

DRAFT
for discussion purposes only

1991 Annual Report

of the

**STATE AGRICULTURE DEVELOPMENT
COMMITTEE**

BACKGROUND

History

The State Agriculture Development Committee (SADC) was established by the Right to Farm Act, N.J.S.A. 4:1C-1 et seq., P.L. 1983, c. 31. In general the Committee's mandate is to advocate and promote the interests of productive agriculture and farmland retention. Specific duties and responsibilities towards achieving this mandate are detailed in the Right to Farm Act, N.J.S.A. 4:1C-1 et seq., P.L. 1983, c. 31 and the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., P.L. 1983, c. 32 as amended.

EIGHT YEAR PROGRAMS

Program Definition

An integral part of the overall farmland preservation effort continues to involve the enrollment of lands in eight year programs. There are two types of eight year programs- Farmland Preservation Programs which involve an agreement between the landowner and the CADB and Municipally Approved Farmland Preservation Programs which involve an agreement between the landowner, the CADB and the municipality.

Lands enrolled in the eight year Farmland Preservation Programs are deed restricted to maintain the land in agricultural production and to prohibit any nonagricultural development for eight years. The landowner receives no direct compensation for accepting the restrictions but in both programs is eligible for cost share grants from the SADC for approved soil and water conservation projects. Lands that are under a Municipally Approved Farmland Preservation Program accrue additional benefits such as protection from eminent domain actions, energy and water restrictions and nuisance suits.

Program Changes

Prior to January 1990, landowner enrollment in an eight year program was required for eligibility to sell development rights. The Agriculture Retention and Development Act was amended pursuant to P.L. 1989, c. 310 effective January 1990 to separate eight-year programs from the easement purchase programs. A landowner selling a development easement is no longer required to participate in an eight year program but is eligible for the same benefits as those enrolled in a Municipally Approved Farmland Preservation Program. This change did not affect any of the easement purchase closings that took place during FY 1991. It will impact the 1990/1991 easement purchase applicants.

1991 Activity- Enrollments

At the end of 1990 there were 294 farms totaling 33,521 acres enrolled in eight-year programs. At the end of FY 1991 there were 306 farms totaling 34,938 acres. **The net gain in enrollment during FY 1991 enrollment was 12 farms with an aggregate of 1,417 acres.**

SOIL AND WATER CONSERVATION PROJECT COST SHARE GRANTS

Definition/Eligibility

Participants in both types of eight year programs are eligible to receive up to \$50,000 in 50% cost share grants from the state. A wide range of eligible projects as adopted by the State Soil Conservation Committee are available for funding provided there is a proven technical need and that the completed projects meet all required standards. The Committee earmarked \$3 million of the 1981 Farmland Preservation Bond funds for these projects. In addition the Committee has earmarked an additional \$3 million from the 1989 Open Space Preservation Bond funds for Soil and Water Cost Share Grants.

Based on SADC regulations, the actual amount any one participant can receive during the eight year period is calculated on a sliding scale using the total acres of the enrolled farm. The SADC obligates funds at the time of project approval in the amount of 50% of the estimated eligible project cost not to exceed the landowner's eligibility limits. Payment to the landowner is made after successful installation of the entire project or when single independent components of the project are completed and functional.

Expiration period

Generally each project obligation has a three year lifetime. If at the end of the three year period, the project costs were less than projected or the project was not installed, the unexpended monies become available for use by other applicants. **During FY 1991 approximately \$189,492.39 in expired obligations were returned to the soil and water fund.**

1991 Activity - Soil and Water Projects

At the end of FY 1990 the Committee had approved obligations for 249 projects at an estimated 50% state cost of \$2,742,651.75. Of those totals, 195 full or partial payments had been made at an estimated 50% state cost of \$1,634,880.58.

At the end of FY 1991 the Committee had approved obligations for 279 projects at an estimated 50 % state cost of \$2,855,719.63. By the end of the year, 246 full or partial payments had been made at an estimated 50% cost of \$1,941,865.12. **The net activity for FY 1991 was approval of 30 projects at an estimated 50% cost of \$299,560.27, with 51 full or partial payments made for an actual expenditure of \$306,984.54. Approximately \$189,492.39 in expired obligations were returned to the fund.**

Table 1. below reflects eight year program enrollment and soil and water conservation project expenditures as of the end of FY 1991.

