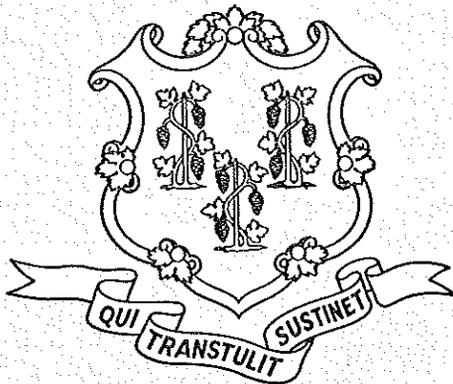


# Connecticut General Assembly



## Legislative Program Review and Investigations Committee

### SUNSET REVIEW

### Agricultural Lands Preservation Pilot Program

Vol. I-21

January 1, 1980

CONNECTICUT GENERAL ASSEMBLY

LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

The Legislative Program Review and Investigations Committee is a joint, bipartisan, statutory committee of the Connecticut General Assembly. It was established in 1972 as the Legislative Program Review Committee to evaluate the efficiency and effectiveness of selected state programs and to recommend improvements. In 1975 the General Assembly expanded the Committee's function to include investigations and changed its name to the Legislative Program Review and Investigations Committee. During the 1977 session, the Committee's mandate was again expanded by the Executive Reorganization Act to include "Sunset" performance reviews of nearly 100 agencies, boards, and commissions, commencing on January 1, 1979.

The Committee is composed of twelve members, three each appointed by the Senate President Pro Tempore and Minority Leader, and the Speaker of the House and Minority Leader.

This is the first of five annual reviews emerging from the first round of "Sunset" research.

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THE AGRICULTURAL LANDS PRESERVATION PILOT PROGRAM;

A "SUNSET" REVIEW

This "Sunset" review was authorized according to  
Title 2c of the Connecticut General Statutes.

Vol. I-21

LEGISLATIVE PROGRAM REVIEW AND  
INVESTIGATIONS COMMITTEE

December, 1979

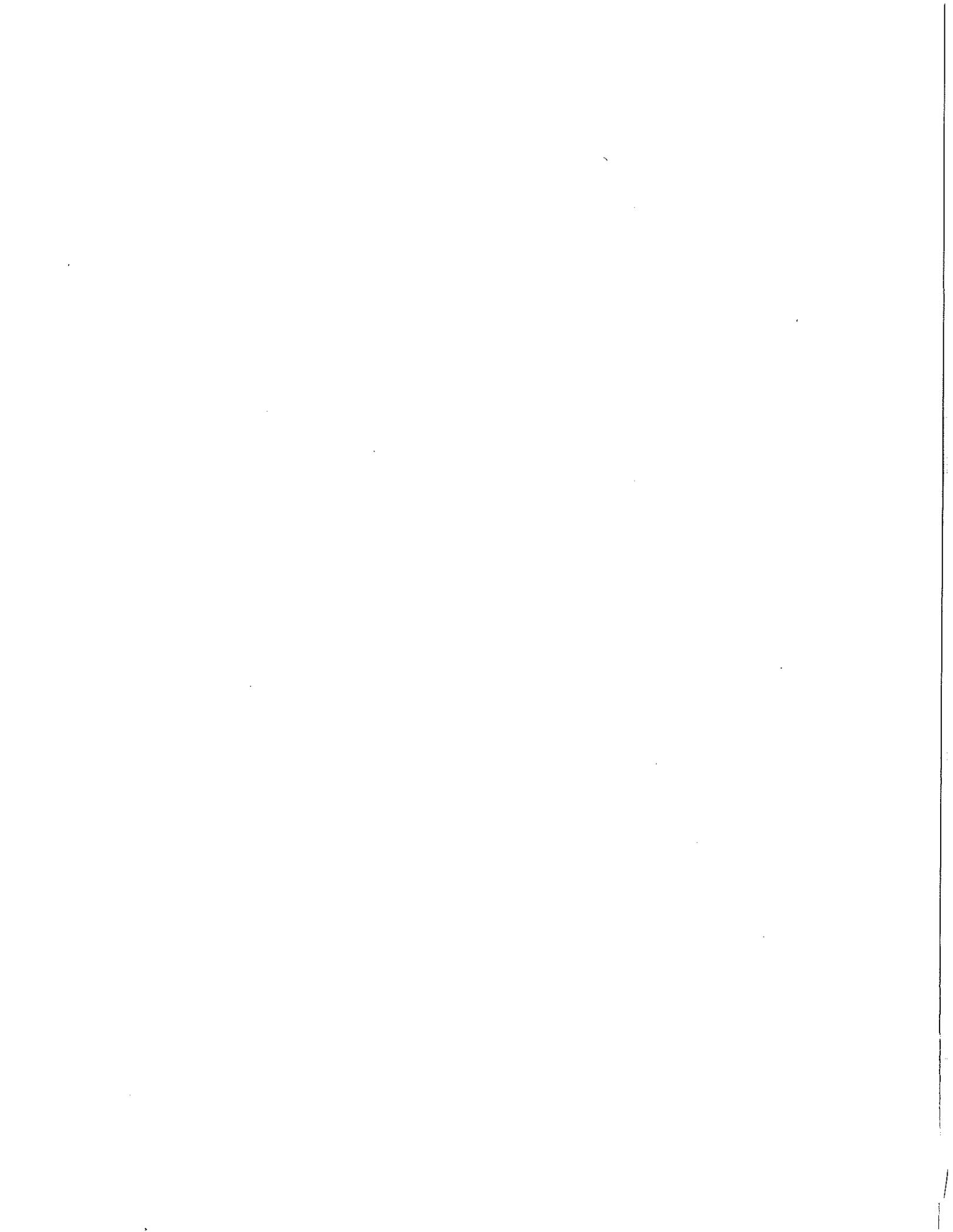


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## LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

The Agricultural Lands Preservation Pilot Program: A "Sunset" Review.

### SUMMARY

The importance of farmlands for food production and as a vital natural resource has been recognized throughout the nation's history. However, the abundance of farmland precluded public concern for farmland preservation as a land-use priority. During the past two decades, the unremitting conversion of farmland to urban uses in Connecticut, and other populated states, precipitated enactment of legislative policies and programs to counter this trend. Initially, legislation was adopted to deter diminution of farmland through tax incentives. More recently, the Connecticut General Assembly enacted a Pilot Program to purchase the development rights (PDRs) to agricultural lands as a means of guaranteeing long-term preservation.

The law, P.A. 78-232, authorized \$5,000,000 in bonding for PDRs; an additional \$2,000,000 was authorized in 1979. By November 1979, the Bond Commission had approved the Commissioner of Agriculture's proposed development rights purchase of seven farms, comprised of approximately 2,000 acres, at a cost of \$3.5 million. The Commissioner anticipates that the entire original authorization will be expended by the close of 1979. During 1980 the second allocation will be awarded.

P.A. 78-232 specified including the Pilot Program in the 1980 "Sunset" reviews, to be conducted by the Legislative Program and Investigations Committee (LPR&IC). In accordance with this mandate, the LPR&IC has examined, retrospectively, the Pilot Program within the framework of the "Sunset" criteria (see Appendix I). Although the central focus is the Pilot Program, alternative farmland preservation programs in Connecticut and other states also are reviewed. These programs include tax incentives and disincentives, regulatory controls and policy coordination.

The major findings of the report are that (1) the Pilot Program does serve the public interest, and (2) no other single program is both acceptable and capable of guaranteeing farmland preservation as economically as the Pilot Program. However, the LPR&IC finds that the high cost of the PDR program necessitates gradual implementation of a full-scale program over the long-term. To assure that the PDR program includes, eventually, the

85,600 acres of prime farmland recommended in the Food Plan, the LPR&IC identifies the need to coordinate other policies and programs with the PDR program. These supporting programs, which encourage preservation primarily through tax incentives, include succession taxes for farms in estates, differential assessments for farmland and the Conservation and Development Policies Plan. Finally, consideration of possible zoning enabling legislation is addressed.

The recommendations listed below include new and amended legislation to strengthen the various elements of the proposed comprehensive farmland preservation program.

#### RECOMMENDATIONS

1. ESTABLISH A LONG-TERM PDR PROGRAM (pp. 33-34).

To guarantee the preservation of prime agricultural lands, the General Assembly should replace the Pilot Program with a long-term program funded at a level no less than \$3.5 million annually and scheduled for "Sunset" review at five year intervals.

2. ESTABLISH A PDR DECISION-MAKING BOARD (p. 34).

To guarantee continued diversity of interests as presently represented on the Advisory Board, the General Assembly should require formation of an Agricultural Lands Preservation Board as a decision-making body.

3. COORDINATION OF DATA (p. 34).

The Agricultural Lands Preservation Board should utilize the Food Plan, the series of maps and the P.A. 490 data in its decision-making process.

4. STRENGTHEN CONVEYANCE TAX PROVISIONS OF P.A. 490 (p. 32).

To encourage retention of farmland, the Finance Committee should recommend that a penalty be levied on all tracts withdrawn from the differential assessment program.

5. UTILIZE P.A. 490 RECORDS (p. 32-33).

To provide data for the PDR decision-making board, the Office of Policy and Management should assist municipalities in compiling P.A. 490 raw data and transmit the results to the Agricultural Lands Preservation Board.

6. LOCAL INPUT (p. 34).

To incorporate municipal input in decision-making, local planning and zoning commissions and the chief executive officer in each municipality should be solicited for (1) recommended sites and (2) comments following application submission.

7. POSSIBLE NEW ZONING ENABLING LEGISLATION (p. 32).

As possible stimulus for municipal adoption of alternative growth management techniques, the Environment Committee and/or the Committee on Planning and Zoning should recommend to the 1981 General Assembly possible enabling legislation for agricultural zones, agricultural districts and the transfer of development rights for agricultural lands.

## PREFACE

Throughout recent U. S. history, the federal government has dominated agricultural policies and programs. As a result, state and substate governments have been relegated a secondary role in developing agricultural policies and programs. There is one exception to federal preeminence--agricultural land preservation policies and programs. These programs, formulated incrementally over the past twenty years, have been initiated in the urban northeast where high level densities and a nondominant farm economy have precipitated rapid conversion of farmland to urban uses.

Presently, the annual diminution of prime farmlands is an estimated one million acres.<sup>1</sup> Recognizing the magnitude involved, the federal Environmental Protection Agency adopted an "Agricultural Lands Protection Policy" in 1978. Subsequently, the National Agricultural Lands Study was established. Its charge is to define and codify local, state and national concerns and to review and evaluate existing preservation programs. The findings will be submitted to the President by January, 1981.

Undoubtedly, Connecticut's Pilot Program to Preserve Agricultural Lands (PA 78-232) will receive special recognition in the national study, reflecting Connecticut's pioneering status as the first state expected to effect a closing on the purchase of development rights (PDR). The study also will address tax incentives and disincentives, regulatory activities and other acquisition programs. This comprehensive approach reflects the generally accepted tenet that if farmland is to be preserved, a variety of complementary mechanisms is needed.

Connecticut's commitment to farmland preservation was first articulated in 1963. During the ensuing years, enactment of additional laws, including the Pilot Program, has expanded implementation activities. Today, four separate programs comprise the state's agricultural land preservation policy. Viewed from this expanded perspective, it is appropriate to review the Pilot Program within the broader context of agricultural lands preservation in Connecticut.

