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PUBLIC HEARING

before

SENATE NATURAL RESOURCES AND AGRICULTURE COMMITTEE

on

Public Farmland Assessment

October 8, 1985
Room 313
State House Annex
Trenton, New Jersey

New Jersey State Library

MEMBERS OF COMMITTEE PRESENT:

Senator Raymond J. Zane, Chairman
Senator Wayne Dumont, Jr.
Senator C. William Haines

ALSO PRESENT:

Denise L. Drace
Office of Legislative Services
Aide, Senate Natural Resources and
Agriculture Committee

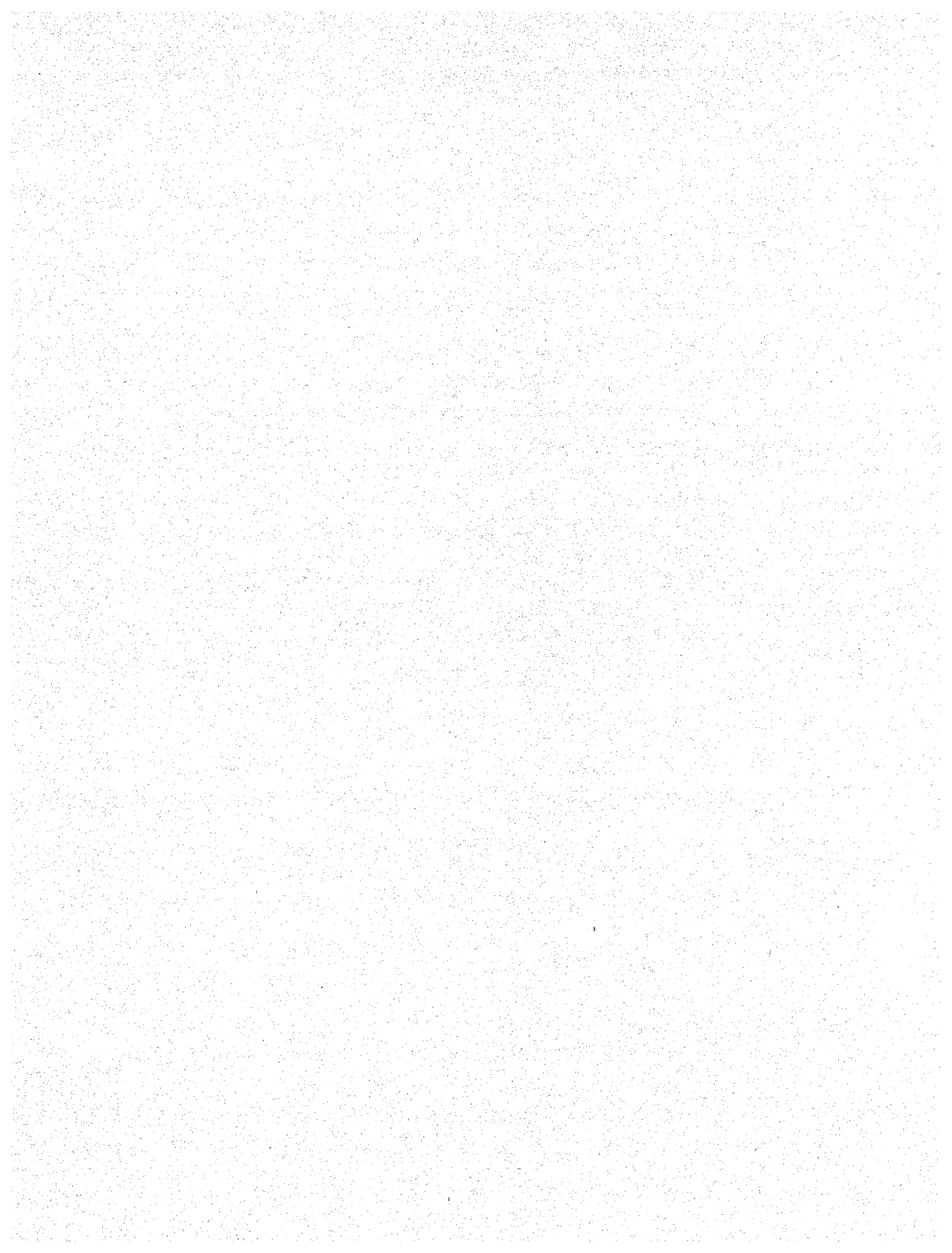
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SENATOR RAYMOND J. ZANE (Chairman): We will now call the hearing to order. Ms. Drace, will you please take roll call?

MS. DRACE: Senator Zane?

SENATOR ZANE: Present.

MS. DRACE: Senator Dumont?

SENATOR DUMONT: Here.

MS. DRACE: Senator Haines?

SENATOR HAINES: Here.

SENATOR ZANE: I will read a brief opening statement that I think will set the tenor for what we are looking to do, or possibly considering doing.

During the course of this public hearing today, the Senate Natural Resources and Agriculture Committee will be taking a hard look at the issue of potential abuse of the Farmland Assessment Act by corporate and industrial interests. The primary goal of this 20-year-old Act is to preserve farmland and to provide farmers with some economic relief by permitting farmlands to be taxed at a reduced value that reflects its agricultural worth. Other objectives are also significant, such as encouraging the maintenance and preservation of open space and the beauty of the countryside.

Although the law is designed to help farmers by leasing empty tracts to farmers to grow crops or feed animals, corporate landowners can qualify for the same tax breaks, even though the property is zoned as industrial or commercial land. In West Deptford, for example, GATX Terminals Corporation leased land for soybean production on industrial property being held for sale. Taxes for each GATX farmland acre were about \$10.70 versus about \$480.00 under the industrial assessment. In another example from the same Township, the average assessment for industrial property held by Tenneco Gas and Oil Company was \$14,000 an acre. The property was advertised for sale, however, at \$26,500 an acre. Clearly, a loophole in this law exists which allows corporations to reap benefits not intended by the Act.

Any measure which is directed at closing this loophole must strike a balance between the financial interests of the agricultural industry and the need for municipalities to maintain a supportive

property tax base. The compromise is not simple. The Act itself has not proven to be a consistent asset to the farming community. As a measure to provide tax relief to farmers, the Act has been successful. Since farming is such a land-intensive enterprise, property taxes are particularly burdensome for the farmer. A reduction in property taxes is a particularly welcome relief.

The law requires that qualified tracts be at least five acres in size and produce a minimum of \$500 of agricultural products each year. Increased sales of products are required where the land is more than five acres in area. The Legislature has also incorporated the two-year rollback provision into the Act in order to help protect municipalities from a diminished tax base due solely to land held for speculation. Before tinkering with the provisions of this Act, we must be sure the interests of the small farmer are taken into consideration. Over 50% of the farmland in this State is owned by non-farmers. Certain changes to the Act may encourage the rents of farmers to be raised in order to cover an increased tax liability or encourage the removal of acreage from agricultural use altogether.

We are interested in obtaining guidance today for a measure which will increase the benefits of the farmland assessment to the farmer, protect the municipalities of this State from losing tax dollars to those not intended to benefit from this Act, and close the tax loopholes currently available to the corporate and industrial sector without jeopardizing the economic interest of the agricultural industry.

That statement was prepared for the Committee just to point out some things. I'm not certain that I fully agree that the Farmland Assessment Act, as we know it, has been a qualified failure. I think the farmers cherish the Farmland Assessment Act, and I think they wish their benefits were greater. If we go back to the author of the farmland assessment-- Sometimes we refer to Committee reports, and sometimes when we have an author of an act available to us, he can really tell us what he intended to do. I doubt that the author of this Act intended for industry to be a major beneficiary, to the extent of 50% of all the tax benefits derived by the farmland assessment. I

don't think he intended that for industry, especially when this State ranks around 46th, I believe, in the highest taxes for agricultural use in the nation. I think that is reasonably accurate.

What we are really talking about is maybe attempting to address that point about the industrial benefits, or industry benefiting from farmland assessment.

I would just like to point out to you that we have been trying to get some information put together. One of our staff people received some. I find it very interesting to note that-- I never really think of Hudson County as agricultural; it surprises me. I find here on this list -- the list is incomplete -- a corporation by the name of the Humbolt Corporation. I have no idea what they do. I don't know whether they are on the New York Stock Exchange or whether they are farmers, but I can tell you that in Hudson County, in Jersey City, there are 890 acres that are presently under farmland assessment.

We, in the Legislature, frequently have to come up with additional moneys to bail out Jersey City and some other major cities. Maybe, since we are taking a look at this, if we can come up with some balance to address the issue, we won't have to provide as much support to Jersey City. Furthermore, maybe some other people from Hudson County and some of the other counties will be interested in the concern we have.

Are there any comments that either Senator Haines or Senator Dumont would like to make before we hear from the people who are here?

SENATOR HAINES: Basically, I am here to listen. I think the Farmland Assessment Act has been a success. I think there would be a lot more land being used for something else besides agriculture in the State today if it weren't for the Farmland Assessment Act. I am certainly willing to listen to possible changes in the Act. It may be that we can strengthen it.

I hate to tamper with something that is working. Sometimes I go out and try to fix my tractor or my car, and it works worse when I finish than it did before I started to tamper with it. I would like to look at what changes are available, but I think we ought to be very sure that when we make any changes, we are doing something in a positive manner. I do feel that it has been a success in the past.

SENATOR DUMONT: I'm the only one left in the Legislature who had anything to do with the Farmland Assessment Act. It was sponsored primarily by Senator John Waddington, who is now deceased, and who at that time represented Salem County. Each of us in those days represented only one county. I had Warren County then.

I don't think that it has been a qualified failure by any means, and I think that is a very loose term to be using in connection with it. I am willing to listen to proposals to change it and to strengthen it, but you are going to have a tough time convincing me that there ought to be a lot of changes, or maybe even any changes.

In the first place, it was never intended that corporate and industrial interests would come under it. As a matter of fact, it was never intended that so-called "gentleman farmers" would come under it. It was supposed to be restricted to real farmers who work for the soil, and the horticulturists, and that is all.

We have had many requests over the past 20 years to take in golf course owners, owners of camping grounds, and everyone else under the sun. I would like to have reduced assessment too, if I could qualify for farmland assessment. Anybody would. The problem is, how do the municipalities sustain themselves and continue to operate?

I think we have to be very strict about confining it, as we intended in the very beginning, only to agriculturists and horticulturists. We put the gross receipts in it at a minimum of \$500 because in those days there were farm supports. They are not available any longer, for the most part, from the Federal government.

There are many senior citizens living on farms who obviously can't do the kind of work physically that is required of a farmer, particularly a younger one. So, we made it \$500 in order to be sure that those people would not lose their farms and their homes, and they would have an opportunity to stay on their farms for the balance of their lives.

So, if any proposals are made to raise that to \$1000, I would have to take a dim view of it at this point. I am willing to listen to proposals. I would certainly be in favor of strengthening the Act, but not weakening it in any way.

SENATOR ZANE: Senator, is it fair to say that at the time the Farmland Assessment Act was discussed and debated in the Legislature that the emphasis was placed on the farmer, the person you were attempting to help?

SENATOR DUMONT: That is right.

SENATOR ZANE: Were there discussions at that time about potential -- I'm going to use the term -- abuses by industry?

SENATOR DUMONT: No, I don't recall any. As a matter of fact, before the constitutional question was drafted and submitted to the people -- this was in November of 1963-- I think there was a commission created in 1962. I was a member of the commission and so was John Waddington. As a matter of fact, he was the chairman. It seems to me it was-- I might be getting it mixed up with a commission later on that was called the Open Space Commission. I think maybe I am, but the farmland assessment group consisted of several of the best municipal tax assessors in the State. It consisted principally of representatives from the Farm Bureau, the Department of Agriculture, the Grange, and other farm interests. As I recall, there were only two of us from the Legislature -- Senator Waddington and myself. I don't think there was anyone from the Assembly who was a member of it, even in those days.

The commission drafted the proposed amendment, which was overwhelmingly approved by the people in the general election of November of 1963. Thereafter, we set about providing and drafting the implementing legislation to carry out the question. That was passed in 1964 to take effect, I believe, for the first time in 1965.

In the beginning, you had to file for-- I don't remember when you had to file; we changed the date later on for farmland assessment. But, it is now August 1, I think, isn't it, Bill?

SENATOR HAINES: Yes, August 1.

SENATOR DUMONT: In those days, it was even earlier than that, or maybe it was later than that -- October 1. We decided that was not wise to continue it that way because assessors strike their values for the succeeding calendar or tax year as of October 1.

So, we moved the date forward to August 1 each year for filing the application. It has to be filed annually because a farmer's income and assets may change from year to year.

I remember sponsoring some amendments in 1969 saying that where you had over five acres, and you work actively farming them-- You have to have a minimum of five acres under active cultivation in order to qualify. That was to take in chicken farmers, truck farmers, etc. who had much less acreage than the dairy farmer would have.

We set the value at \$5.00 per acre for each acre over five acres. The first five would have to produce at least \$500, and then you could qualify. Then it would be \$5.00 for each acre over five acres, except where woodland or marshland was involved. For that kind of land, I think we set it at only \$1.00 or something like that.

We intended, of course, for that kind of land to be attached to a farm. Later on, people started buying up straight woodland and then cutting down trees on five acres annually in order to qualify for farmland assessment. A few of them were successful. It was not because we wanted it that way. They made out with some judges that way. (laughter) It was not our intention either that they should be included.

I don't remember any discussion at all in those years about corporate and industrial interests. I don't think we ever considered them as being qualified or classified under "farmers."

Very frankly, I take a dim view of that kind of allowance being made by a local assessor. It is much like a gentleman farmer who lives in the city and never comes out to the farm except to find out what his tenant is doing on the farm, and still qualifies.

That is all I care to say. It is probably more than enough, as a matter of fact, Senator Zane.

SENATOR ZANE: That is fine. Here are just a few that were picked out. I think most of these corporate names will be recognized. I will give you an idea of the acreage and the taxes they presently pay on that acreage:

Merck & Co., which is a pharmaceutical firm, has 856 acres. Their total tax bill on that acreage is \$3,313.54.

Prudential Insurance has 64 acres, and they pay \$1,211.

Hoffman LaRoche has 295 acres, and they pay \$2,871 in taxes.

Realty Transfer, which is a subsidiary of the Elizabethtown Holding Company, has 380 acres, and they pay \$11,888 on that property.

Curtis Wright Co. has 672 acres, and they pay \$1,478.

Thompson Realty, which I believe is a housing developer in the Mercer County area, has 2351 acres, and they pay \$11,628 in taxes.

Carter Products, which is a pharmaceutical firm, has 205 acres -- they are from New York -- and they pay \$3,603 in taxes.

United States Steel from Pittsburgh, Pennsylvania has 1944 acres, and they pay \$9,889 in taxes.

Harcourt Brace, an Orlando, Florida corporation -- they are publishers -- has 98 acres, and they pay \$1,052.

The first speaker I will call-- Senator Haines, is there anything you want to say first?

SENATOR HAINES: No, that is fine.

SENATOR ZANE: Senator Haines, let me ask you a question first. You are a large farmer in this State. What do you sense is the feeling from the farm community about-- I mean, you have heard Senator Dumont indicate that at its inception and final fruition, The Farmland Assessment Act was really designed to help the farmer. It wasn't contemplated that industry would avail itself of it. What do you think is the feeling within the farm community about farmland assessment applying to industrial users as well?

SENATOR HAINES: Well, I can say in our area, Burlington County, around my home that there is a lot of land owned by non-farmers. They may be developers who may eventually develop the land. RCA is a big owner of land near us. There are also other corporate users.

In most every case, the farmer who originally owned the land is still farming it. If, for instance, taxes of the corporate owner go up dramatically, I wonder if he would still permit the former owner of the land -- the farmer -- to continue farming. He may decide to do other things with the land.

One of the current uses of land in our area, which really bothers me an awful lot, is the stripping of topsoil in many areas, and

they are selling it for very high prices to cover the landfills. We need to cover the landfills, but--

SENATOR ZANE: And still getting farmland assessment for that?

SENATOR HAINES: No, they are not. That is the other use. These corporate owners may decide to go ahead, strip off the topsoil, make a profit from it, and use it to cover landfills or other uses. This would be another alternative that they might use.

In my own case, we are farming some ground that doesn't belong to us. We own about 800 acres, and they happen to be in your district.

SENATOR ZANE: I understand.

SENATOR HAINES: Of the land we used to farm in Burlington County, we still have about 100 acres that we rent from a developer. He rents it very cheaply to us because he gets farmland assessment on it. He will probably continue to get that until he builds houses on it.

I think it is probably better for us to farm it and keep it looking nice than have the topsoil stripped, which developers often will do way before they develop the land, maybe in some cases as much as 10 years before. Then, of course, if the developer goes broke, you have a situation where you have weeds, scrub trees, and all kinds of things growing on the land. It not only doesn't look nice, but it is a place for wild dogs. It can be a hazard type of area, and not nearly as good looking as if it were farmed.

The other aspect is, we have seen the cycles go up and down. In some cases, developers are prospering, as they are today, and then they have years when they don't prosper. If they had stripped off the land, and if for some reason we have a continuing recession, once the topsoil has been taken away, you can never come back and farm that land.

I am not trying to prejudice anyone on this. I think I want to keep an open mind and hear what there is to be said today. I don't think the law, as Senators Dumont and Zane have said, was intended to help large corporations, such as U.S. Steel. But, I want to see the

impact if we take away the farmland assessment for U.S. Steel. Is U.S. Steel farming the ground or is it a farmer who is basically getting cheaper rent? With the farm economy the way it is today, I am all for anything we can do to help the New Jersey farmer. It is a tremendous struggle today just to keep your head above water.

Thank you, Senator.

SENATOR ZANE: I would like to call Secretary Brown, Secretary of the Department of Agriculture.

SECRETARY ARTHUR BROWN: Good morning, Senator Zane, Senator Dumont, and Senator Haines.

SENATOR ZANE: Good morning.

SENATOR DUMONT: Good morning.

SENATOR HAINES: Good morning.

SECRETARY BROWN: I would like to thank you for the opportunity to appear before you this morning, and I want to thank you for inviting me to express my views on the issues related to the Farmland Assessment Act of 1964.

