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P U B L I C H E A R I N G

before

**ASSEMBLY ECONOMIC DEVELOPMENT
AND AGRICULTURE COMMITTEE**

ASSEMBLY BILL 3556

(Establishes a 30-day period during which the State may
exercise its right of first refusal prior to the sale of
certain farmland in the State)

and

ASSEMBLY BILL 3557

(Permits 1981 farmland preservation bond fund moneys to be
used by the State for purchasing fee simple absolute
interests in certain farmland)

February 5, 1987
Room 449
State House Annex
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Joseph Azzolina, Chairman
Assemblyman Jack Collins, Vice Chairman
Assemblyman John T. Hendrickson, Jr.
Assemblyman Richard A. Zimmer
Assemblyman George Hudak
Assemblyman Anthony S. Marsella

ALSO PRESENT:

Assemblywoman Maureen Ogden
District 22

New Jersey State Library

Gregory L. Williams
Office of Legislative Services
Aide, Assembly Economic Development
and Agriculture Committee

* * * * *

Hearing Recorded and Transcribed by
Office of Legislative Services
Public Information Office
Hearing Unit
State House Annex
CN 068
Trenton, New Jersey



JOSEPH AZZOLINA
Chairman
JOHN COLLINS
Vice-Chairman
JOHN T. HENDRICKSON, JR.
JOHN E. ROONEY
CHARLES A. ZIMMER
GEORGE HUDAK
ANTHONY S. MARSELLA

New Jersey State Legislature
ASSEMBLY ECONOMIC DEVELOPMENT
AND AGRICULTURE COMMITTEE
STATE HOUSE ANNEX, CN-068
TRENTON, NEW JERSEY 08625
TELEPHONE: (609) 984-0445

MEMORANDUM

January 27, 1987

TO: Members of the Economic Development and
Agriculture Committee

FROM: Assemblyman Joseph Azzolina

SUBJECT: Committee Meeting - February 5, 1987

(Address comments and questions to Gregory L. Williams,
Committee Aide (609) 984-0445)

The Assembly Economic Development and Agriculture Committee will
convene on Thursday, February 5, 1987 at 10:00 a.m. in Room 449, of the
State House Annex to consider:

A-3151 Requires the Office of Small Business Assistance to
Zimmer/ facilitate arrangements between small and large
Azzolina businesses and to publicize State contracts.

Immediately following consideration of this legislation the committee will
adjourn and reconvene to hold a public hearing on the following bills:

A-3556 Establishes a 30-day period during which the State may
Ogden exercise its right of first refusal prior to the sale of certain
farmland in the State.

A-3557 Permits 1981 farmland preservation bond fund
Ogden moneys to be used by the State for purchasing fee simple
absolute interests in certain farmland.

Anyone wishing to testify should contact Gregory L. Williams,
Committee Aide, at (609) 984-0445.

ASSEMBLY, No. 3556
STATE OF NEW JERSEY

INTRODUCED DECEMBER 15, 1986

By Assemblywoman OGDEN, Assemblymen COLLINS and Shuhltrager

AN ACT concerning agriculture and farmland development and
supplementing chapter 1C of Title 4 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. In addition to those powers and duties provided for by sec-
2 tion 5 of P. L. 1983, c. 31 (C. 4:1C-6) and by sections 5 and 6 of
3 P. L. 1983, c. 32 (C. 4:1C-5 and C. 4:1C-7), the State Agriculture
4 Development Committee also shall have the power to purchase and
5 acquire, in the name of the State, fee simple absolute title to
6 farmland in accordance with section 2 of this act.

1 2. A landowner who wishes to sell a fee simple absolute interest
2 in land enrolled in a farmland preservation program or a munici-
3 pally approved farmland preservation program established pur-
4 suant to sections 13 and 14 of P. L. 1983, c. 32 (C. 4:1C-20 and
5 C. 4:1C-21), respectively, shall give to the committee no less than
6 60 days prior written notice, by certified mail, of the terms and
7 conditions of the proposed sale. A copy of the proposed offer
8 indicating the price which the proposed purchaser has agreed to
9 pay for the land shall be attached to the notice of proposed sale.
10 The notice of proposed sale shall also include any other information
11 which the committee may reasonably require by regulation. The
12 committee shall have the first right and option to purchase the land
13 upon substantially similar terms and conditions, which right and
14 option shall be exercisable for a period of 30 days following the
15 date of receipt of the notice of proposed sale. If the right and
16 option are not exercised by the committee within 30 days, the owner
17 may at the expiration of the 30-day period and at any time within
18 90 days after expiration of the 30-day period, contract to sell the

19 land to the proposed purchaser named in the notice of proposed
 20 sale upon the terms specified therein. If the owner fails to close
 21 upon the proposed sale transaction within the 90 days following
 22 expiration of the 30-day period, the land shall again become
 23 subject to the committee's right of first refusal as provided by this
 24 section.

1 3. A certificate executed and acknowledged by the committee
 2 stating that the provisions of section 2 of this act have been met
 3 by the owner, and that the right of first refusal of the committee
 4 has terminated, shall be conclusive upon the committee and the
 5 owner in favor of all persons who rely thereon in good faith, and
 6 this certificate shall be furnished to any owner who has complied
 7 with the provisions of section 2 of this act, upon request, at a
 8 reasonable fee not to exceed \$10.00.

1 4. The committee shall give priority to the purchase of land in
 2 those cases in which the committee determines that sale of the
 3 land to a third party is likely to lead to loss of all or substantially
 4 all of the land for agricultural use and production or is likely to
 5 negatively impact on the maintenance of a positive agricultural
 6 business climate in the municipality or county in which the land
 7 is located.

1 5. Any land acquired by the committee pursuant to the terms of
 2 this act shall be held of record in the name of the State and may
 3 be sold by the State without complying with the provisions of this
 4 act relating to the committee's right of first refusal.

1 6. Such moneys as are reasonable and necessary to carry out the
 2 intent of this act shall be appropriated from the "Farmland
 3 Preservation Fund" established pursuant to section 5 of the "Farm-
 4 land Preservation Bond Act of 1981," P. L. 1981, c. 276.

1 7. This act shall take effect immediately, but shall remain in-
 2 operative until the approval by the voters of P. L., c.
 3 (now pending before the Legislature as Assembly Bill No. of
 4 1986).

STATEMENT

This bill requires every owner of land which is located within
 a designated agricultural development area and enrolled in an
 approved farmland preservation program to notify the State
 Agriculture Development Committee at least 60 days prior to a
 proposed sale of a fee simple absolute interest in the land. This
 bill also provides for a 30-day period within which the State shall
 have the right of first refusal on substantially similar contract

terms as a proposed purchaser of agricultural land. The bill further provides that if the State does not exercise its right of first refusal within the 30-day period, the owner then may sell the land to the proposed purchaser. If the owner does not close on the proposed sales contract within 90 days after the end of the 30-day period, the provisions of the bill relating to the State's right of first refusal again apply to the land.

The bill also provides for a certificate to be issued to an owner, upon request, certifying that the owner is in full compliance with the provisions of this bill and that the State's right of first refusal has terminated.

The bill sets priorities for the committee to purchase land using its right of first refusal in those cases when it determines that sale of the land would result in the loss of the land for agricultural use and production or would be detrimental to the agricultural business climate in the municipality or county where the land is located. Moneys to carry out the purposes of the bill shall be appropriated from the "Farmland Preservation Fund" established under the "Farmland Preservation Bond Act of 1981," P. L. 1981, c. 276.

Since the funding for this bill is dependent upon amending the 1981 bond act, the bill will remain inoperative until the amendment is approved by the voters in a referendum at the next general election.

AGRICULTURE

Establishes a 30-day period during which the State may exercise its right of first refusal prior to the sale of certain farmland in the State.