Inclusion of other agricultural lands preservation programs in this review also is consistent with the "Sunset" statutory

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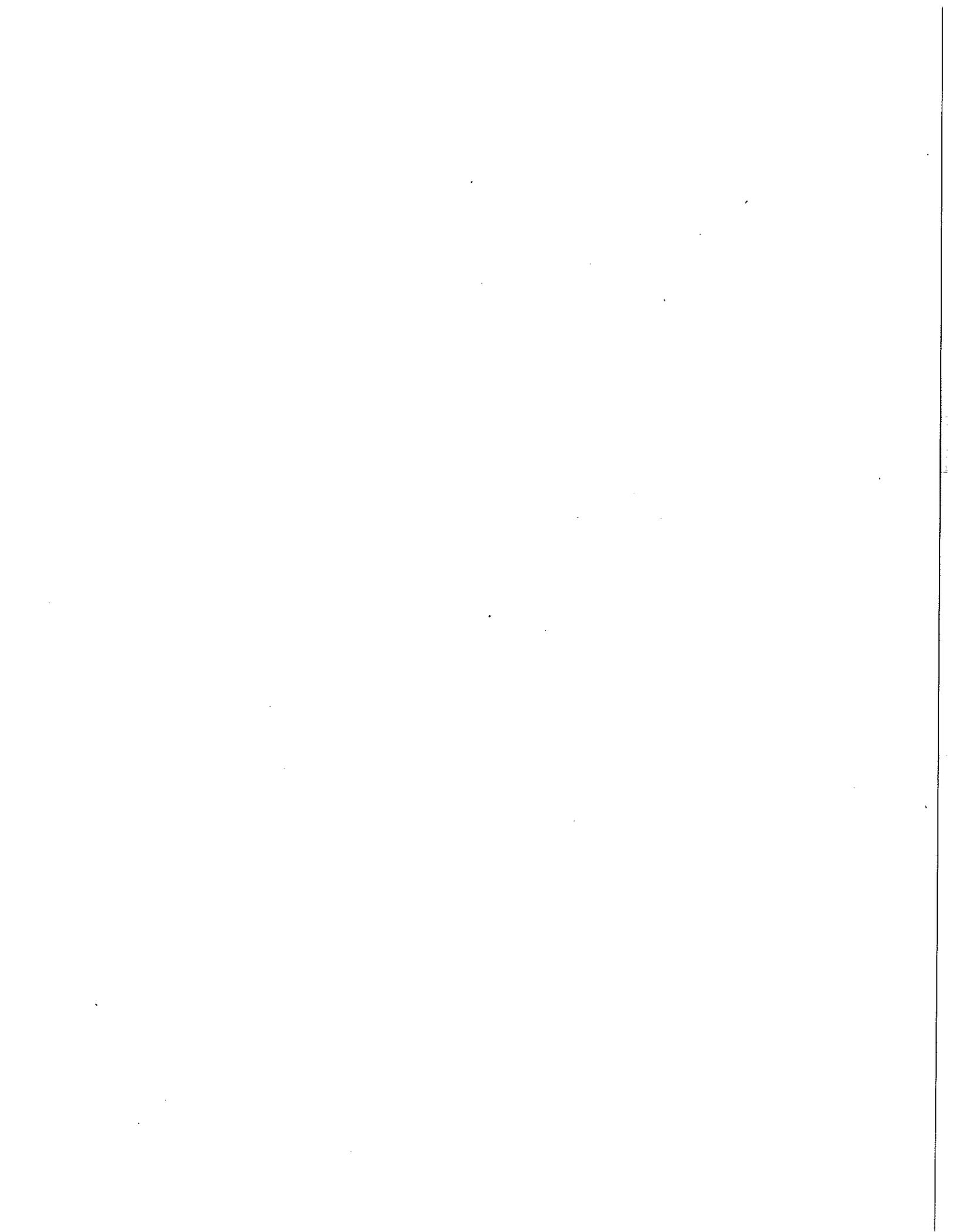
<sup>1</sup> Natural Agricultural Lands Study, Where Have the Farmland Gone, Washington, 1979, p. 8.

mandate which defines the parameters of this review. Specifically, Connecticut's "Sunset" legislation mandates utilization of certain criteria (C.G.S. 2c-7(a-d)) to judge whether a specific program operates in the public interest. To determine public need, one criterion is "whether the public interest could be protected adequately by another program." Part II, Agricultural Land Preservation Programs, will consider alternate programs in the context of this criterion.

The focus of Part I, The Agricultural Lands Preservation Pilot Program, is its actual operation. Substantive aspects of the Pilot Program are reviewed according to the relevant "Sunset" criteria including: (1) "whether termination of the program would endanger the public health, safety and welfare," (2) "whether the program produces any direct or indirect increase in the costs of goods and services, and if it does, whether the public benefits...outweigh the public burden." In addition, procedural aspects of the Pilot Program are reviewed in the context of the criterion which queries whether existing "statutes, regulations or policies including budgetary and personnel policies" impede effectiveness.

Based on the findings in Parts I and II, Part III sets forth recommendations to establish a comprehensive farmland preservation program. The comprehensive program consists of potential new legislation as well as amendments to existing legislation.

The coordinated policy includes tax incentives and possible regulating mechanisms to delay and deter farmland conversion. Simultaneously, the policy provides a staged purchase of development rights program guaranteeing long-term preservation of prime agricultural lands.



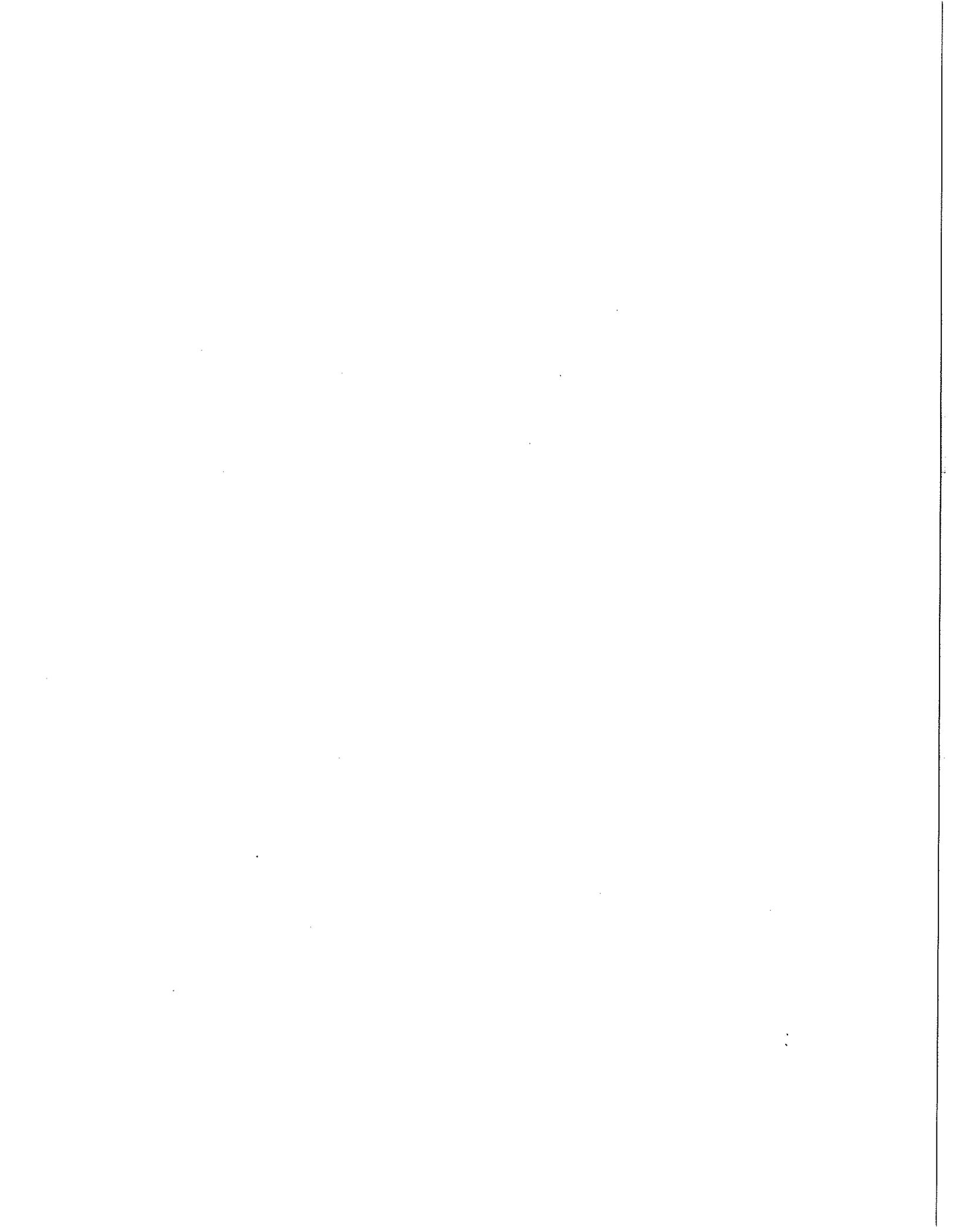
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Part I

THE AGRICULTURAL LANDS PRESERVATION PILOT PROGRAM  
IN CONNECTICUT

Legislative History of P.A. 78-232  
Provisions of the Pilot Program  
Progress to Date  
Purchase of Development Rights  
    The application process  
    Development of the "scoring" methodology  
    Selection process  
    Reversion process  
The Food Plan  
Series of Maps  
Relating the Sunset Criteria  
    Program costs and benefits  
    Impediments to operation

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PART I

THE AGRICULTURAL LANDS PRESERVATION PILOT PROGRAM  
IN CONNECTICUT

Legislative History of P.A. 78-232

In 1974, the Governor's Task Force for the Preservation of Agricultural Land issued its final report<sup>1</sup> recommending that 325,000 acres of the remaining 500,000 acres of agricultural land be permanently preserved. To realize this goal, the Task Force called upon the state to purchase the development rights of 325,000 acres which would be designated as "agricultural reserves" by local zoning commissions. The purchase price of the development rights, negotiated with each farmland owner, would equal the difference between the fair market value at its "highest and best use" and the actual use value for agricultural purposes. The cost of the program (estimated at \$1,500 per acre or \$500 million eventually) would be financed by a 1% tax on all real estate transfers.

Although the General Assembly failed to adopt the recommended legislation, the Connecticut Board of Agriculture<sup>2</sup> was directed to inventory cropland suitable for preservation. Based on a statewide sample of farmers the Report to the General Assembly in 1977<sup>3</sup> found the following:

- farmers rent almost one-half as much land as they own;
- dairy and beef farming utilize approximately 3/4 of all farm acreage, although the amount of "cropland" comprises only 1/2 of the total state farmland;

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<sup>1</sup> Governor's Task Force for the Preservation of Agricultural Land, Final Report, December 20, 1974.

<sup>2</sup> Now terminated under the Reorganization Act.

<sup>3</sup> Paul Waggoner, Donald A. Tuttle and David E. Hill, Land for Growing Food in Connecticut, A Report to the General Assembly, 1977, Bulletin 769 of the Connecticut Agricultural Experiment Station, 1977.

- fruit and vegetable farms utilize only 10% of the total acreage, although the amount of "cropland" comprises 20% of the total state farmland;
- although some farmers adopted a "wait and see" attitude and others stated that they would never sell their development rights, approximately 34% of farmland would be available within five years and an additional 10% after five years; and
- based on farm sales between 1972 and 1975, the average cost per acre was \$1,817, which suggested that the proposed \$1,500 per acre cost for the development rights was realistic.

Opposition to the purchase of development rights (PDR) program occurred in part because of the proposed funding mechanism--a 1% conveyance tax on all real estate transfers--and the size of the funding commitment. By 1978, modified legislation was introduced which reduced the program's scope to a Pilot Program and utilized authorization of \$5,000,000 bonding rather than enactment of a real estate tax. In May, 1978, P.A. 78-232 "An Act Concerning the Preservation of Connecticut's Agricultural Lands" became law.

#### Provisions of the Pilot Program

The preamble of P.A. 78-232 articulates the need to establish a "sound statewide program" to preserve agricultural land for the "well-being of the people of Connecticut" (C.G.S. 22-26aa). To achieve this, the Act establishes a pilot program whereby the development rights of selected agricultural lands are purchased by the state. The landowner retains title to the agricultural land but future use is limited to agriculture as specified in a deed restriction in perpetuity (C.G.S. 22-26cc(b)).

The original bonding authorization increased by \$2,000,000 during the 1979 legislative session (P.A. 79-499), totals \$7,000,000 for purchase of the development rights.

Responsibility for the state's purchase of development rights (PDR) rests with the Commissioner of Agriculture. The lengthy statutorily mandated process (C.G.S. 22-26cc(a))<sup>1</sup> follows these steps:

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<sup>1</sup> As amended by P.A. 79-208.

1. Voluntary submission of an application by the landowner to the Commissioner of Agriculture.
2. Preliminary selection by the Commissioner.
3. Independent appraisal conducted of the property.
4. Review by other state agencies.
5. Negotiation between the landowner and the Commissioner.
6. Final selection by the Commissioner.
7. Bonding approval by the Bond Commission.
8. Closing on purchase of development rights.

In return for the state's capital expenditure, the state receives an asset in the form of a deed restriction attached to the property owner's title. This deed restriction is transferred with any ownership title change. Thus, future sale of the land will reflect the absence of any development value since land use is restricted to agricultural purposes. While there is no absolute assurance that farming will continue on the purchased land, there is a guarantee that more intense use of the land will not occur.