I want to impress upon you this morning that this Act, with its provisions for granting tax relief for farmland, is absolutely critical to the survival of agriculture in the Garden State. In my long experience with the agriculture of our State, I have found unanimous consensus among farmers and farmland owners that, without this Act, agriculture would soon disappear. And, it would disappear because the tax load would quickly force the conversion of our farmland base. The Farmland Assessment Act is now, as it has been for the last 20 years, the State's number one policy in support of agriculture.

Farmers and farm organizations have been reluctant over time to modify this benchmark legislation because of the critical part it plays in providing the land base so essential to our industry. In today's more difficult agricultural economy, with its fiscal problems and low profitability, both so widely evident, this assessment policy is considered even more important in helping our farmers survive.

Almost yearly, a major new proposal is put forth to change the Act -- always in the name of strengthening or tightening up on its implementation. Very few of these changes have been adopted over the

20-year history of the Farmland Assessment Act. We believe that this is because the Act was well-thought-out in its initial development and, furthermore, that it is working well.

In the years immediately preceding the Farmland Assessment Act, the excessive tax burden forced many farms to cease operation, and the land was left vacant and not maintained. This resulted in fragmented parcels of land in a community being placed on the market at distressed prices. When these were eventually sold, we ended up with piecemeal, hopscotch development.

One result of the Act has been better planning because it permitted land to be held and farmed until better development plans for an area could be made. In many cases, it resulted in less premature development, and, in fact, a move back into substantial agriculture when economic conditions improved.

The Farmland Assessment Act has its roots in a constitutional amendment overwhelmingly approved by the voters of this State in 1963. This amendment, unlike most others, was quite specific in how this differential assessment was to be implemented. It provided for tax relief for land actively devoted to agricultural use and was intended to hold assessments on farmland to agricultural values instead of allowing them to escalate at the alarming rates being faced in the post-war boom period.

Senator Dumont and his former colleague, the late Senator Waddington, were instrumental in getting this amendment and the subsequent legislation written with the foresight and expertise that has stood so well the tests of time, as well as of litigation.

New Jersey pioneered this innovative policy of taxation and was the second state in the nation to adopt such a plan. Since then, more than two-thirds of the states have followed our lead.

We often fail to recognize that the voters understood in the referendum of 1963 that this tax measure would result in continued agricultural use of eligible land and thus the retention of green, open spaces. That, in itself, was a major reason for the public support.

To date, we feel that the Act has materially contributed to the retention of our farmland and the open space it provides. In the

10-year period from 1954 to 1964, we lost about 40% of our farmland, or about 500,000 acres.

After the enactment of our Farmland Assessment statute, we cut that loss in half for the next 10 years, and in recent years have seen a further reduction in the loss of farmland.

This is not to say that the Act has been solely responsible for that trend, nor that we have solved the problem. We have always acknowledged that this measure was only a way to help agriculture slow down the farmland loss and that other measures would be needed to help retain a significant agricultural economy. We are now embarking on that new dimension in the Agricultural Retention and Development Program being administered by the State Agriculture Development Committee and local County Agricultural Development Boards.

This leads me to another observation. We are now committed at the State level to a major program to maintain a strong agriculture and to retain its land base. Whatever we do to modify our Farmland Assessment Program should complement this new effort and should be carefully structured to avoid being counterproductive to the larger interests of our total agricultural economy. We may seek to correct a perceived problem with the Act only to cause more harm and more pressure on the industry the Act was designed to assist.

We have given this matter of potential abuses by non-farmer owners of farmland a great deal of attention both at the Department level and at the recent annual meeting of the Farmland Evaluation Advisory Committee.

I can report to you today that there are two substantial efforts under way at the present time to evaluate the Farmland Assessment Act, including the issue of public perceptions of how the Act works and how it should be changed.

The Governor's Rural Advisory Council and the Farmland Evaluation Advisory Committee have jointly funded a study of the second decade of the Farmland Assessment Program, which will include a look at these issues and possible solutions.

In addition, Director Baldwin of the State's Division of Taxation, has initiated a review of the administration of the Act,

first in Hunterdon County, and eventually in all affected counties. We believe that both of these studies will provide documented information, identify problems, and recommend solutions.

It is interesting that there is considerable comment in the public arena today that farmers should or need to own all or most of the land they farm. In reality, we find that for most of our history, New Jersey has had land farmed by non-owners and that in the 1980s, a further trend in that direction continues.

Although land is an essential element in production agriculture, and overtime has been the most expensive asset on the farm, ownership of that asset has become more and more difficult as costs of land have skyrocketed. Other businesses with the need for costly physical assets have often decided on leasing or renting them, thereby freeing up capital for other production needs. Why shouldn't farm enterprises make similar business decisions?

Over 50% of New Jersey's farmland is owned by non-farmers and rented out to farmers. This is true in general throughout the nation. Today, much the same as in 1964, this rental land is owned by retired farmers, surviving spouses, agribusiness and food processing firms, as well as other interests. It never has been, and it probably never will be, either necessary or desirable for a farmer to own all the land he farms.

In operating a profitable business, farmers are aware of the efficiencies of scale and, therefore, they rent or lease acres to achieve that efficiency. Beginning or young farmers are, for the most part, absolutely dependent on this rented land.

Those persons who are concerned about the corporate or non-farm ownership of qualified farmland do not understand the need for this land in the overall agricultural economy. That land keeps farmers viable while providing tax-paying open space in the community. It is not a tax burden to the non-farm taxpayers but, instead, it continues to provide tax revenue while generating little, if any, cost to the municipality.

Don't forget that the reduced assessment applied only to the farmland. All buildings and structures, including the house, barns,

storage sheds, packing houses, and others, are taxed at their full value, just as are all structures in the municipality.

It is also important to realize that New Jersey farmers, even with Farmland Assessment, are paying the second highest farm real estate tax per acre in the nation.

Furthermore, the public often doesn't understand that there is a substantial rollback tax paid when qualified farmland is no longer actively devoted to agricultural use.

Therefore, when the use changes and the non-farm development brings additional municipal costs, the local government receives a lump sum payment to help meet those new expenses. A Rural Advisory Council study reported that in one taxing district in the early 1970s, rollback taxes amounted to 33.2% of the total taxes on qualified land in that municipality.

In closing, I would like to summarize my position with regard to Farmland Assessment and the perceptions that somehow non-farmer ownership of farmland is undesirable.

1) It is vitally essential to agriculture that we retain our farmland base.

2) In today's economy, it is even more important for farmers to free up capital. In doing so, one result is that they are not able to own as enough land to farm efficiently. I believe we will see even less ownership in the long term by those people who operate farms.

3) Non-farmer ownership is really not a problem, but rather a positive factor in our agricultural future.

4) We should maintain the philosophy of the drafters of the Farmland Assessment legislation that the use of the land, rather than ownership, is the overriding important issue.

As to how we should strengthen or tighten the Act and its administration, I believe first we need to impress upon legislative decision-makers at all levels that the overall benefits far outweigh the relatively minor problems that we encounter. We must recognize the rollback feature of the Act as an important revenue producer when the change in use generates new costs for the municipality.

However, we can and must be sure that the rollback is applied consistently and uniformly. The studies I referred to will give us more information on this issue.

I believe that the bill now before the Legislature, A-1041, which calls for a stronger proof of active devotion of woodland, will help. We may want to look again at raising the eligibility criteria for the sale of farm products from \$500 to \$1000. The matter of a conversion tax or a longer rollback also needs to be explored.

Finally, since there are presently studies under way dealing with this important Act and its administration, I feel we should certainly look at the conclusions and recommendations these studies may present before we take specific steps to modify the law. Any changes should be proposed only after a thorough review by the people most closely impacted by the Act -- the farmer, the local tax assessors, local governing officials, as well as the general public.

The Department of Agriculture will cooperate with this Committee or with others in developing proposals to make this most important keystone to our farmers' future an even more effective and uniformly fair law of our State.

Thank you, Mr. Chairman. I am open to any questions.

SENATOR ZANE: Are there any questions? Senator Haines?

SENATOR HAINES: Mr. Secretary, do you have any suggestions as to a longer rollback, more years, more money? Do you have any suggestions along those lines?

SECRETARY BROWN: I think, Senator, there are many states that have the same Farmland Assessment Act, and it is called different names in different states, but it is basically the same program. Some of the newer states have a longer rollback and have initiated this bill as recently as the last five or ten years. They felt that three years was not adequate, or the two plus the current year. Some of them have picked up on a 10-year rollback.

I think it is probably something that deserves some study. At this point, I would not make a recommendation one way or the other.

SENATOR HAINES: How about the acreage? Do you think five acres is still legitimate acreage? Should it be larger, or should it be smaller?

SECRETARY BROWN: That is a very controversial question. The large farmer says, "Well, the five acres is probably a little small." But, when you get down to the person who depends on the five acres, then he feels it is an adequate figure. So, it varies with the people you are talking about or the type of agriculture.

Just for your information, Mr. Chairman, dairy was the number one industry in New Jersey for many, many years -- probably 150 years. It is now in fourth place. More intensified types of agricultural are coming into the forefront. The floral cultural and the nursery industry is now the number two industry in the State of New Jersey.

It just goes to show you that we are getting into more intensified agriculture. A nursery operation can operate on five acres, or a greenhouse operation can operate on a five-acre plot with no problem whatsoever. So, we are getting into a different type of intensified agriculture, and the five-acre minimum may be okay.

SENATOR HAINES: What could an operation like that gross on five acres of land?

SECRETARY BROWN: Well, I imagine you could gross anywhere from the minimum up to \$300,000 or \$400,000 without too much problem.

SENATOR HAINES: On five acres?

SECRETARY BROWN: Yes.

SENATOR HAINES: Do you think we should change the dollar level? I am cosponsor of a bill to raise it from \$500 to \$1000. Does that make sense?

SECRETARY BROWN: I think we have been around and around on this one. The \$500 figure was initially put in place 20 years ago, and things have changed considerably. Crops have changed. I think that is one area we can negotiate. I know there are some people who are dead set against it, but there are a lot of people who feel that maybe it should be changed.

SENATOR HAINES: Thank you.

SENATOR ZANE: Senator Dumont?

SENATOR DUMONT: Which state is it where the farmers are paying the highest real estate taxes?

SECRETARY BROWN: Rhode Island. I think Rhode Island, New Jersey, and Massachusetts are the top three. We're right up top. We're not proud of it, but we're right at the top.

SENATOR DUMONT: In New Jersey, is it still about six times higher than the national average paid by farmers?

SECRETARY BROWN: I don't know what national average is. The New Jersey figure is somewhere in the vicinity of \$22.50 or \$23.00 an acre.

SENATOR DUMONT: Has it been worked out pretty uniformly as to who pays the rollback? It seems to me that in the beginning that was a source of confusion. That is, whether the fellow who is selling it should pay the rollback tax, or the buyer should pay it, or a combination of the two. Just how is it done?

SECRETARY BROWN: It is still a tossup. As it is set forth in legislation, the person who changes the use pays the rollback. So, if a person buys a piece of property and rents it out as farmland, the use has not been changed, so there is no rollback in that case. But, if he sells that for development, then it has to be worked out between the buyer and the seller as to who is going to pay it. We try to tell the farmer that the purchaser should be paying the rollback.

SENATOR DUMONT: We were having a problem about 10 or 15 years ago with a few municipalities in Middlesex County. They were trying to postpone farmland assessment. It seems to me that I sponsored legislation at the time so that until the development actually began and the building started, there would continue to be farmland assessment. Those municipalities wanted to keep the original type of assessment in operation right from the time the land was acquired by the developer.

As I recall, we changed it so that until you laid the actual pipelines along the public roads adjacent to the farm, such as water lines, sewerage lines, etc., there would not be any change to land use so as to reduce the assessment through two farmland assessments.

Has that been a problem in recent years, or has that been largely corrected?

SECRETARY BROWN: I don't think so. I haven't heard of any problems in my position.

SENATOR DUMONT: Thank you.

SECRETARY BROWN: Thank you.

SENATOR ZANE: Are there any other questions, Senator Dumont?

SENATOR DUMONT: No, thank you.

SENATOR ZANE: Mr. Secretary, what is your feeling about-- This is legislation that has been proposed with an income test to look at the sources of income of the property owners and to see what the primary source of their income is -- whether it is agricultural or some other unrelated industry. Are you familiar with that legislation at all?

SECRETARY BROWN: I'm not sure what--

SENATOR ZANE: There is a bill in that would have an income-type of test, and it would say that if your sources of income are from someplace other than agricultural, and if they exceed a certain percentage, the farmland assessment would not apply. Do you have any feelings about that?

SECRETARY BROWN: There are different sized farmers in the State of New Jersey, Senator. We have listed about 9500 farmers in the State of New Jersey, and about 4000 are what I call real bona fide farms that produce just about all of their income from the farms. The other 5500 are so-called part-time farmers. I guess some people call them hobby farmers, but they add substantially to the economy of agriculture.

I have a little problem with that particular bill. I don't know everything about the particular bill you are talking about. Is that the Federal legislation you are talking about, or is it State?

SENATOR ZANE: No. It is a bill that has been proposed here in the Assembly. It would establish an income criteria. In other words--

SECRETARY BROWN: I know there is one at the Federal level.

SENATOR ZANE: Let me ask you a more direct question: Are you bothered by the fact that United States Steel has 1944 acres and pays \$9800 in taxes? Does that bother you at all?

SECRETARY BROWN: What is the land being utilized for? If it is rented out and being farmed, the way I look at it regarding these

larger industries, they are keeping it-- I am hot on the issue of groundwater recharge. I think that agricultural land and open land are going to be the two major issues we are going to be faced with because we are going to need good quality water and lots of it in the future. I think if there is anything that any industry can do to maintain open space, then they should be compensated for it. If it is through a farmland management project or a farmland assessment -- this bill, 1041, that we are talking about -- anyone who has woodland would have to go through a woodland management program. They would have to be involved in it. They would have to take so much wood off of it to show that they do have income from it.

I guess if I was a citizen in the community where U.S. Steel is located, I would probably be concerned about it.

SENATOR ZANE: You know, in your comments, you suggested that it is not really costing the other taxpayers. I think that is what you said.

SECRETARY BROWN: It is not costing them as much. You could end up with a lot of spot development if you didn't have some of this going on. That development is going to bring in an awful lot of services.

SENATOR ZANE: Your comment was, "It is not a tax burden to the non-farm taxpayers, but instead continues to provide tax revenues while generating much."

The Mayor of West Deptford Township is, and I don't want to steal part of his thunder -- some of my numbers might be inaccurate -- but in his municipality, I believe there are eight or nine legitimate farmers. I think that is fairly accurate. The rest of the property to which farmland assessment is being applied is owned by industry. I believe the estimates are \$750,000 annually lost by that municipality because of that land.

Don't you think that is certainly a cost that passed on to the other non-farming taxpayers?

SECRETARY BROWN: I guess when you get into a community where there is no longer any more open space owned by farmers, I would say it probably is.

SENATOR ZANE: Do you feel that it is a real legitimate concern that we address-- In going from the historical origin of farmland assessment to what we are seeing today, and in citing that example I just gave you, do you feel it is a legitimate concern that addresses the issue of the benefits to industry that they are deriving from farmland assessment that was not really intended to be for their benefit originally?

SECRETARY BROWN: Senator, we in the Department have always said that we are not going to support any outright abuse of the program. I don't think either Bill or Senator Dumont would. If it is an outright abuse, I would say I am not going to stand behind it, but I am for open space. If it can be found as open space with the farmland assessment behind it, regardless of whether it is industry or private, I think we should continue to back that.

I still feel that 50% of our farmland in New Jersey is owned privately, not by farmers, but by non-farmers. This may continue to rise because of the squeeze they are in.

SENATOR ZANE: Maybe this is a better question for Mr. Baldwin, but I would like to ask you your thoughts. What are your thoughts of a rollback of 20 years?

SECRETARY BROWN: Personally, if you are a bona fide farmer and you have a family involved, such as Senator Haines has, we are not worried about a 20-year rollback. But, when you get involved with--

SENATOR ZANE: That is right, a bona fide farmer.

SECRETARY BROWN: When you get into a person who doesn't have any children growing up in the business, I don't think a 20-year rollback is fair to someone like that. If you have people in the family who you feel are committed, and they are going to continue in agriculture, the rollback doesn't make any difference to them. They can put into a farmland retention program and put a permanent deed restriction on it forever that can't be used for anything other than agriculture. People are doing that.

But, a 20-year rollback seems to be a little out of line at this point. I would find it hard to recommend a 20-year rollback.

SENATOR ZANE: You indicated that several states have tried 10 years. Is that correct?

SECRETARY BROWN: Yes, there are several with 10.

SENATOR ZANE: What are your feelings about 10?

SECRETARY BROWN: Personally, as a farmer, I would say that I am not opposed to five, seven, or ten. It is hard to say yes or no. I would have to look at the impact. But, myself personally as a farmer, I would say that it doesn't bother me.

SENATOR ZANE: The 10 years?

SECRETARY BROWN: Yes, because I plan on staying in farming, and hopefully my children will too.

SENATOR ZANE: Sensing that you have a feel for the real economies in agriculture, and knowing that a farmer's dollar is a little bit different than someone else's because they don't control their markets, etc., etc.-- If we were to project the \$500 -- if your Department has done this -- from 1964 until today, and applying what I am going to call a farmer economy dollar, what would the \$500 per acre look like today?

SECRETARY BROWN: If you were just growing grain, it probably wouldn't have changed. It may be less than 20 years ago.

SENATOR ZANE: But, on the average.

SECRETARY BROWN: I think most of these small parcels, especially in the southern part of the State, would grow vegetables, so the task there is not a hard task. You can gross anywhere from \$500 to a couple of thousand dollars on fresh market vegetables. But, when you get into the grain crops -- the soybeans, the wheats, the barleys, etc. -- it is pretty hard to get up over \$500. You know, corn at \$2.00 a bushel, 100 bushels, that is \$200 an acre gross.

SENATOR ZANE: Yes, per acre. Let me get back to the question. Just to get a feel for it, if we were to take the \$500 in 1964 and project it to 1985 dollars, using the agricultural economy -- I think there is a different economy for agriculture than there is otherwise--

SECRETARY BROWN: Yes, there is.

SENATOR ZANE: What would that figure look like? Would it be a couple of thousand dollars?

SECRETARY BROWN: I think it would be close to \$1000, Senator. I don't think it would be \$2000.

SENATOR ZANE: So, what you are really saying is, the agricultural dollars in the last 21 years have only doubled.

