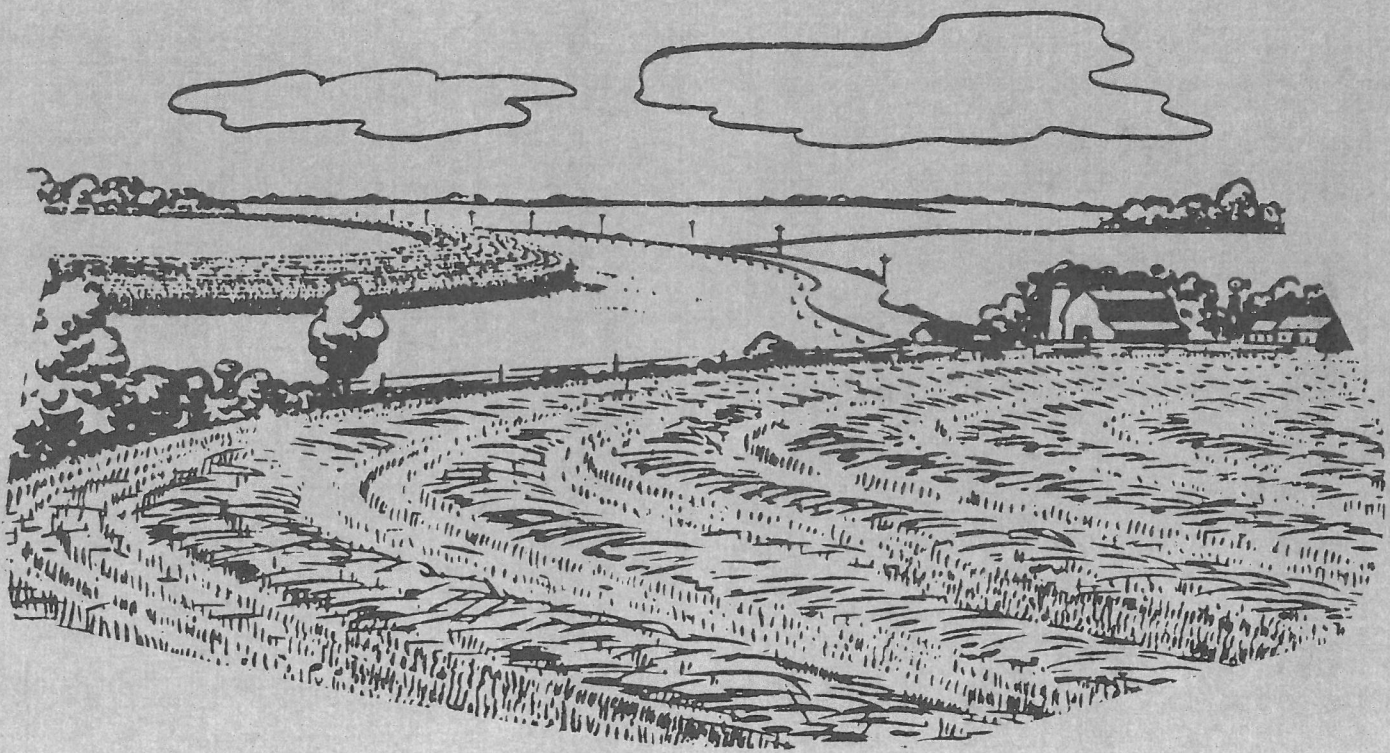


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THE AGRICULTURAL PRESERVE DEMONSTRATION PROGRAM

A Report to the People of New Jersey



Submitted By:

THE NEW JERSEY DEPARTMENT OF AGRICULTURE

Phillip Alampi, Secretary

THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION

Daniel J. O'Hern, Commissioner

FEBRUARY 1979



STATE OF NEW JERSEY
FARMLAND PRESERVATION DEMONSTRATION PROJECT

DEPARTMENT OF ENVIRONMENTAL PROTECTION
DANIEL J. O'HERN, COMMISSIONER

DEPARTMENT OF AGRICULTURE
PHILLIP ALAMPI, SECRETARY

The Joint Legislative Oversight
Committee for the Agricultural
Preserve Demonstration Program
The State House
Trenton, New Jersey 08625

Dear Committee Members:

We are pleased to provide you with this summary of the Agricultural Preserve Demonstration Program carried out in Burlington County under Chapter 50, Public Laws of 1976. This Report presents an overview of the major activities and findings of this project. Complete project information with documentation is available in the project file in the Office of the Division of Rural Resources, New Jersey Department of Agriculture.

As we mentioned to the Committee at the May 18, 1978 public hearing, we would have preferred to complete the project as it was originally planned, including purchasing development easements in the project area. We believe that the purchase of easements, as well as the information associated with that purchase, was an extremely important element of this demonstration effort. We recognize the seriousness of the problem of high costs to the State if a farmland preservation program were based solely on easement purchase. However, this demonstration has established that the magnitude of these costs is a reality that must be confronted if the State is to develop a comprehensive program for preserving agriculture and rural open space.

This study, even without the purchase of the development easements, has added to the storehouse of knowledge concerning the process of farmland preservation in New Jersey. We recognize that other alternatives to the development easement purchases must be explored, but we continue to feel that the ultimate program in New Jersey for farmland preservation will have some sort of easement purchase associated with it.

We stand ready to assist you and other interested citizens of the State in working towards a solution of this problem.

Sincerely,

Phillip Alampi
Secretary of Agriculture

Daniel J. O'Hern
Commissioner of Environmental
Protection

Highlights

This report provides a brief summary of the methodology, the findings and the recommendations of the Farmland Preservation Demonstration Project. The background of farmland loss and the importance of maintaining a viable agriculture are presented along with previous steps taken to reduce that loss and plan for a more permanent program.

The legislative framework of the Project, its operation, including the development of a program of public information, a bidding process, an appraisal system, the selection of sites, and the response of landowners, are briefly presented in this report.

Owners of over 41,000 acres of farmland were invited to participate and over 18,600 of these acres were initially offered into the program. After scaling down the scope of the Project to meet funding limitations, almost 5,000 acres were appraised and about 1,700 contiguous acres finally recommended for easement purchase. The Project expired at the end of the legislatively imposed two-year limit on the Act without easements having been purchased. Further details are found in the Appendix and in the Project files.