The law provides for rescinding the development rights under certain conditions. If reversion occurs, the landowner must pay the state the current market value of the development rights (C.G.S. 22-26cc(c)).

Although at inception the Pilot Program was assigned a limited duration,<sup>1</sup> the bonding authorization included \$50,000 for development of long-term planning tools--a state land use map (C.G.S. 22-26dd) and a food plan (C.G.S. 22-26ee). Preparation of the Food Plan is the responsibility of the Commissioner in cooperation with the University of Connecticut.<sup>2</sup> Development

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<sup>1</sup> According to Section 9 of P.A. 78-232 which added the Pilot Program to the list of "Sunset" reviews for FY 1980.

<sup>2</sup> The University received \$14,000 of the bonding authorization for this purpose.

of the required maps, however, is delegated to the Secretary of the Office of Policy and Management (OPM) assisted by the Commissioner and representatives from other federal, state and regional agencies.<sup>1</sup>

#### Progress to Date

To the extent that the first closing of a development right's purchase has yet to be effected,<sup>2</sup> the Pilot Program has met with limited success to date. Since enactment in May 1978, the Commissioner and his appointed Advisory Committee<sup>3</sup> have performed the following:

1. Publicized the Pilot Program through the media.
2. Conducted regional meetings to explain the program and receive input regarding the selection methodology.
3. Developed a methodology for "scoring" applications.<sup>4</sup>
4. Selected eleven finalists from the 100 original applications for the initial \$5,000,000.
5. Successfully negotiated seven tracts, which have been approved by the Bond Commission.
6. Entered negotiation with the remaining finalists.
7. Received initial applications for the second round of funds and discussed future procedures.

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<sup>1</sup> OPM received \$36,000 of the bonding authorization for mapping.

<sup>2</sup> It is anticipated that at least one closing will occur in 1979, following a land survey and title search.

<sup>3</sup> An option specified in C.G.S. 22-26cc(3).

<sup>4</sup> Now adopted as regulation according to Sec. 22-26gg-4.

In addition, the Food Plan has been submitted to the Commissioner by the University of Connecticut. The series of maps, undertaken by the Office of Policy and Management, remains incomplete however.<sup>1</sup> The first year's activities were described in the Commissioner's mandated "progress report" to the Governor and the General Assembly in December 1978. A second "progress report", specifying (1) the number and geographic distribution of others to sell development rights, (2) an analysis of each offer, (3) the acceptances and rejections, (4) the acreage and costs of the PDRs, and (5) findings and recommendations for a Food Plan, must be submitted by December 15, 1979.

#### Purchase of Development Rights (PDR)

Once P.A. 78-232 was enacted into law, it became necessary to disseminate accurate information regarding the form and the substance of the Pilot Program. Media announcements and public discussions stressed the following facts:

- the program is voluntary;
- the primary objective of the program is to assure future food production in the state by stemming the decline of prime farmland;
- because the program is tied to the land rather than the landowner's occupation, an applicant may be a corporation, a non-farmer or a farmer provided that the land has an agricultural use;<sup>2</sup> and
- preference would be given to land in jeopardy of being sold for non-agricultural purposes.

The application process. Interest generated in the Pilot Program resulted in 100 applications prior to the November 1978 deadline.<sup>3</sup> On the basis of the information supplied, eligibility was narrowed to 83 landholdings determined to be "in jeopardy."

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<sup>1</sup> No deadline was specified for the mapping project.

<sup>2</sup> One of the first tracts to be selected belongs to a non-farmer who rents the land to a farmer. When the PDR closing is effected, the farmer-renter will purchase the land at the more affordable use-value.

<sup>3</sup> Subsequent applications will be considered in the second round of fundings.

Further eligibility refinement occurred when 72 applicants responded to the solicitation for additional information. Finally, the Commissioner selected 30 applicants whose landholdings were considered "in severe jeopardy". This pool of finalists was reviewed by the Advisory Committee according to the scoring methodology described below.

Development of the "scoring" methodology. From the outset, proposers of the Pilot Program recognized that the PDR selection process would generate the most controversy. Therefore, the legislation specified selection factors to be considered as follows:

"the major factor...shall be the probability that the land will be sold for non-agricultural purposes. Other factors to be considered shall include but not be limited to the following: (1) the current productivity...and the likelihood of continued productivity; (2) the suitability... as to soil classification...(3) the degree to which such acquisition would contribute to the preservation of the agricultural potential of the state and (4) cost..." (C.G.S. 22-26cc(a)).

The legislation did not, however, specify how the Commissioner was to utilize these factors in the decision-making process.<sup>1</sup>

To facilitate comparison of applications and to eliminate any suggestion of arbitrariness, the Commissioner, in consultation with the Advisory Committee, adopted a set of quantitative measurements for ranking applications. As indicated in Table I, the scoring methodology assigns a range of weights to eighteen factors.

For example, the major factor--probability of non-agricultural development ("jeopardy")--was assigned the highest possible score of 100 points. Other factors such as current productivity, land suitability and preservation potential were scored by point accumulations for sub-categories.

Selection process. Following adoption of the scoring methodology and a site visit to each of the 30 semi-finalist applicants' farmland, the applications were scored. Prior to review of the scoring, the Commissioner and the Advisory Committee

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<sup>1</sup> P.A. 79-162 amended P.A. 78-232 to require that the Commissioner issue implementation regulations.



agreed that further eligibility would be contingent upon two minimum scores--one for the major factor "jeopardy" and one for the other factors. In effect, only those applicants who could demonstrate a written or verbal sale offer became eligible for final selection. More than one-third of the applications met both the "jeopardy" and "other factors" minimums.

Early in 1979, ten finalists were selected. Since that time, two independent appraisals of each tract have been completed. Each appraisal has been reviewed by both DEP, according to statutory mandate,<sup>1</sup> and by the Advisory Committee. At the recommendation of the Advisory Committee, the Commissioner has entered into negotiations with the landowners. To date, eight of the ten negotiations have been completed. Recently, the Committee resumed deliberations to select an additional finalist when it became apparent that the initial ten participating farms will not expend the entire initial bond authorization.

Selection of finalists for the second round of funding is anticipated to begin early in 1980. To date, first round applicants have been requested to update previously submitted applications. New applicants will be sought through publicity in the media.

Table 2 summarizes the farmland selected to date for the first round of funding, disclosing the diversity in farmland types, location, size and cost. The selection is consistent with the stated objectives of the Committee and the Commissioner to choose a cross section of farms during the initial Pilot Program. It also reflects the absence of the mapping data in preparation and the recently-completed Food Plan. The significant findings and recommendations generated by these documents will be incorporated, presumably, into future decisions.

The selection process has been both praised and criticized. On the one hand, the Commissioner and others take pride in the fact that costly and embarrassing initial mistakes have been avoided. This is attributed to the thorough and deliberate process. The Commissioner anticipates that the future selection will move more expeditiously now that the process has been established. On the other hand, some critics view the process as dilatory and belabored, signalling a weak commitment towards the

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<sup>1</sup> P.A. 79-208 changed the appraisal requirements slightly and also required notification of the Departments of Transportation and Economic Development and OPM.

Table 2. Farms Selected for Phase I of the Pilot Program.<sup>1</sup>

<u>Location</u>	<u>Type of Farm</u>	<u>Acres in PDR Unit</u>	<u>PDR Cost Per Acre</u>	<u>Total Cost<sup>2</sup></u>
Andover	Dairy	142	\$1,089	\$134,325
Watertown	Corn	80	3,150	255,470
Lebanon	Dairy	294	1,008	320,725
Franklin	Dairy	730	726	541,591
Griswold	Dairy	319	1,911	617,743
Hamden	Fruit & Vegetable	138	5,750	765,890
Durham	Corn & Hay	<u>406</u>	<u>2,118</u>	<u>866,670</u>
		2,109		\$3,502,414

Source: Department of Agriculture

<sup>1</sup> Includes all purchase of development rights approved by OPM 11/1/79.

<sup>2</sup> Includes Survey and Title Search Costs.

program. Others have questioned the effectiveness of program information dissemination and the validity of the scoring methodology assumption which tends to favor large dairy farms over small vegetable farms. Once more, the data provided by the Food Plan and the series of maps should facilitate a more coordinated selection process.

Reversion process. Although it is not anticipated that development rights will be rescinded, the legislation provides for a specific process in the event that a municipality or a PDR owner requests reversion. A petition to sell the development rights back to the landowner may be submitted by a landowner with the approval of the town's governing body, or by the town with the landowner's written consent. Interestingly, there is no procedure for a state initiated petition.

Ultimately, however, sale of the development rights by the state to the landowner is contingent upon voter approval in a local referendum.<sup>1</sup> Scheduling of the referendum is contingent upon the Commissioner's determination, following a public hearing and in consultation with the Commissioner of Environmental Protection and any appointed advisory board, that the "public interest is such that there is an overriding necessity to relinquish control of the development rights" (C.G.S. 22-26cc(c)).

### The Food Plan

In order to assure that a long-term preservation program is comprehensive in scope and coordinated with the stated goals, P.A. 78-232 requires preparation of a Food Plan. The requirements are specific and include (1) an analysis of the demand for and supply availability of Connecticut grown food at ten and twenty year intervals and (2) recommended priorities regarding the types of agriculture and agricultural land required. While responsibility for the Plan is delegated to the Commissioner, the statutes stipulate that the Plan shall be conducted in cooperation with the College of Agriculture at the University of Connecticut and submitted to the Governor and the General Assembly by December 15, 1979.

The Plan<sup>2</sup> addresses present and future needs and production, and sets forth recommendations to stabilize the acceleration of

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<sup>1</sup> The cost of the referendum must be borne by the petitioner.

<sup>2</sup> Irving Fellows and Patrick H. Cody, "A Food Production Plan for Connecticut, 1980-2000," Bulletin 454 of the Connecticut Agricultural Station, October 1979.

farmland conversions and increase production. Alternatives discussed range from (1) a "holding action" to maintain existing production levels (2) increased production of specified farm products, and (3) self-sufficient levels for milk and a seasonal self-sufficiency level for adapted vegetables and fruits. Based on anticipated yield rates and lower per capita consumptions, the prime cropland required by the year 2000 would range from 68,000 acres for the first alternative to 132,700 acres in the third alternative.

The recommended option is the middle-ground plan which requires permanent preservation of 83,500 acres of prime cropland by the year 2000. Over 80% of this cropland would be utilized for dairy farms. The balance,<sup>1</sup> in fresh fruits and vegetables, would reflect increased production resulting from a shift in prime agricultural land usage from tobacco and nursery production to edible products.

Although the cost of this recommended Plan has not been calculated, the authors estimate that the total acreage required, including "adjacent pastures, woods, natural drainage areas and open space areas"<sup>2</sup> would approximate 300,000 acres.

#### Series of Maps

Under the direction of OPM, a series of overlay maps is being developed to comply with the legislative directive to map (1) soil types, (2) active and inactive farmland, (3) farm crop types, (4) local zoning, (5) water and sewer service areas, and (6) forest and open space lands. Although no timetable was statutorily mandated, an Advisory Committee developed a tentative completion date of December 31, 1979.

From the outset, it was apparent that fiscal constraints would necessitate curtailment or refinement of some of the statutorily mandated data. As a result, OPM's role has been to coordinate existing data by creating uniform scale overlay maps.

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<sup>1</sup> Livestock is not included since there is no comparative advantage in producing beef in Connecticut. Poultry farming also is excluded since it is not land intensive (the same argument pertains to egg farming). It also is anticipated that market economics will continue to shift tobacco and nursery prime lands to fruits and vegetables.

<sup>2</sup> As described in the preamble (C.G.S. 22-26aa).

Table 3 indicates the maps and sources utilized.

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Table 3. Maps and sources utilized for mandated land use map.

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<u>Map</u>	<u>Source</u>	<u>Status</u>
Local Zoning	OPM	Completed <sup>1</sup>
Water and Sewer	OPM	Completed <sup>1</sup>
Soils	Soils Conservation Service	90% Completed
Farmland	County Agricultural Agents	In Process
Crop Type	County Agricultural Agents	In Process
Open Space	OPM	Completed <sup>2</sup>

<sup>1</sup> Based on 1970 data.

<sup>2</sup> Includes only known public and private open space lands, rather than the statutorily mandated "classified" forest and open space lands, a term usually referred to in conjunction with P.A. 490.

Source: Office of Policy and Management (OPM).