SECRETARY BROWN: I wouldn't think they have more than doubled. I'm sure doubling would be the most we could go on now.

SENATOR ZANE: I have heard some proposals, but if, in fact, it were changed to \$2000, how legitimate farmers -- if you have any feel for it at all -- do you feel that would exclude from getting farmland assessment?

SECRETARY BROWN: I'd say probably (inaudible)--

SENATOR ZANE: I'm sorry?

SECRETARY BROWN: When you get down to a legitimate farmer--

SENATOR ZANE: Well, what is your definition of a legitimate farmer?

SECRETARY BROWN: I guess anybody can be a legitimate farmer, but the person who derives all of his income from a farm is the person who we are looking at. For a lot of these other ones we are talking about, which are half of the farmers in the State of New Jersey, it is part-time venture for them to supplement their income. They have the land, and they farm it. We have a lot of those. In a State like New Jersey, you are apt to have a lot more because you have so many small parcels of ground.

SENATOR ZANE: When you convert the farmland assessment to dollars, what is the reduction in taxes that they would pay if we did not have farmland assessment throughout the State? Do you have any feel for that? In other words, if farmland was assessed at the same value as any other land-- God knows, I am not advocating that, but if that were the case--

SENATOR HAINES: May I answer that?

SENATOR ZANE: Yes.

SENATOR HAINES: I farm in Upper Pittsgrove Township, which is in your district. In Upper Pittsgrove Township, farmland assessment doesn't mean very much because all we have in Upper Pittsgrove Township are farms. When you put the farmland assessment on all the land, what it does is, the buildings are charged a little bit more and the land charged a little bit less, but the average farmer probably pays pretty much the same as he would somewhere else.

When you put it in Mount Laurel Township, which is one of the other towns in which I farm, it means that we might be paying a tax of -- I really don't know -- \$1000 an acre if it weren't for farmland assessment.

SENATOR ZANE: And, what are you paying in Mount Laurel with farmland assessment?

SENATOR HAINES: Ten or fifteen dollars.

SENATOR ZANE: Ten or fifteen dollars an acre?

SENATOR HAINES: Yes. You know, some of the land I am farming is worth \$60,000, and it is a little hard to compute what the taxes would be on \$60,000 worth of land, but I sure wouldn't be farming it. I think this is true in some of your areas, Senator. You have some very valuable land up there worth \$100,000 an acre, and there is no way a farmer could pay the taxes on that.

SECRETARY BROWN: In some areas of the State -- down in Cumberland County, in Fairfield Township -- there is not much advantage to farmland assessment because their value is so low to start with.

SENATOR HAINES: There have been some sales down there where the prices of the land are down in the hundreds. They haven't been able to sell it at even \$600 or \$700 an acre.

SENATOR ZANE: Do you see any way that we could improve the situation of the legitimate farmer changing this State from being the second highest taxing state on farmland by giving it an even greater benefit, if you will, and having some impact by taking some of those dollars away that industry benefits from? Do you have any thoughts how that might be able to be accomplished?

SECRETARY BROWN: You think it needs further study, and I think it needs further study, Senator. I would like to see how much we are talking about as far as industry benefiting from the Farmland Assessment Act is concerned. It doesn't seem to me that it is that much, but it may be. I'm not sure. I have never seen the total figures on that, and I don't know if they are available. That would be an interesting figure, just to see how much we are talking about.

I think the studies we have under way will be addressing some of the abuses we hear about. We are concerned about abuses. We want

the program to continue to be strong. As I said, it is the strongest program we have in State government that benefits agriculture, and agriculture continues to be a real viable industry in this State.

If it weren't for the Farmland Assessment Act, we would have a lot more problems than high interest rates. I would say that anything we can do as a Department -- working with the Committee or working with Director Baldwin -- we would gladly do.

SENATOR ZANE: If it is given as a fact that industry benefits substantially, for the purposes of this, is that a concern to you?

SECRETARY BROWN: I'm still not sure. When you say it benefits substantially, if they benefit by lower taxes because of farmland assessment--

SENATOR ZANE: What would be your feeling--

SECRETARY BROWN: I feel that if the land is open and being farmed and being managed properly, it is an asset to the community. I think we have to take this into consideration.

SENATOR ZANE: What would be your feeling if a major United States corporation -- listed on the New York Stock Exchange -- owned substantial acres of land in a municipality that they intended to use for future development and expansion of their plant. I don't think they would want to go into farming. Let's assume that they sit down; they do the arithmetic; and they say, "All right, we have to produce \$500 per acre in order to get the farmland assessment." They gear their costs to pass on to the farmer. I know where you will be coming from as far as the standpoint of the farmer is concerned, but they gear their costs so that they break even. They are not really looking to make any money. The farmers adjust that break-even cost and they recognize a substantial reduction in property taxes. Don't you think there is a little gimmickry going on with that?

I think there are examples of that, which were pointed out today, where that is happening.

SECRETARY BROWN: Yes. I'm not going to stand up and defend the people who are playing games. If it is above board-- The gimmickry you are talking about, I don't think Senator Dumont intended

any of that to happen when he put the Act together initially. I'm sure he feels the same way now. We are still of the opinion though that if an industry has open land, and if it is being rented out, farmed, and managed properly through a woodland management program, then it is still an asset to the community and the State, and I don't feel that is a major abuse of the Act.

SENATOR ZANE: Are there any other questions?

SENATOR DUMONT: When do you expect this study to be completed?

SECRETARY BROWN: The study that is being conducted by Cook College out of Rutgers University should be finished sometime after the first of the year, I think February or March. Director Baldwin will probably be talking about the fact that it is not a study. It is sort of a fact-finding to try to determine how things are carried out with the program.

SENATOR HAINES: I just have one other question. In looking at the picture and reading some of the problems with agriculture nationwide, I notice that there is a higher and higher percentage of farmers nationwide who are part-time farmers and who have jobs elsewhere to support their families, etc. The fact is that 50%, if that is the right figure, of the farmers in the State of New Jersey are part-time. I don't know what the figure is nationwide, but it is getting larger all the time. Would you agree with that?

SECRETARY BROWN: Oh, yes. I think you'll find that the majority of farmers in this country make more money off the farm than they do on the farm.

SENATOR HAINES: I have seen some of these publications about some of the farmers who are losing their farms and are in dire financial shape in the West. They have said, "Gee, my wife had to get a job in town, and I've got a job part-time driving a school bus or something else," to supplement their farm income. They are legitimate farmers. I think they are good farmers, but they have had to get part-time jobs just to supplement their income.

SECRETARY BROWN: That is going on in New Jersey right now. We have a lot of farmers who have part-time jobs. They drive a fuel

truck in the wintertime. They drive school buses in the afternoon, or their wives drive school buses. So, it is not uncommon right here in the State of New Jersey.

SENATOR ZANE: Are there any other questions? (negative response) Thank you.

SECRETARY BROWN: Thank you very much, Mr. Chairman.

SENATOR ZANE: Art, will someone be here from your Department in case there are other questions that come up?

SECRETARY BROWN: Yes, John Van Zant will be here.

SENATOR ZANE: Fine. Is Director Baldwin here from the Division of Taxation? (affirmative response)

JOHN R. BALDWIN: Good morning, Senator. Mr. Chairman, if I may, I would like to introduce Assistant Director Samuel Temkin and Chief of our Appraisal Operation, Harris Adams, who is most directly involved in the administration of the Farmland Assessment Act at the State level.

SENATOR ZANE: We are going to take about a two-minute break. We will be right back.

(RECESS)

AFTER RECESS

SENATOR ZANE: Director Baldwin, I believe you were just about ready to introduce the staff members you have with you.

MR. BALDWIN: One of them disappeared.

SENATOR ZANE: Well, when he comes back, you can introduce him.

MR. BALDWIN: In the meantime, Mr. Chairman, I have a prepared statement. I am not going to read it, but I will leave it with the Committee. I think I should get directly into a couple of the more important issues that have already been discussed to some extent this morning.

First of all, I think I should begin by defining what the Division's role in all of this is. We are not in any way to be

considered policy makers with respect to the underlying-- The Division does not have a policy making role with respect to this, except to the extent that there are certain rule-making functions that are under the statute and are the responsibility of the Director of the Division of Taxation.

The major focus of some of the inquiries we are conducting right now and on an ongoing basis have to do with the administration of the Act, mostly on the part of local assessors as opposed to the underlying policies of the Farmland Assessment Act, which seems -- unless I misinterpret -- to be the focus of the Committee here this morning. It is most appropriate that the Committee look at that.

I think I could buy Secretary Brown's testimony virtually in its entirety, with one possible exception that I will come back to.

Just for a moment, I would like to go back to the original purposes of the Farmland Assessment Act, and I think the Committee, as well as the State, is very fortunate to have Senator Dumont available to enlighten us in a very personal direct way about some of the intent that went on back then by the framers of, first, the constitutional amendment, and later, the implementing statute.

I think it is safe to say that a great many people in the State of New Jersey at that time in 1963, when they amended the State Constitution, had in mind the preservation of open spaces more so than the preservation of agriculture as a viable economic enterprise in the most densely populated state in the country. I think with the passage of time, those considerations have become still more important.

Toxic waste, which is a phrase that is on everyone's lips today, was unheard of back in the early 1960s. Environmental and ecological considerations that are topical today were not at that time. Water resource issues were much less important than they seem to be now. The point I am trying to make is that if you went back to the voters today and asked them what they thought of the Farmland Assessment Act, I think that overwhelmingly they would endorse the concept of preserving the open spaces of New Jersey. I think that speaks to the question of whether or not the program has been a success or a failure. I'm not sure what the answer is. You might get a number

of different views of that, but I can tell you that 26% of the land mass of New Jersey is under the Farmland Assessment Act. It seems to me that if it were even a relative failure, that number would be considerably less than that.

In terms of whether or not the motivation of the voters to preserve open spaces, whether that was their primary or secondary motivation, that certainly has been met, and the promise that was made by that constitutional amendment certainly has stood up from that standpoint.

Secretary Brown touched on the issue of the tying of the tax benefit or the tax expenditure to the use of the land, rather than the ownership of the land. I could not agree more from the standpoint of that objective of preserving open spaces in New Jersey. Speaking as just a citizen now, it doesn't matter to me whether those green open spaces are in the ownership of a Fortune 500 company or Farmer McDonald. They are open spaces, and to the extent that that was my objective when I pushed that lever, it suits me just fine that that objective has been met.

At the same time, I think we have be concerned about the well-being of municipalities which may bear an inordinate burden under the terms of the Act.

I think, in the final analysis, all of the issues related to the West Deptford case -- there are others that could be cited -- are tied up in the economics of land ownership. You inevitably get the consideration of the rollback considerations in the Farmland Assessment Act. I'm not sure what the precise rollback provision would be that would preserve the fragile economics of the agricultural industry, if I can call it that, and the purposes of the Act to preserve agriculture as a viable economic enterprise in New Jersey, as well as to keep the State green and open.

I do think it is safe to say -- and this is where I might deviate a little bit from what Secretary Brown has testified--

SENATOR ZANE: May I stop you one second and ask you a question before I forget it? I don't mean to interrupt.

MR. BALDWIN: Sure.

SENATOR ZANE: We presently have the Farmland Retention Act, which the State has funded in part. What do you think industry would do if we in a municipality -- wherever it might be -- went in and took the land that they have under farmland assessment presently today, and we put that in as part of the Farmland Retention Act? In other words, in perpetuity, that would be dedicated to agriculture. What do you think industry would do?

MR. BALDWIN: Well, I'm not sure that there would be a monolithic answer to that. I think that would relate closer--

SENATOR ZANE: Well, let's use an example. Let's say United States Steel. Let's assume they had 1994 acres, it was all in one area, and that county was going to adopt a farmland preservation program. Then the county went to United States Steel and said, "We are going to buy all of your land, or we are going to do whatever we have to do under the Act. We are going to take that land, and that land, in perpetuity, is going to be in farmland." Obviously, your background is in finance, economics, etc. What do you think would happen?

MR. BALDWIN: I think that if I were on the other side of that, and I were employed by U.S. Steel, and looking at the table over you, I would say, "Fine. As long as you give me the fair market value of that land, it is yours. You own it." That would be my view. I think in most instances that would be a Fortune 500 company's view of that. I think the exception would be where the land was originally acquired to build an additional facility adjacent to one that already existed, which, in some cases, is true. There they would have a different motivation for owning the land.

SENATOR ZANE: What if we gave them an out, and we said, "Okay, as long as you go along with that, you'll still receive the farmland assessment, but if you, in fact, decide you don't want that land in perpetuity and agriculture, you can no longer get it," what do you think their reaction would be?

MR. BALDWIN: Well, I think that, in the final analysis, is fair. I think they would see it that way. I think this gets to the point I was at in my remarks in terms of the rollback.

You asked Secretary Brown about a 20-year rollback. I have heard over the years -- and I've been in the tax business for 25 years -- arguments about whether the Farmland Assessment Act is a form of subsidy, which is a word that the farm community objects to very strenuously. I don't propose to answer that question this morning, but it most certainly is a tax expenditure. I think the tax expenditure is now treated in terms of the rollback monolithically.

In other words, if you are under the program for four years, if the rollback provisions are invoked for the current year and two prior years, which is the same standard that would be applied if you are under the Farmland Assessment Act for 25 years, that seems to me to be economically absurd. The rollback should be somewhat commensurate with the tax expenditure of the community. The community, in this case, represents all of the taxpayers of the State because there are equalization impacts that come about as a result of farmland assessment. I think the tax expenditure and the rollback should be related to one another.

SENATOR ZANE: What type of number, in years, does that translate to?

MR. BALDWIN: In terms of percentage?

SENATOR ZANE: Yes.

MR. BALDWIN: I think it would vary depending on how the value of the land increased. In other words, the answer would be different in West Deptford than it would be in Upper Pittsgrove. As Senator Haines pointed out, there is land in the deepest part of the agricultural belt of South Jersey which has not gone up that much in value. Its highest and best use today is the same as it was 25 years ago, and that is, agriculture.

SENATOR ZANE: So, therefore, a rollback really wouldn't affect them that much either.

MR. BALDWIN: That is basically true.

SENATOR ZANE: Okay. But, if you had another area where property taxes had increased substantially, and if we had a long period of rollback, there would be a substantial impact.

MR. BALDWIN: Yes.

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SENATOR ZANE: You talked about a relationship between value increasing, etc., in years. I think that is what you were saying. Do you have a feel for what you would think would be fair and reasonable -- a number of years for a rollback?

MR. BALDWIN: I think you can make a case in the absolute in terms of fairness and equity for the rollback to be total, all the way back to the entrance into the program, and whatever tax expenditure was made over that period of time. You can make an argument that that should be reimbursed to the community.

SENATOR ZANE: So, really what you are saying is, farmland assessment is now in existence 21 years, I guess. It is 20 or 21, whatever.

MR. BALDWIN: Twenty-one.

SENATOR ZANE: You are then really saying that if industry has owned property for 20 or 21 years, and they have benefited by it during that period of time, and if they, in fact, convey the property, then you feel, from an economic standpoint, that it would be fair to roll back taxes for the entire period of time. Do I understand you correctly?

MR. BALDWIN: You do to the extent that I am only taking into consideration questions of fairness at this point.

SENATOR ZANE: I understand.

MR. BALDWIN: You can't do that, and ultimately you have to look at the economics of the agricultural industry as well. As both Senator Haines and Secretary Brown pointed out, the economic viability of farming in New Jersey is more and more predicated on the ability of the farmer to lease land from someone else, because the farmer cannot afford to own land for other economic reasons. If the farmer is renting legitimately on an arm's length basis from a Fortune 500 company, it is in the interest of all the people of the State -- remembering those two reasons why they voted for it in the first place -- to have that transaction occur.

SENATOR ZANE: Okay. But, Mr. Baldwin, let me ask you this: It is true that if the use of the land did not change, there would be no rollback. Correct?

MR. BALDWIN: Yes, under the current law.

SENATOR ZANE: In other words, if United States Steel sold to Elizabethtown Holding Company and it was still in farming, there would be no rollback.

MR. BALDWIN: Right.

SENATOR ZANE: But, if United States Steel converted its property, changed the use, and built a steel plant, there would be a rollback.

MR. BALDWIN: Correct.

SENATOR ZANE: So, that really doesn't affect-- What I am looking at is, the corporate entity that owns the property, that has some future use-- I think we have to suspect that when a major corporation such as -- I'm not trying to pick on them -- United States Steel owns a property, that they have an intended use other than agriculture at some point in time in the future.

MR. BALDWIN: Yes, I think that is a reasonable assumption.

SENATOR ZANE: Okay. I also think that they are not, out of the goodness of their heart, going to keep that property in agriculture just for the purpose of preserving farmland if they have another ultimate use.

MR. BALDWIN: Correct.

SENATOR ZANE: So, if John Q. Farmer is renting there, United States Steel isn't really going to give a damn about John Q. Farmer renting that property if they intend to convert that property to a steel plant. Don't you think that is reasonable to assume?

MR. BALDWIN: Well, except under current law, they can get the tax expenditure benefit by leasing that land to John Q. Farmer. So, to the extent that they are going to care about that farmer's presence on their land, yes, they will care about it very much.

SENATOR ZANE: I know, but when the corporate timetable comes around to expand the plant, I think it is reasonable to assume that they are not really going to be worried about John Q. Farmer and whether or not he makes a living.

MR. BALDWIN: I think that is a reasonable inference.

SENATOR ZANE: Therefore, based upon that, if you follow that thinking, and if I am making myself clear, since that was the intended

use from, I would think, the beginning when they acquired the land to put it to some use other than agriculture, it would be reasonable in your view to have a rollback to the date of entrance into the Farmland Assessment Program. Is that correct?

MR. BALDWIN: From the standpoint of equity, yes, that is correct. But, I'm not sure of the impact of that logic on the fragile economics of the agricultural business, if I can call it a business. It might well be that we would do that in the interest of equity and "shoot ourselves in the foot."

SENATOR ZANE: Yes, but--

SENATOR HAINES: May I interject something?

SENATOR ZANE: Sure, but let me say one more thing. Even the legitimate farmer who owns "xyz" land and who is going to sell that, if John Q. Farmer is going to sell that land, let's say to a large developer, he is not going to pay a rollback tax at the time of conveyance if the developer is going to keep that land in farmland until he gets to his use. Correct?