ASSEMBLY, No. 3557

STATE OF NEW JERSEY

INTRODUCED DECEMBER 15, 1986

By Assemblywoman OGDEN, Assemblymen COLLINS and
Stuhltrager

AN ACT concerning farmland preservation, amending the title and body of P. L. 1981, c. 276, providing for submission of this act to the people at a general election, and providing an appropriation therefor.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. The title of P. L. 1981, c. 276 is amended to read as follows:

2 An act authorizing the creation of a debt of the State of New
3 Jersey by issuance of bonds of the State in the sum of \$50,000,000.00
4 for the purchase of *fee simple absolute titles to farmland, the*
5 *purchase of* development easements on farmland and to provide
7 State matching funds for soil and water conservation projects;
8 providing the ways and means to pay the interest of the debt and
9 also to pay and discharge the principal thereof; providing for the
10 submission of this act to the people at a general election; and mak-
11 ing an appropriation therefor.

1 2. Section 2 of P. L. 1981, c. 276 is amended to read as follows:

2 2. The Legislature finds and declares that:

3 a. The development of agriculture and the retention of farm-
4 land are important to the present and future economy of the State
5 and the welfare of the citizens of the State. The future of agri-
6 culture has been threatened by suburban development of the State's
7 prime farmland. This process has resulted in significant direct loss
8 of agricultural land, idled many intervening acres, led to conflicts
9 between suburban and agricultural uses, jeopardized the farmers'
10 right to farm, and frequently discouraged new agricultural invest-
11 ment.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

b. The future of agriculture will be determined by economic factors such as the capability to compete with all domestic and international productive areas. A primary factor in production efficiency for agriculture is long term planning in the management of soil and water resources and capital investments. The planning can only be accomplished where profitability and operating stability exist at motivating levels.

c. Capital investment by the State through the issuance of bonds is necessary and desirable to *purchase fee simple absolute titles to farmland*, to acquire, in cooperation with counties and municipalities, development easements on farmland that the same may be retained in economically viable agricultural production and to assist through cost-sharing programs the long term development and management of farmland and the State's natural resources through soil and water conservation projects and programs.

3. Section 3 of P. L. 1981, c. 276 is amended to read as follows:

3. As used in this act:

a. "Commission" means the New Jersey Commission on Capital Budgeting and Planning;

b. "Cost" as used with respect to cost of *fee simple absolute titles*, development easements or soil and water conservation projects, as defined herein, includes interest or discount on bonds; cost of issuance of bonds; the cost of inspection, appraisal, legal, financial, and other professional services, estimates and advice; and the cost of organizational, administrative and other work and services, including salaries, supplies, equipment and materials necessary to administer this act;

c. "Development easement" means an interest in land, less than fee simple absolute title thereto, which interest represents the right to develop such lands for all nonagricultural purposes;

d. "Farmland" means land identified as prime, unique or of State-wide importance according to criteria adopted by the New Jersey State Soil Conservation Committee, and land of local importance as identified by local agricultural preservation agencies established by law in cooperation with local soil conservation districts, and which qualifies for lower property taxation pursuant to the "Farmland Assessment Act of 1964," P. L. 1964, c. 48 (C. 54:4-23.1 et seq.) and any other land on the farm which is necessary to accommodate farm practices as determined by the Department of Agriculture;

e. "Farmland preservation program" means any program authorized by law which shall have as its principal purpose the long term preservation of significant masses of reasonably contiguous

28 agricultural land and the maintenance and support of increased
29 agricultural production as the first priority use of that land;

30 f. "Fund" means the "Farmland Preservation Fund" created
31 pursuant to section 14 of this act;

32 g. "Secretary" means the Secretary of Agriculture;

33 h. "Soil and water conservation project" means any project de-
34 signed for the control and prevention of soil erosion and sediment
35 damages, the control of nonpoint source pollution on agricultural
36 lands, the impoundment, storage and management of water for
37 agricultural purposes, or the improved management of land and
38 soil to achieve maximum agricultural productivity.

1 4. Section 5 of P. L. 1981, c. 276 is amended to read as follows:

2 5. Bonds of the State of New Jersey in the aggregate amount of
3 \$50,000,000.00 are authorized for the purpose of the preservation of
4 farmland for agricultural use and production. The proceeds from
5 the sale of the bonds shall be deposited in a special fund to be
6 designated the "Farmland Preservation Fund" for appropriation
7 to the Department of Agriculture to provide grants to counties
8 and municipalities for up to 50% of the cost of acquisition of
9 development easements on farmland [and], to provide *funds to*
10 *the State Agriculture Development Committee, established pursu-*
11 *ant to section 4 of P. L. 1983, c. 31 (C. 4:1C-4), for up to 100% of*
12 *the cost of acquisition of fee simple absolute titles to farmland, and*
13 *to provide grants to landowners for up to 50% of the cost of soil*
14 *and water conservation projects. All acquisitions or grants made*
15 *pursuant to this act shall be with respect to land devoted to farm-*
16 *land preservation under programs established, subsequent to the*
17 *effective date of this act, by a board, committee, or other public*
18 *body specifically authorized by law to do so.*

1 5. For the purpose of complying with the provisions of the State
2 Constitution this act shall, at the general election to be held in the
3 month of November, 1987, be submitted to the people. In order to
4 inform the people of the contents of this act, it shall be the duty
5 of the Secretary of State, after this section shall take effect, and
6 at least 15 days prior to that election, to cause this act to be pub-
7 lished in at least 10 newspapers published in the State and to notify
8 the clerk of each county of this State of the passage of this act,
9 and the said clerks respectively, in accordance with the instructions
10 of the Secretary of State, shall cause to be printed on each of the
11 said ballots, the following:

- 12 If you approve the act entitled below, make a cross (×), plus
 13 (+), or check (✓) mark in the square opposite the word "Yes."
 14 If you disapprove the act entitled below, make a cross (×), plus
 15 (+), or check (✓) mark in the square opposite the word "No."
 16 If voting machines are used, a vote of "Yes" or "No" shall be
 17 equivalent to such markings respectively.

	Yes.	<p>USE OF 1981 FARMLAND PRESERVATION BOND MONEYS FOR PURCHASE OF FARMLAND FOR PRESERVATION PURPOSES</p> <p>Shall the amendments to the "Farm- land Preservation Bond Act of 1981," (P. L. 1981, c. 276), authorizing farmland preservation bond moneys to be used for purchase by the State Agriculture De- velopment Committee of fee simple absolute titles to farmland for farmland preservation purposes, be approved?</p>
	No.	<p>INTERPRETIVE STATEMENT</p> <p>Approval of these amendments would provide for an additional use of the 1981 Farmland Preservation Bond moneys by permitting the State Agriculture De- velopment Committee to purchase fee simple absolute titles to farmland for the purpose of preservation of farmland for agricultural use and production.</p>

18 The fact and date of the approval or passage of this act, as the
 19 case may be, may be inserted in the appropriate place after the
 20 title in the ballot. No other requirements of law of any kind or
 21 character as to notice or procedure, except as herein provided, need
 22 be adhered to.

23 The votes so cast for and against the approval of this act, by
 24 ballot or voting machine, shall be counted and the result thereof
 25 returned by the election officer, and a canvass of the election had
 26 in the same manner as is provided for by law in the case of the
 27 election of a Governor, and the approval or disapproval of this act
 28 so determined shall be declared in the same manner as the result
 29 of an election for a Governor, and if there shall be a majority of
 30 all the votes cast for and against it at the election in favor of the
 31 approval of this act, then all the provisions of this act not made
 32 effective theretofore shall take effect forthwith.

1 6. There is appropriated the sum of \$5,000.00 to the Department
 2 of State for expenses in connection with the publication of notice
 3 pursuant to section 5 of this act.

1 7. This section and sections 5 and 6 of this act shall take effect
 2 immediately and the remainder of this act shall take effect as and
 3 when provided in section 5 hereof.