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It remains unclear whether the level of accuracy and the degree of detail in the maps will be sufficient to assure designation of specific priority lands and coordination with the Food Plan for a long-term program. To a large extent, the adequacy will depend upon the data generated by the county agents.

#### Relating the Sunset Criteria

As indicated by the title, the Pilot Program is intended neither as a long-term program nor a full scale program. In fact, it represents the first time a "Sunset" review was mandated by the legislature at the time of enactment. Concurrently, by incorporating the Pilot Program into legislation which addresses the need to preserve farmland permanently over the long term, the legislation implies the PDR program is more than merely transitory. Further support is implied by the mandatory Food Plan and development of maps which are coordinating tools necessary for a long-term program.

Legislative commitment to the Pilot Program was reaffirmed twice recently. First, the 1979 legislative session authorized an additional \$2,000,000 bonding, although the amount fell short of the \$10,000,000 proposed by the Environment Committee. More recently, legislative leaders appointed a Task Force to recommend funding mechanisms for a permanent program for the 1980 General Assembly.

In tandem with P.A. 78-232, these actions significantly demonstrate the legislature's willingness to extend its 1963 articulated policy of "encouraging" farmland preservation<sup>1</sup> to a guaranteed long-term preservation.<sup>2</sup> Importantly, both legislative policies identify farmland preservation as in the public interest. Thus, for the purposes of the "Sunset" mandate, LPR&IC reaffirms previous legislative findings that the public interest is served by the preservation of agricultural lands. Furthermore, the LPR&IC finds that termination of the Pilot Program would endanger the public health, safety and welfare unless more appropriate programs are forthcoming.

Having established that farmland preservation serves the public interest, the sections below scrutinize the Pilot Program in regard to the other major Sunset criteria--costs and benefits, and major operational impediments. Remedies for shortcomings or limitations in the PDR program will be recommended in Part III, following a review of alternative preservation programs in Part II.

Program costs and benefits. Upon completion of the Pilot Program the state will have expended \$7,050,000 in bonding. Although no operating expenses will be incurred over and above small monitoring and administrative costs, debt service will be substantial.

In return the state will hold the development rights to several thousand acres of land, a Food Plan and maps detailing the most productive farmland in the state. Farmers will derive two direct benefits. First, new and existing farmers will be able to acquire reasonably priced farmland based on the use value rather than the development value. Second, for those farmers who seek to rent farmland, the uncertainty of continued available land will be removed. These benefits will impact positively the cost effectiveness of farming which in turn will (1) enhance the viability of farming through reduced costs of production, and (2) increase availability of native-grown produce delivered at a reasonable price to consumers.

The indirect costs of the program are more difficult to quantify. The most frequently cited indirect cost is the increase in raw land cost resulting from a reduction in the

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<sup>1</sup> C.G.S. 12-107a--for a discussion of this policy see p. 20.

<sup>2</sup> C.G.S. 22-26aa--for a discussion of this policy see p. 2.

supply of available land.<sup>1</sup> Other future indirect costs only can be surmised by "what might have been." For example, farmland conversion to industrial use would be accompanied by an increase in the property tax levy. However, a portion of the increased property tax revenues would be offset by the cost of service delivery for new municipal services. Indirect public benefits include protection of the natural environment, preservation of rural aesthetics and perpetuation of the state's agricultural tradition.

In summary, the Pilot Program incurs costs as well as benefits, both direct and indirect. Quantitatively, the direct costs can be allocated readily. Indirect costs are not as easily analyzed since predictive determinations of future land use patterns must be utilized. Public benefits, direct and indirect, which reflect similar necessary predictive judgments, also elude quantification. Qualitatively, substantial public benefits are recognized where the public interest is identified with the use of resources to assure maintenance of local food production and improvement in the quality of the natural environment.

Acknowledging the important qualitative public benefits derived from agricultural land preservation, the LPR&IC finds that the costs of the Pilot Program do not outweigh the potential benefits. Yet, because the cost of a full-scale program has not been determined, the LPR&IC endorsement must be limited to the current funding commitment, pending cost data for a full-scale program.

Impediments to effective operation. Another "Sunset" criterion reviews existing policies, statutes and regulations which are detrimental to the program's operation. From the outset, the policy of the Commissioner and the Advisory Committee has been to move cautiously, to comply assiduously with the statutes and to avoid any allegation of impropriety.

To the extent that the Pilot Program has successfully carried out this policy, the LPR&IC does not find major impediments to effective operation. However, the LPR&IC has identified two potential problem areas which should be addressed before adopting a full scale program. Each problem concerns possible abuse of the PDR program.

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<sup>1</sup> See testimony of the Home Builders Association at the LPR&IC public hearing, October 2, 1979.

The first area involves the farm unit and the desirability of including the entire farm in the PDR transaction. Neither statute nor regulation addresses the extent of the farm unit which should comprise the PDR tract. Furthermore, no consistent departmental policy has emerged to date. Instead, the applicant specifies the buildings and land proposed for inclusion. In most cases where an owner-occupied farmhouse is on site, the farmhouse is excluded from the PDR tract. Often lots within close proximity to the farmhouse are withheld also.

During the selection and negotiation process the Commissioner has proposed changes to the initial application. In one case, where an applicant originally had withheld land for which an approved subdivision was on file, the Commissioner insisted upon including these lots in the PDR transaction. Although this action increased the PDR cost, the Commissioner and the Advisory Committee regarded exclusion of the subdivided lots contrary to the legislative intent.

Exclusion of the farmhouse or a portion of the farm tract raises the issue of indirect, but additional, benefits to the landowner. The indirect benefit results from the enhanced value placed on land immediately adjacent to the PDR tract which is regarded as "committed open space." By withholding portions of the farm unit, the landowner stands to realize a higher price for the remaining land and buildings at a future sale. Conceivably, a "gentleman farmer" or a speculator with rented land could tailor the sale of a PDR tract to maximize profits for adjacent holdings. To avoid potential abuse, LPR&IC suggests that, where financially feasible, the Board make every effort to assure that as much of the farm as possible is included in the PDR transaction.

The second area for potential abuse concerns the absence of a guarantee that farming will be perpetuated on the land on which development rights have been sold. The Department does not consider it necessary to guarantee continued farming, confident that market forces will keep the farmland productive. While this is a reasonable assumption, the fact remains that rents for farmland often are minimal and frequently negotiated in order to assure a use value assessment.<sup>1</sup> Because sale of development rights removes the development value of the land, for assessment purposes the land's value becomes the de facto use value. Thus, the incentive to meet the eligibility requirements, i.e. agricultural production, is no longer necessary to receive a lowered assessment. A "worst case" example would occur if a non-farmer landowner decided

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<sup>1</sup> See discussion of P.A. 490, Connecticut's Use Value Assessment Law.

to terminate a lease with a farmer following sale of the development rights. Since no legal restriction has been imposed and no incentive is needed to remain eligible for P.A. 490, the landowner could elect to permit reversion of the land to its natural state.

Resolving this potential problem is difficult since it is not clear whether it is possible to include positive restrictions in the deed restriction. Alternatively, land could be acquired in fee simple but immediately sold back to the landowner at the use value with an accompanying deed restriction. By including a deed restriction specifying continued agricultural production, maintenance of farming should be assured. Contingent upon the acceptability of this alternative is whether the deed restriction could legally continue in perpetuity. Recognizing the dilemma which exists, LPR&IC asks that the Environment Committee study the issue of positive deed restrictions.

Connecticut's Pilot Program represents a method of guaranteeing the preservation of farmland through direct state control. Although the concept incorporated--the purchase of development rights--is acceptable to both farmer and non-farmer, cost factors place constraints on unqualified support for a full-scale program. Thus, alternatives and supplementary programs will be reviewed in Part II.

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Part II

AGRICULTURAL LAND PRESERVATION POLICIES AND PROGRAMS

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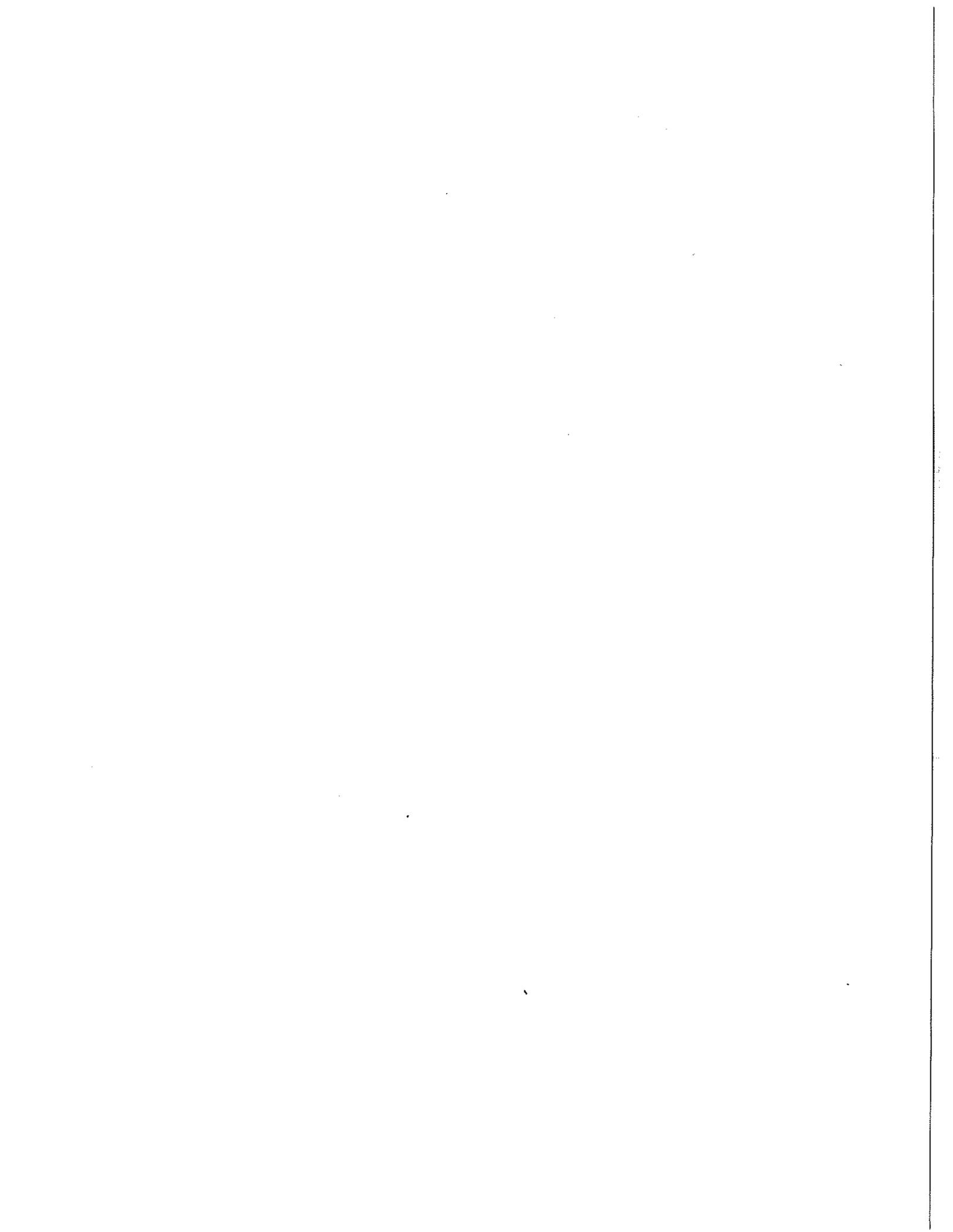
Zoning

Transfer of development rights

Tax disincentives

Relating the Sunset Criterion

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## PART II

### AGRICULTURAL LAND PRESERVATION POLICIES AND PROGRAMS

#### Overview

The growing concern for changing land use patterns has provided an impetus for states to exercise a larger role in these areas of policy and program development in recent years.<sup>1</sup> One expression of state involvement has been the initiation of statewide agricultural land preservation policies and programs. To a lesser extent, county and local governments have adopted complementary programs.

All too often, however, conflicting federal, state and local policies and programs<sup>2</sup> unconsciously have undermined farmland preservation policies, creating countervailing pressure which encourage development of agricultural land. A discussion of these negative factors is beyond the scope of this study, yet the force of these programs on farmland preservation must be underscored.

Tax incentives. Tax incentives have served as the most frequently utilized mechanism to encourage farmland preservation. A state program may include one or a combination of tax incentive programs including property, inheritance and sales tax reductions where farming activities exist. Tax incentives often are politically preferable alternatives since they do not require an annual legislative appropriation. However, the incentives do represent tax expenditures which require assumptions of heavier tax burdens on those who do not receive the benefits.

