes residential properties. As it was stated before, farmland requires very little services; therefore, for every tax dollar collected off farmland, some of that money can be used to offset some of the costs that are generated by residential properties.

Other critics take the position, "If I can make you pay more in taxes, I can pay less." Such logic stops short of reality. If farmland becomes too expensive, then it will no longer remain farmland. There are numerous studies to show what happens in communities as they lose their farmlands. Simply stated, as farmland assessment declines, the taxes go up.

Some have called farmland assessment a tax break for the rich. Most of the people who I know with farmland assessed land could hardly be called rich in the material sense. Most of them are, however, rich in character. Farmland assessment is not a tax break or a loophole. It's an earned benefit, and it's available to anyone who chooses to earn it. And most people work very hard to earn their farmland assessment.

Some have testified that income requirements need to be modernized and have suggested raising the income requirement from \$500 a year to as much as \$10,000 per year. Since November of 1963, when the voters approved the Farmland Assessment Act, the average price of grain has increased approximately 100 percent. During that same time, the Consumer Price Index has increased over 354 percent. The costs of

getting the goods to the market have increased threefold compared to the price for the goods themselves. In 1963, a combine may have cost \$8000, and today that same machine will cost over \$120,000.

Yet in November of 1963, a bushel of corn sold for \$1.42, and just last week, a bushel of corn sold for \$2.18. So to suggest that increasing the gross income by 900 percent is modernizing the law, that's just not the case. That's not modernizing the law; that's vandalizing the law.

If income adjustments are required, we would suggest you changing \$5.00 per acre to \$10.00 per acre. Such an increase would be in line with what happened with the increase in grain prices, and we feel would not create a situation that would produce a significant barrier for most people with farmland assessment.

We'd also like to see the Farmland Assessment Act expand and include the equine activity as suggested by the Department of Agriculture, the New Jersey Horse Council, and others.

Some have compared portions of the New Jersey Farmland Assessment Act with portions of similar acts in other states. Such comparisons are inappropriate, unless the entire property tax picture is compared. I grew up in central Pennsylvania, and I will gladly trade my New Jersey farmland assessed tax bill for a similar tax bill on a property of similar size as mine that doesn't have farmland assessment, with the tax bill that would be generated in Juniata County, for example. The property taxes there are extremely low. So in any comparison done with other states, the whole picture must be examined. Even with the Farmland Assessment Act of 1964, New Jersey farmers still pay the highest property taxes of any farmers in America.

We don't object to annual audits of our land if there is an annual audit to see if there is appropriate activity for us to qualify. But we do object to audits that are done

unprofessionally, haphazardly, and erroneously. We do object to a system that says, "appeal it," when the auditor makes a mistake. We would prefer a system that would require a meeting between the landowner and the auditor when there is a question about qualification. Such a meeting, we feel, would greatly reduce the number of expensive and time-consuming appeals.

In conclusion, you may wonder why we have taken the time to testify if we did not lose our farmland assessments. Why are we taking the time from our hectic schedules to promote the Farmland Assessment Act of 1964? For most of us, the answer is simple: We cherish the quality of life that a farm offers. We cherish the freedom to walk and play outside without fear. We value highly our right to own animals and to grow our own plants. We want our children to understand the work ethic, which can easily be learned on the farm. When someone questions our integrity or threatens our lifestyle, we become concerned. We don't want to abandon our New Jersey homes for a more affordable state, so please keep open space and agriculture in New Jersey affordable.

Thank you for allowing me this opportunity.

SENATOR SINGER: Thank you, Al.

There is one point that I want to bring to your attention, because I know that your group is quite active, and I appreciate their input today. I occasionally get phone calls from a friend of yours, Jack Collins, to update me on what has happened.

One of the concerns brought to our attention was, in some cases in the State, builders -- developers -- have bought property, decided they don't want to build on it right now because the time is not right, so therefore create \$500 worth of agriculture to be able to put that property in a holding pattern. And then, when the time is right, they will subdivide it for building and pay the two years' back taxes, because it is far less than what it would cost to keep that land as buildable land at that point.