MR. BALDWIN: Basically, that is my understanding of how the rollback presently works.

Just as an aside, one of the things we are finding out is that in different municipalities, the rollback is handled differently, which is something we have to address in terms of the administration of the law.

SENATOR ZANE: I don't want to be beat it to death, but doesn't it seem reasonable -- because I agree with your philosophy -- that rollback taxes should apply at a period of time greater than the couple of years we have, when, in fact, we can see that, let's say, United States Steel is sitting and owning property? Shouldn't we have some fixed period that is greater than the two years, plus the current year?

MR. BALDWIN: I think the three-year rollback, at least in terms of 1985, is absurd, but I think it is equally absurd when we are talking about John Q. Farmer, if John Q. Farmer has been a beneficiary of that tax expenditure for 21 years, and then sells the land to a developer who is going to put up town houses. The farmer has received

the benefit of the tax expenditure -- a very substantial tax expenditure -- for over two decades, sells the farm to the condominium developer for \$3 million, moves to Florida, and the original purpose of the voters has now been abandoned. The green spaces are no longer there; town houses are instead. So, I would not distinguish--

SENATOR ZANE: But, the farmer wouldn't be hurt in that scenario because he didn't change the use.

MR. BALDWIN: Well, that individual farmer would not be hurt, but farmers generally would, in my opinion. Ultimately, that is the kind of transaction that will cause the voters to vote against this and to be opposed to the whole concept of farmland assessment. There are as many cases of that kind of thing happening as there are what many people consider to be the horror stories of the Fortune 500 company holding a large block of acreage under the Act. I don't make any distinction between the two situations at all. Land speculation is land speculation.

SENATOR ZANE: I don't want to see the farmer who has owned land that has passed through his family for 30, 40, or 50 years sell his land to a developer and that farmer then have to pay a rollback tax. He wouldn't today.

The new party acquiring the property, if he stayed on it for a couple of years, would have to pay a rollback if he changed the use.

What I am really talking about addressing is the present situation where if we have a United States Steel that is already the owner of the property -- for speculative purposes, new plants, etc. -- and they change the use, they would pay. The farmer wouldn't be hurt in that scenario. The major corporation would be faced with the rollback tax; the farmer would not. What I am saying is, the farmer wouldn't be hurt.

MR. BALDWIN: Well, I understand, Senator, that that is what you are saying, but I'm disagreeing with you. I am saying that--

SENATOR ZANE: How would the farmer be hurt if you disagree?

MR. BALDWIN: No, that is not what I'm saying. I am saying that land speculation is land speculation. If the original purpose was to preserve green spaces and a farmer who legitimately farmed land for

two decades then makes a huge capital gain and goes off to Hilton Head Island, or wherever such people go, the public purpose of the voters originally has been defeated. It doesn't matter to me whether John Q. Farmer did that or U.S. Steel did it.

SENATOR ZANE: The public purpose may well have been defeated, but that is not going to stop the farmer from doing that anyhow. If he decides he wants to pack it in and--

MR. BALDWIN: That may be, but if he had to return to the community, based on that decision to change his lifestyle, he might think twice about it if he takes into consideration the entire tax expenditure that he benefited from over those 21 years.

SENATOR ZANE: Yes, but the farmer wouldn't have to return it. The farmer would not have to return that.

MR. BALDWIN: Are you saying that the farmer would not under something you are proposing, or--

SENATOR ZANE: No. If the farmer has been the owner of the land for 20 years -- if I understand it correctly; if not, please correct me -- and United States Steel comes along and buys the farmland from him, with that transaction, the farmer isn't going to pay any rollback taxes.

SENATOR HAINES: There is a cost factor here.

SENATOR ZANE: He won't pay any.

SENATOR HAINES: There is a cost factor here that I think you are trying to get to, and that is the thing I think we ought to look at. If a rollback is 20 years, and that rollback costs the developer \$2000 an acre in raw land costs-- If he is looking at buying land in the suburban area of Philadelphia, he can buy land in Bucks County, Burlington County, or Salem County. If that raw land cost is increased by \$2000 an acre -- I'll just use economics here -- then basically he is going to pay \$2000 less to the farmer in Salem County than he will pay to the farmer in Bucks County.

Let's face it folks, not every farmer goes to Hilton Head. I sold my land in Burlington County, and took that money and bought farms in Salem County, in your district.

You also have to pay an income tax when you sell land before you buy other land.

SENATOR ZANE: You do anyhow.

SENATOR HAINES: If you are paying a raw rollover dollar that the developer expects to pay in the deal, if it gets too high-- I'm not saying that three or five years is too high, but maybe 20 years is. If the developer is looking at the raw land cost of \$2000 higher, even though the developer pays the \$2000, the guy who pays ends up being the farmer.

Basically, you don't get something for nothing, and we never have been able to get something for nothing throughout history. The seller always pays.

We sold a load of apples to Barbados recently. We got \$9 for the apples, but taxes on the apples down in Barbados were \$25. They are not going to buy many apples from us, and the seller is the loser in the deal. The seller is always the loser in the deal when you add on taxes.

MR. BALDWIN: People in Barbados aren't going to get any apples either.

SENATOR HAINES: We are the loser in the deal with Barbados because we are not selling them any apples.

Going back to another point, which I think has been missed, I don't think every Fortune 500 company has an ulterior motive. Maybe I am a little naive about this thing, but I think the Exxon Company decided to move their corporate headquarters to Hunterdon County. Wayne, is this correct? Was it Exxon?

SENATOR DUMONT: That is true.

SENATOR HAINES: Maybe it is a little bit padded, and maybe it is not exactly the way they wanted it, but they said they wanted to buy a large acreage of land. I think they bought 300, 400, 500, or 600 acres there, and they did not intend to ever develop it. They wanted to retain a farmland-like community around their plant because it enhanced the quality of living of the people working there. I think it gets back to what Art Brown said a little while ago. The purpose of the Act is to preserve farmland, and I'm sure the farmer is farming that land around the Exxon plant. It is an asset to them to be able to rent that land at a low rate and not have to buy land.

I don't know what land is worth in that area, but I would be almost sure that no farmer can afford to buy land in that area. It does provide a place for these farmers who happen to be farming that Exxon land to rent land cheaply and continue to farm.

I think there is some asset to this thing.

MR. BALDWIN: I would agree wholeheartedly, Senator. I would like to take that one step further. With all deference, Mr. Chairman, the hearing is about abuses. I think if you take the point of view of Justice Holmes, who said that no man is responsible to pay more taxes than the law requires him to pay, if a corporate taxpayer is taking advantage of the Farmland Assessment Act, for whatever purposes -- whether they are altruistic or speculative -- I don't know if we should be calling that an abuse. What is lacking is thorough public policy, and I don't know if there is something lacking with the taxpayer.

I do think that before the Legislature does anything to tighten up on land speculation -- whoever is involved in that -- we ought to be very concerned about the fragile economics of the agricultural industry. As Secretary Brown said, and Senator Haines has verified, it is indeed very fragile.

There are cases like the Exxon transaction in Hunterdon County where the interest of the company is in preserving the community, not abusing it. That may not always be true, but I think in many cases, it is.

SENATOR ZANE: With a company such as that, if that is what their interests are, they are not going to be affected by a rollback because they are going to keep the land in agricultural-type use.

SENATOR HAINES: That is absolutely true.

SENATOR ZANE: What I am talking about is a company that moves into a municipality, and makes a major announcement, "We are going to employ 600. We are going to build this plant and that plant. We are going to sit on the land for 10 years, and get farmland assessment." That is the corporation that concerns me. In all due respect, I don't know that I agree with Senator Haines that the seller of the property-- If you have someone who is a farmer and someone needs that land, let's say, for condominiums or a plant, I don't know

that I necessarily agree with you that the seller is going to be the one who is going to get \$2000 per acre less -- I think that is what you are suggesting -- because he is selling to someone else who has an industrial-type use, or another commercial-type use.

MR. BALDWIN: I think you could structure the--

SENATOR ZANE: Also, there would be no rollback unless the purchaser of that farmer's property is going to speculate and sit on the land for a long period of time. He would go to current taxes as soon as he put it into the intended use.

MR. BALDWIN: I think you are quite correct in terms of the--

SENATOR HAINES: I am talking about a little bit different thing than a company buying a plant and sitting on it. I'm talking about a farmer who sells to a developer who is going to develop that within the next few years. What he is looking at is raw land cost, and raw land cost includes not only the purchase price to the farmer, but the rollback tax that he might have to pay.

So, if we increase this, say to a 20-year rollback, then what we are actually doing is taking some of the value away from the farmer, or his ability to sell, which may, in fact, prevent the farmer from moving somewhere else and buying cheap land in Cumberland County, Salem County, Pennsylvania, Iowa, or someplace else.

SENATOR ZANE: Except the only problem I see in that thinking is that if, in fact, there is a 20-year rollback and that farmer has owned that property, no one is going to pay any rollback. No one is going to pay any rollback. If that farmer has owned that property, and if there is a 20-year rollback on the property, as you just pointed out, and if he sells it to "xyz" corporation and 30 days later breaks ground to build its plant, there is no rollback to anyone.

But, if--

SENATOR HAINES: I don't understand.

SENATOR ZANE: There is no rollback then. But, if "xyz" corporation--

SENATOR HAINES: There is a rollback.

SENATOR ZANE: There is not. There is no rollback.

SENATOR HAINES: Run that by me again.

MR. BALDWIN: Well, the change in use did not occur--

SENATOR ZANE: While the farmer had ownership.

MR. BALDWIN: (continuing) --when anyone under farmland assessment owned the land. That is what Senator Zane is saying.

SENATOR HAINES: I agree that the farmer didn't pay directly, but the farmer pays in reduced land value because the minute you change the use, the developer has to pay the rollback.

SENATOR ZANE: No.

SENATOR HAINES: Oh, I see. You're talking about a sale and then an immediate change.

MR. BALDWIN: If we increase the time. Say it is two years. Say the land was under farmland assessment for 21 years, and then U.S. Steel or someone else comes along and buys it. Then, two years later, they build a plant there. The tax expenditure that was made during that 21-year period cannot be made up in a rollback. There is no rollback.

SENATOR ZANE: That is right. But, if you have the same land that is owned by United States Steel for 20 years, and they take that land and change the use -- forgetting the conveyance; they change the use -- to industrial, and they have benefited by these other taxes, if there was a 20-year, 10-year, or 5-year rollback, more than the two plus the current, there would, in fact, be additional taxes to the municipality from that corporate entity.

MR. BALDWIN: Senator, I don't think the worst cases involved Fortune 500 companies. I don't think the worst cases are instances where a company comes in and buys a parcel of land to ultimately build a plant, a terminal, or whatever it may be to create 600 jobs in the community. That doesn't bother me nearly as much as a situation where someone buys the land purely for speculative purposes to sell it 10 years later for development purposes and has no such intent. I think that is by far the worst condition that you will see under the Farmland Assessment Act. In those instances, I think that equity cries out that the entire tax expenditure be recoverable.

SENATOR ZANE: I don't think we disagree at all with that. I don't.

SENATOR HAINES: I think, in most cases, your land is transferred from farmer, to speculator, to builder. There is usually an interim step between the farmer -- at least there is in our area -- and the person who actually changes the use.

MR. BALDWIN: Well, I wouldn't distinguish between a farmer, a speculator, and a real estate developer/speculator. I think the important issue is speculation.

SENATOR ZANE: Senator Dumont, do you have any questions?

SENATOR DUMONT: Not really, no.

SENATOR ZANE: While Senator Dumont is looking for his question, does your Department have any figures that indicate the difference between -- just so we have a feel of what we are really talking about -- the land that is assessed as farmland and what it would be if it were at its value like everything else? What is that dollar amount statewide?

MR. BALDWIN: We don't know, Senator, for this reason: There is no current requirement that the local tax role has to disclose the highest and best use market value/standard value. I'm not sure from a statistical standpoint that we can do this sufficiently accurately to warrant its publication, but we are going to try to use averages and develop those numbers. I, too, would like to know what theoretical tab -- the tax expenditure -- is for the Farmland Assessment Act.

We have elaborate numbers on acreage by municipality and a couple of other publications, which I will leave with you. I asked the same question a few weeks ago, and there are valid reasons why we don't have it. We are going to take a run at doing it by using averages, and we may be able to come up with at least a range.

I think it is safe to say that we are talking statewide in hundreds of millions, not tens of millions. If you look at the total tax burden of the State, local property taxes this year will produce something in the range of \$5.5 billion. Twenty-six percent of the land mass is under farmland assessment. Granted, much of this land is in areas of the State where it is of less value than it would be in downtown Jersey City, but I still think you have to be talking about a number in hundreds of millions. It is a major tax expenditure and,

unfortunately or fortunately as the case may be, I think there are a number of other public policies that get involved. It is not simply a finance-and-economics taxation question.

All the ecological, environmental, and water resource questions get involved, and the people of the State have a vested interest in preserving those green spaces. If the price of that is some degree of profiteering, maybe that is the price that we will ultimately have to pay.

SENATOR ZANE: If rollback went back to the date of entry into the program, do you think that would a greater incentive to continue and to preserve open spaces in farmland?

MR. BALDWIN: I'm not sure, and I think that would be something that economists who have skills far beyond mine would have to look at very closely. It has been suggested to me, for example, that this would be a very, very negative concept in terms of orderly housing development in the State, which is still another public issue that gets involved in this.

I'm not sure that that is a valid argument. Really, what you are doing is restoring the laws of supply and demand. In a sense, the Farmland Assessment Act is a suspension of the laws of supply and demand.

SENATOR DUMONT: You have in your statement -- and I agree with it completely -- that any revision of rollback would have to take constitutional amendment form. What do you think the position of the majority of the people might be in that respect regarding a constitutional amendment?

MR. BALDWIN: Senator, I have been around this town long enough to know that you don't speculate on what the voters are going to do in November. (laughter) In all seriousness, I think a well-crafted amendment to the Constitution that would correct some of the things that have been perceived to be inequities would be well-received by the voters. That would be my opinion.

SENATOR DUMONT: It would have to be more than one of these 90-day wonders that we so often just pass prior to the time we've got to advertise in every county in the State that there is a constitutional amendment coming up.

MR. BALDWIN: I think careful crafting implies a deep analysis of the issue by people qualified to do that. I am sure those people don't exist in the Division of Taxation.

I continuously refer to the economics of the agricultural business as being fragile, and I think what is going on in the Midwest proves that that is so.

By the way, I think the fact that the agricultural industry in New Jersey has been largely free of the foreclosure problem that crosses the great plains, maybe it was directly impacted by the land leases and rentals. What has happened in the Midwest is, farmers bought more and more and more land, and when farm prices went down, they could not support the payments for that land. If they were renting the land from, say, Exxon, perhaps they could have survived.

That is what I am talking about when I talk about the fragile economics of agriculture.

SENATOR HAINES: Let me ask one final question. I see in many parts of the State, farmers selling their frontage. This, to me, is not a good procedure from the standpoint of land use. It is not good from the standpoint of the farmer. It is not good for many, many reasons.

As opposed to that, suppose a farmer has 500 acres, and he needs extra cash? He sells 100 acres to a speculator, and then he continues to farm it. Is this a better use? Could you comment on that in comparison to selling his frontage? Do you get my point?

MR. BALDWIN: Yes, I do, Senator. I don't think there is any monolithic answer to that. I think it would depend upon the circumstances in every case.

If the frontage is on Route 33 in Hamilton Township, I think the answer might be quite different than if the frontage is on a country road in Pittsgrove. I think there are many answers to that depending on the facts in each case.

SENATOR DUMONT: You mentioned one of the troublesome provisions of the term "actively devoted." Do you have any suggestions as to how that can be improved if it is troublesome?

MR. BALDWIN: Well, I think suggestions in that regard probably would be in the realm of policy making, but we would call it to your attention that "actively devoted" is a term that-- It is my understanding that the majority of the court cases involving farmland assessment has centered on those two words -- "actively devoted."

SENATOR DUMONT: Doesn't that usually mean cultivated or something of that nature? Obviously, you have to do more than just have it sit there.

MR. BALDWIN: Yes. I think "actively devoted" as related to the woodland issue means cultivated. There are some bills moving through the Legislature right now that would address the issue of woodland. It is a very important consideration.

Secretary Brown testified about the threshold. I'm not sure that a threshold even in the range of \$1000 would really bite into the issue. I'm not sure that any change in the threshold is going to "correct the abuses," if I can put that in quotes.

With regard to the five-acre issue, I think we have to remember that at the time of enactment of the Farmland Assessment Act and the constitutional amendment that enabled that, the poultry industry was a very large industry in the State of New Jersey. It may be somewhat less of a factor now because they have come upon hard times, but many of those chicken farmers only had about five, six, seven, or ten acres. I think that accounts for the low acreage. I think it is still a consideration, but not to the extent it was in the early 1960s.

SENATOR ZANE: I have one not terribly serious question and one serious question. Since you have been a Trenton observer for so many years, and your lack of speculation as to what the voters would do, does that, your opinion, suggest that Kean and Shapiro are neck and neck? (laughter)

MR. BALDWIN: No, I haven't been here that long. (laughter)

SENATOR ZANE: Do you think there is a significant role that the local tax assessor plays in determining the actively-engaged-in question?

MR. BALDWIN: Well, yes. The analysis we are doing in Hunterdon County that Secretary Brown alluded to grew out of a single controversy between one assessor in one municipality and the County Tax Board. The purpose of expanding it was to see if the practices on the part of local assessors in that one county were uniform.

While we have not completed that analysis, I think we are far enough along in it to come to the conclusion that they are not. To some extent, we have to bear the burden of responsibility for that and we must look to our own regulations to see if we have adequate uniformity concerns.

By the same token, I would point out that the Act itself gives the local assessor the ultimate determination as to what is actively devoted. There are various other anomalous situations that the assessor finds himself in along the way. One particularly troublesome one has to do with appeals of determinations where the assessor disagrees with, let's say, the County Tax Board's conclusion regarding farmland assessment. The assessor has a very prominent role in these determinations, as he does in virtually all property tax assessments.

SENATOR ZANE: And your findings in that study so far indicate they are not being applied uniformly?

MR. BALDWIN: That is basically our conclusion, that there is something of a lack of uniformity among the assessor's determinations of various things involving the Farmland Assessment Act. There is a need for--

SENATOR DUMONT: Well, I doubt if they are applied uniformly in any county, as a matter of fact.