"Differential assessment" property tax legislation has been the most widely adopted tax incentive mechanism. First introduced in 1956, state differential assessment laws permit specified categories of undeveloped land to be valued at the current use value for purposes of property taxation. Current use values omit the land's development value, unlike market values which calculate the land at its "highest and best use." In Connecticut, it is not unusual for assessment reductions to be in excess of 70% when use value assessments are substituted for

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<sup>1</sup> For a discussion on this subject, see Robert C. Healey, Land Use and the States, John Hopkins University Press, 1976.

<sup>2</sup> Most frequently cited are sewer service and highway construction projects.

market value assessments.<sup>1</sup>

The 1976 Federal Tax Reform Act extended the concept of use value assessments to farms in estates. Several states subsequently adopted parallel legislation permitting the valuation at use value for farmers' estates, if the heirs guarantee to continue farming. Although less significant, exemptions from sales, gasoline and property taxes for specified farm equipment represent additional tax incentives.

Regulatory controls. Zoning, as a regulatory tool, has been the most universally applied land use regulatory tool over the past 50 years. Although the power to zone is reserved for the states, it is customary for states to delegate responsibility to local or county governments.<sup>2</sup> Zoning remains a legitimate police power. However, the more restrictive zoning classifications may be regarded as at the edge of the "taking issue" reflecting the Fifth Amendment of the Constitution which provides "...nor shall private property be taken for public use without just compensation."

In lieu of direct control of land use, states have provided guidance and de facto policy guidance for sub-state zoning authorities through enabling legislation. By specifying, for example, agricultural zones and agricultural districts, enabling legislation encourages local authorities to consider a variety of techniques. In the absence of enabling legislation, local authorities have exercised reluctance to enact regulations which might be subject to a court challenge.

Two regulatory techniques which encourage preservation are agricultural zones and agricultural districts. Agricultural districts (1) specifically restrict uses to agricultural and related areas, with few exceptions, and (2) require a minimum tract size of usually between 10-80 acres. For designated agricultural districts, an exemption usually is granted for all special assessments of public infrastructures. Designation of agricultural zones is more prevalent. Less restrictive than agricultural districts, agricultural zones usually (1) allow a wider variety of land uses including residences and (2) require a smaller minimum tract size.

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<sup>1</sup> Betty Cochran, A Practical Guide to Connecticut's Use Value Assessment Law, P.A. 490--The Open Spaces Act. Unpublished Master's Thesis, 1979, pp. 52-54.

<sup>2</sup> An exception is Hawaii, which has state zoning,

The concept of transfer of development rights (TDR) is another land management regulatory tool which attempts to distribute benefits more equitably between would-be preservers and would-be developers of land. The concept of TDR "severs the development potential from the land and treats it as a marketable item, attempting to mesh the economic forces of the marketplace with the police power authority of government to protect the general welfare."<sup>1</sup>

TDRs require the establishment of conservation zones, where development will not be allowed, and transfer zones which are highly suited for and capable of receiving development. By purchasing development rights from owners of land within the conservation area, a transfer zone owner may utilize fully his development site. The assumption underlying TDRs is (1) the marketplace will equitably compensate the owner of land in the conservation zone and (2) suitable undeveloped areas with the necessary public services exist.

Acquisition. In addition to the purchase of development rights, land may be purchased publicly in fee simple. Outright acquisition may result in long-term public ownership and operation or it may be a temporary measure with sale or lease-back intended for private interests.

Tax disincentives. Tax disincentives programs not incorporated into tax benefit programs have limited experience to date. In fact, the sole state tax disincentive program in effect is a capital gains tax on short-term large-tract land sales.

Coordination of public policy. While the need to preserve agricultural lands had gained increasing public recognition and legislative support, preservation disincentives, inherent in many public programs, have worked at cross purposes. The most frequent disincentives include capital improvement programs for transportation, water pollution control and economic development. Responding to the impact of these programs, state and federal governments have identified the need to coordinate public policy. Coordination may be achieved through a state development plan or through a clearing house mandated as precursor to funding approval.

In the sections below, Connecticut's existing programs to preserve agricultural lands will be discussed within the context of the "Sunset" criterion which addresses whether adequate protection is available from another program.

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<sup>1</sup> Frank Schridman, "TDR: A Tool for More Equitable Land Management?", in Urban Land Institute, Management and Control of Growth, Volume IV, 1978, p. 52.

## Connecticut's Agricultural Lands Preservation Programs

During the past 50 years, the amount of farmland in Connecticut has declined from 59% of the total land area to 14%. (See Figures I and II). As this trend became increasingly evident in the post World War II decade, farmers and environmentalists pressed for corrective action. In 1963 legislation was enacted<sup>1</sup> which set forth the state's first articulated farmland preservation policy..."that it is in the public interest to encourage the preservation of farmland...to maintain a readily available source of food and farm products close to the metropolitan areas of the state...that it is in the public interest to prevent the forced inversion of farmland...to more intensive uses as the result of economic pressures...." (C.G.S. 12-107a.)

Reaffirmation of this policy occurred in subsequent legislation, notably P.A. 78-232, and in the legislatively adopted Conservation and Development Policies Plan 1979-1982. Indirectly, P.A. 78-371 also demonstrated support for agricultural preservation by encouraging the heirs of farms in estates to continue farming.

While the transformation of policy into programs is in evidence, the state's commitment to farmland preservation has been restricted by fiscal constraints and the competition for the state fiscal resources available. The following sections describe Connecticut's farmland preservation programs which are presently in effect.

P.A. 490, "The Open Spaces Act." Connecticut was one of the first states to adopt a differential assessment law--P.A. 490, "The Open Spaces Act"--in 1963. This program remains the major incentive to encourage farmland preservation in Connecticut today.

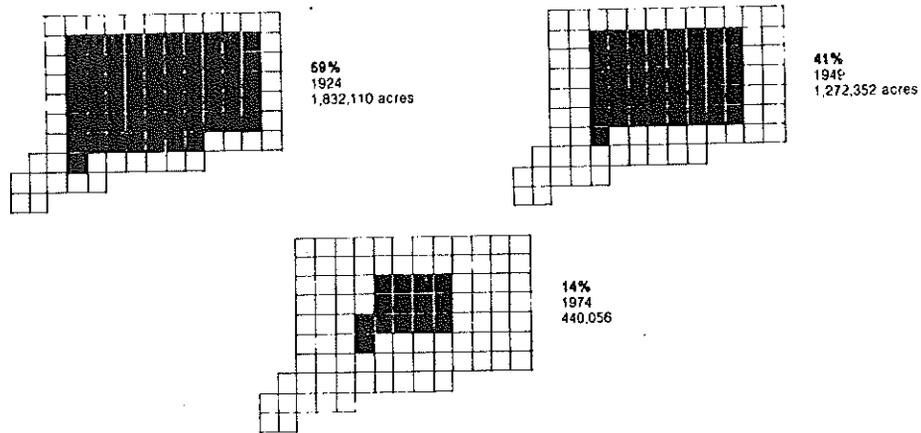
P.A. 490 reduces the amount of local property tax paid by owners of farmland where the market value of the land exceeds the value as a farm.<sup>2</sup> In the early years of the legislation, utilization of P.A. 490 was limited to those towns, especially in Fairfield County, where development pressures were apparent. Although current municipal participation is unknown, it is assumed that rising land values in recent years has served as the catalyst for the filing of applications in most Connecticut towns. It is known that the highest level of application activity follows a municipality's mandatory decennial property tax reevaluation (C.G.S. 12-62) at which time market value assessments reflect the inflated land values.

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<sup>1</sup> P.A. 63-490 (herein "P.A. 490").

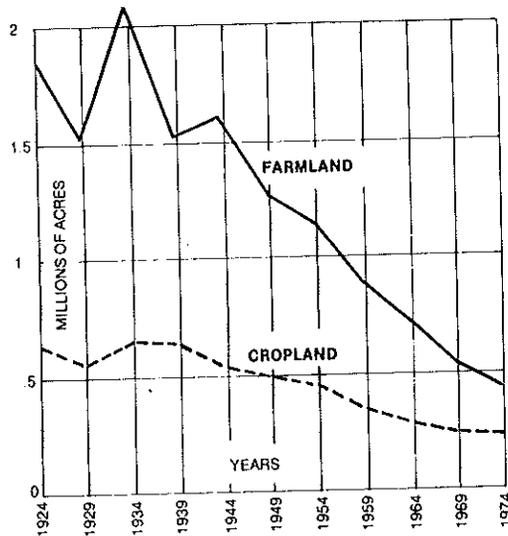
<sup>2</sup> Forest and open space lands are also elements of this broad open space policy and program.

Figure I. Farmland acreage, Connecticut, 1924, 1949 and 1974.



Source: Reprinted from Cooperative Extension Services, University of Connecticut, Trends in Connecticut Farmland Acreage.

Figure II. Acreage of farmland and cropland, Connecticut, 1924-1974.



Source: Reprinted from Cooperative Extension Services, University of Connecticut, Trends in Connecticut Farmland Acreage.

Although other variables including the use value, farm size, and the tax rate effect the amount of the property tax reduction, the most significant variable is the market value of the tract. For example, in 1976, a 63 acre farm in Wilton had a market value of \$436,590 and a use value of \$35,500.<sup>1</sup> Reflecting the assessment reduction resulting from P.A. 490, the landowner received a tax bill of \$1,200, almost \$13,800 less than the bill would have been without the benefit of P.A. 490. On the other hand, because a comparably sized farm in another town had a considerably lower market value, the tax bill reduction was less than \$200.<sup>2</sup>

Within certain bounds, P.A. 490 delegates discretion to the assessor in determining farmland eligibility,<sup>3</sup> assigning use values<sup>4</sup> and in administering the program. The result is a widely differing set of eligibility standards and extent of record keeping within the towns.

For example, some towns restrict eligibility to large working farms while others allow large backyard gardens. In addition, a few towns have mapped all participating tracts, calculated the impact on the municipal tax rate, and coordinated the program with comprehensive planning. Conversely, most towns are unaware of the extent of classified lands, lack a policy relating to eligibility and are ignorant of the impact of the program local taxes.

As a disincentive to selling or converting the farmland, P.A. 490 includes a "conveyance tax" (C.G.S. 12-504) penalty. However, because the tax is applicable only if the present ownership is less than ten years, the penalty rarely is invoked since most existing farmland has changed ownership infrequently.

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<sup>1</sup> Cochran, p. 121.

<sup>2</sup> Ibid.

<sup>3</sup> The statutes do specify "factors to be considered" by the Assessor in determining farmland eligibility. This differs from the "open space" category where eligibility is determined by the Planning Commission and the forest category where eligibility is ultimately determined by the Department of Environmental Protection.

<sup>4</sup> Recommended farm use values have been developed by the State Tax Department and are updated periodically. Although not every town assessor utilizes the recommended values, the recommended figures have been sustained by the courts.

Although P.A. 490 has been in effect for 16 years, absence of data on a statewide basis precludes measurement of the impact upon agricultural land preservation. Research in individual towns, however, reveals that P.A. 490 significantly has delayed the conversion of farmland. However, where retirement or estate planning dominates a farmer's perspective, P.A. 490 does not provide a sufficient deterrent to preclude sale or conversion. For this reason, the Pilot Program and P.A. 78-371 (see immediately below) are regarded as necessary actions to stem rather than merely delay farmland conversion.

P.A. 78-371, "An Act Concerning Succession and Transfer Taxes." In addition to enactment of the Agricultural Lands Preservation Pilot Program, the 1978 General Assembly passed P.A. 78-371 which amends the state's inheritance tax law to benefit the estates of farmers. Paralleling the 1976 Federal Tax Reform Act, P.A. 78-371 provides for assessment of farms in estates at the use value, rather than at the market value, if the immediate family guarantees the continuance of farming for at least ten years (C.G.S. 12-349 a&b). Non-fulfillment of the heirs' ten years commitment results in reevaluation of the farm at market value with accompanying tax penalties. Because the legislation has been in effect less than two years, it is difficult to measure its impact. However, it is expected that where, previously, prudent estate planning frequently compelled disposition of the farm in anticipation of death, this alternative may be averted if the immediate family desires to continue farming.