STATEMENT

This bill would amend various sections of the "Farmland Preservation Bond Act of 1981," P. L. 1981, c. 276, to permit the State to use moneys from the "Farmland Preservation Fund" to purchase fee simple title to farmland enrolled in certain farmland preservation programs. By permitting the farmland preservation moneys to be used in this way, this bill would provide the State with an additional method of financing and implementing its farmland preservation program. Under current law, farmland preservation fund moneys can be used only to finance up to 50% of the cost of acquisition of development easements on farmland by local governments and to provide grants for financing up to 50% of the cost for soil and water conservation projects on land enrolled in farmland preservation programs established by law.

Because this bill amends the 1981 bond act, this amendment is required to be submitted to the voters in a referendum at the next general election.

AGRICULTURE

Permits the use of 1981 farmland preservation bond fund moneys to be used by the State for purchasing fee simple absolute interests in certain farmland.

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Assistant Secretary
Department of Agriculture, and
Acting Chairman
Study Committee on Farmland

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Executive Director
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Walter Ellis, Jr.
President, New Jersey Farm Bureau

27

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New Jersey State Library

ASSEMBLYMAN JOSEPH AZZOLINA (Chairman): Now we're going to start the hearing on the following two bills: A-3556, and 3557, introduced by Marie Ogden. Want to describe the bills?

MR. WILLIAMS: Okay, first of all, A-3556. This bill requires any owner of land which is enrolled in an approved farmland preservation program to notify the State Agricultural Development Committee at least 60 days prior to the proposed sale of a fee simple absolute interest in the land. This bill will also provide a 30-day period within which the State shall have the right of first refusal on substantially similar contract terms as the proposed purchaser of the agricultural land. The bill further provides that if the State does not exercise this right of first refusal within the 30-day period, the owner may then sell the land to the proposed purchaser. If the owner does not close on the proposed sale contract within 90 days after the end of the 30-day period, the provisions of the bill relating to the State's right of first refusal again apply to the land. The bill also provides for a certificate to be issued to an owner upon request certifying that the owner is in full compliance with the provisions of the bill, and that the State's right of first refusal has been terminated.

The bill requires the State, in purchasing land using its right of first refusal, to give priority to cases in which it determines the sale of the land would result in a loss of the land for agricultural use and production, or would be detrimental to the agricultural business climate of a municipality or county in which the land was located. Moneys to carry out the purposes of the bill shall be appropriated from the Farmland Preservation Fund established under the Farmland Preservation Bond Act of 1981.

Since the funding for the bill was dependent upon amending the 1981 Bond Act, the bill will remain inoperative until the amendment is approved by the voters in a referendum in the next general election.

ASSEMBLYMAN AZZOLINA: All right. Can you tell us in simple language, now, one sentence each, what these bills do?

MR. WILLIAMS: Okay. This changes the present Farmland Preservation Bond Act to permit moneys from that Bond Act to be used to buy land outright for the purposes of farmland preservation. It gives the right of first refusal to the State, so that if there's any effort to sell land that's enrolled in a farmland preservation program, the State gets the chance to come in and buy on the same terms, so that they can then preserve it for farmland use. And of course they can sell it back.

I can read the formal description of the second bill. It's a package together. One gives the right of first refusal, and the other one is to change the Bond Act.

So, 3557 is the second bill. This bill would amend the Bond Act to permit the State to use moneys from the Bond Act to make the purchases that I've just described. By permitting the Farmland Preservation moneys to be used in this way, the bill would provide the State with an additional method of financing and implementing its Farmland Preservation program.

Under the current law, Farmland Preservation Fund moneys can be used only to finance up to 50% of the cost of acquisition of development easements on farmland by local governments, and to provide grants for financing up to 50% of the cost for soil and water conservation projects for the land enrolled in approved farmland preservation programs.

Because the bill amends the 1981 Bond Act, the amendment is required to be submitted to the voters in referendum.

So, that's the two parts.

ASSEMBLYMAN AZZOLINA: All right. Does anybody have any questions on what he just -- or need any clarification before we hear from anybody? (no response)

Okay, do we have anybody here that's for the bill who would like to speak?

ASSISTANT SECRETARY S A M U E L G A R R I S O N: Mr. Chairman, I'd like to make a statement.

ASSEMBLYMAN AZZOLINA: Come up here, please. Give your name, and who you are with. Is there anybody here, also, opposed to the bill?

ASST. SECRETARY GARRISON: Good morning, Mr. Chairman, my name is Samuel Garrison. I'm Assistant Secretary, Department of Agriculture, and I'm appearing here this morning as the acting chairman of the Study Committee on Farmland Preservation, such Committee being established by Secretary Brown in November 1986.

The Committee, which is comprised of nine members representing various interests associated with the Farmland Preservation Program, ranging from representatives of the State Agricultural Development Committee, which administers the program, the county agricultural development boards, which are involved at the county level, as well as other agricultural and conservation interests. Now, this Committee has been in operation since November, and comes before you this morning to give a -- what I would call -- preliminary statement in support of, in particular, bill number A-3557.

I put in that type of qualification because the Committee itself is still conducting its operations and would certainly like the opportunity to also return at a later date with a more complete statement in regard to both bills. However, we felt that since the hearing was going forward, that it was appropriate for us to at least share our preliminary thoughts with you concerning the two bills.

As the Committee looked at the Farmland Preservation Program, a couple of major and very important issues seemed to be confronting that program. One issue being, that time involved from the point when a landowner was interested in participating in the program of selling his development easements and thereby retaining that land for permanent

agriculture, and secondly was the need to expand the interest and participation in that program. Now, as a generalization in support of those two objectives, we feel that A-3557 does add impetus to reaching those two objectives.

First of all, we found that in terms of trying to go out and purchase development easements with all the requirements that are associated with obtaining land in the public interest, the amount of time involved in surveys, in terms of appraisals and so forth that it often takes from perhaps 12 to 18 months or even more to consummate this particular kind of transaction. We feel that when an opportunity exists, and a landowner is in a position where he is willing to offer his land to the Farmland Preservation Program, that that is a more expeditious way to get that land under the preservation program. Again, the intent of requiring the fee simple is to then put the restrictions on the land and then in some way resell the land back to the private land market. So again, the objective is to try to accelerate the acquisition of development easements, but rather than going directly to the easement through purchase, this would allow another option of acquiring fee simple, the restriction on the land could be put on it, and then it could be resold back to the agricultural land user.

So, I think in that respect at this point in time we feel that that objective is a desirable one.

To the second objective of trying to expand the interest in the program, we have found quite a range of interest and willingness to participate in the program by various counties. In other words, some counties have come forward with proposed matching grant money on a 50-50 basis; some counties have not. To that end we feel that increasing the matching formula, so to speak, going from the maximum, which is not 50% of matching funds, and increasing that-- Now at the moment the proposal is for 100%; I think at this point

in time we would look at that as being a desirable goal. However, we feel -- and at a later date we may be able to refine this -- that perhaps the implementing legislation might not be that high. But, I think the objective of increasing the matching amount whereby the State would contribute more than 50% so that the county would be in a position of contributing less is a desirable goal.

I think that's about it in terms of comments on A-3557. Bill A-3556 is one that again we've only been able to give some preliminary review to at this time. We do have a few general comments, but again, these are quite preliminary in nature.

As I indicated in regard to the Bond Act, again the objective would be to have the land acquired some way, have the land resold then with the restriction so it would be retained in agriculture -- and again, that concept would have to be followed through with the implementing legislation.

Another element that we feel would have to be in the bill is some mechanism to return the funds that would be acquired once the land was resold with the restrictions for retention in agriculture -- to have those funds in some way being returned to the Farmland Preservation Program.

There are a couple of other thoughts that we have, and again we're not in a position to give a specific opinion, but in the bill there is a proposal to restrict the eligibility, so to speak, of the direct purchase to lands which are in eight-year farmland preservation programs. We're looking at that in a sense of whether that shouldn't be broadened, which might have the tendency to allow additional land to come more quickly into the Farmland Preservation Program. But again, we're not at the point where we're making a specific recommendation on that point.