In analyzing this major first step of determining the feasibility of preserving farmland using a purchase of development easement approach, the report concludes that much valuable technical information was obtained about the costs and the suitable procedures for establishing agricultural preserves. It also points out some of the unresolved issues in using this concept of preservation.

The use of the purchase of development easements as an exclusive method by which to preserve our farmland across the entire State appears to be extremely costly when the values determined in the Demonstration area are projected to the statewide acreage. The report suggests that other techniques should be considered in conjunction with a selective use of easement purchases.

CHRONOLOGICAL SUMMARY OF THE NEW JERSEY
FARMLAND PRESERVATION DEMONSTRATION PROJECT

JANUARY, 1971---Governor William T. Cahill establishes a Blueprint Commission on the Future of New Jersey Agriculture.

APRIL, 1973---After a two year study the Blueprint Commission issues a report containing thirteen recommendations for a permanent agriculture in New Jersey including purchase of development easements on one million acres of farmland.

APRIL, 1975---The Capital Needs Commission recommends a pilot preservation project based upon the recommendations of the Blueprint Commission.

JANUARY, 1976---Governor Brendan Byrne, in his annual message to the Legislature, announces a decision to proceed with a demonstration project funded with \$5 million of Green Acres funds.

JULY, 1976---Legislation is passed authorizing the Farmland Preservation Demonstration Project for the purchase of development easements. (See Appendix I-A)

JANUARY, 1977---Final promulgation of rules and regulations for the pilot project. (See Appendix I-B)

AUGUST, 1977---134 landowners offer easements on 18,600 acres into the project. (See Appendix I-D)

OCTOBER, 1977---Approximately 5,000 acres selected for full appraisal. Two independent appraisers assigned to each of 34 parcels in three areas.

JANUARY, 1978---Results of appraisals (showing price for development easements) sent to 34 farmland owners.

JANUARY, 31, 1978---Twenty-nine landowners say they will accept State's figures. First hearing before the Assembly Committee on Agriculture. Some concern is expressed about high easement costs of total Blueprint effort. (See Appendix I-D)

FEBRUARY 8, 1978---Meeting with the Senate Agriculture Committee. Some members, including Chairman Zane, express concern about the desirability of continuing with the program.

FEBRUARY 28, 1978---Daylong review by the New Jersey State Board of Agriculture. Based on substantial Farm Bureau input, concern is expressed about the effect of the demonstration program appraisal information on the "Farmland Assessment Act." The pros and cons of the project are reviewed, including possible termination.

The Report describes the work conducted in the program popularly called the Farmland Preservation Demonstration Project. This Project was located in Burlington County and was authorized by the Agricultural Preservation Demonstration Program Act, Chapter 50, P.L. 1976.

Major Program Participants

The New Jersey Department of Agriculture

Phillip Alampi, Secretary
Richard D. Chumney, Director,
Division of Rural Resources
John P. Van Zandt, Coordinator,
Rural Resource Services

The New Jersey Department of Environmental Protection

David J. Bardin, Commissioner 1974-1977
Rocco D. Ricci, Commissioner 1977-1978
Daniel J. O'Hern, Commissioner 1978-Present
Betty Wilson, Deputy Commissioner
Curt J. Hubert, Green Acres Administrator
Vincent T. Bogdan, Chief
Land Acquisition Section, Green Acres Administration
Robert J. Solan, Chief
Legal Services, Green Acres Administration

The Project Steering Committee

Burlington County Officials

Henry W. Metzger, Freeholder
Bernard Cedar, Director,
Burlington County Planning Board

Burlington County Board of Agriculture

John Pew
Albert C. Ammon

Lumberton Committee Members

Philip Yarella
John Priest
Margaret P. Gest

Lumberton Planning Board

Harlan Greenberg

Medford Committee Members

Gerald Haughey
Brooks Evert

The Project Steering Committee (continued)

Medford Planning Board

Robert Stebbins

Pemberton Committee Members

Charles L. Sprague

Mrs. Jean Dwane

Michael Kay, D.D.S.

Pemberton Planning Board

Francis J. Clevenger

Southampton Committee Members

Robert Thompson, Mayor

William D. Conner

Southampton Planning Board

George Kraus

The Farmland Preservation Demonstration Project Staff

Thomas J. Hall, Ph.D., Project Manager

Shirley C. Banfer, Project Support Specialist

MARCH 29, 1978---Senator Zane holds press conference to say that purchase of development easements is too expensive for New Jersey taxpayers.

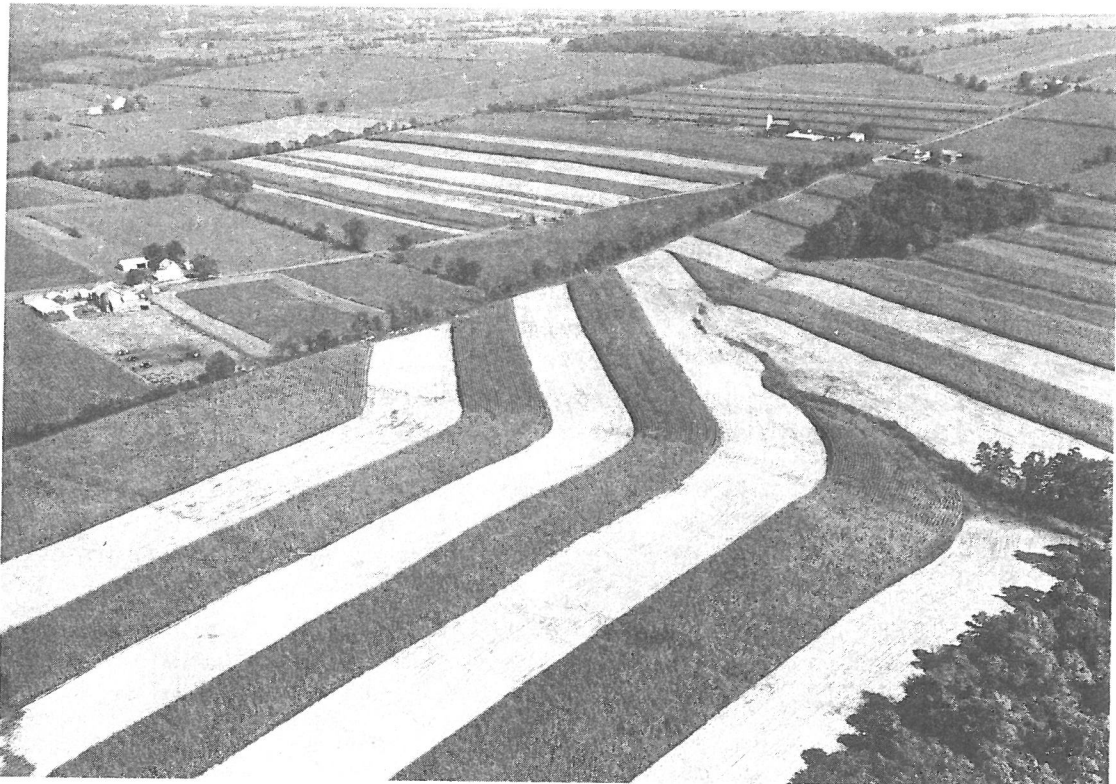
APRIL, 1978---Staff meetings are held between Department of Agriculture and the Department of Environmental Protection concerning the development of a methodology for continuation of the study effort and the exploration of complementary farmland preservation techniques including zoning, TDR, farmland districting, revision of the Farmland Assessment Act and other mandatory and voluntary methods.