That concerns me, because that is not the intent of the Act, to have someone make money on something. Maybe we have to look -- and we're just talking about things -- at a different set of regulations for someone who doesn't live on the land, who is not living there and farming. And I don't mean a person who, for example, owns a farm and then buys other farms that are not contiguous, because that's a different story. We saw that in Burlington County; a person buys other farms. We're talking about someone who is not actively working their land who sells -- or that is a business and just doing that to hold it for future money making activities and taking advantage of the Act. I think that's really the objection I have heard from everybody -- somebody who does that because they really make money at this. They pay the lower taxes, or whatever the case may be, and then when the day of the big dollar comes in, they gain from it. They're not farmers, and they're not living there, and this isn't their homestead; this is strictly a money-making aspect.

So we might look at that from the other side -- the negativism I have found to be in one question that was brought to my attention about that.

MR. LEISTER: We share your concern with that, but we don't have a solution to offer. We certainly share your concern. We are not looking to preserve or protect the Farmland Assessment Act for people who have intentions of abusing it. That's not the intent.

SENATOR SINGER: I know that. I just want to say, there also is another side of the coin we're looking at. It's not just all one way. We've also heard the other side, and we, legitimately, have to look at that aspect of the rules.

Senator Casey, do you have anything?

SENATOR CASEY: No, except, Al, I appreciate your coming today. One good point, at the end there, you mentioned the open spaces, so I guess you're interested not only in the farmland, but the open spaces?

MR. LEISTER: Very much so, because the open spaces are germane to the quality of life that we are looking for.

SENATOR CASEY: Very good. I appreciate hearing that. Thank you very much.

SENATOR SINGER: Thank you, Al. Thanks for coming. It's good seeing you again.

Mr. Tom Bullock, President of the New Jersey Forestry Association.

Good morning.

**T H O M A S B U L L O C K:** Good morning. Thank you for allowing me to be here.

SENATOR SINGER: Thank you for coming.

MR. BULLOCK: This is my first chance to come up to one of these things. I've been the President of the Forestry Association since the beginning of January of 1994. The New Jersey Forestry Association is essentially a group of property owners who own forested lands. Some of the people live on the lands and have five or ten or fifteen acres. Some of them do not, and they have larger parcels. They share a common interest in attempting to maintain their wooded lands in an open state. Some of them are developers who bought big tracts of ground right after World War II and thought they were going to build the next New York City someplace in the central part of New Jersey. The market didn't come that way. Land-use regulations didn't come that way. Pinelands did come that way, and all of a sudden they turned around and said, "What can I do?" And then we see the greening of a lot of these people into environmentalists.

I'll just sort of note, tangentially, for a moment, that I have seen some of these people develop a sensitivity -- or environmental sensitivity -- to their properties that I never thought they would have over the last 10 or 15 years that I have been dealing with them.

I'd just like to draw your attention to a few things that we think are significant in farmland assessment. I really know nothing about horse farms. I know a little bit about truck farms, but we are primarily concerned about the cutting of wooded property, and essentially nonappurtenant property, because they are the people who have a more difficult time qualifying.

If you look in the Farmland Assessment Advisory Report, which comes out every year from Trenton, in the front of the handbook is a formula by which Rutgers advises evaluations be computed. As the gentleman who preceded me very aptly noted, although prices of products have increased since the \$500 requirements were put in, the costs have increased even more. If you take that formula and you analyze where the income components are and where the expense components are, you will see that the formula very adequately addresses the balance between income and expenses. And I would venture to say that if that approach was taken with some of the properties of my Association members, we would have evaluations much lower than the Farmland Advisory Report that comes out.

Some of our farmland values for wooded property, especially in areas where there are high costs of regulation, where someone has to hire a forester or someone has to be badgered by municipal officials who really don't understand the process, you're going to find a negative value. I don't think the purpose of farmland assessment is to create negative values in farmland.

I should back up by saying the best thing that has happened to the forestry aspect of the Farmland Assessment Program has been the revisions that came about in 1986, which thereafter brought in the administrative standards for the mandated Woodland Management Plans. What this has done-- And I would-- What this has done, this has brought the tax aspects and the environmental aspects into an equal position. It makes

them interfaced. A lot of the tension exists in the State today because of the tax issues and the environmental issues. You have a guy who comes out and he puts a plan together -- a management plan for woodlands -- and he is in compliance. He is in sylvacultural, biological compliance with the crop that he has -- with the ground that he has. He is not high grading it; he's not raping the ground. He's providing for threatened and endangered species, and there is a tremendous amount of expense there. When that's done, he then has to turn to the tax aspect of the management of his property and have someone say, "But you didn't generate enough income. You didn't cut enough wood."