8-Year Program Participation as of June 30, 1991

County	# Farms/ # Acres	Proj. apprvd	Proj. Compld.	Soil & Water \$ Spent
Atlantic	85/5,733	122	120	\$934,249
Burlington	53/9,871	24	24	181,000
Camden	5/417	7	5	41,988
Cape May	4/910	3	4	36,961
Cumberland	34/2,995	36	31	249,668
Gloucester	13/947	20	12	113,826
Hunterdon	31/2,989	10	9	30,652
Mercer	4/573	1	2	17,506
Middlesex	2/112	2	2	18,610
Monmouth	15/2,088	3	1	4,860
Morris	18/1,255	7	4	53,266
Ocean	1/118	2	1	3,400
Salem	17/4,327	26	21	197,426
Somerset	5/226	3	3	12,617
Sussex	4/406	3	2	17,022
Warren	13/1,971	9	5	28,814
	306/34,938	279	246	\$1,941,865

PURCHASE OF DEVELOPMENT RIGHTS

Program Definition

The purchase of development rights where the landowner voluntarily agrees to sell a development easement is the most well-known aspect of the Farmland Preservation Program. As a result of this sale, a permanent deed restriction is placed on the property prohibiting all future nonagricultural development. The landowners still retains ownership of the deed restricted land.

The cost to purchase the easements is shared by the County, State and in some cases the municipality. Cost share grants to counties for the purchase of development rights represents the primary expenditure of funds by the SADC. Although counties are authorized to establish their own independent farmland preservation programs, their primary efforts to date center around state cost share funding to leverage county funds.

History of Funding

Through FY 1990 funding for the purchase of development rights and all other aspects of the Farmland Preservation Program came from the \$50 million authorized under the 1981 Farmland Preservation Bond Fund. As of December 1988 all available funds previously designated for easement purchase had been earmarked for specific applications.

In November of 1989, a second \$50 million bond issue was passed by the NJ voters under the Open Space Preservation Bond Act of 1989. The Committee determined that the portion of funds to be used for easement purchase would be divided between two funding rounds known as the 1990/1991 round and the 1991/1992 round.

Closings during FY 1991 -1981 Bond Funds

During FY 1991, four additional closings occurred increasing the total number of farms purchased with 1981 Farmland Preservation Bond Funds to 76 on a total of 10,523 acres. (See Table 2.) One of the four closings, was a 5.3594 acre lot which was part of a previously deed restricted parcel. At the time of closing on the original parcel clear title did not exist on the 5.3594 acre parcel.

As of June 30, 1991 the total state monies spent on the purchase of development easements was \$40,508,885.80. This calculates to an average state cost share of \$3,849.54/acre and an average SADC cost share of 60.18%.

As reflected in Table 3. below, additional payments were made during Fiscal Year 1991 to reimburse several counties for the cost of development easements and ancillary costs to achieve an 80% state cost share. These payments were made in accordance with Policy P-25, adopted January 19, 1989 at which time the Committee had expressed its intent to provide additional cost share monies to four counties, Mercer, Somerset, Sussex and Warren. In January 1991, the Committee authorized the use of available 1981 Bond funds to reimburse these counties for 80% of the cost to purchase the development easements and the ancillary costs on specific farms.

Table 2.

Easements Purchased during Fiscal Year 1991

County	# Farms	Acres	Total State Cost
Burlington	2	399.8	\$ 924,142.06
Sussex	2	52.1	245,617.12
	4	451.9	\$1,169,759.18

Table 3.

Easement Reimbursements during Fiscal Year 1991-
(pursuant to Policy P-25)

County	#Farms	State Cost
Warren	2	\$ 618,919.80
Mercer	1	151,290.54
	3	\$ 770,210.34

Table 4. shows the cumulative easements purchased as of June 30, 1991 with funds from the 1981 Farmland Preservation Bond Fund.