MAY 18, 1978---Secretary of Agriculture and Commissioner of Environmental Protection request one-year extension of the project at a meeting of the Legislative Oversight Committee for the project. (See Appendix I-E)

JUNE, 1978---Extension of the project for one year to allow time for review and evaluation of alternative methods of farmland preservation is approved by the Legislature but not signed into law by the Governor. During the proposed study period no easements were to be purchased until the Legislature approved. (See Appendix II-F).¹

JULY 22, 1978---The initial legislation which authorized the Farmland Preservation Demonstration Project expires.

1/ Another bill was subsequently introduced with the Governor's approval to provide for a continuation of the study of farmland preservation methods and the appropriation of \$75,000 for that purpose. (Appendix II-L)



I. INTRODUCTION

AGRICULTURE IN NEW JERSEY

New Jersey's nickname of the "Garden State" has its roots in the State's location and function within the New York metropolitan area in the 18th and 19th century. Across the Hudson, the New Jersey shore was green with farms and forests; and the rich farmland of Bergen and Essex Counties provided fresh food for the population of New York.¹

Today after three centuries of urban growth, and suburban development New Jersey still maintains a vital and economically important agricultural sector. Nationally, New Jersey farms are 2nd in the production of blueberries, 3rd in spinach and cranberries, 4th in tomatoes, summer potatoes and fresh market green peppers and 5th in fresh market asparagus, peaches and sweet corn.² New Jersey ranks 1st in the value of farmland and buildings per acre and 2nd in taxes per acre.

New Jersey farms provide the residents of the State with a substantial portion of their fresh fruits, eggs, vegetables and milk, as well as a varied amount of other horticultural and agricultural products. The existence of this local source of fresh food is an important buffer against the uncertainties posed by long transportation routes, high energy costs, vagaries of weather, and regional crop failures. New Jersey's location, with its good growing season, abundant rainfall and fertile soil, means that the State can produce a wide variety of crops to meet the changing needs of America's most densely populated region.

Agriculture and the food industry have an important impact on the State's economy. The sale of New Jersey's agricultural products totaled over \$350 million in 1977, and that \$350 million generated additional sales of agricultural supplies, tractors, equipment, and other materials necessary to keep the agricultural industry in production. New Jersey's 8,300 farm families also provided employment opportunities for approximately 32,000 workers on farms in addition to the farmers and their families, both on a year-round and seasonal basis.

In addition farmland provides an important contribution to the quality of life and environment. Agriculture keeps New Jersey green. It provides breaks in the pattern of settlement from city to suburb, and from suburb to shore. It provides over a million acres of cultivated, privately-owned, tax-paying, open space; habitat and food for wildlife; areas where storm-runoff can percolate back into underground storage, and vegetation which helps purify New Jersey's air.

1/ John Cunningham, Garden State, New Brunswick, N.J., Rutgers University Press, 1955, Ch. I.

2/ According to figures available 2/16/79

II. THE FARMLAND PRESERVATION DEMONSTRATION PROJECT

Legislation

In 1976, Governor Brendan Byrne directed that a pilot project for the purchase of development easements be undertaken. New Jersey's Green Acres Program, under the direction of the Department of Environmental Protection, had been established to provide funds for the acquisition of lands for conservation, open space, and recreation. Five million dollars was made available from the Green Acres Program to establish a pilot project.

Legislation establishing the experimental program was introduced, debated, and passed by both Houses of the Legislature in the spring of 1976. It was signed into law by Governor Byrne on July 22, 1976. This legislation created a two-year experimental program to test the State purchase of development easements for the preservation of farmland. In following the mandate of the statute, it was agreed that a specific area be selected in which to set up an experimental agricultural preserve on a voluntary basis. This program was popularly referred to as the Farmland Preservation Demonstration Project.

The Legislature, in the enabling legislation, declared that: "the preservation of agricultural open space and the retention of agricultural activities would insure the best interest of all the citizens by insuring numerous social, economic and environmental benefits accrued from the continuation of agriculture in the Garden State. The past and the present policies and efforts of this State intended to promote such preservation and retention, while beneficial and worthy of continuation, have been inadequate to insure the permanent existence of agriculture."

The Legislature declared that the purpose of the program shall be "the creation of an agricultural preserve which shall remain undeveloped for other than agricultural purposes and that such preserve shall be established through the State purchase of development easements to such lands" and that it is also the purpose of the program "to provide information and experience concerning the State's efforts" and that the goal of the program would be "to acquire easements for approximately 5,000 acres of land within the agricultural preserve."

An experimental program was necessary to learn how to design such a program and to answer the following questions:

- How should a program of this type be explained to all concerned?
- How would the concept of State purchase of development easements be received by farmers and agricultural landowners?

- How can a program of this sort be administered?
- How might an actual development easement work in practice?
- How would such a program be received by municipalities?
- How would easements be valued?
- How much would a Statewide program cost?
- What would public reaction be to such a program?

Program Operation

With Governor Byrne's signature on July 22, 1976, the program began. The Division of Rural Resources in the New Jersey Department of Agriculture was given operational responsibility. Staff was appointed on a site in Burlington County selected after a review of farmland within the entire state. The program administrators wished to conduct the experiment in a setting which had a variety of crop types, a range of development pressures on the land and a location reasonably accessible to a significant number of New Jerseyans.