I think in summary, again, we feel that, particularly bill A-3557 -- and we know there is a time frame that surrounds that bill since it does deal with a ballot question, and again

in general we're in support of it. And again, we would like, though, the opportunity to make a final position statement if you don't take action on the bill today. It again meets the objectives that the Study Committee feels are essential, and that is to try to get more participation in the Program more quickly, and also would allow the option of being available to acquire the land in a faster manner as well as make it more attractive to landowners.

If I might, Mr. Chairman, we do have several members of the Study Committee on Farmland Preservation with us this morning. As a matter of fact, we started out this morning with a meeting of that Committee, and we will be reconvening that great group after this hearing. I believe today we have with us -- I'd just like to introduce them: Mr. Herman Panacek, member of the State Board of Agriculture from Hunterdon County; Mr. John Kellogg, who represents the County Agricultural Board, also from Hunterdon County; and also Mr. Peter Vermeulen, representing the County Agriculture Development Board, from Somerset County. And, I believe that's it at the moment.

I'd be glad to open for any questions, or maybe if any of the members of the Committee would have a comment, if they would feel free to come forward and I'd relinquish my chair to them.

ASSEMBLYMAN AZZOLINA: Do you have any questions?
(speaking to Committee)

ASSEMBLYMAN MARSELLA: Yeah, I just want to ask a couple questions. As I understand with A-3556, what we're doing with this legislation, if you're in a preservation area, if the county designates certain amounts of ground -- for instance, I'm from Gloucester County, and I know our Ag Board's been working on various pieces of ground they want to include in the designated farm preservation area.

As I understand the bill -- and maybe I don't understand the bill, that's why I'm going to ask the question -- if a farm is in the designated area, and someone wants to purchase this piece of ground, whether it be a developer or whomever it may be, what we're saying under the bill is that we're going to give the State first right of refusal, which means to me, and I think Jack may know this too, is the biggest problem we've been having in Gloucester County is the appraisals haven't been coming up nowhere near what our farmers in the Gloucester County area feel their land is worth. What this bill says -- and it could put a stumbling block in the whole program -- if I go to a farmer and say, "I want to give you \$5000 an acre for that piece of ground. I think I can develop it or I think I can do something with it," it could stop the whole program because what's going to happen is that we're going to require this farmer to then say to the State that, "Hey, I have developer 'X' who wants to give me \$5000 an acre for my ground, and under this bill, I'm going to go to the State and say, hey, under this legislation you have the right to buy it first." What I'm saying is, if that's what this bill does, it's going to put a tailspin on the whole program, because we're going to have farmers holding out and saying, "Well, we can get \$5000 an acre on the private end," and force the State to commit to a price per acre. Because I know what you have to go through in order to get people on the program. You have go through just what you said, the surveys, the estimates on what the ground's worth, and the last sales in the last ten years.

That's what I'm concerned about in this bill. I'm not-- (word inaudible) the preservation of farmland, but I don't want to see us say that. Because what will happen out in the farm community -- because let's face it, they worked their land a long time, and a lot of years, and they at least want to get compensated for what they think it's worth. Is that what it does? I mean, it basically sounds like that's what it does.

ASST. SECRETARY GARRISON: All right, before I answer, I should introduce my associate, who is Don Applegate, who is Executive Director of the State Agricultural Development Committee. I don't know whether -- Don, would you like to make any comments first? (negative indication)

I see the difficulties in terms of an offer by, in a sense, a third party to a farmer. That's also an area that we're looking at, because there would have to be some way to kind of measure that offer against some kind of neutral market value appraisal, and so forth. So, there is that difficulty of someone coming in, making the offer, could cause other landowners to kind of pull back and not want to participate in the program until they got an offer.

ASSEMBLYMAN MARSELLA: Well, just let me give you an example real quick. I'm from Washington Township, and we have David Duffield (phonetic spelling) who has a big farm area, and what he -- it's really big -- and he does a lot of vegetables, and he has a road stand, and he does a lot of things. Now, he was thinking about going into the agricultural program, but he's had people -- developers; Washington Township's a growing town, growing community -- he's had developers come to him and offer him \$20,000 an acre. He'd like to be in the farmland preservation thing, but they're not nowhere near offering him \$20,000. Because the highest land under recreation in our town was sold for \$6900 an acre.

And that's what I'm saying. This is what could trigger under this bill. We could be forced into saying -- okay, David Duffield would say, "Okay I got a \$20,000 bona fide offer, now I'm going to exercise my right on this bill, and say the State can have first refusal to offer me." I know the State can say, "No, we don't want it, it's too much money, and all that, but it could tailspin in a lot of other communities, I would think.

ASSEMBLYMAN ZIMMER: Tony? Mr. Chairman, with your permission? Section 2, line 13 of 3556, it makes clear that if the State is going to exercise the right of first refusal, it has to do it on the same terms and conditions. So, you, I think, were assuming that the State could do it on the same basis on which eminent domain is conducted. But, if your friend is offered \$25,000 an acre, the State cannot exercise the right of first refusal for anything less than \$25,000.

ASSEMBLYMAN MARSELLA: Okay.

ASSEMBLYMAN ZIMMER: There's another point, which is that--

ASSEMBLYMAN MARSELLA: That's what I was trying to drive at. Anything less than that, he can't. It has to all come out the same way.

ASSEMBLYMAN ZIMMER: So, maybe the State won't want to do it, because it's too high, but the State can't undercut it.

ASSEMBLYMAN MARSELLA: I understand that, but what I'm saying is, Richard, if we go into other areas -- and what's happening in my district, anyway, and in our area, is that our farmers feel that the appraisals are not coming up to what their land's worth.

ASSEMBLYMAN ZIMMER: But here you're not talking about appraisal; you're talking about a contract of sale.

ASSEMBLYMAN MARSELLA: I understand that. I'm just trying to compare the system that we have in place right now, compared to this amended system we're going to have. What will happen, I feel, is in our area, which is a developing area, is you're going to have Gloucester County farmers saying, "Well we'll wait for this bill, and then we'll get some offers come in, and offer us \$10,000 an acre, and go back to the State and say, hey, look they think it's worth \$10,000 an acre."

ASSEMBLYMAN ZIMMER: I see.

ASSEMBLYMAN MARSELLA: That's the only think I think we should be cautious about in this bill.

ASSEMBLYMAN AZZOLINA: Excuse me, I brought Assemblywoman Ogden here so she could participate in the whole discussion, okay. So, if she wants to step in at any time she can. Yes?

ASSEMBLYMAN HENDRICKSON: With Dick, when you said the contract of sale -- the appraisal should be directly involved with the contract of sale with the farmer, depending on whether the farmer has had his own appraisal for highest and best use, or recreational use, with the easement in it.

ASSEMBLYMAN ZIMMER: We're not talking an abstraction here, we're talking about a farmer who's actually gone into contract with a specific buyer.

ASSEMBLYMAN HENDRICKSON: But it started someplace in finding value. He had to come up someplace originally to the value of his land. He either had that in writing from a competent appraiser, or he somehow justified what he wanted before he signed the contract. He has to have a value.

ASSEMBLYMAN ZIMMER: Oh, if somebody offered me a million dollars for my farm, I wouldn't have to go to an appraiser. I'd--

ASSEMBLYMAN HENDRICKSON: Well, all right. And they're saying on the other side it's only 6900.

ASSEMBLYMAN MARSELLA: That's what the appraisal would come up in my town.

ASSEMBLYMAN HENDRICKSON: There had to be a reason.

ASSEMBLYMAN MARSELLA: The latest land sales in recreation lands were about 6900.

ASSEMBLYMAN HENDRICKSON: Okay, that's the point I'm making. It's at recreational use, not highest and best use.

ASSEMBLYMAN MARSELLA: That's right. That's what they do. When they go out and appraise these farms, they don't take what a development price would be if sold.