FUNDING ROUND- 1990/1991

Background Facts

In November, 1989 the SADC received 345 applications on 38,500 acres from landowners applying to sell their development easements in the 1990/1991 funding round. The Committee hoped to purchase a minimum of 5,000 acres with the first \$19 million from the 1989 Open Space Preservation Bond Fund. In granting preliminary approval, the Committee's number of selections accounted for the need to provide for application withdrawals and adequate competition without overburdening the counties with appraisal costs on more applications than counties could reasonably expect to fund. In March, 1990 the Committee gave preliminary approval with eligibility for state cost share funding to 57 applications totaling 9,598 acres.

Appraisal/Certification Results

Once preliminary approvals were granted, counties secured two independent appraisals on each property. Appraisal reports were received between the period of July 1990 through October 1990. All appraisals were reviewed by the SADC review appraiser to establish a recommended fair market value of the development easement for each farm.

On January 17, 1991 the Committee certified development easement values on 53 farms. Three farms of the original 57 given preliminary approval had withdrawn prior to the appraisal process and one farm straddled two counties, thus requiring only one appraisal. The certified fair market values of the development easements ranged between \$650 and \$18,000 with an average of \$5,747.20.

Final Selection Process

In August, 1990 the Committee adopted Policy P-14-A Supplement which outlined the final review process for the 1990/1991 applications to be implemented following the certification of development easement values. After the certified values were released to the counties in January, CADBs met with their respective landowners to explain the final selection process.

On March 20, 1991, landowners in the 1990/1991 round submitted a sealed confidential offer stating the per acre value that each would accept. The Agriculture Retention and Development Act states that in addition to considering the survivability of a farm in productive agriculture and the degree of imminence of change, both measured at the time of preliminary approval, the Committee must also give priority consideration to whether each specific purchase of the development rights represents a "relative best buy" for the state. The statute provides the following formula to calculate the relative best buy or formula index.

$$\frac{\text{certified value} - \text{landowner's offer}}{\text{certified value}} = \text{formula index}$$

The Committee received 38 offers which were opened at its March 21, 1991 meeting. Based on the offers and the resultant indices, the applicants were ranked from highest index to lowest. Any ties were broken by the original ranking of the 57 farms at the time they were granted preliminary approval.

The level of state cost share was based on the landowner's formula index as noted in Table 5. below.

Table 5.

Formula Index	% SADC Cost Share
Less than 0.10	60
0.10 up to less than 0.20	65
0.20 up to less than 0.30	70
0.30 up to less than 0.40	75
0.40 or greater	80

The total dollar amount to be paid by the SADC is based on a percentage of the landowner's offer. Therefore, even with an SADC cost share of 80%, the amount paid by the SADC never exceeds the amount which would have been paid at 60% of the certified value.

Table 6. shows the distribution of the offers presented by the 53 applicants and their respective formula index values.

Counties conducted a final review of applications which were eligible for state cost share funding and submitted approved applications to the SADC for final review. On May 17, 1991, the Committee granted final approval to 36 farms. At the end of FY 1991 counties were in the process of initiating contracts to complete title searches and surveys on the 36 farms. The \$20.5 million Appropriation bill needed to provide the SADC's grants to the counties was still pending.

Table 7. identifies the estimated regional distribution of 1990/1991 easement purchase dollars as compared to the number of acres to be purchased in the three regions.

Table 8. shows the estimated county distribution of the \$19 million at the time of final approval in May 1991.

Potential Savings

STATISTICAL ANALYSIS OF THE RESULTS OF THE 1990/1991 ROUND

Based on preliminary estimates, the use of the formula index to rank applications at the time of final selection will save an estimated \$3,939,269 in governmental monies. This translates into an SADC savings of \$1,231,721 and county savings of \$2,707,547. Ultimately, these funds were used to purchase development easements on more farms.

Since the time of final approval in May, one of the 36 farms withdrew. The new average certified value is \$6,713, in comparison to the average landowner offer which was \$5,706. The average formula index of .0869 indicates that the average landowner offer was 8.69 percent below the average certified value.

Table 9. below illustrates the proportion of savings shared between the state and county as a result of using the formula index.