Well, if he does cut enough wood, is he going to destroy the habitat for a redheaded woodpecker or a snake or migratory birds which fly through, stop here for four or five days, and then go on down to the cloud forests of Central America?

It's a very, very difficult thing. Since we have the most densely populated State, and because we have a greater demand on our resources than any other state in the United States, New Jersey has been in the forefront of developing this type of regulation in attempting to balance the municipal and public revenue needs with the environmental needs and the property rights of the various property owners.

I will also note to you that I have participated at the Federal level in the U.S. Forest Service Stewardship Program. In late April, we all got together in Nebraska City, Nebraska. There was somebody there from every state. Bigger states had more people; we had three of us from New Jersey. I will tell you that New Jersey is on the cutting edge of forestry regulations and environmental regulations and balancing the competing needs of those two communities. What we have done over the past 20 years in this State is being followed by other states.

Now what happens in other states may not be necessarily good for us, but they are following our lead. Where we are is where they are going to go. I think that because of the work that we're doing here, we will continue to have this type of leadership nationally.

The Bureau of Forestry is the State agency that we deal with primarily, and to whom we turn to for a great deal of assistance. After a management plan is prepared by a certified forester, who is on the list of approved foresters for the State, it's turned in and reviewed by the Bureau of Forestry. In prior years, there were various line items that were-- There was a line item for the Farmland Assessment Program and a review of it. With the budgetary constraints, the amount of money that has been dedicated to this line item has not been changed, but that line item has been lumped in with a number of other items. If you add the sum up of the money that is available for all these purposes, we're probably \$197,000 short in the State this year for that regulation than we were last year.

The Forestry Association realizes that if we have a reduction in the amount of money that is available to run the program the way it was, more pressure will be placed upon the Bureau of Parks and Forests to find innovative ways to review the plans, to inspect the plans, to ensure that the nonfarm people in every municipality have a level of comfort, knowing that if a guy has farmland assessment for trees, he has actually earned it. The inspections need to be done some way, and the Forestry Association is actually trying to work with the Bureau to encourage this type of development so we can get the job done with a smaller budget than we had before.

The biggest problem that I see with changing the income requirements, and although this varies somewhat in different zones of the State-- In Cape May, you have a pine/oak forest down south. As you come further north and you

get up into the lower piedmont, it's not pine/oak, it's oak/pine, because you start getting into the higher grounds. If you get up into the northern and north/central part of the State -- northwestern part of the State -- you get the hardwood forest -- the eastern hardwood forest. And finally, up around High Point, you have some -- a very small area of northern hardwood forest. Although the ground differs and the crop differs, the basic tenants of the law allow flexibility so that the various needs of each town and each property can be met.

The difficulty that you run into, if you change the income requirements, you are going to directly affect the biological mix on these properties. People are going to go in and are going to high grade the ground. "I have to make \$1000 an acre. I have to make this amount of money this year. How much do I have to cut to keep my program going?" The idea of the management plan is to bring sensible, biologically sound management to the woods. If a tax program is then going to come along and pick the guts out of that, it really is self-defeating.

We have put a Certified Forestry Program into place. We have put a Bureau of Forestry Inspection Program into place. We are a major flyway for migrating birds, and we've put that type of protection into place. My Association members do a tremendous amount to further the purposes of stewardship, which is a wonderful environmental thing that kicks benefits out to everybody. A guy who owns an apartment or a small place does not have a nest in his backyard for peregrine falcons or eagles or hummingbirds, but he will see these things migrating through because they come through the woods that my Association members own and manage.

The biological aspect is going to be damaged, or, it could very significantly be damaged, and I would ask that the Committee look at the way that the assessment formula in the Advisory Handbook would affect these evaluations.

We feel that the Forestry Association, in coordination with the DEP, the Bureau of Forestry, and the Division of Taxation, has made great strides in adding to the quality of life in New Jersey. When people drive down the road and there are woods on one side and farms on the other, or when Bell Telephone wants to go out -- or, I guess, Bell Atlantic now -- wants to have a series of photographs for the covers of their various telephone books, they generally come out to our neighborhoods and take pictures of our farms and our trees and things of that nature. We do provide for the quality of life. We do require less municipal revenues.