ASSEMBLYMAN HENDRICKSON: That isn't right. That's not right.

ASSEMBLYMAN MARSELLA: They try to compare it to recreation, agricultural turnover -- I think I'm right on this. Maybe I'm not. That's why I'm here.

ASSEMBLYMAN HENDRICKSON: I don't know what they do. I make a living doing appraisals, okay, set on nationals. Okay? And if they are going to appraise the land it should be on its highest and best use, okay, and then in the consideration of the recreational easement, and give them the differential between the two. And if they're not doing it that way, then the farmer's getting hurt, and we should send out, through the leadership of this State, to the farmers a way to do it. That's all I'm saying.

ASSEMBLYMAN AZZOLINA: Okay. Maureen?

ASSEMBLYWOMAN OGDEN: Mr. Chairman. As Assemblyman Zimmer pointed out on line 13 of section 2, it's upon substantially similar terms and conditions. In other words, it was my intention that the State would meet the price that was being offered at the market to the farmer. And then, of course, turn around and sell it to the highest bidder without the development rights.

Now, this is really a way of doing what's already provided for under the 1981 bond issue, of purchasing easements. Mr. Chairman, this idea actually came to me when I was down at the Legislative farm tour in your county -- in Monmouth County -- and people were, a couple of years ago, talking about how--

ASSEMBLYMAN AZZOLINA: I can't believe the cost of land in Monmouth County now, to tell you the truth. It's unbelievable.

ASSEMBLYWOMAN OGDEN: --how unfortunate it was that the farms that were there 10 years previously were practically all gone. And, so I asked them, well what about the bond issue of 1981, the \$50 million, and the fact that you can offer your easements? And the answer was, and I think it's still true

today that only \$1.5 million has been spent of that \$50 million. So therefore, what's happened is either the farmers don't understand the concept of offering the easements for sale on a voluntary basis, they don't like the concept, they don't think it gives them fair value. And another key point is that it depends upon their voluntary participation.

So, the idea came to me, why not, through the planning that's been done by the State Board and others involved with our agriculture -- why not put the State in a position of having a right of first refusal? They don't have to buy it; I mean, if they decide a price is too high, and is really inflated, then they don't have to buy it. And in fact, it seems to me that--

ASSEMBLYMAN MARSELLA: But don't you have an alternative?

ASSEMBLYWOMAN OGDEN: --the various guidelines would have to be set up here, because there's a limited pot of money, and obviously the group that's administering this certainly couldn't buy everything.

ASSEMBLYMAN MARSELLA: But, let me ask you this. But, don't you have triggers in here, so many days? Thirty days for refusal if the sale is not consummated--

ASSEMBLYWOMAN OGDEN: Oh, well that's right.

ASSEMBLYMAN MARSELLA: Ninety days, it has to go back to the State again. Some of these sales may take longer than that. I mean, if somebody's going to offer a lot of dollars for a piece of ground, they're going to say, we'll buy your ground if we get X, Y, Z approvals, and it could take a year. That could be under options for two years. Does it provide for that? It seems like to me you said in here -- I didn't read the whole bill, I apologize for that -- but it says after 90 days, if the sale wasn't consummated, then the sale would have to go back to the State again, and say, you know, the State has another opportunity to come back in after 90 days. I can see

where we put the landowner on notice every 90 days, you have to still keep coming back to the State; we still may want to buy it.

ASSEMBLYWOMAN OGDEN: I think that if the State doesn't act, they give up their right to act. I've forgotten the exact technicality of that.

ASSEMBLYMAN MARSELLA: I just read it--

ASSEMBLYWOMAN OGDEN: Pardon?

MR. WILLIAMS: Perhaps I could offer some clarification. It's 60 days prior to when you actually expect to sell it. So, you can have -- you know, the actual sale -- so you could have, if it's a year process to do that, you just wait until the last 60 days, when it looks like everything's lined up and you're ready to go in 60 days, then you do it.

ASSEMBLYWOMAN OGDEN: What I was really trying to do with the limitations is to allow the farmer to have a reasonable period in which a decision could be made and not just keep them hanging. And as I say, with a limited amount of dollars, if the State should decide that \$10,000 an acre, or \$15,000, or whatever it's going to be is way too much-- And as a matter of fact, this is really more of a tool in areas where there isn't tremendous development pressure, because where there's tremendous development pressure then you've got acres of farmland up to 40 and 50,000. And a tool that we would use under those circumstances would be, I feel more appropriate, something like what Bob Shinn is proposing with the Transfer Development Rights.

But, this is-- What I'm proposing here is just another way of helping to preserve farmland. It's basically the same thing that's being done now, but it's not on a voluntary basis. It's that the State is saying ahead of time, they're planning ahead of time, they're figuring out the areas that they really want to save -- your prime agricultural areas -- and when that comes on the market that they are going to

pay, as it says here, substantially the same as the market is offering. And then, the value of the development rights are going to be decided by the market, because whatever is the difference between what the State buys it for and the State turns around and sells it for without the development rights are going to be the market of the development rights.

ASSEMBLYMAN MARSELLA: But let me ask you this. Is this amending the old system? Are we still going to have the old system?

ASSEMBLYWOMAN OGDEN: You still have the old system too.

ASSEMBLYMAN MARSELLA: We'll have two systems then. That's what I'm concerned about.

ASSEMBLYWOMAN OGDEN: No, you can do it either way.

ASSEMBLYMAN MARSELLA: Well, I know you can. But you're going to have-- What you're going to do is you're going to have the old system in place--

ASSEMBLYWOMAN OGDEN: The old system, basically, is not working, Tony, when you come right down to it. If you spend \$1.5 million of \$50 million in a period of six years, no one can say the old system is working.

ASSEMBLYMAN MARSELLA: Well, that's what I'm saying. We either have to do one system-- We either have to get rid of the old system, and go with this system-- I don't have any problems with this system, by the way. I think it's fair, as long as that farmer has a bona fide offer. I'm saying, if we leave two systems in place, I think we're going to have some problems. We should do away with the old system -- it's not working; only spent \$1.5 million, or whatever it is -- or maybe we ought to give up this system. I think some of the farmers may feel more comfortable under the Ogden system here.

ASSEMBLYMAN ZIMMER: If I can say this, I think that both proposals complement each other. You don't have to do away with the other system. There are some farmers who find it

appealing. And, I think that we're developing some credibility and we're developing some appeal for this, and the \$1.5 million is going to go up very soon. This Tuesday, I attended a signing for the creation of a 250 acre district in my township, Delaware Township, where one of the most beautiful valleys in the State has been permanently preserved through the sale of easements.

This proposal would have been a great help in facilitating that preservation. It was preserved anyway. What had happened was there was an elderly gentleman who had farmed a farm in the heart of that valley for many years. He wanted to move out and move into downtown Sergeantsville, and wanted to retire. And, in fact, he called me when the program preservation law was in the Legislature, and said, "I'd like to sell my development rights." Well, I said we don't have the legislation passed yet. The bond issue had already been passed. Six years is not a fair time frame to talk about, because although the bond issue had been passed, it took some time more. It wasn't until 1983, until the Agriculture Retention and Development Act -- the enabling legislation -- was signed into law; and then it took a better part of a year to appoint the Agricultural Development Committee.

So, in any event, he wanted to participate in this, but there was a lot of red tape involved. And finally, somebody came to him -- a developer came to him -- and wanted to develop this farm in a three acre grid, and offered him cash on the barrel head, and he sold it. A private foundation had to come in and buy it back from the developers at something of a premium. And individual citizens of Delaware Township had to come up with pledges of \$30,000 to hold that foundation harmless in the event that they couldn't dispose of it and break even.