FUNDING ROUND- 1991/1992

Applications Accepted

A total of 204 applications were received for the 1991/1992 easement purchase funding round on January 18, 1991. Although this number was less than the number received for the 1990/1991 round it did not represent a decline in program interest. Counties were directed to submit only those applications that they realistically planned to purchase.

In comparison to the anticipated available funds (\$20 million), this level of application submission still represents a tremendous program demand. Such demand can be attributed to four major factors:

1. As more development easements were purchased, the ensuing publicity helped potential applicants gain an increased understanding of the personal/estate planning merits of selling development rights while retaining ownership of the farm.
2. A sluggish real estate market made the SADC program a viable alternative.
3. The evolving State Development and Redevelopment Plan with its potential impact on land values remained a source of concern and uncertainty for farmland owners.
4. More CADB's continued to take an increasingly proactive role in planning and focusing their efforts when soliciting and selecting easement purchase applications.

Preliminary Approvals

In June, 1991 the SADC granted preliminary approval with eligibility for state cost share funding to 78 farms totaling 11,753.9 acres. All 14 counties that submitted applications had at least one of their applications receive preliminary approval. Prior to selection, these applications were ranked based on the Prioritization Criteria, (Policy P-14-B) which evaluates both individual applications and project areas based on soil quality, boundaries and buffers, size and density and local commitment.

Along with approving funding eligibility, the Committee also made recommendations for the allocation of Residual Dwelling Site Opportunities (RDSOs) and exceptions of acreage from the actual premises.

Table 10. shows the regional distribution of applications receiving SADC preliminary approval based on acreage.

Policy Changes Affecting 1991/1992 Round

Introduction

During FY 1991, the SADC adopted amendments on policies impacting RDSO allocation and exceptions. The amended policies affected the 1991/1992 round of applications.

Background History on RDSOs

The Agriculture Retention and Development Act expressly prohibits any nonagricultural development on deed restricted premises. The introduction of a Residual Dwelling Site Opportunity (RDSO) offers the opportunity to construct a residential unit within a two acre site on the farm, provided the Board and Committee certify that the construction of the residential unit is for an agricultural use and purpose.

A landowner is technically eligible for one RDSO for every 50 acres enrolled. Approval of the requested RDSOs however, is not automatic; it is an opportunity not a right. Several factors which influence how many RDSOs will actually be granted are the number of exceptions from the current property, any pending subdivision approvals and the current number of residential units present on the property.

After a landowner's request to exercise an RDSO is approved by the CADB and the Committee, municipal approvals still must be obtained.

Changes in RDSO Allocation Policy

At the time of preliminary approval the Committee reviews the number of RDSOs requested by the applicant and recommended by the CADB. In the 1990/1991 funding round the Committee, in addition to using the factors listed above based their RDSO allocation on dwellings per 50 acres of cropland and/or pasture land versus just dwellings per 50 acres.

In December 1990, the Committee reviewed the allocation policy and reaffirmed the basic interpretation of the RDSO rule, by adopting Policy P-28. Policy P-28 provides for a maximum of one dwelling per 50 acres. They also agreed to uphold county recommendations for RDSOs as long as the requests did not exceed RDSO eligibility based on acreage, number of dwellings or exceptions.

Exceptions-Policy Development

In January 1991, at the request of the CADB's the Committee reviewed the issue of exceptions of lands from the premises with the purpose of developing a defined policy. Upon review, the Committee voted to continue its general policy of discouraging exceptions and adopted Policy P-29. RDSOs would be encouraged in place of exceptions. Exceptions for residential purposes were as a rule to be limited to one per application and the land area encompassed by the exceptions was not to exceed 5% of the entire premises being considered.

Furthermore if an exception was to be granted the CADB must justify the need and verify that the location of the exception would have a minimal impact on the agricultural operation or the surrounding agricultural operations. A Board could require the applicant to formally subdivide the parcel from the farm prior to the actual purchase of the development easement.