After careful statewide evaluation, it was determined that four townships in Burlington County met these and other criteria. The townships included Medford, which was under substantial development pressure due to its proximity to Philadelphia; Lumberton and Pemberton, which seemed to be under moderate development pressure, and Southampton, where development pressures seemed to be less intense. The four townships had 41,500 acres of farmland under cultivation, and most of it was of very high quality. The site is located midway between Trenton and Philadelphia, and many people within the area seemed genuinely interested in the possibility of having a permanent farmland preserve.

Informational Program

The first major part of the Farmland Preservation Project was the establishment of a local Steering Committee and the implementation of a public information/education program. The local Steering Committee was composed of representatives from each of the four municipalities, their planning boards, the County Board of Agriculture and the County Government, and ex officio representation from the area's legislators, Cook College, and the New Jersey Departments of Agriculture and Environmental Protection. The 19-member Steering Committee met regularly throughout the program and was a major source of information and guidance to the program.

As part of the information/education program, the project manager and staff from the Division of Rural Resources met with interested groups to solicit input and to answer questions concerning the proposed Farmland Preservation Demonstration Project. In addition, a series of mailings was sent to all individuals who owned farmland qualified under the Farmland Assessment Act. These mailings explained the program in considerable detail, and provided a firm basis for understanding the goals and proposed methods of operation of the program.

A public hearing was held on the goals and proposed operation of the program.

As the program progressed, public meetings were held in each town to explain the program and to elicit citizen and farmer participation.

The Bidding Process

Rules and regulations were adopted in January 1977 and an invitation to participate was mailed to all the farmland owners in the four townships. One hundred thirty-four landowners, owning 18,610 acres, responded to the invitation to participate. These landowners represented a broad cross-section of ownership and crop types.

These landowners sent in "bids" -- that is, they offered their farms to be included in an agricultural preserve, by indicating how much they thought their land was worth for agricultural purposes, and how much it was worth if marketed for development. Some bids reflected unrealistic expectations about the prices which rural farmland could command on the open market. Other bids represented isolated areas which had become small islands of agriculture surrounded by development. Some lands were located on soils which offered little hope of continued agricultural operation, because of low fertility, poor drainage, or other problems. However, easements on substantial quantities of land, in prime condition and realistically priced, were offered. In several instances, landowners had talked with their neighbors and, on their own, offered a group of contiguous farms. In other cases, it was noted that a block of farms was forming without concerted action. Wherever it seemed practical, landowners were encouraged to submit offers so that a contiguous grouping of farms would exist.

The project staff, working closely with other agricultural interests, spent considerable time evaluating the offers in terms of capability for continued agricultural operations, comparative development pressure, and soil types. Large display maps on which the offers were depicted made it possible for decision-makers to see areas where farm offerings would lead to the creation of a contiguous mass of prime agricultural land which could be reasonably well-buffered from future development.

It was considered important to have at least 1,000 acres of agricultural land bounded in such a way that it would be unlikely that future incompatible development would take place. Under such conditions, it was felt that agriculture could reasonably be expected to survive for the foreseeable future.

The Appraisal System

Another key part of the program operation was the development of an appraisal system. Farmland owners and taxpayers were concerned with the process of attaching appropriate values to development easements so that neither the taxpayer nor the farmland owner would feel cheated. Because the problem was complex and important, considerable effort went into trying to develop a fair and equitable appraisal system.

Since no one in State government had experience in valuing development easements, and since the Green Acres appraisal staff had full-time duties from which they could not be spared, it was decided to hire a consultant to supervise the appraisal process. Members of nationally recognized appraisal organizations operating within the New Jersey region, including several in Pennsylvania and New York, were invited to submit bids, outlining their experience, qualifications, interest in the farmland preservation effort, as well as anticipated fees for the work.

After extensive interviewing and review of qualifications, an experienced farmland appraisal firm was hired.¹ This firm had experience in appraisal work on the Suffolk County, New York program which involved similar activities concerning the purchase of development easements.

The firm prepared three manuals for this project. The first explored farm valuation, and indicated the economic value of farmland under assumed conditions of yields, prices received and costs of production. The farmland value manual also contained fact sheets on agricultural land sales in Cumberland and Salem Counties, both located well away from existing developed areas. The second manual contained listings of sales of large tracts of land within Burlington County, so appraisers would have a guide to current market conditions. The third manual contained instructions for appraisers, so that they would know how to conduct an appraisal of a partial interest in farmland, which was the essence of a development easement. All three of these manuals, prepared after extensive research, were completed in August 1977.

¹/ North East Appraisals and Management Co., Inc.
N.E.A. Building, 207 South Tioga Street, Ithaca, New York
14850

After the manuals were prepared, five farms within the project area were selected as "test" sites. Two independent fee appraisers, selected from a list of appraisers prepared by the Department of Environmental Protection, were assigned to each farm and instructed to establish the farm and free market values of the properties and to evaluate the appraisal manuals and the appraisal process which had been developed.

Thus, the appraisal system was evaluated and the Farmland Preservation Demonstration Project received some benchmark data on the cost of acquiring easements on prime farmland throughout the project area.

Site Selection

With the results of the test appraisals in hand, and with the offers fully mapped, the project staff and the local Steering Committee proceeded to select possible sites for the creation of an agricultural preserve. There were eleven possible groupings of land, and each was carefully evaluated. Some appeared to be too expensive, while others appeared to be already surrounded by development which would impinge on agricultural operations.

There were other problems, as well. The local Steering Committee had to make the choice between large quantities of land which were remote from development (and therefore less expensive) or smaller quantities of land which were under greater development pressure (and therefore more expensive). The Committee concluded that the program goals would be better served if land under greater development pressure were chosen. This meant fewer acres would be preserved with the funds available than would be possible if land with a lower market value were selected.

There was also a differential between the soil classification in the selected area and the area that was not selected. The soil in the selected area generally had a higher classification and so was more adaptable to agricultural uses.

Three sites located near major development centers with sufficient quantities of prime agricultural land and good prospects of buffering against unwanted development were recommended for selection as possible sites for an agricultural preserve. The local Steering Committee recommendation reduced the amount of land under consideration from 18,610 acres to 4,780 acres and reduced the number of townships under consideration from four to three because the Township of Medford appeared to have too little reasonably-priced land which was not already threatened by development.

The three selected sites -- 1,600 acres in Lumberton; 1,900 acres in Southampton, and 1,200 acres in Pemberton were formally recommended to the Commissioner of the Department of Environmental Protection and the Secretary of Agriculture.