The other thing that we do is, we continue to keep this property in private ownership, and we continue to pay taxes, although at a lower level. I know of instances where some people have had just hellacious battles with municipalities, with tax assessors, and they've gotten to the end of the process and said, "You know what? Forget about it. I'm going to give my ground to some 501(c)3 organization to give me a tax deduction on it. Give me a big assessment on the ground and I'll give it away for a donation." At that particular point in time, that ground is largely removed from producing any municipal revenue. The State does not have the money to buy all the ground. The State certainly doesn't want, I don't think, to buy all the ground. The counties don't want to buy all the ground. The municipalities need the tax base, and if the idea is to drive tremendous tracts of property into public ownership, the people in the communities who benefit, who get that dividend from the tax dollar, are going to lose it.

I hope that as the Rutgers report comes forward, and as the work of this Committee proceeds, these types of benefits, these abstract benefits for the benefit of all the people of New Jersey are going to be incorporated. I will tell you that the Forestry Association will continue to work. We

will be available to your Committee and to the various agencies within the State, and we look forward to further cooperation and progress.

I really very sincerely-- I was exceedingly proud to be the New Jersey representative in Nebraska City this past year, and I realized after a couple of days what a wonderful job we have done. You know, we'll come back home and we'll say, "That guy has two horses over there, and he's getting farmland assessment, and my taxes are going up." Well, we get caught up in the everyday humdrum. And then you stop for a minute and you go someplace else and you realize, "Hey, we really are the cutting edge." We're doing a very, very good job. If there are going to be changes, they should be modified changes done conservatively so we don't throw the baby out with the bath water.

Thank you very much for the opportunity to be here today. Do you have any questions?

SENATOR SINGER: Thank you.

Senator Casey, do you have any questions?

SENATOR CASEY: No.

SENATOR SINGER: No. Thank you. A very good presentation. We appreciate that.

John Benton, Chairman of the Society of American Foresters, New Jersey Division.

John, you're last but not least.

SENATOR CASEY: Or we can say we saved the best for the last; one or the other.

**J O H N B E N T O N:** Thank you. I have copies of my presentation. I'd like to start by thanking you for the opportunity.

The Society of American Foresters is a national organization of professional foresters consisting of more than 18,000 members nationally. I represent the New Jersey Division

of the Society of American Foresters, which is made up of 160 professional foresters statewide here in the State of New Jersey.

Forestry is the science and art of attaining desired forest conditions to sustain and enhance forest resources for diverse benefits for all -- in short, caring for the forest. Today, forestry is the most regulated agricultural activity within our State, backed by successful legislation. The Farmland Assessment Act of 1964 and the Farmland Assessment Woodland Act of 1988 are serving our State well and are being utilized by more than 3000 forest woodland owners, with more than 250,000 acres of New Jersey forest under management.

Forestry provides many more opportunities to enhance, promote, and perpetuate a healthy and diverse forest ecosystem that will ensure a quality of life that is necessary and enjoyable.

The existing Farmland Assessment Acts of 1964 and 1988 are accomplishing the intended goals, and any change may negatively impact forestry, our natural resources, private enterprise in our State, and the individual property owner.

Key successes and benefits of the existing system are that it promotes forestry and a conservation and stewardship land-use ethic. It promotes the use of professional foresters by property owners and tax assessors. It provides skill development and continuing education incentives and opportunities for foresters. It controls unnecessary and overcutting of trees, and it balances the costs and benefits to manage forests. Income requirement increases may cause property owners to drop out of the program.

The existing system protects the forest resources of our State. It establishes an agricultural check and balance system that could serve as a model for other agricultural practices that exist in our State. It provides green and open space for all to benefit, even though that might be provided

indirectly through forestry. Any change may cause the present 3000 Forest Management Plans that are written on the 250,000 acres of ground to need to be revised or amended at a cost to the landowner. More than 250,000 acres are protected and managed by private woodland owners who are paying taxes and keeping New Jersey green and growing. The existing program ensures that forestry practices are reviewed by professional foresters, and that best-management practices are being utilized. The existing system promotes long-term planning for our State's natural resources.