MR. BALDWIN: No, I don't mean to single out Hunterdon County. That was simply the first County we looked at. I suspect we are going to find the same thing in every county.

SENATOR DUMONT: The assessor actually does not have to use this guide that the three of you put out every year.

MR. BALDWIN: That is exactly right.

SENATOR DUMONT: He has to take it into consideration, but he doesn't have to follow it.

MR. BALDWIN: That is exactly right, although I will say that it is our impression that most assessors throughout the State use the values. I think the lack of uniformity comes in more in terms of determining the eligibility of the parcel in the first instance.

SENATOR ZANE: Are there any other questions from the Committee? (negative response) Are there any other salient points that you feel you should make before you are replaced by another speaker?

MR. BALDWIN: Perhaps one last comment, and that has to do with two commissions that are currently in existence. One is the Glaser Commission, which is looking at assessment practice and procedure in a very focused way. The second would be the State and Local Expenditure Revenue Policy Commission.

This Committee might want to consider the possibility of, by resolution, referring to one or both of those Commissions for some further analysis of some of the issues that come out of your deliberations here.

SENATOR ZANE: Thank you very much.

MR. BALDWIN: Thank you, Senator.

SENATOR DUMONT: Thank you.

SENATOR ZANE: Mayor Shields from West Deptford Township?

MAYOR DAVID P. SHIELDS: I would like to start by thanking Chairman Zane and the members of the Committee for holding this public hearing today. The issue before us today is a serious and difficult one. Simply stated, the problem is the use and abuse of the Farmland Assessment Act by corporate and industrial interests to avoid paying their fair share of local property taxes. This abuse has resulted in a significant drop in local revenue -- the revenue that paves the roads, collects the trash, runs the recreation programs, provides police protection, and most importantly, builds the schools and educates our children.

Let me state at the onset, I support the goal of the Farmland Assessment Act, namely to check the development of prime farmland. What I do not support and seek a remedy for is the abuse of this well-intentioned law by those whose primary interest is lowering their taxes at the expense of the average homeowner.

West Deptford is a well-planned and growing community located along the Delaware River in the northwestern section of Gloucester County. Interstate 295 bisects the Township and has proved to be a strong impetus toward our industrial, commercial, and residential development. Like other waterfront communities, we have a significant industrial base that is composed primarily of petrochemical companies. Located in our town is Coastal's Eagle Point Plant, formerly Texaco, Shell Chemical, a number of tank farms and pipelines, and numerous other companies associated with the production of petrochemicals. In addition, Mid-Atlantic Corporate Center is sited in our Township and is currently undergoing rapid development.

For most of my life, I have lived in West Deptford. I have seen it change from a rural, primarily agricultural, community to a developed suburb with a large industrial base. I have not always been happy with the changes this development has brought. I count among my friends many farmers and have seen firsthand their struggle as they make a living at farming.

In an effort to make this struggle easier, the New Jersey Legislature enacted the Farmland Assessment Act in 1964. Under this Act, property tax relief was provided to landowners whose acreage qualified as farmland. This land was assessed not at its fair market value, but at its value for agricultural use.

The intent of this Act was to slow down the development of New Jersey's farmland. It is not disputed that it has succeeded in doing so. In order to qualify as farmland, the land must fall within certain enumerated uses and must meet a minimum yearly gross agricultural product sales test. Once land is assessed as farmland, the Act provides an incentive to maintain that use. If the use changes, the land becomes subject to rollback taxation at its full and fair market value for the two years prior to such change, as well as for the tax year in which the use was actually changed.

As the members of this Committee are certainly aware, the track record of the Farmland Assessment Act demonstrates limited success in preserving agricultural land. In 1956, New Jersey had 1.6 million acres of land dedicated to agricultural use. By 1966, that

acreage had dropped to 1,160,000, and by 1976, it had dropped to 1,020,000 acres. While the Farmland Assessment Act has certainly contributed to the decrease in the conversion of farmland to other uses, it is clear that farmland is still being lost at a high rate.

As I stated before, a major problem with this law is its abuse by land speculators to avoid paying their fair share of taxes. A speculator who holds land for four years or more will reap unwarranted windfall profits because the rollback tax will only cover the last three years of ownership. This is one reason why the Act is less effective in checking the conversion of farmland to other uses. An increase in the rollback tax will provide a more powerful dis-incentive to convert farmland to other uses.

Curiously enough, some claim that the preferential assessment has actually increased the loss of farmland by making it more attractive to investors. This, in turn, has encouraged tenant farming, which has further eroded the stability of family farms. The uncertainty of tenant farming agreements necessitates switching from land-intensive crops, such as fruit orchards, to temporary crops such as soybeans. This is certainly the case in West Deptford where most of the land qualified as farmland by major corporations is planted in soybeans. The balance is primarily used as pasture land.

As Mayor, I am held accountable to the taxpayers for their tax dollars. Taxpayers don't mind paying their fair share as long as they are confident that the tax system is equitable. The residents of West Deptford know this is not the case. They are aware that the tax dollars lost through preferential farm assessment come out of their pockets. This holds true for both the average homeowner and businesses that do not have this preferential tax treatment available to them.

The amount of revenue lost is staggering. West Deptford Township will lose \$105,148. Gloucester County will lose \$225,317, and the West Deptford school system will lose \$462,651, for a combined amount of \$793,116. This, gentlemen, is just the amount of farmland assessment held by industry. Local government and the schools are forced to either cut services by this amount or shift the burden onto the backs of the average taxpayer.

Farmland assessment is a State-mandated program, and it benefits the entire State. But the financial burden is borne solely by non-farming property owners in West Deptford and towns like it. This is not fair. Something must be done to halt the abuse of the Farmland Assessment Act. I am advised by our assessor that the amount of revenue lost due to the abuse of the Farmland Assessment Act will continue to rise in the coming years.

The requirements of sound public policy dictate that scare resources be targeted on the group that needs them the most, namely family farmers. But, the Farmland Assessment Act does little to bring about this goal. Immense tax benefits are available to investors and speculators, with little penalty if the use of qualified farmland changes and the law requires no long-term commitment to preserve the agricultural status of the land. In short, this Act is too frequently a free ride for land speculators and big business.

I commend this Committee for the positive steps it has taken to preserve prime farmland and the family farms that constitute the backbone of agriculture in South Jersey and throughout our State. However, I fail to see how the Farmland Assessment Act is helping family farmers. At present, well over 50% of land in agricultural production is not owned by the individual farming it. It seems to me that this law is helping turn the great majority of them into tenant farmers, with all the instability that that entails.

I would urge that this Committee strongly consider major revisions to the Farmland Assessment Act. I believe the product threshold should be raised to a more reasonable dollar amount. Five hundred dollars for five acres may have been realistic in 1964, but it is clearly too low in 1985. Perhaps consideration should be given to indexing the threshold to adapt to changing economic conditions as well.

My key recommendation involves increasing the rollback tax penalty to at least 10 years. This would put some real teeth in the law. The increased cost of changing qualified farmland use will make the conversion of farmland much less attractive to speculators and investors. At the same time, deferred taxes will be paid to

municipalities if the use changes, helping to offset the revenue lost over the years. This change will not hurt the family farmer whose dream is to one day hand his farm over to his children. He will pay no rollback tax as long as his land is farmed.

I would point out that a number of states have rollback penalties stronger than New Jersey's, including Hawaii, which rolls back all deferred taxes with 10% interest.

If the rollback cannot be significantly increased, I would insist that the Legislature accept the responsibility for this lost revenue and reimburse municipalities. Many other states include municipal reimbursement as part of their Farmland Preservation Program.

I have included in my testimony a printout demonstrating the extent of my town's revenue loss.

If the Committee has any questions, I would be happy to answer them. Once again, I would like to thank the Committee for the opportunity to give my views.

SENATOR ZANE: Senator Haines, do you have any questions?

SENATOR HAINES: Is five acres okay, or do you suggest--

MAYOR SHIELDS: No. I have heard of the gentleman farmer, and I have been in touch with mayors of other communities that have a problem with the "farmette" type of assessment. As we see it, what is really taking place in our town, Senator, is a corporate decision to abuse the Farmland Act.

SENATOR HAINES: But you're not concerned about the five acres?

MAYOR SHIELDS: No.

SENATOR HAINES: That is okay. You suggested a change from \$500 to-- Do you have a suggestion? Five hundred dollars to what?

MAYOR SHIELDS: No. I heard testimony here this morning, which was informative to me. A gentleman said that the agricultural community has less than doubled. I have no expertise in that. If that is a case of the legitimate farmer, I have no problem with it. In fact, for the real farmers in our community, I wouldn't care if the \$500 was decreased.

SENATOR HAINES: You say that soybeans are being grown on this land. Are the companies that own the land growing the soybeans, or are they renting it to farmers?

MAYOR SHIELDS: They rent it to farmers. I have some very good friends who are farmers in the town, and I've suspected that industry actually pays the farmer to plant the soybeans. We have not been able to verify this. As close as I've come to it is, a very good friend of mine who is a farmer said, "I'd rather not answer that because of our friendship." We suspect that much of the industry is actually paying farmers to farm the land so that they can enjoy the benefit of being taxed as farmland.

SENATOR HAINES: It is a reverse rental. Isn't that right?

MAYOR SHIELDS: Right. That is what we suspect. We have yet to prove that. It is not in West Deptford that most of the industry has been giving some form of farmland assessment. An example would be GATX Company that presently has 368 acres. They are looking to sell some of it, and they are looking to develop some of it at a future date. They currently enjoy 68 of those acres being assessed as farmland. They have put in for a tax appeal, which would change the whole 368 acres to farmland. They were paying \$180,000 in real property tax and now they want to down to six. This is the corporate posture that is taking place along the riverfront, at least in the towns I am aware of.

Under the current law, with the case we have -- the Andover case -- it looks as if we will incur costs as high as \$25,000 or \$30,000 to defend this case. This case has not come to court yet, but as Senator Dumont said earlier, "A judge gave this decision, or a judge gave that decision." Unfortunately, we are forced to live with these decisions in the Township, and it is costing us up to \$30,000 to defend just one case.

We suspect that-- ' I don't know. We are here to air our complaints about this Act. The \$500 for the first five acres and the \$5 per acre after that really is-- If the intent of the bill is to preserve farmland, let's preserve farmland. As Senator Zane alluded to earlier, let's say, "Fine, industry, this is a farm, and it is going to

stay a farm forever." But, you and I know that the courts won't allow us to do this. It is a circumvention of the spirit of the Farmland Assessment Act by corporations not paying their fair share of taxes.

Years ago I suppose, corporations were glad to have 68 acres. Today they are not.

SENATOR HAINES: You know, I'm surprised that they don't have several farmers trying to rent that soybean land if it is good land, because I know down in our area, they are renting land for as high as \$100 per acre.

In Burlington County, rentals -- because of absentee ownership -- are much less. They are very low. But, I have never heard of paying a farmer to farm it.

MAYOR SHIELDS: No. The type of farming that we have is soybean and cattle. I find it hard to arrive at a fair value of how many head of cattle an acre would support, or if it would support one head of cattle. I've talked to the farmers down there. I've seen legitimate family farmers put their cattle in trucks and truck them across the town to put them on industrial land to graze for a few days and then bring them back to their real farm. We are suspect that this takes place. We really are.

SENATOR HAINES: It is interesting.

SENATOR ZANE: Mayor, let me ask you something. Could you tell us a little bit about GATX? Do you have any idea about what their prime interest is, and what activity do they engage in?

MAYOR SHIELDS: I read a brochure on them, and GATX is in quite a few different items. They were looking into a refinery at one time, because they gave an application to the Planning Board to build some tanks. I don't know what the parent corporation does, but GATX in West Deptford was an investment along riverfront property for future development. What they are going to ultimately develop, I don't know.

SENATOR ZANE: How long have they owned that land?

MAYOR SHIELDS: Gee, I would be guessing, but it has been for the last 10 years that I am aware of -- probably back further than that.

SENATOR ZANE: Did they acquire that land from a farmer prior to that?

MAYOR SHIELDS: I believe they acquired a portion of it. A lot of it is riverfront property; a lot of it is non-farmable. The 68 acres are what the original farmer farmed.

SENATOR ZANE: Was there any speculation when they first acquired the land as to what they intended to do there? Do you recall?

MAYOR SHIELDS: No, I don't recall, but I've been told -- of course, this is just hearsay from former mayors and different committee members and people on the Planning Board -- that it was to be developed. It has the capability of housing a deep-water port there, I believe.

SENATOR ZANE: You indicated they came before your Township's Planning Board?

MAYOR SHIELDS: Yes, I would say four or five years ago. They were going to build a few tank farms, and they were approved for that. That sort of fell through when the oil crisis took place.

SENATOR ZANE: Do you know how many acres were involved in that application?

MAYOR SHIELDS: I don't know for sure. I know they currently own 368 acres down there.

SENATOR ZANE: Are you indicating that they own 368 acres? Is that what you are saying?

MAYOR SHIELDS: Yes, I believe that is the number they have.

SENATOR ZANE: Presently, they have 68 acres under farmland assessment?

MAYOR SHIELDS: Yes.

SENATOR ZANE: And the other 300 acres are subject to an appeal seeking farmland assessment?

MAYOR SHIELDS: Yes.

SENATOR ZANE: What is the revenue your Township presently gets on those 300 acres?

MAYOR SHIELDS: We get \$180,000 total.

SENATOR ZANE: Can you project, or are you familiar with what it would be if that same property were reassessed for farmland assessment?

MAYOR SHIELDS: It would be \$5000.

SENATOR ZANE: So, there would be a loss to your town of \$175,000?

MAYOR SHIELDS: To our town, yes, and that includes the County and, of course, the school board.

SENATOR ZANE: But, your town alone would lose \$180,000?

MAYOR SHIELDS: Yes, we would lose \$180,000. That includes the school board's portion, plus the County portion. Obviously, the school portion and the local portion has to be borne by the West Deptford tax residents. It will have devastating effects on the county rate also because the riverfront communities pay a large portion of Gloucester County's taxes. Our town is second in what it contributes to Gloucester County. We contribute \$4 million in taxes.

So, with the equalization of the loss of these taxes, the County taxes will also rise. We're are seeking help from our County Board of Freeholders to fight a couple of these cases at this time.

SENATOR ZANE: Can you indicate what the other industry is in your municipality that benefits from farmland assessment?

MAYOR SHIELDS: Most of the other industry is Tenneco, National Steel, Penwalt, Shell, ICI, Colonial Pipeline, Mid-Atlantic Industrial Park -- things really geared to petrochemical companies.

SENATOR ZANE: Did you mentioned United States Steel?

MAYOR SHIELDS: Yes.

SENATOR ZANE: How much acreage do they own in West Deptford Township?

MAYOR SHIELDS: They only own a small portion at this time. They had owned a large portion, but they sold a lot of it to Tenneco, which purchased the land to put an LNG port along the river.

National Steel has about 140 acres.

SENATOR ZANE: Are you saying that Tenneco purchased to locate a liquid nitrogen gas--

MAYOR SHIELDS: Yes.

SENATOR ZANE: How many acres did they acquire from U.S. Steel?

MAYOR SHIELDS: I think the total acreage is over 1000 acres.

SENATOR ZANE: In your Township?

MAYOR SHIELDS: Yes.

SENATOR ZANE: Was it public information that that was the purpose of their acquisition?

MAYOR SHIELDS: Yes.

SENATOR ZANE: Are they presently getting farmland assessment?

MAYOR SHIELDS: For a portion of it, yes. As I said, industry was somewhat cooperative and happy to have a portion of it as farmland assessment because they either paid or farmers rented a portion of the ground. We have toured this farm with many representatives of the State's Farm Bureau, and we feel that if GATX is successful, then Tenneco will be right behind them in trying to have the whole parcel declared as farmland assessment or woodlands -- one or the other. In effect, they both present the same problems to the town.

SENATOR ZANE: Do you know what the potential loss would be to your Township on that other property if Tenneco did follow and was successful?

MAYOR SHIELDS: No. I think I have some of it on the charts, but it would be devastating. What I have tried to give you here on some of the charts is the regular acres that they are assessed at, how much the average acre is, and the potential loss with results to the school board, the County, and locally, if the current appeals are upheld.

What is not on this chart is really the legitimate family farmer who has been there for a year and who has numerous acres under the Farmland Assessment Act, which we feel are legitimate under the Farmland Preservation Act.

SENATOR ZANE: Senator Dumont, do you have any questions?

SENATOR DUMONT: For one thing, how many farmers do you have, if you can count them, left in West Deptford Township?

MAYOR SHIELDS: We have nine or ten.

SENATOR DUMONT: That is all there are?

MAYOR SHIELDS: Yes. They are legitimate family farmers who derive their income from farming. I would have to bow to the other gentleman's statement, but the other ones are probably down along the Gulf Coast, if not the Gold Coast, because a lot of the farms were sold to industries we see right here.

SENATOR DUMONT: You mentioned Hawaii during the course of your rollback statement. My understanding of Hawaii is that the entire public school system is run by their state government. There are no local boards of education, or at least no local control over public schools there. Whether or not that rollback means they get back taxes, which they then have to contribute to the State is something else, but they certainly don't contribute them for local control. There isn't any local control.

MAYOR SHIELDS: Well, I can see that. One of the things that was discussed here today was, is it farmland preservation, or if it is a subsidization program to the farmers, then who should be responsible for paying that subsidization? I just don't feel that the residents of West Deptford Township should be responsible to make up \$765,000 to subsidize 10 legitimate farmers. I can't be in a position to justify subsidizing 10 farmers at \$75,000 each. With the population in our town, I could probably feed everyone in the town for a couple of years on the subsidization.

SENATOR HAINES: Of course, if the farmers had to pay \$75,000 each, they wouldn't be farming.

MAYOR SHIELDS: Well, it is not the farmers who we are discussing. As I said, there are no breaks to the legitimate farmers -- the people who are farming vegetables and cattle -- in my \$750,000 figure. We are talking about industry which primarily plants a field or two of soybeans. It is difficult to control the \$500 maximum. I think the rollback would be a deterrent for speculation.

SENATOR ZANE: Is that the main thrust of your recommendations?

MAYOR SHIELDS: No. The rollback is something that is obvious. If it was \$500 in 1964, you wouldn't think it would apply any more.