This recommendation set forth the reasons for proceeding with the program. It outlined the discussions held with the local Steering Committee and indicated what choices needed to be made with respect to site selection.

The Commissioner and the Secretary reviewed the recommendation and authorized the staff to proceed with appraisals on the three sites selected by the local Steering Committee.

The appraisal work was conducted between November and December of 1977, and by early January 1978, initial figures on the costs for purchasing development easements were set. For the Lumberton area, costs would have averaged \$2,324/acre, and the 1,597 acres appraised would have cost nearly \$3.7 million. For Southampton, the 1,901 acres appraised would have averaged \$1,770/acre, for a total of nearly \$3.4 million. For Pemberton, the appraised 1,298 acres would have averaged \$1,797/acre, for a total of \$2.1 million.

The average cost of the agricultural value of the land throughout the entire project district was \$813.00 per acre.

The State's offer for the easements, based on the two appraisals of each parcel, were sent to the landowners in the three proposed areas. All those in Lumberton accepted the State's figures as a basis for negotiation. In Southampton, owners of 1,687 acres accepted the State's figures, and in Pemberton, owners of 1,221 acres accepted the State's figures. It was clear that the appraisal process had yielded acceptable results to most of the farmland owners, and it seemed that one of the three sites could be selected for the State's first agricultural preserve.

Since there were more easements offered than could be purchased with the funds available, a decision needed to be made designating the specific easements to be purchased. After careful consideration, the local Steering Committee and the staff recommended to the Secretary of Agriculture and the Commissioner of Environmental Protection that easements be purchased on 1,666 acres at a value of approximately \$3.9 million in Lumberton Township. (Following the original bids and appraisals, additional acreage was offered by the landowners and was included in the State's offer at the appraised value.)

The Evaluation Stage

After reviewing the final recommendation from the local Steering Committee and the staff for the purchase of easements in the Lumberton area, the Secretary and the Commissioner felt that it was essential to have a complete program evaluation. The Agricultural Preserve Demonstration Program Act called for a

review and, although it did not require other approvals prior to purchasing easement, the Cabinet officers actively sought the views of others.

Presentations were made before the Assembly Committee on Agriculture and Environment in January 1978, the Senate Committee on Agriculture in February 1978, and agricultural groups including the State Board of Agriculture and the Board of Directors of the New Jersey Farm Bureau in February and March 1978. Thus, a wide range of persons had opportunities to review the program goals, operations and objectives. They were able to evaluate the results in terms of their own experience and projections of the future.

Several points emerged from these evaluations which in some cases raised concerns and questions and in others gave great hope and encouragement. The points can be summarized as follows:

(a) Issues resolved in the Project

- (1) Procedures were developed for administering an easement purchase program. The actual testing of such procedures would require implementation of the last stage of the demonstration.
- (2) Rules and regulations spelling out how such easement acquisition could be accomplished were formulated and generally agreed to by the diverse interests associated with the Project.
- (3) The project developed a draft deed covenant embodying the restrictions which such an easement would place on the landowners. A final deed covenant will have to address the question of subdivision restriction and will have to provide a better assurance that agriculture would be preserved on the subject parcel.
- (4) A detailed and carefully designed appraisal process was developed to provide for fair compensation to the easement seller and protection for the general public.
- (5) The value and importance of local participation through the establishment of the local Steering Committee and the local field office were tested and proven.
- (6) The need for and the process to accomplish an effective informational and public relations program in order to operate such a voluntary program in a community was demonstrated.

- (7) The ability to achieve a significant, voluntary participation was demonstrated. Of the total number of landowners in the project area, approximately 25 percent offered their development easements for sale. Approximately 45 percent of the farmland acres in the project area were offered into the program by owners.
- (8) The ability to form adequately-sized, contiguous, farmland preserves was demonstrated.

(b) Unresolved Issues and Concerns Demonstrated in the Project

- (1) Concern was raised that the potential impact of the Farmland Preservation Demonstration Project would adversely affect taxes currently levied under the "Farmland Assessment Act." There was some variation between the values determined through the Project appraisal process and the guideline values as published by the State Farmland Evaluation Advisory Committee. This discrepancy may be due to the fact that the appraisal was based on individual, specific parcels and their particular value in the highest and best agricultural use. The farmland assessment values are determined as averages for the entire county using gross census data without the use of actual property appraisals.

In spite of the fact that the two processes of valuation were entirely different, there was the concern that the higher appraisal values could lead to significant tax increases for some farmers in the future.

- (2) Concern was expressed that government involvement with farmland property rights might result in future government control of the land in excess of the control exerted on development. An example of this control issue is the question of public access onto farms that had been preserved with public funds. Farmland owners were adamant that farming and public access were incompatible. The proposed deed covenant provided for no access, but in the minds of farmland owners, there was always the threat that the government would exert control.
- (3) Frequently raised was the already existing problem of nearby neighbors, unfamiliar with the art of farming, who complain of nuisances by farmers. There was concern that government at all levels would continue to place additional restrictions on the use of pesticides or the use of farming machinery because of alleged violations of noise, odor, or dust control ordinances. Eventually, these

restrictions could make it impossible to continue farming, and having given up the development rights, the farmland owner would be stranded. Conversely, the State, having purchased a portion of the ownership rights, would have vacant ground with the right of public access denied for other recreational uses.

- (4) A great deal of concern was expressed, especially in the Senate, but also by other legislative and executive observers, about the possible several billion-dollar cost for such a program. Based on the costs developed in the project area, and provided that a statewide program relied solely on easement purchases, the cost would have exceeded the State's financial capability at this time if the entire one million acreage was bought at once. An important unresolved issue is the impact of a voluntary program vs. a non-voluntary program using easement purchases alone on a statewide basis.

Some people called for a halt to the project on the basis of total projected cost. It has been suggested that there would be a place for some easement purchases in any more-diversified, statewide farmland preservation plan that included transfer of development rights, agricultural districting, zoning, and use of the Farmland Assessment Act.

Both Secretary Alampi and Commissioner O'Hern felt that the development easements should have been purchased and the preserve monitored over a period of time in order to test the most important aspect of the demonstration. This testing would have provided information on as yet unanswered questions about the purchase of development easement process, including the long-term viability of agricultural activity in an agricultural preserve. It is recognized that ultimately this becomes a decision that should be decided by the electorate after alternatives are analyzed. The actual cost of the demonstration was small compared to the magnitude of the problem confronting the citizens of New Jersey.