The Committee also decided to seek to limit the development potential on exceptions as a means to minimize future nonagricultural development. Landowner authorization agreeing to the terms and conditions would be required. In addition, in order to further reduce the likelihood of right to farm disputes, a Right to Farm deed restriction would be requested and or required for exceptions involving residential purposes.

Finally, the Committee agreed to consider exceptions for areas with pre-existing nonagricultural uses. In addition they would consider exceptions for a public purpose where it was demonstrated that there was a compelling public need and all other alternatives had been exhausted.

FEE SIMPLE

Definition

In FY 1991 the Committee purchased its first two fee simple properties and resold them deed restricted for agricultural use at a public auction. The Committee, in Policy P-12, adopted December 10, 1987, earmarked \$5 million for fee simple projects. The fee simple program permits the SADC to purchase a property outright and the resell the parcel deed restricted for agricultural purposes forever.

1991 Activity

The first project selected was a 465 acre farm in Pilesgrove Township, Salem County. The farm, which was primarily in pasture use, was located just outside the Borough of Woodstown in a highly productive agricultural area. The farm was slated for immediate development which would have had a negative impact on the surrounding agricultural operations.

The Nature Conservancy, a non-profit conservation organization expressed an interest in preserving the farm because the site was widely recognized as providing the necessary habitat for several endangered and threatened bird species. Through a cooperative effort of the various agencies, the Nature Conservancy acquired the property in February 1989. Their timely intervention prevented the land from being sold for development. On November 29, 1990 the SADC purchased the property from the Nature Conservancy for \$1,619,450.

In May, 1991 269.875 acres of this property sold at public auction as land permanently deed restricted for agricultural use. The per acre sale price of the deed restricted farm was \$1,350.

The remaining 190 acres will be resold to the Department of Environmental Protection and Energy, Division of Fish Game and Wildlife. The Department's management of the property will encourage agricultural practices that continue to provide a suitable habitat for the nesting birds. The closing is still pending.

During FY 1990 the Committee began pursuing the Fee Simple purchase of a 60 acre farm in the center of the productive City of Vineland farm district. Also slated for development, the Planning board withheld subdivision approvals based on an extensive Agricultural Impact report submitted by the Cumberland County Agriculture Development Board. The farm is located in the center of an area where a number of landowners are enrolled in eight-year programs or have applied to sell their development easements.

On November 29, 1990 the SADC purchased this property for \$7,000 an acre. At a public auction in February 1991, the property resold deed restricted to an adjacent landowner for \$4,100 an acre. The actual closing took place on May 30, 1991.

The Committee unsuccessfully pursued a fee simple project in Hopewell Township, Cumberland County on two farms. Appraisals were completed but the SADC's offer to the landowners was rejected. Table 11 shows the total income and expenditures for the fee simple program to the end of FY 1991.

Table 11.

Total Fee Simple Expenditures from the 1981 Farmland Preservation Bond Fund as of June 30, 1991

Farm	Cnty	Purchase Price	Ancillary	Income
Nature Conservancy	Salem	\$1,619,450	\$365,932.88	\$363,502.73
Voltaggio	Cumb.	405,720	3,848.71	237,636.00
Bonham	Cumb.	Offer rejected	6,700.00	N/A
Total		\$2,025,170	\$376,481.59	\$601,138.73

Future projects

The SADC initiated the fee simple process in November, 1989 for a 130 acre farm in Hopewell Township, Mercer County. This project is a joint venture between Mercer County, the SADC, the New Jersey Department of Environmental Protection and Energy, Green Acres and the Delaware Raritan Greenways, Inc. The property is adjacent to Stony Brook, and very near to the Stony Brook Watershed. Pending successful completion, this project will be the first fee simple project funded through the 1989 Open Space Preservation Bond Act.

MONITORING

Once the development easements are purchased on a farm or a farm enrolls in an eight year program, monitoring the properties becomes critical to the integrity of the Farmland Preservation Program. The purpose of monitoring is to ensure landowner compliance with the provisions of the deed restrictions placed on the participating farm.