I've been involved with paper exercises in West Deptford where a refinery, which is probably worth \$900 million, changed hands for \$42 million. So, I find a lack of credibility in a lot of the paper that goes back and forth, to justify this.

I feel that the rollback would be a deterrent, it would not harm the family farmer whose goal is to pass the farm on to his son. If he were to choose to make a windfall profit, perhaps it would hurt him then.

SENATOR HAINES: Mayor, is this good land? I still get back to the idea of paying the farmer to farm. It seems crazy.

MAYOR SHIELDS: I'd probably have you down there renting some of it. (laughter) Some of it is good, and some of it is not. We happen to feel that with GATX, the 68 acres has been very generous, but the other 300 acres are totally ridiculous.

Of course, the woodland preservation -- the open space preservation -- comes into the court case. I believe the case that many attorneys are citing now is the Andover case, which said that even though, say 50 acres, are prime farmland, if it takes another 50 acres to provide drainage and things like that, then that could be considered farmland also. That is where industry is really abusing the law.

SENATOR HAINES: In other words, if they have to truck in cattle and take them out, it sounds as if the land isn't very good.

MAYOR SHIELDS: I don't know what supports-- I've talked to some of the farmers, and my family has a history of being involved with many of the farmers in Woodstown and places like that. We really suspect that industry is either providing the land for free, or \$1, or some nominal fee to circumvent the law.

It would be the same as we hear everyday about many, many millionaires who never pay income tax. Under the current law, I suppose what industry is doing could be considered legally right, but it is not morally right, nor is it morally fair to the residents of my town, or any of the other towns in Gloucester County that are suffering under the same thing.

SENATOR HAINES: Do you think it would be the same if we had a 10-year rollback?

MAYOR SHIELDS: I would assume that there would be less speculation on a 10-year rollback, and I would think the value of the land -- the supply demand -- would hold that the land is only worth "x" amount of dollars. A corporation is only going to pay that "x" amount

of dollars after it goes through its tax structure to see what it can or cannot write off, and if it is economically feasible for that corporation to hold that land.

SENATOR HAINES: What I mean is, is it going to cause any changes to your people who are doing this current history if we went to a 10-year rollback? Would they continue to rent?

MAYOR SHIELDS: Oh, I think they would. If the corporation's position was that they could develop something quickly along the riverfront, I think they would develop it and make a profit. Some of the corporations have hit a snag in New Jersey. One of the things we will be directing in our town is, can industry still develop in New Jersey? Many things I've read say they can. Of course, the corporations are saying, "No, we can't. This law is too stringent; that law is too tough; and, we're stuck with this land." That is their side of the story. It is not our fault that they speculated with that land, and now they are having problems developing it.

I think if they could develop it profitably right now with another refinery, the farmer would be off of that land tomorrow, and the tank farm would be there.

I have heard of an interesting case down in Delaware where a farmer thought he had the land forever. One of the corporations is now developing it, and they are throwing him off the land. I don't know if you've heard of this case, but they are in a legal battle. The farmer doesn't want to get off of the land. They had an agreement that he could rent it from year to year for a nominal fee of \$1, but now the corporation has decided to develop it. That farmland is gone.

I really don't see the use of the Farmland Assessment Act as a deterrent for corporations or speculators to keep that as a farm forever. I would feel somewhat justified if we were able to say, "Fine, if that land is a farm and you are receiving farmland assessment on it, then it should be a farm forever." You just couldn't change the use. Then I would say, "Fine, we are preserving farmland." But, we're not really doing that. We are giving industry a tax benefit.

SENATOR HAINES: Do you know what they are paying for topsoil at Kinsley Landfill?

MAYOR SHIELDS: I don't know what they are paying for topsoil, but I know what our community is paying to dump at Kinsley Landfill.

SENATOR HAINES: I know, but that is one of the reasons you are paying so much and we are all paying so much. It is because they are putting all of this topsoil on it. I just wonder if these industries would be selling their topsoil under a different economic situation.

MAYOR SHIELDS: I don't know if they would strip the land like that. I think they would have to have some type of permit to take topsoil or anything out of your township.

SENATOR ZANE: Any time you stir up more than five acres, you have soil erosion, right?

MAYOR SHIELDS: Yes, you have soil erosion, and some soil erosion laws that I've seen are very stringent, even when you put bales of hay around a development during the permit process. So, with any more than five acres, as the Senator said, we would have a say.

SENATOR DUMONT: Have these properties in West Deptford been bought as straight woodland or as farmland that they can cultivate along with woodland?

MAYOR SHIELDS: They have farmland and woodland. Up until a few years ago, I guess they were happy to have just the farmland area classified under exemption. With some of the rulings by the judges--

SENATOR DUMONT: It has not necessarily been "great rule."

MAYOR SHIELDS: No. I am not an attorney, and I don't want to make disparaging remarks about attorneys, but we have all heard of ambulance chasers. I don't know what to call it -- maybe a soybean chaser -- but, this person sees soybeans planted, and he goes to a corporation and says, "I'm going to save you." Unfortunately, we have to provide expensive legal defense for our Township in cases like this.

SENATOR DUMONT: And we live in an action-happy society anyway.

MAYOR SHIELDS: Right, yes.

SENATOR ZANE: Mayor, what effect would you see if there was a rollback, let's say along the lines of what has been proposed by

you? What effect do you think that would have on attracting new housing or new industry to your community or other communities?

MAYOR SHIELDS: Well, I think the housing probably would not be a problem in my community. The development we have seen in the housing industry has been very expensive housing. What it could do possibly is, if I were a corporate president or a corporate manager of one of these plants, and I felt it was going to be enacted for a 10-year rollback, maybe I wouldn't have that land classified as farmland. I may say, "If I am going to develop it in the next four years, why do I want to pay this 10- or 20-year rollback when I can develop it at a cheaper rate?" The bottom line will be dollars and cents, and it could be a deterrent to preserve farmland.

Once the deterrent is there, which makes it not profitable to sell off farmland to developers, then we will do what I think the Act was intended to do, and that is to preserve farmland.

In our County, as you are aware, they have gone ahead and declared some property as farmland, and that is going to be farmland forever. If we are subsidizing \$75,000 to corporations in West Deptford to hold the land for soybeans, then maybe the Legislature could provide some funds to supplement that.

SENATOR ZANE: Are there any other questions of the Mayor?

SENATOR DUMONT: I know your problem was publicized in the last issue of the Farm Bureau's Major Issues Update, which came out less than a month ago.

MAYOR SHIELDS: I'll have to get a copy of that.

SENATOR DUMONT: It is dated September 9, 1985, and your municipality is featured in the farmland assessment portion of these major problems and issues they have.

MAYOR SHIELDS: We have had many representatives from the State down to tour what we are talking about. I think if they want to be totally truthful, they will see the real problem. The problem as I state from the outset is, how do we protect the family farmer and stop this abuse? If I had the answer to that, I would certainly give it to you. But, that is what it is. It is just pure abuse, and that is to the tune of almost \$1 million in West Deptford.

SENATOR DUMONT: Thank you.

SENATOR ZANE: Are there any other questions? Are there any final points you would like to make, Mayor?

MAYOR SHIELDS: Send some money down if you can. (laughter)
Thank you.

SENATOR ZANE: Thank you very much. Is there a representative from General American Transportation Company here? There are two who mentioned that they wanted to speak. One was their general counsel, Louis Fletcher, and another was William Thorson, a company representative. (no response)

Is there anyone here from industry who represents a major corporation and who would like to speak? Someone may be here, but he may not want to speak.

Peter Furey from the Farm Bureau?

PETER J. FUREY: May I ask what the time considerations are? I know we are running late. I don't want to take too much time, but I have some brief remarks and then I will answer any questions you may have.

SENATOR ZANE: Peter, my suggestion would be to make your points and then we'll ask you some questions.

MR. FUREY: We have been involved in the discussion on the issue before the Committee today since Assemblyman Herman introduced his bill last February. In a larger sense, Farm Bureau has monitored the evolution of the Farmland Assessment Program closely since the inception of the program more than 20 years ago. The program is an extremely valuable form of assistance to New Jersey farmers, one that is greatly appreciated and indeed the basis of constant evaluation by our organization.

It should be noted that most people in New Jersey think that the loss or use conversion of farmland is much greater than the actual statistics indicate. This misconception is fostered by the fact that the vast majority of New Jerseyans live in either urban or suburban areas and have contact only with the periphery of farm areas where much of the conversion takes place. When you look at the numbers, however, farmland acreage in New Jersey has decreased by only 5% to 7% over the last 10 years. Larger reductions have been avoided in large part due to the opportunity of having farmland assessment. Much of the cropped

open space near developed areas in the most densely populated state in the nation would have been lost long ago were it not for the existence of this program. We argue that this greenery affords substantial aesthetic and environment benefits, as well as economic advantages to farmers.

Underneath the appearance of open space lies the economic reality of the Farmland Assessment Program for landowners, farmers, and the municipal tax base. The land ownership pattern of the one million acres of farmland property in the State is that the majority of the land is probably owned by non-farmers at the present time. From our experience, it is most common for full-time farmers to own and operate their "home" farm, as well as several other rented farm fields.

This is particularly true in grain crops that normally do not require as much attention as the more intensive crops and can be harvested completely by machinery. Members of this Committee should realize that over two-thirds of the cropped acreage in the State is developed to the production of grain -- primarily corn and soybeans -- and that these producers are greatly endangered right now with commodity prices well below the costs of production.

From our viewpoint, non-farmer-owned farmland is a result many times of the marginal profitability of the farming business. It is neither good nor bad per se, but one of many factors farmers have adjusted to over the years. In some instances, industrially zoned farmland provides a buffer to nearby residential areas. The price of this land when leased to farmers is generally affordable to farmers and thus becomes an important part of the farmer's economic base. These and other facets of farmland assessment are perhaps well-known to the Committee.

We are sensitive to any perception that inequities have been created along with the benefits to farmers from farmland assessment, although each should be examined closely to see if a misunderstanding exists. Vacant land bears very little need for municipal services, and studies have shown that farmland-assessed property is a net-plus for municipalities from a cost-revenue standpoint.

I would like to digress a second. With regard to much of what has been stated so far about the loss of revenue to municipalities, farmers would argue that the property reform tax issue would take precedence. Even under farmland assessment, crop ground pays its way. Of course, from a municipal official's point of view, you have to deal with the property tax structure that you have. But, we look for property tax reform to be taken in the context of the points that have been made today about the loss of revenue to municipalities.

Bear in mind that buildings are not covered under farmland assessment, a situation--

SENATOR ZANE: Mr. Furey, I'm not sure of what you just said.

MR. FUREY: Well, farmers feel that even with farmland assessment, they are paying three times the national average in property taxes, and when municipal assessors complain that they have "lost revenue" from those property taxes, we would say that perhaps the tax structure in the State should be looked at. Apartment dwellers, for example, are largely shielded from the property tax and are given the same services, such as fire, police, schools, etc., as a farmer and his family who may happen to own 200 acres. The loss of revenue is something that must be taken in the context of the problems with the equity in the property tax system.

Mayor Shields mentioned the loss of revenue, but in his particular situation, we feel that peripheral ground -- that marginal ground -- should not be qualified. We think there are some court decisions that are coming down now where the courts will disallow that peripheral property. He has a case in litigation right now where that will be tested.

There is a gentleman here, an attorney named John Lynch, who has quite a bit of experience in dealing with these court precedents. We feel as he does, that the courts are getting tougher, and the case law is beginning to answer some of the questions that are being raised and discussed before the Committee today.

Having made that point about the property tax, I will just briefly touch on the West Deptford situation.

SENATOR ZANE: I think we are familiar with that.

MR. FUREY: Okay. Our feeling is that that ground should not be qualified. There has been some traditional--

SENATOR ZANE: You're not suggesting that the problem is with the assessor, are you?

MR. FUREY: I think the facts of the situation should be mentioned. We had a visit with Assemblyman Herman, municipal officials, and some other people, and there was a discussion in one of the corporate headquarters. The corporate people said, "We can't move this ground. There is no interest in it." We felt that the \$15,000 per acre assessment was too much. We came back and said, "Well, that shouldn't chase you into using farmland assessment when you really don't actively pursue agriculture as a full-time occupation."

I would like to make the distinction that non-farmer-owned land can-- We would break it into two categories.

SENATOR ZANE: Let me get an answer from you regarding my question. Doesn't your question suggest that the problem--

MR. FUREY: Has an administrative remedy.

SENATOR ZANE: (continuing) --is the assessor?

MR. FUREY: Not simply the assessor, but from the corporation's standpoint, they were being over-assessed by the assessor. I think the assessor placed a \$15,000 to \$20,000 an acre assessment on what was essentially buffer ground to the industry. The corporation people say that that is not the fair market value. We told them that they should have appealed the assessment.

SENATOR ZANE: Who should have appealed?

MR. FUREY: The corporation. We told them that they should not use farmland assessment. Quite frankly, it was their opinion-- I'm sorry that the corporations aren't here because I think there is a little interplay between the corporations and the assessor that may have prevented some of these grounds from coming under the Farmland Assessment Program in the first place.

SENATOR ZANE: You say there are lands that should not have come under farmland assessment. Isn't that what you said?

MR. FUREY: In my opinion, yes.

SENATOR ZANE: Well, whose decision was it whether or not that came under it, if you know?

MR. FUREY: The corporations made application and--

SENATOR ZANE: Wait a minute. If, in your opinion, it possibly should not have come under farmland assessment -- and I am assuming that you are certainly familiar with the program -- who makes the decision as to whether or not it comes under farmland assessment?

MR. FUREY: The assessor.

SENATOR ZANE: Okay. So, are you then suggesting that in this particular Township, there is land -- I don't want to say "substantial" -- that, in your opinion and based upon your knowledge of the Act, should not be included in farmland assessment?

MR. FUREY: Yes. The application should have been denied, and I think it is in litigation.

SENATOR ZANE: Okay.

MR. FUREY: I think there are some particular circumstances in West Deptford that may be resolved either administratively or in this litigation. There is one particular decision -- the Wiesenfield decision that was decided after the Andover case -- which Mayor Shields mentioned, where an applicant was denied. The court found that marginal land was not reasonably required to support the operation of the host farm. I think that is what you have in West Deptford, and I hope that the Township attorney will make that part of his argument. This ground really should not be mixed up in farmland assessment. Then it wouldn't create some of the complications.

SENATOR HAINES: A red flag comes up when someone says a person is paying a farmer to farm it -- "The land must not be any good; it should be under farmland assessment in the first place."

MR. FUREY: Some of this town was never under farmland assessment. The corporations were paying full taxes.

SENATOR ZANE: In other words, it isn't that they are applying for it now.

MR. FUREY: Yes. Mayor Shields said 68 are currently qualified in one case, and they are applying for another 300 based upon the Andover decision. Some of these other corporations had qualifications after the fact, so there is some distinction in this particular case.

With regard to--

SENATOR ZANE: Therefore, their problem is not with the assessor. The assessor did not permit-- Let's clarify that. I don't want to be smirched again.

MR. FUREY: No, my point is that there is some administrative interplay that could take place, which may resolve this issue, other than broad-sweeping changes. We feel that if you change one part of the Farmland Assessment Program, you will have other ramifications.

SENATOR ZANE: I understand.

MR. FUREY: We have looked at the \$500 to \$1000 requirement. It is almost an even split among the farmers regarding their philosophy. We had a policy for two years which endorsed it. There was some concern about the grain prices being so low that some rental properties wouldn't qualify on their own.

Senator Dumont has a conveyance tax proposal, which, in effect, is a surcharge.

SENATOR DUMONT: That came from you folks in your town.

MR. FUREY: That is correct, in 1978. That concept would place a surcharge on the rollback to discourage short-term speculation.

SENATOR DUMONT: As I recall, it was also added to delay the passage of that bill over the years.

MR. FUREY: Senator, our current policy favors that bill.

SENATOR DUMONT: It does now.

MR. FUREY: The delay was--

SENATOR DUMONT: I think there was a request for a delay for most of the time it has been in because I have had it in for a long time.

MR. FUREY: I understand. We were trying to pin down some of the procedural aspects with some specialists in farmland assessments so we could get back to you with a final form as to how this thing would work smoothly.

SENATOR DUMONT: Well, is it my understanding that you now want it moved?

MR. FUREY: Yes, sir. Our current policy favors a conversion tax.

SENATOR DUMONT: Okay -- with the way it is worded, or do you want changes made in it?

MR. FUREY: Well, we had some discussions with some specialists and we have some recommendations to help expedite the movement of that bill.

Just to summarize, farmers appreciate the benefits of the program. The question of investor-owned property versus speculator-owned property is something that has to be considered when you talk about 50% of the farmland being owned by non-farmers.

In Moorestown Township, for example, RCA owns a great deal of acreage, and they, quite frankly, do not ever intend to develop that. They have given a long-term lease to the farmer. They use it as buffer to keep people away from the facility, and the farmer, quite frankly, takes great advantage to add that acreage to his operation at low cost.

So, it is a very complicated issue with a lot of competing factors. We would certainly be very interested in participating in any further discussions.

SENATOR ZANE: Does that conclude your remarks?

MR. FUREY: Yes, sir.

SENATOR ZANE: Are there any questions, Senator Haines?

SENATOR HAINES: The only questions I have are the questions I've asked all along, and I think you have answered some of them. Would you like to see five acres?

MR. FUREY: Yes. The fluoroculture industry is coming on very strong, and there are some people who have quite large operations in dollar volume. Five acres would be plenty for a greenhouse, for example, for bedding plants and things like that.

SENATOR HAINES: You are somewhere in-between the \$500 and the \$1000?

MR. FUREY: Our policy reverted back to the \$500 last year. For the two years preceding that, we endorsed the \$1000. I would say that the farmers are about evenly split between those who would accept the change and those who would not.

SENATOR HAINES: You would like to see the rollback the same, but you would like to see--

MR. FUREY: In the form of a conveyance tax.

SENATOR HAINES: Okay, a conveyance tax, which is Senator Dumont's bill.

New Jersey State Library

SENATOR DUMONT: That is a 10-year business as I recall, isn't it?

MR. FUREY: Well, that is 10% of the sales price tax added to the rollback, which declines a percentage for each year of ownership.

SENATOR HAINES: That might satisfy some of the people who want to see a rollback, because what it basically does is put a tax on there for 10 years.