An example of the state tax burden levied prior to the passage of P.A. 78-371 is that of an estate of an elderly farmer who had an annual income of less than \$6,000.<sup>1</sup> The estate was comprised entirely of a 70-acre farm and farmhouse, which lacked central heating and other amenities. However, because the market value of the land was \$350,000, the state succession taxes due totaled \$44,000. Not surprisingly, the farm was sold for non-farm purposes to settle the estate.

The Conservation and Development Policies Plan, 1979-1982. A potentially significant farmland preservation mechanism became effective in 1979 when the General Assembly adopted the Conservation and Development Policies Plan, 1979-1982. According to statute (C.G.S. 16a-31) the Plan serves as an advisory document when federal or state funds in excess of \$100,000 are proposed for a capital expense.

The Plan specifically addresses farmland preservation in one of its ten policy areas, including the goal of maintenance and

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<sup>1</sup> Cochran, p. 66.

increase of food production through conservation and preservation. Indicated priority action is focused on public purchase of development rights. Although it is too soon to realize whether the Plan will prove to be an effective coordinating tool, the potential exists.

Indirect Incentives. Brief mention should be made of legislation which provides exemptions to farmers from gasoline taxes and property taxes. Included are (1) gasoline taxes for farm vehicles (C.G.S. 12-460(5)), (2) property taxes on farm machinery, livestock and poultry (C.G.S. 12-91) and tools (C.G.S. 12-81). While the tax relief does not provide a major incentive, each positively contributes to an agricultural policy which encourages continuance of farming.

#### A Comparison of State Programs

From one perspective, Connecticut has demonstrated a strong commitment to farmland preservation placing the state in the forefront nationally. Connecticut was one of the pioneers to enact differential assessment legislation for property taxes<sup>1</sup> and farmland estate tax purposes. Similarly, the Pilot Program and the Conservation and Development Policies Plan demonstrate a concern to interrupt the trend of diminishing farmland.

Yet, the degree of Connecticut's commitment has been constrained by fiscal limitations and political considerations which must reconcile competing and contradictory interests within the broader context of land use. In relation to farmland preservation, the result is (1) a differential assessment law which is among the least stringent in the nation and criticized by some as actually encouraging land speculation, (2) a PDR program limited to fewer than 25 participants, and (3) the Conservation and Development Policies Plan relegated to an advisory status.

This is not to say that there exists a model state preservation program which can be replicated in Connecticut. Connecticut still promises to be the first state to actually finalize a purchase of development rights. In addition, Connecticut is one of only six states to extend use value assessments for estate tax purposes.

In the discussion below, the major techniques used in other states will be reviewed as potentially adaptable in Connecticut.

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<sup>1</sup> Today, every state except Georgia and Alabama has enacted farmland differential assessments for property taxation purposes.

Purchase of development rights. The first PDR program became law in New Jersey in 1976.<sup>1</sup> Connecticut's later law was modeled after New Jersey's to the extent that (1) a pilot program was established, (2) \$5 million bonding was authorized, and (3) the program was entirely voluntary. The major difference between the two laws is New Jersey's legislative mandate to designate a 5,000 acre "preserve" for the program with participation limited to farmers within this preserve. In addition, program administration involved the legislature, the executive branch and municipal governments.

New Jersey's program lapsed into inactivity without successful purchase of any development rights. Attributed reasons for the failure include (1) the difficulties in selecting a single preserve (2) the disparity between the farmer's asking price (reportedly \$5,000 per acre on average) and the state's offering price (\$1,000 average per acre), and (3) apprehension that if development rights were purchased at the state's offered price, the use value assessment would increase substantially.

Five other eastern states<sup>2</sup> have enacted PDR legislation. However, only the programs in Connecticut and Massachusetts have received state funding. Maryland's state program remains unfunded while Maine's legislation enables municipalities to purchase development rights for a minimum of ten years. Probably the most well-known and successful PDR program is a county funded program in New York. Established under New York's municipal law, Suffolk County intends to purchase the development rights to 3,883 non-coastal acres through authorization of \$21 million bonding. To date, the development rights to several hundred acres have been purchased. Eventually, the county anticipates a PDR program encompassing an estimated 15,000 acres at an estimated cost of \$75 million.

A comparison between Connecticut's program and the other programs reveals the following: (1) all of the programs require selection by a committee rather than one individual<sup>3</sup> (2) county or local governments predetermine eligibility by establishing agricultural districts (New York and Maryland), (3) county or local governments recommend applicants (Massachusetts and Maryland), and (4) program participation may terminate after a given time period (twenty-five years in Maryland, 30 years maximum in Massachusetts, ten years in Maine).

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<sup>1</sup> The Agricultural Reserve Demonstration Act, P.L. 1976, Ch. 50.

<sup>2</sup> Maryland, Massachusetts, Maine, New York, Connecticut.

<sup>3</sup> Connecticut's reluctance to mandate a decision-making committee reflects the Reorganization Act which attempts to reduce the number of boards and commissions.

Other types of acquisition. In addition to PDRs, states or substates may purchase agricultural lands in fee simple. While this method represents the most certain method of assuring farmland preservation, cost factors and opposition to state ownership of farmland limits the applicability of this approach. However, to offset the high capital cost and to assure continuance of farming, publicly purchased land may be leased or sold back to a bona fide farmer. When this occurs, the government selling or leasing the land may require appropriate lease or deed restrictions to guarantee farming activity.

A program in Saskatchewan, Canada, the largest grain-producing province, utilizes both purchase-leaseback and purchase-sellback thereby assuring continuation of agricultural use of more than 500,000 acres. Similarly, within Connecticut, Farmington established a small municipal program along the Farmington River flood plain, whereby publicly purchased farmland is leased back to farmers. This approach was rejected by the Governor's Task Force in 1974 which cited cost as well as opposition to public ownership.

Differential assessments for property taxation. Differential assessment programs for property taxation purposes are categorized according to the penalty provision incorporated into or omitted from the legislation. Least stringent are the "preferential assessment" laws in 13 states which forego any penalty if the land is declassified. "Deferred taxation" programs level a penalty if the land is withdrawn from the program. While the amount of the penalty varies, it usually is keyed to the amount of taxes foregone for a designated period of time. "Restrictive agreement" programs require formal agreements between landowner and the state guaranteeing continuance in the program for a specified period of time.

Although technically one of more than 20 deferred taxation programs, a single provision in Connecticut's law more realistically classifies P.A. 490 as a "preferential assessment" program. Under this provision, no penalty is required upon sale or conversion if the current ownership exceeds ten years. Thus, most farmland is automatically excluded from the penalty. Connecticut's deferred taxation program also differs from other programs since the rollback tax<sup>1</sup> is a "conveyance tax." Keyed to the sales price or market value at the time of conversion, the sliding scale of the conveyance tax is set at 10% the first year, decreasing annually to 1% in the tenth year and 0% following. This is in

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<sup>1</sup> The reason for this is to eliminate the need for "double book-keeping" at the local level. While a concession to short-staffed municipalities, it nevertheless results in a loss of important data needed to measure fiscal and land use impacts.

contrast to other states' recapture clause which requires payment of the foregone taxes for a specified period of time, usually two or three years.

For example, if the previously discussed 63-acre farm in Wilton<sup>1</sup> were sold following a four-year ownership based on the market value (assumed to be the sale price), a conveyance tax of 6% or \$26,000 would be due. However, if the rollback tax required payment of the foregone taxes (\$13,637 in 1976) over a three-year period, the penalty would approximate \$40,000. Actually, because the present owner's tenure exceeds ten years, no tax would be due.

When Connecticut's program is compared with the restrictive agreement programs in five states,<sup>2</sup> Connecticut's lack of disincentives to deter conversions and speculation becomes more apparent. For these reasons, P.A. 490 has been criticized as granting tax relief without requiring a commitment from the recipient. Conversely, by eliminating a commitment, the voluntary program has had widespread participation and is acknowledged as a major factor in slowing the accelerated conversion trend begun at the end of World War II (See Figure 2).

Zoning. Proponents of statewide zoning regard state regulation of land use as the most cost-effective method of preserving agricultural land.<sup>3</sup> Nevertheless, the concept of state zoning remains a politically unpopular solution throughout the United States.<sup>4</sup>

In spite of the reluctance on the part of states to exercise zoning control, states and the federal government increasingly have recognized the need to protect the "public interest" in land use decisions where the "spillover" effects impact a broad segment of the population. The result is state legislation which designates "critical areas" and requires either state regulatory action

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<sup>1</sup> See page 22.

<sup>2</sup> The best known "restrictive agreement" program is California's Williamson Act which requires a minimum ten year guarantee to maintain farming and is available only to agricultural lands in "preserves" designated at the county level.

<sup>3</sup> See testimony submitted by Senator Audrey Beck at LPR&IC Public Hearing, October 2, 1979.

<sup>4</sup> Only Hawaii has state zoning.

or local regulation in conformance with minimum state standards. State involvement in regulation of certain "critical areas" in Connecticut includes coastal areas (P.A. 79-535), inland wetlands (C.G.S. 22a-36-45) and tidal wetlands (C.G.S. 22a-28-35).

The proposed American Law Institute Model Land Development Code proposes conditions under which an "area of statewide concern" could be identified and regulated by the state. Adapted to farmland preservation, following farmland designation as an area of critical state concern, rules promulgated by the state would supercede those of the locality.<sup>1</sup> It is not likely that extending state responsibility to identify and regulate "critical areas," such as farmland would be acceptable in Connecticut.

Less directly, 21 states have encouraged farmland preservation through zoning enabling legislation which specifically addresses agricultural districts and/or agricultural zones.<sup>2</sup> The extent to which local authorities have exercised this option is unknown, however. Although Connecticut's zoning enabling legislation does not specify agricultural zones or districts, at least one municipality<sup>3</sup> has adopted an agricultural zone. Included in the regulation is a provision which allows the farmland owner, to develop other tracts, also owned by the farmland owner, at densities higher than otherwise allowed. (The principal is not dissimilar from the Transfer of Development Rights discussed below.)

Transfer of Development Rights. The concept of TDR is similar to the purchase of development rights to the extent that the owner of undeveloped land relinquishes the right to develop the land in return for compensation, usually financial. The two approaches are differentiated by the absence of public financing in a TDR program. Instead, TDR relies upon the free market system to assure that the owner of the land is fairly compensated by the would-be developer.

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<sup>1</sup> Peter G. Brown, The American Law Institute Model Land Development Code, The Taking Issue and Private Property Rights, The Urban Land Institute, Washington, D.C., 1975, p. 4.

<sup>2</sup> Solberg, Erling D. and Pfister, Ralph R., Rural Zoning in the United States: Analysis of Enabling Legislation USDA, Washington, D.C., 1967.

<sup>3</sup> Windsor.

Despite the introduction of bills in at least three eastern states,<sup>1</sup> only Alaska has enacted TDR enabling legislation.<sup>2</sup> Nevertheless, some communities and counties have utilized successfully the TDR concept.<sup>3</sup>

The assumptions inherent in the TDR concept may limit its effectiveness in many municipalities. First TDR assumes that within the local zoning jurisdiction, there exists undeveloped land without public services as well as undeveloped land where public infrastructures are sufficient to withstand more intense development than presently allowed. In addition, TDR assumes that development pressure exists to the extent that developers are willing to offer financial compensation in order to build at a higher density. Although it is doubtful that TDR could be utilized in the more rural towns which lack, especially, public sewers and water and where development pressure remains moderate, the concept has merit for towns in the urbanizing stage.

TDR is regarded by some as an acceptable alternative to "compensable separation." This term, coined by the British, provides for governmental compensation or penalty to landowners for benefits or losses ("windfalls and wipeouts") incurred as the result of zone changes.

Tax disincentives. Short term capital gains on undeveloped land profits has become law in Vermont. The sliding-scale tax, based on ownership of less than six years, is levied on tracts in excess of ten acres. While this tool has viability in the broad context of land preservation, in Connecticut farmland has usually remained in ownership longer than ten years rendering it ineffective for farmland preservation. Furthermore, extension of the state tax for a longer period of ownership would be opposed on the basis of the negative impact on one category of landowner--the farmer. A more equitable approach would be to increase the disincentives to owners of undeveloped land classified under P.A. 490.

#### Relating the Sunset Criterion

The preceding discussion focused on existing legislation in Connecticut and other states in the context of the remaining "Sunset" criterion. This criterion addresses whether the public could be adequately protected by another program.

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<sup>1</sup> New Jersey, New York and Maryland.

<sup>2</sup> Unique as a vast landowner, Alaska negotiates transfer of these development rights with developers.