- (5) Once agricultural preserves were created with public funds, it was feared that the land might be bought up at farmland values by people who had no intention of farming but only wanted expanses of low cost land for privacy. There was an attempt being made in the project planning to prevent this possibility by providing restrictions in the deed covenant.

Additional work on the legal documents was proposed in order to prevent this type of ownership subterfuge and to prevent subdivision into smaller, inefficient farmettes which would not be in keeping with the overall intent to maintain a viable commercial agriculture.

- (6) Concern was expressed about the absolute cost of the purchase of development easements and also about the ratio of the cost to the total value. In the preservation districts the cost of the easements were approximately 75 percent of the total cost.

Table I

Appraisal Values of Land and Easements
in the Farmland Preservation Demonstration Project¹

	Lumberton	Pemberton	Southampton
Total Value/Acre (Av)	\$3,057	\$2,652	\$2,580
Farm Value/Acre (Av)	\$ 777	\$ 893	\$ 778
Dev. Easement/Acre (Av)	\$2,280	\$1,760	\$1,802
Easement/total (%)	75%	66%	70%
Highest Total Value/Acre	\$3,600	\$3,400	\$3,000
Lowest Total Value/Acre	\$1,925	\$1,750	\$2,400

The cost to society of not moving ahead at once to preserve this natural resource needs to be examined. There are important economic, quality of life and social considerations tied into the preservation of agriculture in New Jersey that need to be addressed. An Eagleton survey of public attitudes showed a strong interest in preserving farmland but little support for providing the funds for it. If it is assumed that the value of farmland will continue to increase when development pressure increases and if it is the goal of the State to preserve farmland along with the Pinelands, shore areas, wetlands and skylands, then a comprehensive strategy vis-a-vis the State Development Guide Plan must be initiated as soon as possible. There is a need to have overall coordination of the State efforts to maintain open space. There is a need to act expeditiously in the case of farmland because some of the most fertile farmland is the most threatened by development.

^{1/} The data presented in Table I are based on all of the actual appraisals made. These unweighted values differ slightly from the averages of those acres ultimately offered to the Project.

Recommendations for Additional Action

The statutory period set for the demonstration project has expired. The Commissioner of the Department of Environmental Protection and the Secretary of Agriculture believe that if the project had been completed, the demonstration would have provided additional important information that may be useful if development easements are utilized on a limited basis as part of any future farmland preservation plan. Acquisition of easements has been attempted in Suffolk County, New York. Nevertheless, without having completed the demonstration project, there is insufficient data to determine whether the purchase of development easements in New Jersey would have been a viable tool in the process of farmland preservation.

Open space and farmland continue to be lost in New Jersey to the process of suburbanization. It is the ongoing responsibility of the Department of Environmental Protection to look for methods that allow for preservation of open space and the Department of Agriculture to preserve farming. They will continue to attempt to do this through the various regulatory, acquisition, social and persuasive policies available to them. A logical step in the search for a workable New Jersey solution is the exploration of land use techniques that have been used in other states. These include agricultural districts, agricultural zoning, and transfer of development rights. In addition, a comprehensive study and report on the Farmland Assessment Act of 1964 should be prepared which evaluates the impact of the Act on the long range preservation of agriculture and makes recommendations for improving its effectiveness in cooperation with a comprehensive statewide program, and eliminating possible abuses.

We believe that the use of the purchase of development easements in cooperation with these other methods should be examined. The cost of the purchase of development easements must ultimately be decided upon by the citizens of the State after analyzing the best available information and determining whether or not the preservation of farmland is an important enough issue to merit massive expenditures of public funds.

While there is an ongoing role for the Department of Environmental Protection in the purchase of easement process and for the Department of Agriculture in coordinating agricultural activities, it is extremely important to the success of any follow-up study of agricultural preservation that participation be expanded to include a broad cross section of the State's population. We believe that in order for the State to develop a workable mechanism for examination of complementary tools for farmland preservation, an analysis must be undertaken. This analysis should be seen as free from the constraints of any past department policies. The analysis should examine and report all options open to the State and offer a clear assessment of their potential impact.

The ultimate implementation of a comprehensive farmland preservation policy must include the support of both the suburban and urban population in addition to the agricultural community. The study will examine all new methods of farmland preservation and will fully involve the public. Both the Department of Agriculture and the Department of Environmental Protection will, as part of the study, seek to maximize the amount of citizen participation in the process and will work diligently to cultivate a level of statewide support for any feasible mechanism for the preservation of the State's farmland.

In conclusion, this project even without the actual purchase of the development easement, has provided a wealth of substantiated factual information. Both departments feel that the result of this project was well worth the expenditure of public funds. The project file which contains the details and documentations of the activities of the project may be reviewed in the Office of the Division of Rural Resources, New Jersey Department of Agriculture, Health and Agriculture Building, Trenton, New Jersey 08625.



ITEMS IN THE APPENDIX

Appendix I

- A. Chapter 50, Public Laws of 1976 - Authorizing Statute
- B. Rules and Regulations (Adopted)
- C. Proposed Deed Covenant
- D. Summary of Offers and Appraisal Data on Project Acreage
- E. Statement to the Joint Legislative Oversight Committee - May 18, 1978

Appendix II

- F. Rules and Regulations (First Draft and Changes)
- G. Memorandum from Project Manager dated April 20, 1977 with respect to the Appraisal Process
- H. Decision Memorandum, for consideration by the Commissioner and the Secretary - dated October 7, 1977
- I. Statistical Data on Land and the Landowner - Participants in the Project
- J. Highlights of the Report of the Blueprint Commission on the Future of New Jersey Agriculture
- K. Senate Bill S-1206 - Project Extension Bill (not signed)
- L. Senate Bill 1485

Note: All of the appendices listed above are a part of the Report and are attached to official file copies. However for economy reasons, the published report includes only selected items.

P. L. 1976, CHAPTER 50, approved July 22, 1976

1976 Assembly Committee Substitute for Assembly No. 1334

AN Act appropriating \$5,000,000.00 from the State Recreation and Conservation Land Acquisition and Development Fund for State programs to acquire and conserve lands for recreation and conservation purposes.