I see us as a team of professionals caring for our natural resources through conservation and stewardship land-use ethics for present and future generations. I also see forestry having a positive impact which will ensure us significant environmental benefits to share. The forestry connection can benefit, protect, and enhance urban communities, aquifers and watersheds, air quality, energy conservation, and the preservation of all New Jersey's natural resources. The existing laws have begun to address this challenge.

We continue to be directed toward proper management of New Jersey's natural resources, and believe that forestry has a positive impact on our lives. It is an important issue in keeping New Jersey green, healthy, and growing.

Thank you for the opportunity.

SENATOR SINGER: John, I just have one question, and maybe I should have asked it of Tom also. I don't know if you know.

What happens, for argument's sake, if I have 20 acres of land that I'm using for forestry, and there is a forest fire and I lose my 20 acres? What happens to my farmland assessment?

MR. BENTON: Well, I wouldn't determine that as losing. What has occurred is a successional change. You've gone from possibly a more mature or older forest condition to

an early successional forest condition that would-- The management plan would have to be amended or changed to address this unforeseen catastrophe.

SENATOR SINGER: But I wouldn't lose my farmland assessment?

MR. BENTON: No, you would not. You would, hopefully, with the recommendations of a consulting forester, salvage-- If there were any value to the material that would be left on the site -- and we have done that in circumstances, especially in southern New Jersey where fire is a major factor -- but we would try to salvage. We would try to prepare the site, replant, manage natural regeneration to sustain a future stand of healthy, diverse forest ecosystem that could be managed again for the many benefits. It would just be a younger age, and would then be managed onward.

SENATOR SINGER: Thank you.

Senator?

SENATOR CASEY: I don't have anything.

SENATOR SINGER: Thank you very, very much.

MR. BENTON: May I give you these copies?

SENATOR SINGER: Absolutely. Could you give one copy first to the people who are-- The young lady over there, just give her one copy. Thank you. (witness complies)

That's the last person we have scheduled to speak today. I want to thank everybody for coming.

Just to sum up: I plan to meet with, and I'm going to request to meet with the committee from the taxation board to discuss with them some of their thoughts. We will be, certainly, working with Rutgers and the Agriculture Department for the study, and looking at that. I am also, again, waiting and working with the Governor's Office to see exactly what determination is going to be made, whether she is going to appoint that board or not.

But we are going to be looking at some of the testimony we have taken and some of the recommendations with those three groups in mind, so if we do formulate some legislation, all parties will have had some input into that.

This is going to be a continuing concern. It's not going to be solved today. There are some short-term problems we have to solve, and I think that legislatively we can do that. And then there are some long-term solutions we have to look at. Both the Rutgers study, and certainly the Department of Agriculture, will be part of that long-range planning with us.

But I certainly don't want to think that we're leaving this issue alone. We are going to deal with this issue in both the short term and long range.

Thank you very much.

**(HEARING CONCLUDED)**



APPENDIX



TESTIMONY

OF

GEORGE HORZEPA  
DIRECTOR  
DIVISION OF RURAL RESOURCES  
NEW JERSEY DEPARTMENT OF AGRICULTURE

BEFORE THE

NEW JERSEY SENATE'S

SENIOR CITIZENS, VETERANS AFFAIRS AND AGRICULTURE COMMITTEE

HEARING ON THE FARMLAND ASSESSMENT ACT

AUGUST 25, 1994

I THANK YOU FOR THE INVITATION TO DISCUSS THE STUDY ON FARMLAND ASSESSMENT WHICH THE NJDA RECENTLY COMMISSIONED COOK COLLEGE TO CONDUCT. I ALSO THANK SENATOR SINGER FOR HIS LEADERSHIP ON THIS ISSUE WHICH IS SO CRITICAL TO THE CONTINUED VIABILITY OF AGRICULTURE IN NEW JERSEY. THE NJDA UNDERTOOK THIS STUDY IN ORDER TO PROVIDE USEFUL INFORMATION RELEVANT TO A REVIEW OF CERTAIN ASPECTS THE FARMLAND ASSESSMENT PROGRAM. WE EXPECT THAT THESE HEARINGS WILL PROVIDE ADDITIONAL USEFUL INFORMATION, SOME OF WHICH MAY WARRANT IMMEDIATE ACTION, AS WELL AS OTHER INFORMATION WHICH MAY REQUIRE FURTHER STUDY AND DELIBERATION.