The Committee anticipates the monitoring of each of these farms once every twelve to eighteen months. These inspections/visits will become increasingly important as more properties change ownership and owners are unfamiliar with the restrictions on the premises. During the field visits staff reviews the restrictions concentrating particularly on those affecting residential units, farm labor units and the process of exercising RDSOs. Staff is required to give 24 hour notification and can only visit during regular business hours.

During FY 1990 a formal monitoring procedure was implemented. A total of 19 properties with approximately 1,415 acres were inspected. In FY 1991 67 farms were monitored on 8,230 acres.

PROGRAM DEVELOPMENT GRANTS

Historically the Committee offered Program Development grants to County Agriculture Development Boards to assist them in developing Farmland Preservation Programs. Some examples of grant uses have been: administrative uses, landowner contact programs, educational projects and mapping projects. The approval of each grant was based on standards established by the Committee and verification that there was a county match for the amount requested. The local match could be in the form of a monetary match or in-kind services. The base grant was \$3,000 but counties could request additional monies for special projects that they felt had statewide importance.

At the time the Committee reviewed the 1989 grants for approval it expressed a desire to re-evaluate the need for program development grants. It was later determined that although the grants had been useful to counties in the past, the funds would be more valuable if applied towards the easement purchase program. As a result, no further applications for program development grants have been accepted. In FY 1991 a 1989 \$3,000 grant was paid to Camden County which was approved in fiscal year 1990.

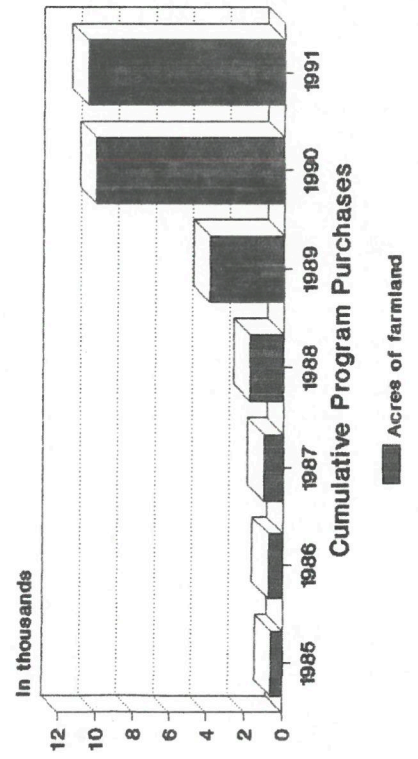
Table 12. below lists the total value of the program development grants distributed to the counties through FY 1991.

County	Total Received
Atlantic	\$21,000
Burlington	\$36,784
Camden	\$12,000
Cape May	\$ 6,000
Cumberland	\$25,162
Gloucester	\$18,000
Hunterdon	\$20,000
Mercer	\$18,000
Middlesex	\$ 9,000
Monmouth	\$21,066
Morris	\$20,500
Ocean	\$15,000
Salem	\$16,760
Somerset	\$18,000
Sussex	\$15,000
Warren	\$20,000
Total	\$292,272

Table 4

Remove NJ Farmland

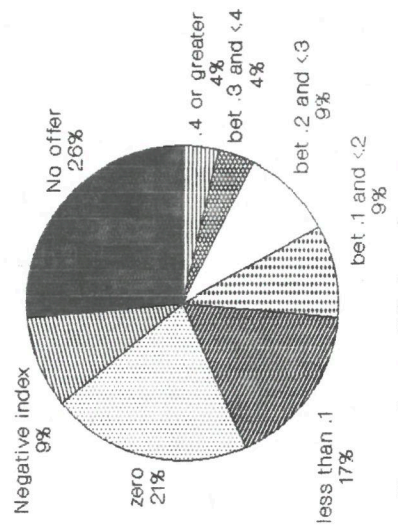
NJ Farmland Preservation Easement Purchases 1981 Bond Issue



X Remove NJ Farmland

Table 6

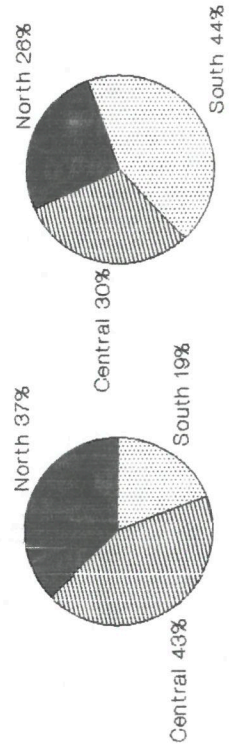
New Jersey Farmland Preservation Survey of landowners formula index