MR. FUREY: Regarding the 10- or 20-year rollback, Mr. Baldwin mentioned the fragile economics in agriculture, and I can't emphasize strongly enough the fact that there are so many small family farmers struggling to stay in business. As he mentioned, one of the reasons is, New Jersey has survived some of the problems that the Midwest farmers have, and it is because we have an underlying value to the farmland. Frankly, it makes a difference when they go to the bank to borrow money.

If you begin to put on a heavy rollback tax attendant to the farmland, it may affect the market value of the land. If that declines, it may have other ramifications on the farmer's business.

The conveyance tax would be a further dis-incentive for short-term speculation.

SENATOR ZANE: But now you support it?

MR. FUREY: Excuse me?

SENATOR ZANE: You say you support it.

MR. FUREY: Well, the question is the degree. Ten years or twenty years may be much different than what we are talking about in the conveyance tax as far as the effect on the market value of the farmland, which the farmer has a great need for.

SENATOR HAINES: Senator Dumont's bill discourages speculation, and it doesn't hurt the farmer. It discourages speculation, which is what I think we are trying to get at here.

MR. FUREY: Short-term speculation.

SENATOR ZANE: I don't see how increasing the number of years for a rollback-- If land is going to remain in agriculture, which is the policy adopted by this State, this Legislature, and this Governor in the past four years, I don't see how an increased rollback is going to adversely impact on farming. It is going to stay in farming.

MR. FUREY: Correct. My statement was regarding the market value of the farmland. It may discourage investors and developers -- people who are now bidding on the ground for ownership.

SENATOR ZANE: For what purpose?

MR. FUREY: It could be for conversion purposes somewhere down the line, or it could be for long-term speculation.

SENATOR HAINES: In other words, a farmer goes to the bank to borrow money, and he says, "My land is worth \$2000 an acre." Then the banker says, "Well, how do you know how much it is worth?" The way you determine your value is-- There are probably no farms in the State or less than 5% -- you may have a figure on that, Peter-- There are very few farms in the State that don't have some development value somewhere, and a farmer may never want to sell for development. But, when he bought that land, or he had at least borrowed on the land, there were some development values. Let's say it is 50%. It may be 90%, but it could be 50%. He needs to borrow money to buy fertilizer, seed, and all of the things he needs for his crop.

If his land is worth \$1000 an acre for farming and \$1000 an acre is the development value, then he has \$2000 per acre he can borrow on. He is in a lot better shape than the fellow out West who has a piece of ground that was worth \$2000 an acre five years ago, but is now only worth \$1000 an acre.

I think this is what you are talking about.

MR. FUREY: I am saying that with regard to the term of the rollback, there should be some caution when you work out the figures. Even though two years, plus the year you are in, appear to be short, bear in mind that you are talking about New Jersey average land prices and the taxes that were saved. So, two years, plus the year you are in, in New Jersey, may be 10 years in another state in terms of the tax savings.

SENATOR ZANE: But I don't think it is really fair to mix and consider what the tax effects are in other states, because every state has its own structure. I think it is really apples and oranges.

MR. FUREY: Well, what I'm saying is, just look at the numbers of the two years, plus the year you are in. We would say,

"Consider the conversion tax." There should be some caution in simply taking a figure like 10 years, because if you add the amount of taxes that has been saved in many of these areas, it is considerable.

SENATOR ZANE: Peter, aren't you really talking about a farmer who decides he wants to get out of farming and has an opportunity to sell his land? But, if there is a rollback tax of let's say 5 or 10 years or whatever, he is probably not going to get as much for his land when he sells it if that land is no longer going to be used for farming. Isn't that what you are really saying?

MR. FUREY: The market value would be affected.

SENATOR ZANE: So, really, what the hell does that have to do with farmland preservation? It has nothing to do with it.

MR. FUREY: My point would be that the farmer trying to stay in business has the need for the maintenance of the current market value of his property.

SENATOR ZANE: Yes, I understand that.

MR. FUREY: There is a dilemma here, I grant you that.

SENATOR ZANE: Yes, I understand what you are saying, but--

SENATOR HAINES: Let me approach it from another standpoint.

SENATOR ZANE: No, let me just say one thing. The fellow who is going to-- I don't have any problem with someone sitting and looking at his 200 acres or 300 acres and saying, "For, God's sake, I'm 65 or 75 or whatever. I want to sell it. I want to get out. I don't care what they do with it, but I want to get the highest dollar." I understand that but, in my view, that is totally unrelated to farmland preservation.

SENATOR HAINES: No, it is related. That is the thing we have to pin down here.

SENATOR ZANE: But, if that conveyance is going to become someone's plant, how is it related to farmland preservation?

SENATOR HAINES: I'll tell you how it is related. I was the State Director of the Farmer's Home Administration, and I loaned a lot of money to farmers. One of the things you have to look at when you loan money to farmers is their net asset value. There were farmers down in the pineland's area who had to quit farming when the Pineland's

Act went through because they couldn't borrow money. They didn't sell their land or anything else; they just had to quit because they couldn't borrow money to get their seed, fertilizer, or the other things they needed to farm with. The reason was because they had bought the land -- maybe they bought it from their father -- but, at any rate, when they had bought the land, the value was \$2000 an acre. When the Pineland's Act came through, what it basically said was that the development value was gone. The farming value down there might have been \$700.

So, they went to the banks or the PCA -- the farm credit institution -- and said, "I want to borrow the \$200,000 like I did last year for what I need to farm this year." This is a fact. I was on the Board of Directors, and our bank said, "What is the value of your farm now?" They said, "You had a good statement last year, but what is the value of your farm. How can you put a value on your farm?" The farmer said, "I don't know what the value of my farm is. There is no development. I don't have an alternative. I can't sell it to a developer."

The other farmers in the area didn't have the equity to buy the farm, so suddenly, instead of having a decent balance sheet, the farmer is coming up with a figure that he doesn't know.

In fact, if you say the land has suddenly gone from \$2000 an acre to \$1000, but the building still had the same value, he came out with a zero net worth. The bank said, "No, we won't lend you any money." A lot of these guys just threw up their hands and quit.

It is very unfortunate, but this can happen. If a farmer loses the value of his land, it can be a deterrent to him continuing. This is happening all over the Midwest. It is not happening in New Jersey because, fortunately, our land values have increased over the last few years. The farmer going into the bank says, "Hey, my land value hasn't declined." So, the bankers are a little more lenient towards the farmer here in New Jersey. But, that is another situation.

MR. FUREY: I think you missed the point that if you disturb a farmer's line of credit by affecting the market value of his land, it may be enough at these interest rates -- of a price increase in his

credit -- to make him give it up. So, there may be a tie -- it may be a tenuous tie -- to farmland preservation, but it is definitely there.

We are not closed to the idea of increasing the rollback, but our preference is Senator Dumont's bill.

SENATOR ZANE: Are there any other questions of Peter?

SENATOR DUMONT: If you have amendments you want to make to that -- it is getting late in this two-year session because it ends on the second Tuesday of next January -- I can reintroduce it. But, the point is, you are going to have to give me those amendments if you want them so we can do something about them in the next two-year session. The problem with this session is, there were only 19 days of sessions since January 8, which I don't think is nearly enough. That includes one day that the Governor called on August 28, which accomplished absolutely nothing. That is all the Senate sessions there have been right up until now, and we don't even have a schedule for the future -- the balance of the year.

SENATOR ZANE: Are there any other questions of Peter?

SENATOR DUMONT: Well, you say it is three times higher than the national average. The property taxes the farmer pays is at least 50% better than I thought it was. I thought it was six times higher than the national average.

MR. FUREY: You get a little bit of development with school children, and and the cost goes right up.

SENATOR DUMONT: All right. Thank you.

MR. FUREY: Thank you, Senator.

SENATOR ZANE: Thank you. Is John Lynch, an attorney from Martinsville, here? (affirmative response)

JOHN T. LYNCH: Good afternoon, Senator Zane, Senator Dumont, and Senator Haines. Thank you for giving me the opportunity to speak. I was asked to attend by the Bureau with regard to some cases that I am familiar with, which might be of some help regarding the present problem.

My background is simply that of a practicing attorney. I have represented a number of the people who you have talked about here today -- the speculators. I have also represented the family farmer

and everyone in-between. Perhaps I might have some perspective from their point of view which might be of some benefit in your deliberations.

First of all, I am not at all familiar with the situation in West Deptford. I was told there was some thought that these corporate owners might be expanding their farms by acquiring additional tracts and qualifying by virtue of the income produced on the core farm or the original farm. I mentioned to Peter Furey the case of Wiesenfield versus South Brunswick Township. I think this case put an effective stop to that type of practice. I know, because I was the losing attorney in that case. I would much rather cite cases where I prevailed.

I would like to make a general comment that there are a number of court cases where the State Tax Court has been extremely careful in analyzing cases where non-farmers are presenting these types of applications to expand farmland use. I don't think the situations in the court are as bleak as might now appear for West Deptford Township.

I would like to make two other observations. I note that Mayor Shield's spoke about the loss of \$700,000-some worth of revenue among the various municipal, county, and State entities. He said that was money that was going to be used for paying for children's education, police protection, and all of the other municipal, county, and State services that citizens require.

From the standpoint of the large landowner, he looks at it and says, "What does my 300 acres or 100 acres" -- whatever it might be -- "of vacant land contribute to the need for those services? We don't have any school children. We don't need very much in the way of police protection. Usually it is to chase a trespasser off the land. Fire protection, yes, maybe some. Maybe someone starts a fire in the field." From the standpoint of those large landowners, they see themselves subsidizing the cost of other governmental functions. That is why they look to the Farmland Assessment to reduce their holding costs when their plans for the land are distant or uncertain.

While I am not saying that that justifies what they are doing in these abusive cases that have been referred to, I think it perhaps helps to understand the situation -- that there is a little more equity and balance in it in the larger picture.

You must also bear in mind that the value of land at which it is assessed depends to a large extent upon how the local municipality zones it. I'm not saying this is the situation in West Deptford Township -- I just do not know -- but, I know that throughout Central New Jersey where I primarily practice, there are thousands and thousands and thousands of acres of land that have been zoned for industrial and commercial purposes prematurely. There are lands that lack sewer, water, and proper transportation.

It has been the practice of many municipalities to reserve some marginal lands for future attention by putting them into a premature zoning classification.

Then, on the other side of a community, you have some sales that show a value of \$20,000 an acre or \$30,000 an acre. The assessor makes some minor adjustments for lack of sewer, water, and all the other things that are essential, and you end up with a tax bill that is very, very high.

Again, it doesn't justify abuse of the Act, but I think there is some perspective that ought to be gained from that.

I have represented many people buying and selling farmlands, and I would agree with what Senator Haines said. The rollback is simply looked upon as a cost of development by the purchaser when he is considering development in the relatively short run. He would look at that cost as he would the cost of putting in a street or a road, or doing a water improvement project, or paying a real estate commission. To the extent that that cost is there, it reduces the net value that the farmer receives for his land.

I would argue against any increase in the rollback.

SENATOR ZANE: How does that decrease the net value received for his land?

MR. LYNCH: Well, the developer says, "I can buy land in another community for \$10,000 an acre."

SENATOR ZANE: You mean in another state. It would have to be, wouldn't it?

MR. LYNCH: I'm just using \$10,000 as a round figure.

SENATOR ZANE: But, I'm saying it would have to be another state, wouldn't it? If the rollback applied, it would apply across the State.

MR. LYNCH: He might look at one community, and he might find a property that has not been under farmland exemption. He wouldn't have the cost of a rollback. Or, he might look at a particular community where, because of the tax structure, the rollback is less. To him, land is almost a fungible commodity. An acre of land is worth "x" amount of dollars, and when he sees a cost that he is going to have to incur of "x" dollars per acre for a rollback, he simply deducts that from the cost.

Contracts can be structured that the seller pays it. It makes no difference. In the final analysis, the seller has paid that rollback. That is my judgment.

No one really is trying to say that abuses of the Act should be protected. I think what we all have to recognize is the difficulty of who this industrial user is. Who is this corporate fellow we have been talking about?

I could cite you an example of one of my clients whose family has owned a particular property in Monmouth County since the Revolutionary War. They have farmed it continually, yet for the last few years, the property has been owned by a corporation. The corporation has other interests. The farm income is nowhere near 40% of the corporation's income. Yet, the man's two sons work 100% of their time on that farm. He would be very offended if he were to be classified as an industrial user or a corporation and subjected to the penalties you are considering imposing on that type of use.

I think you also have to be very careful of the farmer who does not farm his own land, as Senator Haines and others have alluded to. It is a very big factor throughout Central New Jersey. It is not enough to have farmland; you have to have people who are going to farm that land.

Farmers generally come from farm families. It is a tradition, a way of life. And, if we break that cycle, we will never be able to replace it, in my judgment. People just do not go into farming as opposed to the other professions. Therefore, we have to be very careful that we don't do something that will make these good lands, which are now available at reasonable costs to honest-to-goodness farmers--

I could give you an example in Monmouth County of a young man in his early 30s who farms, along with his wife, over 1000 acres of other people's property. He owns perhaps 20 acres where he keeps his barns, tractors, and those sorts of things. He would be put out of business if there was not a reasonable incentive for the owners of those lands to make them available to him at a reasonable cost.

I agree with Mr. Baldwin that although the intent was primarily to protect the family farmer, the open space aspects of this Act were also important. I would invite all of you to read the testimony of Senator Waddington when he testified before Senator Dumont's Committee back in 1963 in support of the original Act. I think any fair reading of that would be that open space wasn't the important purpose of the Act. Even these corporate users, while their motives may be ultimately not to use the property for farming, as long as they are farming it, they are giving the State and the local town the benefit of those open spaces.

Finally, I would also agree with Senator Haines that I would be very skeptical of any farm situation where the landowner found it necessary to subsidize the farmer. That has not been my experience. I have certainly seen low rents of \$50 or \$75 per acre. When it is necessary for the landowner to subsidize the operation, I think it ought to be looked at very carefully.

Thank you very much. I would be happy to answer any questions that you may have.

SENATOR HAINES: In line with that, do you think that we might amend the Act to say that -- that if the owner is subsidizing the farmer, then the whole thing is null and void?

MR. LYNCH: Well, that is an approach, Senator, but honestly, I think those who are interested in taking advantage of the Act probably would find some way of subterfuge -- either of getting around it, or the difficulty in obtaining proof that that was going on. It probably would not make the effort worthwhile.

Of all the various solutions that have been suggested, I think that the conversion tax has advantages. Its prime advantage is that it puts the detriment up front. When the large landowner who is not a farmer is making a decision whether or not to apply for farmland exemption, he knows up-front that, "If I'm not going to be in this program for 10 years, this isn't going to do me much good. And, do we need to have a battle with the local town?" It costs \$25,000 for the property owner to fight these battles too. I think it puts the incentive up front and keeps them out of the program, rather than an increase in the rollback where the detriment or the bitter pill comes at the end of the program and may affect many legitimate farmers just as much as it does the people you are aiming at.

SENATOR ZANE: Senator Dumont, do you have any questions?

SENATOR DUMONT: Do you have any other recommendations as to amending or not amending the Farmland Assessment Act?

MR. LYNCH: Well, my recommendation would be to seriously consider your bill for the conversion tax. I think the bill that dealt with the source of income-- I believe the bill provided that a corporate user would have to get 40% of his income from the farm. I think enforcement would be one. Corporations might form other corporations, so that all farm income would fall into "XYZ" Corporation, instead of U.S. Steel.

SENATOR ZANE: In other words, you are suggesting the if U.S. Steel owns land, they would set up a separate corporation to do just that farming.

MR. LYNCH: I shouldn't have used their name because I am certainly not suggesting they would.

SENATOR ZANE: I understand.

MR. LYNCH: That possibility exists with any--

SENATOR ZANE: Well, "xyz," a New York Stock Exchange Corporation, that is what you are suggesting.

MR. LYNCH: Yes. Your problem in that regard might be far more severe in smaller, lesser-known corporations. Generally the publicly held corporations have high standards of ethics, but some of the smaller ones--

SENATOR ZANE: Do you have any thoughts-- I'm sorry, Senator Dumont, do you have a question?

SENATOR DUMONT: No.

SENATOR ZANE: Do you have any thoughts about a major corporation that moves into an area and makes an announcement about expanding its operations and installing an "xyz" type plan -- employing 600 people, etc.? They make a major splash, and then they apply for farmland assessment.

MR. LYNCH: Well, I think if I were a resident of the town, or if I were a member of the local governing body, I might feel disappointed. But, from the standpoint of the Act, if I don't feel there has been any violation of the Act, or its intent or purpose--

SENATOR ZANE: What about the spirit of it?

MR. LYNCH: The spirit of it, of course, is to preserve the family farm, but by its terms, it also very clearly keys the right to qualification to the use of the land, not the ownership. Indeed, the word "farm" or "farmer" does not even appear in the Act. It says "land which meets certain qualifications is actively devoted and, thus, qualifies."

There may be legitimate reasons. The company, in a good faith, when they buy land in a community may intend to build a certain plant and to hire a certain number of people, but because of market conditions or other changes in plans, they may find that those decisions cannot be moved forward. I would think that a fair reading of the Act is that as long as they are legitimately farming the land -- whether they do it themselves or through local farmers who thereby have their farming come from the property -- they are entitled to those benefits because they are meeting the secondary goal of the Act, which was to preserve open spaces.

SENATOR ZANE: Okay, thank you.

MR. LYNCH: Thank you very much.

SENATOR ZANE: According to our list, I think we have two more speakers. One is Hermia Lechner and the other is Mary Mastero from West Milford. Is there anyone else in the audience who wishes to speak? (no response) Okay.

SENATOR DUMONT: The Mayor of West Milford, or whoever that person was, is not here. Is that right?

SENATOR ZANE: Apparently the assessor was here.

HERMIA LECHNER: This is going to be very, very brief. Thank you for having the hearing on this and inviting the public. I am here as a member of the public, not as any official.

My experience with farmland assessment and my views are as a former mayor. Senator Haines, I happened to be the Mayor of Clinton Township when the Exxon Corporation came into the Township. I had a great deal to do with their farmland plan, which was a cooperative venture. I think we came up with a very good one that was advantageous to the Corporation, the community, and the farmers who were using that land.

SENATOR HAINES: I probably didn't describe the whole situation as well as I am sure you can.