THE STUDY WHICH WE COMMISSIONED HAS TWO OBJECTIVES. FIRST IS TO PROVIDE INFORMATION ON THE IMPLICATIONS OF CHANGES IN THE BASIC REQUIREMENTS OF FARMLAND ASSESSMENT (THE MINIMUM REVENUE REQUIREMENT, THE MINIMUM ACREAGE REQUIREMENT, ROLL-BACK PROVISION, AND VARIOUS COMBINATIONS THEREOF) ON LAND IN AGRICULTURE, MUNICIPAL TAX REVENUES, FINANCIAL CONDITIONS OF FARMERS, SIZE DISTRIBUTION OF FARMS AND OWNERSHIP OF FARMLAND. THE STUDY WILL FURTHER ATTEMPT TO ASSESS THE LONG TERM IMPLICATIONS OF REVISIONS TO FARMLAND TAX ASSESSMENT ONLY WITH RESPECT TO CHANGES TO THE BASIC ELIGIBILITY REQUIREMENTS.

THE SECOND OBJECTIVE IS TO ASSESS THE RELATIONSHIP BETWEEN MUNICIPAL SERVICES AND AGRICULTURAL LAND TAXES BASED PRIMARILY ON CASE STUDIES OF SELECTED NEW JERSEY TOWNSHIPS, SIMILAR TO THE STUDY CONDUCTED ON A NATIONAL BASIS BY THE AMERICAN FARMLAND TRUST (AFT). THAT STUDY INDICATED THAT FARMLAND REQUIRES AN AVERAGE OF 33 CENTS WORTH OF SERVICES FOR EVERY TAX DOLLAR IT PAYS. RESIDENTIAL LAND, ON THE OTHER HAND, REQUIRES AN AVERAGE OF APPROXIMATELY \$1.12 WORTH OF SERVICES FOR EACH DOLLAR IT PAYS OUT. IN ESSENCE THIS PORTION OF THE STUDY WILL ATTEMPT TO BETTER CHARACTERIZE FOR NEW JERSEY, AGRICULTURE'S SHARE OF MUNICIPAL SERVICES PROVIDED.

THE STUDY IS NOT INTENDED TO DRAW SPECIFIC CONCLUSIONS NOR TO MAKE RECOMMENDATIONS REGARDING CHANGES TO FARMLAND ASSESSMENT. IT IS NOT THE PURPOSE OF THE STUDY TO ASSESS WHETHER CHANGES TO FARMLAND ASSESSMENT ARE WARRANTED. ITS INTENT IS MERELY TO PROVIDE USEFUL INFORMATION FOR PUBLIC POLICY MAKERS. IF AT SOME POINT IT IS FELT THAT A REVIEW OF THE BASIC REQUIREMENTS OF FARMLAND ASSESSMENT MAY BE WARRANTED, THIS STUDY WILL PROVIDE QUANTITATIVE ANALYSIS TO ASSIST IN THOSE DISCUSSIONS.

FURTHER, THE STUDY IS NOT INTENDED TO COMPARE NEW JERSEY FARMLAND ASSESSMENT WITH THOSE OF OTHER STATES. FARMLAND ASSESSMENT IN NEW JERSEY MUST BE VIEWED IN THE CONTEXT OF WHAT IS BEST FOR NEW JERSEY (AND NEW JERSEY AGRICULTURE) GIVEN OUR STATE'S PARTICULAR AND UNIQUE ECONOMIC, SOCIAL AND LAND USE CHARACTERISTICS. WHAT IS GOOD FOR WISCONSIN OR NEW YORK IS NOT NECESSARILY GOOD FOR NEW JERSEY.