If the county was in that position, they could have -- if the county was in that position to buy it instead of the

developer, I think the farmer would have been delighted to do so. But there were two adjoining farms where the farmers wanted to stay on the farm. In one case, there were two sons; one wanted to farm and the other didn't. They would have had to have sold it to settle the estate that owned the farm. In this case, the sale of development easement is just exactly right. They didn't want to sell title to anybody else. They wanted to sell the easement. When they did, and they got the money, the one son was able to buy out the other son.

And the third farm, the parents of those two sons wanted to keep farming; they didn't want to sell out. They wanted to realize the development value for their place was a retirement, and they were able to do that. You didn't have to sell a fee simple to do it.

So, there are any number of scenarios involved. We have another farm in Franklin Township in Hunterdon County where a young family farm couple decided to sell their easements. They're very happy about it, and they have no interest in selling it in fee.

So, it goes both ways. And this would make it much more effective and the government would be able to act as quickly as the developers do, which is the problem right now. You can't-- Unfortunately, this closing took the better part of two years to consummate. And it required an incredible amount of patience and commitment on the part of the landowners.

So, I commend Assemblywoman Ogden for proposing this. The concern that I have is whether it has to be the right of first refusal, which, if you've engaged in real estate transactions, really reduces the value of a property subject to that, simply because nobody really wants to buy -- go through all the effort to negotiate a contract when they know that it can be pulled away from under them. Could you simply have a notice requirement without the requirement of the seller to sell it to the State if the State merely matches, it doesn't

better the terms? It seems to me that would-- Right of first refusal in real estate -- and perhaps Assemblyman Hendrickson could give us more expert opinion on it -- I think it substantially decreases the value of the property that's subject to it.

ASSEMBLYMAN HENDRICKSON: Anything the State gets involved with, I think. You want me to talk now? (laughter) What I would say-- When you said a million dollars: If you're offered a million dollars for your land, you better get an appraisal, because that guy knows something you don't know. Okay?

It isn't how many dollars you're going to get, it's the--

ASSEMBLYMAN ZIMMER: Maybe he doesn't know something I know. (laughter)

ASSEMBLYMAN HENDRICKSON: Yeah. And you know, as an attorney in real estate, it's both being knowledgeable of all the uses of the land -- okay -- arms length transaction. And perhaps when you don't have all the knowledge of all the uses of the land, you're selling something that you shouldn't sell for that price, no matter what you're offered. And that's how I feel about the farmers.

And I also have some reservations, because I'd rather see it as Dick put it, in other words a notification to the farm that it's a possibility of going that way at that dollars. This will put a problem out there to the farmer in a reduced value, and I just don't take that-- DOT, I think, can tell you -- because I think there's a lot of the majority of State appraisals, if not all the State appraisals, are going through DOT now, as versus DEP.

ASSEMBLYWOMAN OGDEN: But, Dick, if it's just a notice, then the State it seems to me, might get in a bidding war.

ASSEMBLYMAN ZIMMER: Perhaps.

ASSEMBLYMAN AZZOLINA: I'll tell you, I'm not going to buy any land if this keeps up. Did you want to say something, Mr. Applegate?

D O N A L D D. A P P L E G A T E: Yes, if I may clear the air just a little bit on the appraisal process. The appraisals that we use are each county currently can pick from a broad list of appraisers pre-approved by the State Committee, because we have no condemnation capabilities in our program. These appraisers are not going there with the attitude or the mentality that we're going to get it one way or the other. They appreciate that it's a voluntary program. And I think they appraise accordingly. The objective is to offer the landowner a fair value.

The primary determining factor of the final appraisal is -- and I don't mean to mean that they're biased; don't get me wrong; they're giving a fair -- the determining is the full market value, which is the easiest to determine and the thing that everybody is most proficient at. And what they have to use for that, and Assemblyman Hendrickson, you can clear me up on that, is current or established arms length transactions, not contracts of sale based on some promissory condition of sale down the road a few years.

ASSEMBLYMAN HENDRICKSON: You don't know all the backgrounds in the contract of sale. Absolutely right. You don't know what's in the -- the old rocker--

MR. APPLGATE: In an escalating land value market, that is probably the thing that's having the biggest negative effect on the easement sale purchase, because landowners are hearing of the proposed contract values of their neighbors and so forth, and they are assuming that that is the price it sold for.

Frequently, when we ask them specifically privately about, see that was quite a price, the response is, well you know, no money has really changed hands yet. And so, the

appraisers cannot use that. They take what land has actually closed for. Frequently, it's lower than what the offers are made.

And that's where the rub comes in, as some of your constituents have found out.

ASSEMBLYMAN HENDRICKSON: Just quickly, if I may. In the Fannie Mae forms -- now residential appraisals; they're using the Fannie Mae Federal form -- they don't want six months or longer. One time when we appraised residential property using the Fannie Mae form, we could use what was known as a time factor. We got the most similar piece of property in a residence, made the comparison, and then you were able to justify a time frame in there -- a time frame adjustment. They don't want that anymore. They don't want any similar properties.

And, it's difficult at times, no matter how fast they come in, to have similar properties to give value. They're making their estimates a different way.

And also, we're having problems -- and I'm going to St. Louis at the end of March -- with what you just said: fair value. Because, now we're having new regs come down out of Washington because of the problems in the West, and the problems with the farms that have been appraised either undervalued or overvalued in the real -- not in the real, I shouldn't say that -- in the farmland states. And you know what I'm talking about; what's happening out there.

There's a big difference between intended use, present use, and highest and best use. And, we'd like to have that defined. Because, if we're going to say intended use, then I buy it for what I want, you buy it for what you want, and if the guy wants to sell it, fine. If it's its present use as a tillage farm, that's another thing. But, he should be able to, after all those years, get the highest amount of money, as to its highest and best use, which we've always used, which is

residential development, broken up onto the zoning laws as to the size of the lots to meet the police power of the municipality. Right? And, if you don't do that, then I don't think the farmer or the person that does-- We've established out of a feudal system -- and I don't want to take a lot of time at a public hearing, but I think we're putting the State back into the real estate business and we're going to have sharecroppers because you're going to lease it back.

They tried to do it to the cranberry bogs on us in the '60s. And if you're going to allow them to lease it back for farming, then you put the State in the real estate business.

ASSEMBLYWOMAN OGDEN: It's going to be sold, Jack.

ASSEMBLYMAN MARSELLA: Let me ask you, that's another question that I have. Once the State, under your bill, exercises its right to buy the farm, and now the State of New Jersey owns this piece of ground, now we're going to be putting the State of New Jersey in the farming business, basically, because now how do you set the price that the State of New Jersey's going to sell back to Jack Collins, who may want to buy the farm?

ASSEMBLYWOMAN OGDEN: Whatever the market will bring.

ASSEMBLYMAN ZIMMER: Tony, this has happened, but in Burlington County, the county municipality--

ASSEMBLYMAN MARSELLA: The county bought it?

ASSEMBLYMAN ZIMMER: The county municipality bought several hundred acres in fee to preserve it. The State paid for half the development rights under the current program, and then they auctioned it off subject to the easement. They broke even.

And in Hunterdon County, in the situation I just described to you, when the foundation sold its easement, it then went ahead and sold the property subject to the easement to a farming couple who bought it. And it's on the tax rolls, it's assessed as farmland the way it always was. And, in fact,

one of the gentlemen in the audience here, Mr. Panacek, lives on a farm that was purchased by Hunterdon County and sold, before there was any such program, sold subject to such an easement.

And so, this has been done. The governments involved have come out whole. The people who bought the land are very happy with the value that they got. And so, I don't think -- the last thing in the world I would want to see is large amounts of acreage owned by the State, for any length of time. They can turn them around pretty easily.