<sup>3</sup> The town of Southhampton in Suffolk County, New York, introduced TDRs in 1972 prior to implementation of the County PDR program (see p. 25.)

The conclusion is clear. First, with the exception of an immediately funded full-scale purchase program, no one policy tool is capable of preserving farmland. Second, through implementation and coordination of a variety of mechanisms, farmland can be preserved. These tools must include, but not be limited to, tax incentive programs which will forestall conversion until public acquisition, outright or through PDRs, can be effected. In addition, enabling legislation should be enacted so that, wherever applicable, local planning and zoning commissions have the option to adopt zoning and growth management techniques which will encourage maintenance of farmland without unduly penalizing farmland owners.

Therefore, LPR&IC finds that, given the availability of funding resources and the tradition of local control in planning and zoning, it is not possible to replace the Pilot Program with programs which now exist in Connecticut. Similarly, no single program in other states provides a reasonable alternative for Connecticut. LPR&IC does find, however, that utilization of a variety of existing programs and proposed legislation should enhance the viability of preserving farmland in Connecticut. These programs will be addressed as elements of a comprehensive preservation program in Part III.

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Part III

A RECOMMENDED COMPREHENSIVE AGRICULTURAL LAND PRESERVATION  
PROGRAM FOR CONNECTICUT

Introduction  
Planning and Zoning Enabling Legislation  
Strengthening P.A. 490's Conveyance Tax  
Utilizing the Raw Data  
Purchase of Development Rights  
    Procedural changes  
Conclusion

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## PART III

### A RECOMMENDED COMPREHENSIVE AGRICULTURAL LANDS PRESERVATION PROGRAM

#### Introduction

In describing agricultural lands preservation policies and programs, Parts I and II noted the limitation in Connecticut's implementation activities, while also acknowledging the eminent position occupied by Connecticut. Part III is a compilation of recommendations generated by the LPR&IC needed to implement the two legislative farmland preservation policies.<sup>1</sup> The recommendations include (1) the strengthening and expansion of existing legislation and (2) enactment of new legislation.

Together with existing legislation, implementation of the recommendations would assure a systematic approach to a long-term purchase of development rights program. Thus, although the PDR program is the capstone, preliminary and supportive mechanisms are needed to delay farmland conversions so that the state's PDR program may be staged over time. Included in the comprehensive farmland preservation program would be the following:

- tax incentive programs;
  - differential assessments for property taxes
  - differential assessments for farms in estates
  - gasoline and farm machinery exemptions
- regulatory programs;
  - possible enabling legislation for agricultural districts, agricultural zones and transfer of development rights
- coordinating activities;
  - Conservation and Development Policies Plan
- preservation guarantee program.
  - purchase of development rights

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<sup>1</sup> See p. 20

## Planning and Zoning Enabling Legislation

With few exceptions, Connecticut's planning and zoning legislation addresses the process rather than substance. The impact is two-fold. First, the full array of zoning classifications and growth management techniques is not always evident to local planning and zoning commissions. Second, where techniques are known but enabling legislation absent, local commissions have exercised reluctance to adopt regulations fearing possible court challenge.

To determine whether utilization of growth management techniques is a practical option for local planning and zoning commissions, the LPR&IC recommends that the Environment Committee and/or the Committee on Planning and Development study and make recommendations prior to the 1981 legislative session regarding enabling legislation for agricultural districts, agricultural zones and the transfer of development rights for agricultural land.

## Strengthening P.A. 490's Conveyance Tax

As Part II discussed, Connecticut's differential taxation law provides for a penalty when classified land is withdrawn from program participation. However, the tax is levied on very few tracts since the law also exempts any land which has been owned by the present owner for more than ten years. This effectively precludes a penalty payment on most sellers.

Proposals to strengthen P.A. 490's recapture clause have been opposed on the basis that legislative enactment would (1) precipitate a high level of land sales and conversions prior to the effective date and (2) provide a disincentive to farmers by reducing available options. Proponents of reform cite (1) the appropriateness of expecting participating landowners to demonstrate a commitment to preservation, and, (2) the need for a disincentive to sell or convert farmland.

LPR&IC finds that the goal of farmland preservation is not served by the absence of a penalty for all land which is withdrawn from P.A. 490 classification. Therefore, the LPR&IC recommends that the Finance Committee propose changes in C.G.S. 12-504 to require payment of a conveyance tax on all land withdrawn from classification.

## Utilizing P.A. 490 Raw Data

The farmland application submitted to and reviewed by the assessor provides more raw data regarding farm size, use, income and location than any other existing farm data. Although

a few towns have compiled these data,<sup>1</sup> most towns remain ignorant of the extent of P.A. 490 lands and the direct fiscal impact.<sup>2</sup> Similarly, the state has not integrated the data into the state planning network, although certain components were specified as components of the mapping mandated in P.A. 78-232.

The importance of coordinating these data with the Food Plan and maps in the PDR decision-making process cannot be understated. For this reason, LPR&IC recommends that OPM solicit from each town the following information:

- (1) a map specifying land included in P. A. 490 by type;
- (2) summary data for each classified farm tract by type of products grown, acreage and farm income; and
- (3) the resultant change to the town's net grand list.

The role of OPM should be as facilitator, compiler and transmitter and include (1) provision of technical assistance staff to municipalities, (2) compilation and interpretation of local data and (3) dissemination of the data to the decision-making body for the PDR program (see recommendation below).

#### Purchase of Development Rights

The single most important programmatic aspect of the proposed comprehensive farmland preservation implementation is the long-term PDR program. Significantly, the PDR program is also the only element which requires funding appropriations by the legislature. The necessary funding commitment for a full-scale program remains uncertain, although the Commissioner's "Progress Report" in December, 1979 is expected to indicate if revisions to the 1974 estimate of \$500,000,000 is necessary.

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<sup>1</sup> Because forest and open space lands are also included in P.A. 490, meaningful data are also available in these areas.

<sup>2</sup> Moreover, some local assessors have destroyed market value assessment data thereby precluding determination of the direct fiscal impact.

In addition, the Task Force, established by the legislature, is to recommend funding mechanisms prior to the 1980 legislative session.

LPR&IC finds that the legislature's articulated farmland preservation policies are in the public interest and that a long-term commitment to Connecticut's PDR program is necessary if the policies are to be implemented. However, LPR&IC's recommendations are tempered by the absence of cost data for the proposed full-scale program. Therefore, the LPR&IC recommends that C.G.S. 22-26cc be amended to replace the Pilot Program with a Permanent Preservation Program to be reviewed for Sunset purposes every five years. Furthermore, the LPR&IC recommends that C.G.S. 22-26hh be amended to authorize bonding in an amount no less than the current level of \$3.5 million average annually.

Procedural changes. Cognizant of potential abuses, the Commissioner and the Advisory Committee have conscientiously pursued a systematic and non-arbitrary approach to selection of PDR tracts for the Pilot Program. The LPR&IC recognizes the importance of assuring maintenance of these standards for the long-term program. Specifically, the LPR&IC has identified the need to expand decision-making to include a diversity of interests and expertise. In addition, LPR&IC finds a need exists to initiate coordination of newly generated data into the decision-making process.

Therefore, the LPR&IC recommends that C.G.S. 22-26cc(a) be amended to delegate responsibility for selecting PDR lands to an Agricultural Lands Preservation Board. Membership shall consist of the commissioners and representatives of diverse interests as presently comprised on the Advisory Board.

Furthermore, LPR&IC recommends that C.G.S. 22-26dd-ff be amended to require that the Agricultural Lands Preservation Board coordinate the Food Plan, the mapping and the P.A. 490 data (see recommendation pp. 32-33) to assure a systematic selection process.

Finally, although the program should remain voluntary, the LPR&IC recommends that local planning and zoning commissions and the chief executive officer in each municipality be involved in the preservation program to the extent that the Board solicit (1) suggestions of potential sites within a town's borders suitable for preservation and (2) comments following the submission of an application within a town's borders.

## Conclusion

Development of a comprehensive agricultural lands preservation program is predicated on the assumption that although the people of Connecticut support the preservation of farmland, (1) there is an unwillingness to alter the existing governmental structure which places emphasis on local land use decision-making, and, (2) other demands for the limited fiscal resources available preclude a single, large appropriation for purchasing development rights. Therefore, in addition to the PDR program, the approach to the recommended comprehensive preservation program depends upon the utilization of a variety of delaying mechanisms--regulation, tax incentives and policy coordination.

Delaying mechanisms require neither bonding authorization nor annual appropriations; yet, each mechanism forestalls farmland sales in anticipation of future PDR acquisition. However, because the recommendation in the Food Plan limits the PDR program to approximately 300,000 acres, it will be necessary to identify and select those tracts which meet the stated food needs. Selection, then, will require coordination of land-owner and municipal needs, the Food Plan, the series of maps and other articulated state policies. The process will be complicated by the fiscal realities which will, no doubt, require long-term staging of the full-scale program.

The question can be raised whether the proposed preservation program is, indeed, viable and realistic. In 1970, Connecticut's well known author and environmentalist, William H. Whyte wrote that "The only possible way we can save much open space is to use every tool we can get our hands on and use them together. There has to be a unifying plan, and we must be as hard-boiled as the speculator in framing it. We must identify what cannot be saved, what can and should be saved, and tackle the job as though there will be no reprieve."<sup>1</sup>

During the intervening nine years, Connecticut has distinguished itself by enacting legislation to save vanishing farmland. The decision which must be addressed by the General Assembly in 1980 is whether to terminate the Pilot Program, reinstate it or develop a long-range "unifying plan" and necessary implementation tools. This report recommends adoption of the last option as the most effective method of assuring the perpetuation of farming in Connecticut in the years to come.

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<sup>1</sup> William H. Whyte, The Last Landscape, Doubleday & Co., N. Y., 1970, p. 130.



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APPENDICES

- I. Sunset Mandate
  - II. Glossary
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**REVIEW AND TERMINATION OF  
GOVERNMENTAL ENTITIES AND PROGRAMS**

**CHAPTER 28**

**CONNECTICUT SUNSET LAW**

**Sec. 2c-1 Legislative finding.**

The general assembly finds that there has been a proliferation of governmental entities and programs, and that this proliferation has occurred without sufficient legislative oversight or regulatory accountability. The general assembly further finds that there is a need for periodic comprehensive review of certain entities and programs, and for the termination or modification of those which do not significantly benefit the public health, safety or welfare.

**Sec. 2c-2.** Governmental entities and programs terminated on July 1, 1980, July 1, 1981, July 1, 1982, July 1, 1983, and July 1, 1984.

*For a complete list of the 97 entities scheduled for Sunset review see the next page.*

**Sec. 2c-2a Termination of ombudsmen office under sunset law.**

The nursing home ombudsmen office established under section 17-135a and the programs performed by said office shall terminate July 1, 1985, in accordance with and subject to all the provisions of this chapter, subject to reestablishment as provided in this chapter.

**Sec. 2c-3 Performance audits by legislative program review and investigations committee.**

The legislative program review and investigations committee, established by the provisions of section 2-53e, shall conduct a performance audit of each governmental entity and program scheduled for termination under sections 2c-2 and 2c-2a. The legislative program review and investigations committee shall complete its performance audit by January 1 of the year in which the governmental entity and program are scheduled for termination under sections 2c-2 and 2c-2a. In conducting the audit, the committee shall take into consideration, but not be limited to considering, the factors set forth in sections 2c-7 and 2c-8. The entities enumerated in sections 2c-2 and 2c-2a shall cooperate with the legislative program review and investigations committee in carrying out the purposes of sections 2c-1 to 2c-12, inclusive, and shall provide such information, books, records and documents as said committee may require to conduct its performance audit. Each governmental entity or program scheduled for termination pursuant to sections 2c-2 and 2c-2a shall provide at the request of the program review and investigations committee an analysis of its activities which specifically addresses the factors enumerated in sections 2c-7 and 2c-8.

**Sec. 2c-4 Report to general assembly.**

The legislative program review and investigations committee shall submit to the general assembly a written report on each governmental entity and program by January 1 of the year in which such entity and program are scheduled for termination. Such report shall specifically address the factors set forth in sections 2c-7 and 2c-8 and shall include recommendations regarding the abolition, reestablishment, modification, or consolidation of such entity and program.

**Sec. 2c-5 Government administration and policy committee to hold public hearing prior to termination, modification, consolidation or reestablishment of governmental entity or program.**

Prior to the termination, modification, consolidation or reestablishment of any governmental entity or program, the joint committee on government administration and policy shall hold a public hearing, receiving testimony from the public and the governmental entity involved.