AS I INDICATED IN MY OPENING REMARKS, THE STUDY COMMISSIONED BY THE NJDA IS TO LOOK AT THE BASIC, FUNDAMENTAL ASPECTS OF FARMLAND ASSESSMENT. THERE IS NO QUESTION THAT THERE ARE MANY OTHER ISSUES TO BE CONSIDERED BUT WHICH WILL NOT BE PART OF THIS STUDY. FOR EXAMPLE, IT HAS BECOME APPARENT THAT THERE IS ROOM FOR IMPROVEMENT IN THE ADMINISTRATION OF THE PROGRAM. MORE EMPHASIS NEEDS TO BE PLACED ON EDUCATION AND TRAINING OF THOSE CHARGED WITH OVERSEEING THE LAW REGARDING AGRICULTURAL REQUIREMENTS AND FARMING PRACTICES. IT IS ALSO IMPORTANT TO ADD THE BOARDING AND TRAINING OF HORSES TO THE LAW. CONSIDERATION SHOULD ALSO BE GIVEN TO CONDUCTING A REVIEW OF CASE LAW COVERING FARMLAND ASSESSMENT. IN ANY EVENT, I URGE EXTREME CAUTION IN ANY WHOLESALE REFORM OF THE PRESENT SYSTEM WITHOUT THE BENEFIT OF A THOROUGH AND COMPREHENSIVE STUDY CARRIED OUT IN THE CONTEXT OF STATE AND LOCAL TAX STRUCTURE, AND WITH EXTREME SENSITIVITY TO THE ECONOMIC CONSEQUENCES TO FARM OPERATIONS AND MUNICIPAL REVENUES.

SINCE ITS INCEPTION, FARMLAND ASSESSMENT HAS HELPED SHAPE AND DEFINE ECONOMIC, SOCIAL AND LAND USE PATTERNS THAT MAKE NEW JERSEY A DESIRABLE PLACE TO LIVE, WORK AND INDEED, FARM. FARMLAND ASSESSMENT IS, ABOVE ALL, INTENDED TO HELP MAKE NEW JERSEY AGRICULTURE ECONOMICALLY VIABLE. OPEN SPACE, QUALITY OF LIFE, ENVIRONMENTAL AND OTHER PUBLIC BENEFITS ARE DESIRABLE RESULTS OF FARMLAND ASSESSMENT. WE LOOK FORWARD TO WORKING WITH YOU ON THIS IMPORTANT ISSUE.

5x

**PREPARED STATEMENT ON FARMLAND ASSESSMENT**  
**SENATE SENIOR CITIZEN, VETERAN AFFAIRS AND AGRICULTURE COMMITTEE**  
**AUGUST 25, 1994**

The Division of Taxation has always had a keen interest in improving the administration of the Farmland Assessment Act. In the mid-seventies Director Glaser created a committee, known as the Director's Farmland Assessment Committee. Over the years the Committee reviewed many farmland assessment issues. This Committee still continues to meet and has held two meetings during the current year. Representatives on the Committee include assessors, members of county boards of taxation and county tax administrators. Also included are representatives from this Division, Cook College, Division of Parks and Forestry, Department of Agriculture and the New Jersey Farm Bureau. Over the years many of the initiatives undertaken to improve the administration of the Farmland Assessment Act were first discussed by the Committee members.

Some of the accomplishments that can be traced to the Committee's input over the years are as follows:

1. The farmland assessment application form was expanded requiring an applicant to cite specific activity to support a claim for farmland assessment.
2. The collection of specific farmland activity on the application form has resulted in providing improved data to Cook College in developing ranges of value for use in assessing qualified farmland.

3. The distinction between two different types of woodland which led to an amendment of the law requiring owners of woodland which is not part of a farm to meet additional conditions to qualify for farmland assessment. This amendment to the law has resolved major problems in administration of the law with respect to determining woodland qualification. An approved woodland management plan and annual certification of the use of the woodland must be obtained by the applicant to be eligible for farmland assessment.
4. The Division has continuously been involved in educational programs to improve administration of the law. Personnel from the Division have participated in many special programs and conferences dealing with farmland assessment. Newsletter articles and special mailings are also utilized by the Division to keep assessors and county tax boards informed.
5. In previous years the Division has undertaken review programs monitoring how farmland assessment is being administered . This resulted in of isolating problems and taking measures to improve administration.
6. Several years ago the Division was successful in providing the first comprehensive *Farmland Assessment Handbook* for use by assessors in administering the law. Procedures to be utilized in all aspects of the law and regulations are included in the Handbook. The Assessors now have a single comprehensive source of information readily available because of the new Handbook.

In our review of the Farmland Assessment Act the issue of whether the \$500 gross sales requirement of agricultural or horticultural products should be increased is a question continually asked. Increasing the amount of the minimum gross sales could result in more active devotion of small parcels of land where activity to obtain \$500 in gross sales is often minimum. Although \$500 in sales is met, whether a small parcel is sufficiently devoted to warrant the granting of farmland assessment is a problem that may be somewhat resolved by increasing the minimum sales amount. Effectuating more intense agricultural activity for small land parcels would alleviate subterfuge on the part of certain applicants who have no legitimate interest in farming, but rather are only concerned with reducing their local property taxes.