Based on 53 landowners

Table 7
 ✂ Remove NJ Farmland

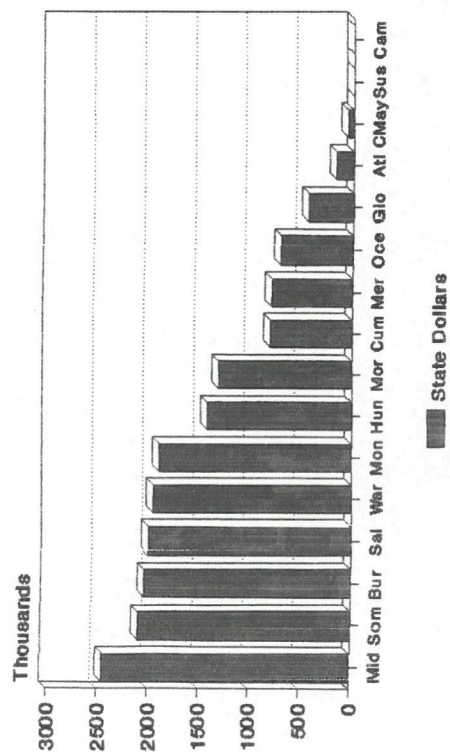
NJ Farmland Preservation Regional Distribution of \$\$ versus acres



Dollars			Acres		
NORTH	CENTRAL	SOUTH	NORTH	CENTRAL	SOUTH
Sussex	Warren	Atlantic	Sussex	Warren	Atlantic
Warren	Hudson	Camden	Warren	Hudson	Camden
Morris	Monmouth	Cumberland	Morris	Monmouth	Cumberland
Hunterdon	Burlington	Cape May	Hunterdon	Burlington	Cape May
Somerset	Ocean	Gloucester	Somerset	Ocean	Gloucester
		Salem			Salem

Remove NJ Farmland
Table 8

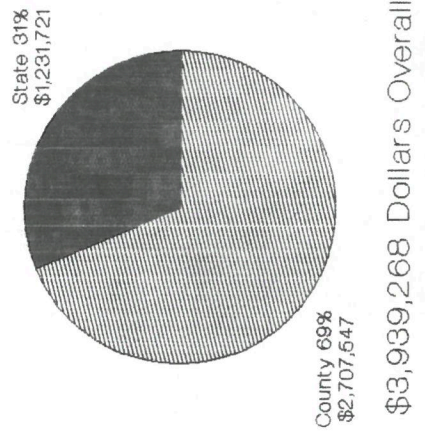
NJ Farmland Preservation
Distribution of state \$\$ by Cnty.



Remove NJ FP

Table 9

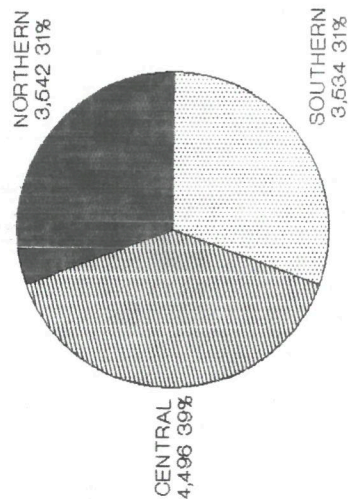
NJ Farmland Preservation Program
Estimated Savings in government funds



\$3,939,268 Dollars Overall

Table 10

DISTRIBUTION OF PRELIMINARY SELECTIONS



BASED ON 11,754 ACRES SELECTED

As of August 1, 1991

NORTH			CENTRAL			SOUTH		
Sussex	Warren	Morris	Mercer	Middlesex	Monmouth	Atlantic	Camden	Cumberland
Hunterdon	Somerset		Burlington	Ocean		Cape May	Gloucester	