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

1. This act shall be known and may be cited as the "Agricultural Preserve Demonstration Program Act."

2. The Legislature hereby finds and declares:

a. That the preservation of agricultural open space and the retention of agricultural activities would serve the best interests of all citizens of this State by insuring the numerous social, economic and environmental benefits which accrue from the continuation of agriculture in the Garden State.

b. That past and present policies and efforts of this State intended to promote such preservation and retention, while beneficial and worthy of continuation, have been inadequate to insure the permanent existence of such activities, which constitute a vital and benevolent use of the land which is so rapidly disappearing in this, the most densely populated and highly urbanized State in the nation.

c. That it is both necessary and desirable to implement additional policies, including the creation of an agricultural preserve, designed to provide for such preservation and retention.

d. That it is the express intention of this act to promote and insure the continuation of such activities within the agricultural preserve as provided herein.

3. The Legislature further finds and declares that the State preservation of agricultural open space through the purchase of development easements to prime agricultural lands is wholly compatible with, and specifically authorized by, the provisions of the "New Jersey Green Acres and Recreation Opportunities Bond Act of 1974" (P. L. 1974, c. 102).

4. As used in this act:

a. "Agricultural preserve" means a significant mass of reasonably contiguous prime agricultural lands created through the State purchase of development easements to such lands;

b. "Committee" means the Joint Legislative Oversight Committee for the Agricultural Preserve Demonstration Program designated pursuant to section 10 of this act;

c. "Departments" means the Department of Environmental Protection and the Department of Agriculture;

d. "Development easement" means an interest in land, less than fee simple absolute title thereto, which interest represents the right to develop such lands for all nonagricultural purposes as determined by the provisions of this act and any relevant rules or regulations promulgated pursuant hereto;

e. "Prime agricultural land" means land having soil classifications of Class I, II or III, according to Soil Conservation class, except that a certain amount of land supportive of cranberry, blueberry or other special agricultural production and woodland immediately supportive of agriculture may be considered as prime agricultural lands for the purposes of this act;

f. "Program" means the Agricultural Preserve Demonstration Program established by this act;

g. "Program area" means the location of the program designated pursuant to section 14 of this act;

h. "Steering committee" means the Steering Committee on the Agricultural Preserve Demonstration Program created pursuant to section 8 of this act.

5. There is hereby established the Agricultural Preserve Demonstration Program. The purpose of this program shall be the creation of an agricultural preserve, which shall remain undeveloped for other than agricultural purposes as determined in accordance with the provisions of this act. Such preserve shall be established through the State purchase of development easements to such lands. It shall further be the purpose of this program to provide information and experience concerning such State efforts to preserve agricultural open space. It shall be the goal of the program to acquire such easements to approximately 5,000 acres of such land within the agricultural preserve.

6. The program shall be administered by the Department of Environmental Protection and the Department of Agriculture. The Division of Rural Resources of the Department of Agriculture shall have operating responsibility for the program.

7. The program shall be conducted on a voluntary basis for all landowners in the program area; the provisions of any law to the contrary notwithstanding, it is the intention of this act to prohibit the exercise of eminent domain by the State, or any agency or instrumentality thereof, in acquiring development easements to prime agricultural lands pursuant to the provisions of this act.

8. The program shall be implemented by the departments in the following manner:

a. An intensive informational and educational effort will be undertaken to provide residents, landowners and elected officials within the program area with the basic objectives and details of the program. Such effort shall be conducted at public meetings held within, or in the vicinity of, the program area as well as through the mails.

b. Voluntary offers to sell the development easements to prime agricultural lands will be solicited from such landowners in the program area. Such landowners will be asked to offer to sell such development easements to the State at a price which, in the opinion of the landowner, represents a fair value of the development potential of such lands for nonagricultural purposes as determined in accordance with the provisions of this act. A final date for the submission of such offers shall be fixed by the departments in the regulations promulgated pursuant to section 14 of this act.

c. Such offers will be reviewed and evaluated by the departments, with the advice of the steering committee as provided in section 9 of this act, in order to determine the suitability of the prime agricultural lands represented thereby for inclusion in the program. Decisions regarding such suitability shall be based upon the satisfaction of the following criteria:

(1) The degree to which such offers reflect price levels which appear to be within the financial resources of the program;

(2) Suitability as to soil classification or other criteria for prime agricultural lands as provided by this act;

(3) The degree to which such offers would facilitate the formulation of an agricultural preserve as defined in section 4 of this act.

The departments shall reject any offer for the sale of development easements to prime agricultural lands which are unsuitable according to the above criteria.

d. Two separate independent appraisals shall be conducted for each remaining parcel of prime agricultural lands so offered and deemed suitable. Such appraisals shall determine the current overall fair market value of such parcels for all purposes, including

nonagricultural and development purposes, as well as the current fair market value of such parcels for agricultural purposes. The difference between current overall fair market value and current agricultural fair market value shall represent an appraisal of the value of development easements to such parcels.

Such appraisals shall be conducted by independent, professional appraisers selected by the departments from among members of recognized organizations of real estate appraisers.

e. After receiving the results of such appraisals, the departments shall compare the appraised value and the offered value of development easements to such parcels. Following such comparison, and after consultation with the steering committee, the departments shall determine (1) whether the acquisition of all or a portion of such development easements would be within the financial resources of the program and (2) whether such acquisition would provide for the formulation of the agricultural preserve as provided by this act. Decisions concerning the acquisition of specific development easements shall be made within 6 months of the final date fixed for the submission of offers for such easements.

f. Following a determination of the satisfaction of such criteria and the submission to the committee of a report containing a positive recommendation concerning such acquisition, the Department of Environmental Protection is hereby empowered to purchase such development easements on behalf of the State.