A complaint often heard is that rollback taxes, which are applicable to the year of the change in the use of the land and the prior two tax years, do not provide a sufficient deterrent to keep the land in farming. Advocates for a longer rollback period claim that currently the benefit afforded under farmland assessment far outweighs the penalty when the use of the land changes. Any changes to modify rollback tax provisions would most likely require a revision to the Constitutional Amendment which received approval of the voters in 1963.

There are certain issues concerning the implementation of rollback taxes which in accordance to the law are to be triggered when the land is applied to a use other than agricultural or horticultural. Should land where less than 5 acres remains after subdivision be subject to rollback taxes if agricultural activity continues? Where less than 5 acres of land is discovered to be devoted to an agricultural or horticultural use should the definition of "change in use" be redefined to provide for the assessment and collection of rollback taxes? Another issue relating to the implementation of rollback taxes is what constitutes fallow land? For example, should the law require certain management practices to be followed in order for the land to be construed as fallow and therefore eligible to maintain its farmland assessment status.

2X

The Division of Taxation will continue its efforts to improve the administration of the law in its present framework and stands ready to provide input that might aid in developing solutions to problems identified for corrective action.

# The Allegheny Society of American Foresters

NEW JERSEY DIVISION



To: Senator Singer  
NJ Farmland Assessment Committee

From: John Benton  
Chairman - NJ Division of the Society of American Foresters

Date: August 25, 1994

Re: Farmland Assessment Act of 1964  
FLA Woodland Act of 1988  
Proposed Changes

The Society of American Foresters is a national organization of professional foresters consisting of more than 18,000 members. I represent the New Jersey Division of the Society of American Foresters which is made up of 160 members state-wide.

Forestry is the science and art of attaining desired forest conditions to sustain and enhance forest resources for diverse benefits for all. In short, "caring for the forest". Today, forestry is the most regulated agricultural activity within our state, backed by successful legislation. The FLA of 1964 and the FLA Woodland Act of 1988 are serving our state well and are being utilized by more than 3,000 forest woodland owners with more than 250,000 acres of New Jersey forests.

Forestry provides many more opportunities to enhance, promote and perpetuate a healthy and diverse forest ecosystem that will ensure a quality of life that is necessary and enjoyable.

The existing FLA Acts of 1964 and 1988 are accomplishing the intended goals and that any change may negatively impact forestry, our natural resources, private enterprise and the individual property owner.

Key successes and benefits of the existing system:

1. Promotes forestry and a conservation and Stewardship land use ethic.
2. Promotes the use of Professional Foresters by property owners and tax assessors.
3. Provides skill development and continuing education incentives.
4. Controls unnecessary and over cutting of trees.

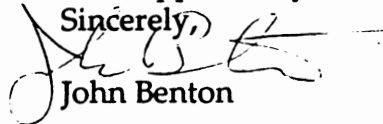
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5. Balances the costs and benefits to manage forests - income requirement increase could cause property owners to drop out of program.
6. Protects the forest resource of our state.
7. Establishes a agricultural check and balance that could serve as a model for other agricultural practices.
8. Provides green and open space for all to benefit.
9. Any change may cause the present 3,000 Forest Management Plans to be revised or amended at a cost to landowners.
10. More than 250,000 acres are protected and managed by private woodland owners who are paying taxes and keeping NJ green and growing.
11. Ensures that forestry practices are reviewed by professional foresters and that Best Management Practices are being utilized.
12. Promotes long term planning of our natural resources.

I see us as a team of professionals caring for our natural resources through conservation and Stewardship land use ethics for present and future generations. I also see forestry having a positive impact which will ensure us significant environmental benefits to share. The forestry connection can benefit, protect and enhance urban communities, aquifers and watersheds, air quality, energy conservation and the preservation of all New Jersey's natural resources. The existing laws have begun to address this challenge.

We continue to be directed toward proper management of New Jersey natural resources and believe that forestry has a positive impact on our lives. It is an important issue in keeping New Jersey green, healthy and growing.

Thank you for this opportunity.

Sincerely,  
  
John Benton