MS. LECHNER: You did a pretty good job of it. One of our first concerns when they came to the community-- It is very good land. It happens to be good soil over limestone, which is good farmland. The farmers had been farming that land on a year-to-year and crop-to-crop basis. They didn't know when they were going to be put off the land.

I talked with the farmers before we talked with Exxon as to what their needs would be. One of the conditions we were going to put on their development was that the land should be in agricultural practices, not turned into an industrial lawn. From that, we worked with the Soil Conservation District, the farmers, etc. They now have at least three-year minimum leases on that land.

SENATOR HAINES: That is great.

MS. LECHNER: One of the objectives of the Farmland Assessment Act is to keep agricultural land in agricultural use as long as possible. The nature and quality of the use is paramount versus who owns the land. I firmly believe that.

The municipal tax base should be based primarily on the improvements or facility located on the land. That is the thing that costs us money to support. The bonus to the community is the ambience of attractive open space and retention of viable agricultural industry with its spin-off of supporting services, plus all the other things that have been mentioned by previous witnesses.

The abuses I have observed come from a lack of appropriate controls. The land is usually leased with an open end for arbitrary termination by the lessor. There is neither incentive nor economic justification for the non-owner operator to do anything but harvest the most crops with the least expenditure. The land is mined until converted to another use. As at least a partial remedy for this abuse, I would suggest:

- 1) Leases to farm operators should be required to be not less than three years so as to permit an adequate crop rotation.

- 2) Best management practices, as approved by the Soil Conservation District, should be required. If there is a cost involved, it should be required that the landowner share in that cost and not reflect it in the rental charge.

- 3) A range of rental fees per acre should be established to make agricultural use viable. I don't know if this should be legislated or not, but I think it is important.

- 4) Lease termination and compensation for crops on the field and expenditures for which there will be no return should be required when a lease is terminated.

- 5) The crop produced should have legitimate market value.

I might add to that that when land is put under farmland assessment, the soil itself should be considered as one of the conditions of doing that. I don't think that is always the case.

The greatest public cost from land abuse is the impact of uncontrolled erosion and sediment on our waterways and publicly maintained drainage systems. I believe this comes from the abuse of the land through the termination of leases or a farmer having a lease only for crop-to-crop. There is no incentive then to do anything except to get what he can off the land in the time he will have it. I believe that is the hidden cost we pay for.

The land itself, by being agricultural land, does not require a great deal of public expenditure. It is the best buy we have. If we don't have to buy the land and if we can keep it open space any other way, I think it is to the advantage of the community.

Most of the corporate people who are responsible and want to locate in a rural setting do so because that is what they like to see and that is what they want for their employees. I believe that communities have sort of an obligation to work with the corporation when it comes in to let them know what their community wants and what they expect of them. They should get it at that time and not have to beat it out of them afterwards. That is one thing we don't do. We usually fall on our faces when a corporation wants to come into the community. It is looked at as a tax ratable. I think you need to educate them as to what your community is, as well. If agriculture is important to us, that should become important to that corporation to act responsibly.

Anything you can do through the Farmland Assessment Law to encourage-- I don't think you can legalize it though. I think that is a thing between people.

I do feel that the things I have mentioned here are shortcomings and are abuses of the land, not only by corporations, but by any non-owners, particularly speculators. On the other hand, I think you have non-owners who want open space. They are not farmers. They will never farm the land, but they like to live on it. They may even pay a farmer to come and farm the land. In that instance, if they can afford to do that, I wouldn't quarrel with them.

SENATOR ZANE: Thank you. Are there any questions? I have none.

SENATOR HAINES: I think it is an excellent concept. It is something that is probably needed. I know oftentimes farmers will farm a piece of ground -- we have done it ourselves -- where you don't think you are going to have it the following year. You don't take care of it and--

MS. LECHNER: You're not going put a cover crop on it, and you are not going to do anything to it.

SENATOR HAINES: That is right.

MS. LECHNER: This was true on the Exxon land. The same farmers are farming it now. They are farming it entirely differently than when they had no contract.

SENATOR HAINES: I think this type of thing might be the type of thing we are talking about, Senator Zane, in terms of helping the farmer. We are the absentee landowners. If they gave them a three-year lease--

MS. LECHNER: You should have at least that.

SENATOR HAINES: If they helped to pay for the soil conservation measures that are necessary on some of this land, this would be beneficial to the farmer.

SENATOR ZANE: Thank you very much.

MS. LECHNER: Thank you.

SENATOR ZANE: Is there anyone else who wishes to speak, ask a question, or whatever? (no response) Are there any other comments from any member of the Committee?

SENATOR HAINES: Let's go home a different way.

SENATOR ZANE: That is a good idea. Okay, I guess that concludes the public hearing.

SENATOR DUMONT: Thank you.

(HEARING CONCLUDED)

APPENDIX

October 8, 1985

PREPARED STATEMENT BY JOHN R. BALDWIN, DIRECTOR, DIVISION OF TAXATION
DELIVERED BEFORE THE SENATE NATURAL RESOURCES AND AGRICULTURAL COMMITTEE

On November 5, 1963 New Jersey's voters went to the polls and by a plurality of 3 to 1 approved an amendment to the State Constitution providing for the preferential assessment of farmland. The amendment received support of the Governor and bipartisan support in the Legislature.

As a result of the Constitutional Amendment, an exception to the true value assessment standard was afforded to a certain classification of farmland deemed to be eligible. The prime consideration for determination of eligibility provided under the amendment was adjudged to be the use of the land. Land to be afforded preferential tax treatment by the voters of this State was extended to land not less than five acres in area which is determined by the local tax assessor to be actively devoted to an agricultural or horticultural use.

The Governor's Committee, responsible for developing the proposed amendment and the enabling legislation, considered numerous alternatives as a criteria for establishing which land should qualify under the Farmland Assessment Act. It was concluded by the Committee that it was more difficult to define a "farmer" than to define the type of land that could qualify for the benefit of farmland assessment. Some members of the Committee wanted to include almost all open space land. The final recommendation to the Governor, however, was concerned with preserving land that is actively devoted to an agricultural or horticultural use.

Therefore, issues regarding ownership of the land, who farms the land and the portion of the owner's income derived from the active

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agricultural or horticultural devotion of the land are factors that do not enter into consideration for determining eligibility of land for farmland assessment.

Other controlling factors or limitations imposed under the Constitutional Amendment for determining eligibility for preferential tax treatment dealt with a mandatory two year period of active devotion immediately preceding the tax year for which farmland assessment is sought and the exclusion of land less than five acres in size notwithstanding the devotion of such land to an agricultural or horticultural pursuit. The amendment also imposed additional taxes, termed "rollback" taxes where land qualified for farmland assessment is subsequently used for other than agricultural or horticultural purposes. Under the amendment, rollback taxes are applicable to the year in which the change in use occurs and the two immediately preceding tax years under which the land was so valued.

The decision of the voters to establish a farmland use assessment in lieu of a true value assessment places the responsibility with the local tax assessor for determining compliance with qualification criteria established by the enabling legislation known as the Farmland Assessment Act of 1964.

The Director of the Division of Taxation was charged with prescribing the necessary forms for application and the promulgation of rules and regulations. The Director of the Division of Taxation was also designated

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as a member of the Farmland Evaluation Advisory Committee which was created under the Farmland Assessment Act for the purpose of annually determining ranges in fair value of such land based upon the productivity capabilities when devoted to agricultural or horticultural uses. Other members of the F.E.A.C. are the Secretary of the Department of Agriculture and the Dean of Cook College.

As a member of this Committee, I have proposed an independent analysis of the methodology developed to derive farmland assessment values. I have recommended a review of the methodology because of isolated, independent attacks on the method. It is important that credibility relating to the development of farmland productivity values be maintained by having an independent third party examine the method and explore alternatives.

The Division of Taxation has always maintained a close liaison with assessors, county boards of taxation and other state agencies to improve the administration of the Farmland Assessment Act. Since 1975, a committee formed by Sidney Glaser, my predecessor, has held monthly meetings to discuss and review pertinent issues relative to the administration of the law. Representatives of this Committee include assessors, a county tax board administrator, and representatives of the Division of Taxation, Cook College, Division of Parks and Forestry and the Department of Agriculture. The Committee was instrumental in revising the application

form, resulting in additional substantiation that an applicant must provide to support a claim for farmland assessment. This additional information will also provide an improved source of data for Cook College in developing farmland assessment ranges of acreage values. The Committee has also provided the impetus for development of separate acreage values to recognize the distinction between woodland which is an integral part of a farm as opposed to woodland not part of or attached to a farm.

Other initiatives undertaken by this Division have resulted in two successful farmland assessment seminar programs. There was a reluctance on the part of some individuals to schedule these programs because of scant participation in the past. However, the first two-day seminar held in the Spring of this year was a resounding success. Over 100 individuals attended these full day programs. A second program is scheduled for October 16th and it is indicated that similar success will be met.

The Division has also initiated a farmland assessment administrative review program during 1985. Personnel are reviewing duplicate copies of farmland assessment applications submitted to the Local Property Branch and are scheduling appointments with assessors to get a better handle on administrative practices. Our objective at the conclusion of this program is to isolate administrative problems and to evaluate procedures that can be taken to improve the administration of the Farmland Assessment Act.

The Division of Taxation is providing support by funding a study of the Farmland Assessment Act being undertaken by Cook College. This study will analyze the second decade of the Farmland Assessment Act, which includes the period between 1975 and 1985.

Other plans under consideration include the development of a Handbook for use by assessors to serve as a consolidated reference source in administering the Act.

In our review of the Farmland Assessment Act we have a sense from preliminary analysis that rollback assessments are not always being invoked where there is a change from the agricultural use of land. Rollback taxes are a recouping of some of the taxes that have been pardoned under the Farmland Assessment Act. A failure to invoke this penalty could represent a significant loss in revenues that would have otherwise been paid to a municipality. Procedures are presently being considered, if it is concluded rollback assessments are being overlooked, to monitor the sales of qualified farmland. In most cases, a change in the use of the land follows a sale within a short period of time.

A complaint often heard regarding rollback taxes is that the benefit afforded under farmland assessment far outweighs the penalty when the use of land changes. Under the constitutional amendment, rollback assessments are limited to the current year of the change in use of the land and the

two immediately preceding tax years. It appears, however, that any change in the period of levying rollback assessments would require a revision to the Constitutional Amendment approved by the voters in 1963.

A troublesome provision of the Farmland Assessment law can be focused on the term "actively devoted". Interpretation of "actively devoted" has caused more litigation respecting administration of the law than any other issue. The diverse nature of agriculture in New Jersey, no doubt contributes to the difficulty in formulating a more precise definition. Legislative adjustment to narrow the definition of the term could resolve many of the problems that presently exist in situations where only a small portion of a large parcel of land is leased and actually farmed.

Other previous legislative proposals with respect to increasing gross sales requirements from the minimum \$500 may also effectuate more intense agricultural activity and 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.

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 that are identified for corrective action.

WEST DEPTFORD TOWNSHIP, GLOUCESTER COUNTY - 1985
 Assessments extracted from Industrial & Commercial Line Items

3B4COMPA													
Regular Assessment										Farmland Assessment			
6	3	4	3	1B	3	4	Reg	12	Avg/	3	4	Farm	12
Blk	Suf	Lot	Suf	Owner	CL	Acres	Assmt	Assmt	Acres	CL	Acres	Assmt	Assmt
328			1 B	GATX					20,000	3B	136.00		68,000
328			1 B	** Pending Appeal	1	240.50	4,810,000	20,000	20,000	3B	240.50		120,300
328			1 C	Tenneco	1	372.55	5,215,700	14,000	14,000	3B	150.00		75,000
328			1	Tenneco	1	465.85	6,522,000	14,000	14,000	3B	150.00		75,000
328			1 A	Pennwalt	4A	181.44	3,628,800	20,000	20,000	3B	62.00		31,000
344			2	National Steel	3A	140.14	2,102,000	14,999	14,999	3B	81.00		38,900
350 D	35 A			I-C I	4A	14.60	675,500	46,267	46,267	3B	15.42		7,700
350 D	35			Shell	4A	170.00	5,535,000	32,558	32,558	3B	142.61		71,300
346 F	12			Shell	4B	10.79	194,200	17,998	17,998	3B	198.78		99,400
350	22			Shell	1	62.35	1,122,300	18,001	18,001		62.35		-
350 C	42 D			Colonial Pipeline	4A	58.31	1,049,600	18,000	18,000		-		-
350 C	45 B			Colonial Pipeline			*	18,000	18,000	3B	18.32		8,900
various*				Mid Atlantic		34.87	856,600	24,563	24,563	3B	265.52		126,900
Totals						1,751	31,711,700				1,522		722,400

*Used estimated value/acre on various parcels of Mid Atlantic
 **Appeal seeks Farmland Assessment on all GATX property

Detail of Mid-Atlantic totals shown above:

346 A	2			Mid Atlantic			*	25,000	3B	5.34		2,700	
346 A	2 A			Mid Atlantic	1	6.00	145,800	24,300	24,300	3B	13.47	6,700	
346 A	6			Mid Atlantic	3A	5.41	160,700	29,710	29,710	3B	83.00	41,500	
346 A	9 C			Mid Atlantic	3A	8.26	245,300	29,694	29,694	3B	7.00	3,500	
346 E	4			Mid Atlantic			*	30,000	30,000	3B	3.65	1,800	
346 B	20			Mid Atlantic	3A	10.34	160,500	15,522	15,522	3B	35.36	17,700	
347	2 A			Mid Atlantic			*	30,000	30,000	3B	17.00	8,500	
347 A	1			Mid Atlantic			*	30,000	30,000	3B	35.41	15,900	
347 A	5			Mid Atlantic			*	30,000	30,000	3B	6.97	3,100	
347 A	6			Mid Atlantic			*	30,000	30,000	3B	3.12	2,000	
347 A	7			Mid Atlantic	1	1.66	49,300	29,645	29,645	3B	1.00	500	
347 B	10			Mid Atlantic	1	3.20	95,000	29,688	29,688				
347 C	1			Mid Atlantic			*	30,000	30,000	3B	12.17	4,100	
351 C	1			Mid Atlantic			*	30,000	30,000	3B	14.82	6,700	
351 C	3			Mid Atlantic			*	30,000	30,000	3B	16.22	7,300	
351 C	7			Mid Atlantic			*	30,000	30,000	3B	6.11	2,700	
351 C	8			Mid Atlantic			*	30,000	30,000	3B	4.88	2,200	
Sub-Total for Mid Atlantic						34.87	856,600	*			265.52		126,900

Projected effect of Farmland
Assessments on Revenue

Per Acre Diff	Total Rev. Loss	School Rev. Loss	County Rev. Loss	Local Rev. Loss
19,500	70,013	40,641	19,890	9,282
19,500	123,809	72,222	35,173	16,414
13,500	53,460	31,185	15,188	7,088
13,500	53,460	31,185	15,188	7,088
19,500	31,918	18,619	9,068	4,232
14,499	31,005	12,083	8,808	4,111
45,767	18,625	10,866	5,292	2,470
32,058	120,854	70,405	34,288	16,001
17,498	91,827	57,834	26,087	12,174
17,501	28,807	16,814	8,184	3,819
17,500	0	0	0	0
17,500	6,464	4,537	2,405	1,122
	189,837	110,738	53,931	25,168
621,923		475,455	233,501	108,967

24,500	3,454	2,015	981	458
23,500	6,467	4,937	2,404	1,122
29,500	64,094	37,336	18,183	8,499
29,194	5,395	3,147	1,533	715
29,500	2,843	1,658	808	377
15,022	14,024	8,181	3,984	1,859
29,500	13,240	7,723	3,761	1,755
29,500	27,578	16,057	7,875	3,651
29,500	6,479	3,167	1,547	715
29,500	1,428	1,410	690	322
29,145	789	445	219	102
29,188	0	0	0	0
29,500	9,478	5,529	2,693	1,257
29,500	11,540	6,733	3,278	1,510
29,500	12,632	7,338	3,589	1,673
29,500	4,341	2,777	1,353	611
29,500	3,787	2,215	1,079	503
	0	0	0	0
	0	0	0	0
189,837		110,738	53,931	25,168



FEDERAL BUSINESS CENTERS

October 10, 1985

Senate Natural Resources and
Agriculture Committee
State of New Jersey
Cn-042
State House Annex
Trenton, New Jersey 08625

Dear Committee Members:

I am writing to you to offer the view of this firm with regard to the issue of "potential abuse of the Farmland Assessment Act by corporate and industrial interests". A hearing was held on this matter on October 8, 1985, and we would greatly appreciate your adding this letter to the record of the comments at that hearing.

This firm is engaged in the development of office and industrial properties. Our principal development is at Raritan Center, Edison, New Jersey. In addition to these properties, we have large tracts of raw land, undeveloped, which are presently in farm programs and under the purview of the Farmland Assessment Act. Accordingly, we should come within the scope of the review of your committee.

The properties of this firm which are under Farmland Assessment have been so for in excess of 15 years. While it may be true that these properties will likely be developed, some even in the near future, it is just as true that we have fulfilled the statutory purpose of the Farmland Assessment Act during our holding period. Each of these properties is actively farmed by tenant farmers, who meet on a regular basis the criteria of the statute. Thus, we, as a "corporate and industrial interest" should be viewed no differently than the more traditional agricultural concerns. We are helping to keep New Jersey green, and to bring New Jersey agriculture products to market. Our properties are in a chain that affects all of New Jersey's agricultural economy from machinery, through chemicals to human resources.

Lastly, we should mention the rollback provisions of the Farmland Assessment Act should provide all the protection necessary to protect abuses and misuse of this statute. The qualification for farmland exemption should be consistent for

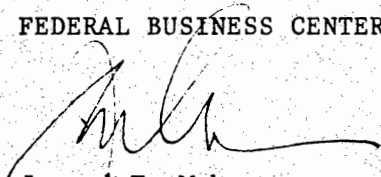
Senate Natural Resources and
Agriculture Committee
October 10, 1985
Page Two.....

individuals and corporate users, if a corporate users farming holding period is shorter than an individuals because of development or divestiture plans, that difference will be recognized through the rollback provisions of the act.

Thank you for your attention.

Yours very truly,

FEDERAL BUSINESS CENTERS



Jerard F. Maher
General Counsel

JFM/dml