ASSEMBLYMAN HENDRICKSON: I will support whatever then-- Because, the Farm Bureau's here, and I will support what the Farm Bureau and the farmers want. Okay? All I want to do -- and I'll support the bill if they support it -- I just want them to be assured that they have the right to know -- and they have to have the right to know. And I would suggest that they get in with some of the appraisal societies and perhaps go to a few of the classes, and I'm sure that we can bring them in for no money, to listen to the proper analyses of the appraisal process through the professional people. So, they'll know. There is a lot of things coming down through the police power, and those three uses we have an objection to. A fair market, okay, is not the highest and best use of the property at market. If it's a fair market value, it is also not always an arms length transaction. It is very very difficult in the marketplace to find what is known as an arms length transaction. We don't know all the ins and outs of the current practice sale. And the attorneys will very well back that up.

ASSEMBLYMAN MARSELLA: No question about that, Jack. And that's why I asked that.

ASSEMBLYMAN HENDRICKSON: And that's all I'm trying to say. I'm not against or for, I just don't know enough about it.

ASSEMBLYMAN MARSELLA: I just don't want to see us get into a problem where a farmer gets an offer from a developer,

and it's set at "X" amount of dollars per acre providing that the developer gets whatever approvals there are, and so forth and so on. The next thing you know, that's why he's buying that ground, because he can get whatever density he thinks he can get. The next thing that happens is the State comes in and is buying the ground for density prices; for housing prices.

That's what we have to be careful about.

ASSEMBLYMAN HENDRICKSON: And does the youth of this country want to go back to farms? That's our problem. That's really, basically, where our problem is.

ASSEMBLYMAN MARSELLA: That's a good concept, Maureen. I'm just saying it probably has some stumbling blocks that could happen.

ASSEMBLYMAN AZZOLINA: Sam, do you have anything else you want to say? Because, we have others that want to speak. How many do we have out there that want to speak? Just one? Okay.

ASST. SECRETARY GARRISON: Just a summary comment then. As I indicated at the beginning of my remarks, this is kind of a preliminary statement on behalf of the Farmland Preservation Study Committee, and some of the issues that you've gotten into just recently are some of those that we ourselves feel we have to go into in more depth before we can come back with a final recommendation to you.

ASSEMBLYMAN AZZOLINA: Yeah, we're not going to move any bills today.

ASST. SECRETARY GARRISON: So, again, I appreciate the opportunity. Also, I just -- when I introduced the members of that Committee, Mr. Ellis also is a member of that Committee who just came in, and also wishes to--

ASSEMBLYWOMAN OGDEN: We also have an appraiser. You know, I was just thinking, in listening to Assemblyman Hendrickson's comments here, that what could be set up is some kind of a committee to investigate the land that is being

contemplated for purchase by the State. And you could certainly have an appraiser or people who are knowledgeable in this area on that.

ASSEMBLYMAN HENDRICKSON: Certify the farmland assessment appraisals.

ASSEMBLYWOMAN OGDEN: To aid the decision making process.

ASSEMBLYMAN AZZOLINA: Let me ask you a question. The way land values are going crazy this past year -- all of a sudden this year they just went crazy -- is there going to be enough money to do this job right? You're going to need millions and millions of dollars. A \$50 million bond issue doesn't mean peanuts.

ASST. SECRETARY GARRISON: I think at the present time we're projecting that the \$50 million bond issue, based on current activity and where you're projecting increasing activity over the next two years would last us for about three more years, based on our projected rate of expenditures, which is higher than it has been in the past two years.

ASSEMBLYMAN AZZOLINA: It's probably going to be able to get less -- half the land you could have gotten a year ago.

ASST. SECRETARY GARRISON: That's exactly right. And it's done--

ASSEMBLYMAN AZZOLINA: And the longer everybody waits, the less land you're going to buy, and it's going to be tougher to get the money.

ASSEMBLYMAN HENDRICKSON: Can I back that up for a second? I can use my-- It's possible for us to lose our designation if we do not use consummated sales. Okay?

ASSEMBLYMAN AZZOLINA: What was that again? Explain that.

ASSEMBLYMAN HENDRICKSON: It's possible that-- Actually, all the appraisers have to use sales that are already in the deed book and page. All right? Already consummated.

The money's changed hands; the deed has transferred. Okay? But we have to today, to try to get to the real estate people, if they will, to let us see the contracts of sales to keep up within a three month time frame, because in the hot areas every single day the value of the land we say is in the eye of the beholder. They're coming down with money, and buying land like it's going out of style. That's their right; that's the way it should be. Very difficult to be in the marketplace every single day to protect the mortgage banks.

And I think every appraiser doing it will tell you that. We've got to get into the contract before their-- We don't even know that that sale's going to hold.

ASSEMBLYWOMAN OGDEN: Maybe, Jack, with this money, it's not going to be possible to buy the farmland in the hot area, so to speak, and say the hot areas--

ASSEMBLYMAN HENDRICKSON: It's a step in the right direction.

ASSEMBLYWOMAN OGDEN: It's a step in the right direction. My feeling is that we have \$48.5 million left. That this bond issue was passed in '81 -- as Assemblyman Zimmer said, there were problems so it really wasn't implemented until several years later. On the other hand, there is still this money left. I feel that we should use every tool that we can that members of the Committee can agree on to spend the money. It's there; it's for preserving farmland; we are not able to preserve farmland at this moment with the current tools that we have. Just give another option.

Clearly there is a total support throughout the whole State, and particularly there is support in the urban counties for preserving farmland. On the other hand we want to make sure that the farmers are not penalized because really, preserving farmland is, yes, for the farmers, but it's really for the entire State as well.

And so, this is why I proposed this, because I think that it is a way of giving the farmer fair return on selling his piece of property if he or she so desires to do so. And, I can grant that there are some technical changes that need to be made, but I think that what everyone should do is to take a longer view and say, well, this is another way of dealing with this problem, and maybe there are some issues to be ironed out in here, but we should look at the goal of where we're going and not reject something like this because, you know, there's some problems to be ironed out. But, to realize that we are not preserving farmland as of this moment, that we have a relatively small window of opportunity, most people say, the next four or five years, with the way prices are going in the marketplace. And you know, that's basically why I'm proposing this bill, as another way of trying to preserve it, and particularly because we have almost \$50 million left with which to spend.

Now, if it works well, you can say maybe it's only going to last three-and-a-half years, but if it works well we could maybe go back to the voters again and get some more money.

ASSEMBLYMAN AZZOLINA: Now let me ask, how many acres are you looking to really preserve, under this method? I don't mean with the \$50 million, but whatever money we can get. What is the goal of the State? How many acres? How many acres of farmland do we have now, and how many acres are you looking to preserve with this?

ASST. SECRETARY GARRISON: Well, roughly, there's 920,000 to 940,000 acres of farmland, currently.

ASSEMBLYMAN AZZOLINA: Nine-hundred-and-forty thousand acres.

ASST. SECRETARY GARRISON: If you include other woodland and other farmland assessment, you might go up to 1.1 million acres of land and agriculture and related woodlands.

I think a general long-term goal that we've been discussing in the Department is something in the order of approximately half of that. Now, it all might not be under easement purchase; a portion of it would certainly probably stay in eight-year farmland preservation programs. Not necessarily only--

ASSEMBLYMAN AZZOLINA: You mean, when we get through buying these easements, we only keep it eight years?

ASST. SECRETARY GARRISON: No, you have to be in an eight-year program before you qualify to have your easements purchased. So, there is part of the program is a short-term eight-year program; the long-term is the easement purchase, which is in perpetuity.

ASSEMBLYMAN AZZOLINA: And we're looking long-term to preserve about 500,000 acres in this State as farmland? In the long-term?

ASST. SECRETARY GARRISON: That would be a goal. But, again, that was a figure we, in a sense, started out with when the program started. Now, again in terms of the existing land market, and the dynamics of development now, we would probably have to be more conservative in our outlook. But, we haven't officially adopted a position on that recently.

ASSEMBLYMAN AZZOLINA: Okay, thank you. Yes?

ASSEMBLYMAN HENDRICKSON: I only caught the back end. Of the easement in perpetuity, I'm familiar with. But I thought we also had an eight year--

ASST. SECRETARY GARRISON: Right.