9. a. There is hereby established a Steering Committee on the Agricultural Preserve Demonstration Program. Such steering committee shall be a local advisory body composed of elected officials and residents of the program area. The purpose of the steering committee shall be to provide the departments with local input concerning the implementation of the program. Membership on the steering committee shall be as follows:

(1) Two members appointed by the governing body of each municipality located within the program area;

(2) One member appointed by the planning board of each municipality located within the program area;

(3) Two members appointed by the county board of agriculture of each county located, in whole or part, within the program area;

(4) One member appointed by the county board of chosen freeholders of each county located, in whole or part, within the program area;

(5) One member appointed by the planning board of each county located, in whole or part, within the program area;

(6) The Secretary of Agriculture or his designated representative;

(7) The Commissioner of Environmental Protection, or his designated representative;

(8) Ex-officio members of the Legislature representing legislative districts located, in whole or part, within the program area.

b. The duties and responsibilities of the steering committee shall be:

(1) To communicate to residents and landowners in the program area the details of the program and the implications and effects of participation therein;

(2) To advise the departments on guidelines furnished to the owners of prime farmlands within the program area concerning the offer and sale of development easements to such land to the State;

(3) To advise the departments, following the receipt of development easements offers as provided by section 9 of this act, as to the compatibility of such easements with municipal and county zoning and master plans, and to make recommendations concerning the suitability of such easements for inclusion in the program;

(4) To advise the departments on the guidelines used to appraise prime agricultural lands for overall market and agriculture value pursuant to section 8 of this act;

(5) To make recommendations to the departments, following the results of such appraisals, on the acquisition of such development easements.

10. The Assembly Committee on Agriculture and Environment and the Senate Committee on Agriculture are hereby designated as the Joint Legislative Oversight Committee for the Agricultural Preserve Demonstration Program. The duties and responsibilities of the committee shall be as follows:

a. To review and evaluate the proposed rules, regulations and guidelines for the implementation and administration of the agricultural preserve program, in terms of feasibility, effect and conformance with the intentions and provisions of this act.

b. To analyze the progress of the program prior to the State acquisition of development easements to prime agricultural lands, so as to determine the advisability of proceeding therewith.

c. To conduct a final program review and evaluation following the State acquisition of such easements; such final review and evaluation shall be conducted and transmitted to the Legislature within 1 year of such acquisition, and shall include the following:

(1) A statement of the social, economic and environmental effects of the program on the program area and on the State;

(2) An evaluation of the impact of the program on agriculture and related industries in this State;

(3) An analysis of the mechanism of the State purchase of developments rights to prime agricultural lands as a means of preserving agricultural open space, the feasibility of further use of such mechanism in other areas of the State, and potential sources of funding therefor; and,

(4) An identification of possible alternative methods of preserving agricultural open space in New Jersey.

d. To review and evaluate all relevant existing and proposed statutes, rules, regulations and ordinances, so as to determine the individual and cumulative effect upon the conduct of agricultural activities in this State.

e. To recommend to the Legislature and to the departments, prior to, during and following the implementation of the program, any legislation, rule, regulation, guideline, or revision thereto which it deems necessary in order to effectuate the purposes of this act or the findings of the committee concerning the program created herein.

The departments are hereby directed to cooperate with the committee in providing any assistance or information necessary for or incident to the performance of the duties and responsibilities of the committee as herein provided.

11. Following the purchase by the State of any development easement to prime agricultural land as provided by this act, the owner of such lands shall cause a statement containing the conditions of such conveyance and the terms of the restrictions on the use and development of such land to be attached to and recorded with the deed to such land in the same manner as such deed was originally recorded.

12. The Department of Environmental Protection is hereby empowered to institute, in the name of the State, any proceeding intended to enforce the conditions or restrictions on the use and development of land created pursuant to the State purchase of development easements as provided herein.

13. No development easement purchased by the State pursuant to the provisions of this act shall be sold, given, transferred or otherwise conveyed in any manner and no lands within the agricultural preserve shall be diverted to a use other than conservation or recreation without the approval of the Commissioner of En-

6 vironmental Protection, the Secretary of Agriculture and the State
7 House Commission and following a public hearing at least 1 month
8 prior to any such approvals. In the case of the conveyance of such
9 development easements, such approvals shall not be given unless
10 an amount equal to the value of such development easement, as
11 determined by the State House Commission, shall be deposited in
12 the State Recreation and Conservation Land Acquisition and De-
13 velopment Fund created pursuant to P. L. 1974, c. 102. Money so
14 returned to said fund shall be deemed wholly a part of the portion
15 of that fund available for land acquisition or development by the
16 State pursuant to the provisions of P. L. 1974, c. 102 and P. L.
17 1975, c. 155.

1 14. a. The departments shall have the power, in accordance
2 with the provisions of the "Administrative Procedure Act"
3 (C. 52:14B-1 et seq.) to adopt, amend or repeal any rule or regu-
4 lation deemed necessary to effectuate the purposes of this act.
5 Such rules or regulations shall include a designation of the follow-
6 ing:

7 (1) The specific location of the program. Such designation shall
8 result from studies conducted by the departments of alternate
9 locations offering prime agricultural lands which are reasonably
10 representative of all such lands located within this State in terms
11 of agricultural characteristics, value, and vulnerability to pres-
12 sures for development for other than agricultural purposes.

13 (2) The maximum acceptable percentage of woodland contained
14 in specific offers of such development easements;

15 (3) The minimum acceptable percentage of total farm acreage
16 to be represented by such offers;

17 (4) Guidelines concerning the specific restrictions on the use and
18 development of prime agricultural lands subject to a development
19 easement purchased by the State pursuant to this act. Such guide-
20 lines shall prohibit nonagricultural uses and development of such
21 lands except for limited improvements or construction designed
22 to provide housing for persons deriving a substantial portion of
23 their income from agricultural activities conducted on such lands.

24 b. The departments shall transmit copies of all proposed rules
25 and regulations to the committee in order to facilitate the review
26 and evaluation of the program.

1 15. If any clause, sentence, paragraph, section or part of this
2 act shall be adjudged by any court of competent jurisdiction to be
3 invalid, such judgment shall not affect, impair, or invalidate the
4 remainder thereof, but shall be confined in its operation to the

5 clause, sentence, paragraph, section or party thereof directly in-
6 volved in the controversy in which such judgement shall have been
7 rendered.

1 16. There is hereby appropriated to the Department of Environ-
2 mental Protection, from the State Recreation and Conservation
3 Land Acquisition and Development Fund created pursuant to the
4 "New Jersey Green Acres and Recreation Opportunities Bond Act
5 of 1974" (P. L. 1974, c. 102) a sum of \$5,000,000.00, or so much
6 thereof as may be necessary, in order to defray the cost of State
7 acquisition of development easements to prime agricultural lands
8 in accordance with the provisions of this act. Any portion of such
9 sum which is not expended for such purposes within 2 years of the
10 effective date of this act shall revert to the aforesaid fund to be
11 used, subject to appropriation, in accordance with the provisions
12 of P. L. 1974, c. 102, and P. L. 1975, c. 155.

1 17. This act shall take effect immediately.