**Sec. 2c-6 Governmental entity to demonstrate public need. Recommendations by government administration and policy committee.**

The governmental entity enumerated in section 2c-2 shall have the burden of demonstrating a public need for the reestablishment of the entity or program. Such entity shall also have the burden of demonstrating that it has served the public interest and not merely the interests of the persons regulated. The joint committee on government administration and policy may recommend to the general assembly that the governmental entity or program be modified, consolidated with another entity or program, or reestablished.

**Sec. 2c-7 Criteria for determining public need.**

In determining whether there is a public need for the continued existence of an entity or program, the general assembly shall consider, among other things:

(a) Whether termination of the entity or program would significantly endanger the public health, safety or welfare;  
(b) Whether the public could be adequately protected by another statute, entity or program, or by a less restrictive method of regulation;

(c) Whether the governmental entity or program produces any direct or indirect increase in the cost of goods or services, and if it does, whether the public benefits attributable to the entity or program outweigh the public burden of the increase in cost, and  
(d) Whether the effective operation of the governmental entity or program is impeded by existing statutes, regulations or policies, including budgetary and personnel policies.

**Sec. 2c-8 Criteria for determining whether a regulatory entity or program has served the general public.**

In determining whether a regulatory entity or program has served the general public, and not merely the persons regulated, the general assembly shall consider, among other things:

(a) The extent to which qualified applicants have been permitted to engage in any profession, occupation, trade or activity regulated by the entity or program;

(b) The extent to which the governmental entity involved has complied with federal and state affirmative action requirements;

(c) The extent to which the governmental entity involved has recommended statutory changes which would benefit the public as opposed to the persons regulated;

(d) The extent to which the governmental entity involved has encouraged public participation in the formulation of its regulations and policies, and

(e) The manner in which the governmental entity involved has processed and resolved public complaints concerning persons subject to regulation.

**Sec. 2c-9 Terminated entity or program to continue for one year for purpose of concluding its affairs.**

Upon termination, a governmental entity or program listed in section 2c-2 shall continue in existence for one year for the purpose of concluding its affairs. During the one year period, termination shall not reduce the powers or authority of the entity or program. Upon the expiration of the one year period, the entity or program shall cease all activities; all regulations promulgated by the entity or pursuant to the program shall cease to exist, and all unexpended balances of appropriations or other funds shall revert to the fund from which they were appropriated, or if that fund is abolished, to the general fund.

**Sec. 2c-10 Reestablishment of entity or program by General Assembly.**

Any governmental entity or program scheduled for termination under section 2c-2 may be reestablished by the general assembly for periods not to exceed five years, at the end of which the entity or program shall again be subject to review under the provisions of sections 2c-1 to 2c-12, inclusive. Any such reenactment may provide for the consolidation of governmental entities or programs or for the transfer of governmental functions from one entity or program to another.

**Sec. 2c-11 Termination of entity not to effect any claim, right or cause of action.**

Termination of a governmental entity or program shall not affect any claim, right or cause of action by or against the entity or program. Any such claim, right or cause of action pending on the date the entity or program is terminated, or instituted thereafter, shall be prosecuted or defended in the name of the state by the attorney general.

**Sec. 2c-12 Early termination of entity or program, other legislation, not prohibited.**

Nothing in this section or in sections 2c-1 to 2c-11, inclusive, shall prohibit the general assembly from terminating a governmental entity or program prior to the termination date established in section 2c-2, nor from considering any other legislation concerning any such entity or program.

- (a) The following governmental entities and programs are terminated, effective July 1, 1980, unless reestablished in accordance with the provisions of section 2c-10:
  - (1) Regulation of hairdressers and cosmeticians;
  - (2) Regulation of midwives;
  - (3) Board of barber examiners, established under section 20-235;
  - (4) Board of examiners of hypnotherapists, established under section 20-298;
  - (5) Regulation of hearing aid dealers;
  - (6) Commission of opticians, established under section 20-206;
  - (7) Connecticut board of examiners of embalmers and funeral directors, established under section 20-206;
  - (8) Connecticut homeopathic medical examining board, established under section 20-6;
  - (9) Connecticut osteopathic examining board, established under section 20-19;
  - (10) Connecticut medical examining board, established under section 20-84;
  - (11) Connecticut board of examiners in podiatry, established under section 20-51;
  - (12) State board of chiropractic examiners, established under section 20-25;
  - (13) State board of naturopathic examiners, established under section 20-35;
  - (14) Connecticut state board of examiners for nursing, established under section 20-98;
  - (15) State board of veterinary registration and examination, established under section 20-196;
  - (16) Dental commission, established under 20-103;
  - (17) Connecticut state board of examiners in optometry, established under section 20-128;
  - (18) Board of examiners of psychologists, established under section 20-186;
  - (19) Board of licensure of nursing home administrators, established under section 19-582, and preservation pilot program, established under section 22-25cc.
- (b) The following governmental entities and programs are terminated, effective July 1, 1981, unless reestablished in accordance with the provisions of section 2c-10:
  - (1) State board of registration for sanitarians, established under section 20-359;
  - (2) State board of subsurface sewage disposal system examiners, established under section 20-341b;
  - (3) Regulation of bedding, upholstered furniture and second hand hats;
  - (4) Regional center advisory boards;
  - (5) Veterans home and hospital commission, established under section 27-104;
  - (6) Advisory council on alcohol and drug dependence;
  - (7) All advisory boards for state hospitals and facilities, established under section 17-213a;
  - (8) State advisory council on developmental disabilities, services and facilities;
  - (9) Connecticut state alcohol advisory council, established under subsection (b) of section 17-155m;
  - (10) Connecticut state alcohol council, established under subsection (a) of section 17-155m;
  - (11) State board of examiners for physical therapists, established under section 20-67;
  - (12) Board of mental health, established under section 17-207;
  - (13) Commission on hospitals and health care, established under section 19-79c;
  - (14) Commission on medicolegal investigations, established under subsection (a) of section 19-526a;
  - (15) Drug advisory council, established under section 19-444;
  - (16) Drug Council, established under section 19-444a, and
  - (17) Health services advisory council.
- (c) The following governmental entities and programs are terminated, effective July 1, 1982, unless reestablished in accordance with the provisions of section 2c-10:
  - (1) Connecticut justice commission, established under section 20-181;
  - (2) Connecticut on pharmacy, established under section 20-163;
  - (3) Municipal police training council, established under section 7-284b;
  - (4) Connecticut well drilling board, established under section 25-127;
  - (5) Board of materials review, established under subsection (a) of section 19-399;
  - (6) Connecticut state board of landscape architects, established under section 20-368;
  - (7) State board of registration for professional engineers and land surveyors, established under section 20-300;
  - (8) Connecticut real estate commission, established under section 20-31a;
  - (9) State boards for occupational licensing, established under section 20-331;
  - (10) Board of firearms permit examiners, established under section 29-32b;
  - (11) State building code standards committee, established under section 19-395f;
  - (12) State commission on demolition, established under section 19-403a;
  - (13) State fire code standards committee, established under section 29-39a;
  - (14) Advisory committee on organized crime prevention and control, established under section 29-165;
  - (15) Commission on fire prevention and control, established under section 7-323k, and
  - (16) Consumers advisory council, established under section 19-170b;
- (d) The following governmental entities and programs are terminated, effective July 1, 1983, unless reestablished in accordance with the provisions of section 2c-10:
  - (1) State insurance purchasing board, established under section 4-37a;
  - (2) Connecticut marketing authority, established under section 22-83;
  - (3) Occupational safety and health review committee, established under section 31-376;
  - (4) Power facility evaluation council, established under section 16-50;
  - (5) Connecticut public transportation authority, established under section 13b-11a;
  - (6) State board of accountancy, established under section 20-279;
  - (7) State board of television and radio service examiners, established under section 20-343;
  - (8) Liquor control commission, established under section 30-2;
  - (9) Advisory committee on high unemployment, established under section 32-3b;
  - (10) State milk regulation board, established under section 22-131;
  - (11) State tree protection examining board, established under section 23-61a;
  - (12) Council on environmental quality, established under section 22a-11;
  - (13) Council on water company lands, established under section 16-49b;
  - (14) Connecticut agricultural experiment station, established under section 22-79;
  - (15) Employment security board of review, established under section 31-237c;
  - (16) Council of economic advisors, established under section 31-358;
  - (17) Connecticut energy advisory board, established under section 16a-8;
  - (18) Connecticut solid waste management advisory council, established under subsection (a) of section 19-524ll;
  - (19) Investment advisory council, established under section 3-13b;
  - (20) State properties review board, established under subsection (a) of section 4-26a;
  - (21) Commission on human rights and opportunities, established under section 31-123, and
  - (22) Litter control and recycling program, established by sections 22a-80 to 22a-89, inclusive.
- (e) The following governmental entities and programs are terminated, effective July 1, 1984, unless reestablished in accordance with the provisions of section 2c-10:
  - (1) Regional advisory boards for children and youth center facilities, established under section 17-434;
  - (2) Advisory board of Albany Avenue Child Guidance Center, established under section 17-435;
  - (3) Advisory board High Meadows, Hamden, established under section 17-427;
  - (4) Advisory council on aging, established under section 17-136;
  - (5) Advisory council on children and youth services, established under section 17-413;
  - (6) Board of education and services for the blind, established under section 10-293;
  - (7) Child day care council, established under section 19-43c;
  - (8) Commission on children's services, established under section 17-414;
  - (9) Commission on the deaf and hearing impaired, established under section 17-137;
  - (10) Advisory and planning councils for regional centers for the mentally retarded, established under section 19-575;
  - (11) Board for state academic awards, established under section 10-330a;
  - (12) Connecticut student loan foundation, established under section 10-358;
  - (13) State scholarship commission, established under section 10-116b;
  - (14) State library board, established under section 11-1;
  - (15) Advisory council for special education, established under section 10-76;
  - (16) State commission on the arts, established under section 10-369;
  - (17) Connecticut historical commission, established under section 10-321;
  - (18) Commission on Connecticut's future, established under section 16a-34;
  - (19) Council on voluntary action, established under section 4-61m;
  - (20) Connecticut capital center commission, established under section 4-24a;
  - (21) State commission on capital preservation and restoration, established under section 4-24, and
  - (22) American Revolution Bicentennial Commission of Connecticut, established under section 10-321.

## Appendix II

### Glossary

agricultural districts - regulatory technique which limits land use to agriculture and usually requires a minimum tract size of between 10-80 acres.

agricultural zones - a zoning classification which usually restricts use to agriculture and residential development and sets a minimum tract size less than agricultural districts (see previous definition).

Conservation and Development Policies Plan, 1979-1982 - adopted by the 1979 General Assembly as an advisory document for all state or federal capital projects in excess of \$100,000.

development value - the value of land which reflects the "highest and best use" of the site (see also market value).

differential assessments - permits assessment of land on the basis of its actual use rather than its development potential. Almost every state has a differential assessment law for farmland.

infrastructures - capital expenses for public services including, but not limited to, roads, sewer and public water lines.

market value - the value of land for property tax purposes which reflects the development potential of the site (see also development potential of the site (see also development value).

P.A. 490 - The Open Spaces Act - Connecticut's initial farmland preservation policy and program which permits differential assessments of farm, forest and open space lands for property taxation purposes.

P.A. 78-371 - An Act Concerning Succession and Transfer Taxes - state legislation similar to the federal Tax Reform Act of 1976 which amends the state's inheritance tax law to benefit the estates of farmers.

Pilot Program - A program established in P.A. 78-232 for the purpose of preserving farmland through the purchase of development rights.

prime agricultural land - "land that has the best combination of physical and chemical characteristics for producing food... and also is available for these uses." (U.S. Department of Agriculture.)

purchase of development rights (PDR) - public purchase of the partial or less-than-fee interest in private (farm) land which represents the land's development potential.

taking issue - concerns laws or ordinances which may violate the fifth amendment of the Constitution which prohibits the "taking" of private property for public use without just compensation.

Tax Reform Act of 1976 (PL 94-455, Act. Section 2003(a)) - federal legislation which allows farms in estates to be valued at current use value, rather than market value if the immediate family guarantees to continue farming for at least ten years.

transfer of development rights (TDR) - private sale of the development value of land in a designated "conservation zone" to a would-be developer with land holdings in a "development zone" in order to allow construction at a higher density than otherwise allowed.

use value - the value of land for property tax purposes based on current utilization.