ASSEMBLYMAN HENDRICKSON: Okay, you have both ways already.

ASST. SECRETARY GARRISON: Yes, sir.

ASSEMBLYMAN AZZOLINA: Speak a little louder when you talk, so it gets into the mike.

ASSEMBLYMAN HENDRICKSON: Anything you say Chairman. I'll speak a little louder, Chairman. Thank you. (laughter) I'm not known to be boisterous.

ASSEMBLYMAN AZZOLINA: Okay, Sam, anything else? Why don't you stay here, Maureen.

Mr. Ellis, let's see what words of wisdom you have today.

W A L T E R E L L I S, JR.: Mr. Chairman, thank you. I appreciate the opportunity. The only thing I really want to say, and I really can't add any great deal to what's already been said here other than to, for one thing, express my thanks as a farmer and farmland owner for the concern that's being expressed here in the Committee, and the concern of Mrs. Ogden for putting a bill like this in.

As Mr. Garrison said, in general we agree with the concept. It's obvious that when we start to work it out we're going to find some problems with it. But, I'm sure they can be worked out properly.

To address a couple of the things that have been said here, though, I have to agree with Mr. Zimmer that I don't think we've given the present program really enough time to work. You recall at your hearing that you had up in Hunterdon County--

ASSEMBLYMAN AZZOLINA: Where I got lost.

MR. ELLIS: It seemed to me, though, in sitting through that hearing, the one thing quite frankly I came away from that hearing more optimistic than I was when I went there. Because it seemed to me that the general theme that came out that evening was that yeah, the program is taking a while to get going, but it is beginning to move, and as circumstances change and people -- farmers and farmland owners in particular -- learn more about it, it's going to move more quickly.

I think to add some of these things that we're talking about here today to that program to make it more flexible, make it able to be used in some circumstances where it doesn't seem to apply presently is all to the good.

And I for one, as a farmer and farmland owner, am happy to see the concern expressed by all of the members of the Committee for the equity of the farmers in their land.

I think one other thing, the question that was asked a couple of minutes ago about how much land do we need to save-- Mr. Hendrickson looked at me, and I kind of threw up my hands, because I don't know. And I really don't think anyone knows, and I think we can set goals, and we have to. But, with the new technology that we have now, and coming down the road for the production of food, and fiber, and you know, we're looking at a new biotechnology center at Rutgers, and all the things that are happening. And, we can't ignore all of the surpluses that we presently have, and which are very burdensome on the farmer and in fact on our whole population trying to keep most of us farmers from going broke.

So, how much land we're going to need I think we can set goals, but I don't think any of us really know. But, I applaud the opportunity that's given us to try to save that land for, and again, Mrs. Ogden said it better than I can, most people have the feeling I guess just off the top of their head that we're preserving farmland for farmers. I don't think we are. We're preserving farmland for everyone, including farmers. But, for the quality of life of everyone in this State. And, there are a heck of a lot more others than there are farmers.

ASSEMBLYMAN AZZOLINA: I like selling Jersey Fresh produce in New Jersey. We sell a lot of it.

ASSEMBLYMAN HENDRICKSON: Seafood also.

ASSEMBLYMAN AZZOLINA: And seafood also. Could you maybe summarize what specific areas the Farm Bureau feels should be ironed out in the bill? Do you have any ideas, or are you leaving it up to the Department?

MR. ELLIS: Well, a couple of the things that were touched on here today. And, I don't know very much about

appraisals -- well, I should say I don't know anything about appraisals--

ASSEMBLYMAN AZZOLINA: Well, he stuns us all the time with that stuff. He stunned me today. (laughter)

MR. ELLIS: Well, I have to defer to Jack, certainly, or anyone else who has any knowledge. But, one of the concerns in reading the bill on the first refusal was one that Assemblyman Marsella mentioned, the 90-day window following the State's declining to buy the property. Just thinking about it hurriedly, it seemed to me that what little I know of real estate transactions, particularly as they apply to farmland, and large lots of land, they take a lot of time. Ninety days would be a snap of the fingers, I think. A year would be certainly a quick time. My suggestion would be if we do something of that sort, it might be tied, rather than to a time frame, possible to the individual who was involved in the negotiations at that time, and if and when those negotiations broke down, then we would trigger the thing to start again.

These are just thoughts off the top of my head. I, first of all don't know enough about it, and secondly, I haven't thought about it a great deal yet, I'm sorry to say.

ASSEMBLYMAN MARSELLA: Mr. Chairman, what I think we should do is have the hearing today -- both the Farm Bureau and the Agriculture Board are aware that we want to move this bill, and I'd like to see us move this bill as soon as possible -- they ought to come back and give us their recommendations if they feel there should be some amendments made or not, and then we can move the bill out.

ASSEMBLYMAN AZZOLINA: Yes. Okay, Maureen, would you like to summarize anything?

ASSEMBLYWOMAN OGDEN: One other thing, Mr. Chairman, in terms of the match with the State, I think it's, you know 50% for the State, and 50% for local and county governments. I know that in some cases easements that were being offered

voluntarily that the agreement was not consummated because the matching funds were not available. And, maybe we should move closer to 75% for the State, or maybe it even should be 100% for the State.

MR. ELLIS: Well, if you're asking my opinion, I wholeheartedly agree, certainly, with the 75%. I'm not sure about the 100%. I think we begin then possibly to get into putting the State into the real estate business a little bit. I don't know, quite frankly. But it adds--

ASSEMBLYMAN MARSELLA: I think the county should participate though, Maureen. I really do.

ASSEMBLYWOMAN OGDEN: Okay, well then maybe 75%.

MR. ELLIS: Again, it would add the flexibility that we've been talking about.

ASSEMBLYMAN AZZOLINA: Why don't you discuss this?

ASSEMBLYMAN HENDRICKSON: I think the bond issue ought to be bigger too, because I disagree. The (inaudible) areas ought to be purchased.

ASSEMBLYMAN ZIMMER: On that matter, I think it's important for some counties which are ratable poor, which don't have a lot of money to buy development rights -- I'm thinking, for instance in my district, of Warren County, which is up to its eyeballs in debt because it just had to buy a jail, and an administrative center, and so on -- and with a county that's in financial straits and objectively can be proved to be so in the same manner that urban aide cities can be proved to be so, the percentage may be higher, particularly if the development rights-- Well, it doesn't matter what the development rights are going for, because you're talking about percentages. In other counties that are more prosperous, that have the financial wherewithal to buy the development rights I don't think that the State's share should be more than 50%. I think there should be flexibility available, but not so much flexibility that every county will be able to come in and claim as a right that it's entitled to whatever the maximum is.

I would suggest that you include, not necessarily in the amendment to the bond issue, but more properly in A-3556, criteria that would dictate when the State is authorized to go above 50%. And I think it should be in exceptional circumstance. There are some counties that can afford it and are paying it; there are some counties that can afford it and aren't paying it; and then there are some counties that can't afford it and would dearly love to get involved in that program. In fact, in Warren County, they are trying a new twist. They don't have the funds to give as a grant, and the Governor just a week or two ago signed legislation to allow them to lend their half of the money to the farmer.

Now, that essentially is a contribution by the farmer, apart of the value of the development you see, because he's got to pay it back. When in fact, if he was to be totally compensated, "Yeah, we'll put it all in his pocket."

So, I would suggest that you really focus on that as a possibility, because I don't think we ought to let the wealthier counties off the hook.

ASSEMBLYMAN AZZOLINA: Okay. Maureen, do you want to summarize in any way?

ASSEMBLYWOMAN OGDEN: No.

ASSEMBLYMAN AZZOLINA: Okay, suppose the Farm Bureau and Department of Agriculture work with Marie, and give us whatever amendments you think are necessary, so we can move these bills. Okay? Thanks a lot.

ASSEMBLYWOMAN OGDEN: Thank you.

(HEARING CONCLUDED)

