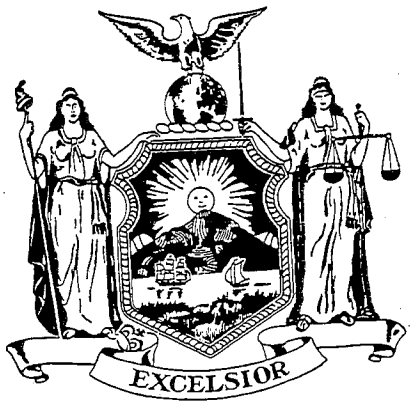
Final Report of the Agricultural Districts Review Panel



January 1, 1991

Publication 1269 (9/11)

January 1, 1991

The Honorable Mario M. Cuomo
Governor

The Honorable Ralph J. Marino
Majority Leader of the Senate

The Honorable Melvin H. Miller
Speaker of the Assembly

Gentlemen:

The Agricultural Districts Review Panel, established pursuant to Chapter 774 of the Laws of 1987, herewith submits its final report.

With this report, the Panel completes its work, the first phase of which resulted in our prior report of March 1989. We make nine additional recommendations, relating to two issues carried over from the Panel's 1989 deliberations and one new topic which we were charged with reporting on by January 1, 1991.

The two areas which were carried over from last year are the status of aquacultural enterprises and usefulness of sanctions intended to discourage conversion of farmland. No statutory changes are recommended in the case of aquaculture, but the Panel found a need for substantial revision to the current provisions involving conversion of agricultural lands.

Another area addressed by the Panel was the land valuation methodology adopted in 1987. The Panel believes that the 1987 amendments have largely attained their intended purpose of achieving greater stability in the program, but recommends a few modifications which should improve the procedure. The Panel also recognizes that some degree of annual fluctuation in values will remain as long as they are determined from farm income.

In the Panel's judgment, the extent of property tax relief currently provided to farmers is appropriate and is an important factor in maintaining a viable agricultural economy. However, a majority of the members felt that some state assistance is justified for the municipalities whose tax bases are most adversely affected.

The details of these and other Panel recommendations are outlined in both the Executive Summary and the body of the report. Nearly all would require legislation.

I must commend and compliment the Panel members for their willingness and ability to air differences, explore alternatives, and reach decisions in a harmonious and constructive way. Lastly, I would like to thank the Division of Equalization and Assessment staff involved for an extraordinary effort in pulling together the information needed by the Panel.

Sincerely,

David Gaskell

David Gaskell
Chairman

Agricultural Districts Review Panel Members

David Gaskell; Chairman
Executive Director, New York State Division of Equalization and Assessment

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SUMMARY AND RECOMMENDATIONS

Summary

The Agricultural Districts Review Panel (ADRP) was formed in response to Chapter 774 of the Laws of 1987 for the purpose of examining several specific aspects of New York's agricultural assessment program. In its first report, issued in March of 1989, the Panel made recommendations on the following issues: assessment of farm improvements; minimum acreage and income requirements; types of production eligible for the program; and several administrative matters, including the mapping of agricultural districts. Several changes recommended by the Panel in its first report were enacted into law during the 1989 and 1990 legislative sessions.

In this final report, the Panel reports its findings and recommendations regarding implementation of the agricultural valuation program, the extent of tax savings to program participants, the impact on local governments, the appropriateness and effectiveness of the sanctions intended to encourage continued agricultural use, and the treatment of aquaculture operations. Overall, the Panel found the provisions of the Agricultural Districts Law to be an important source of tax savings and other benefits which help to maintain the viability of agriculture in New York. However, despite the protection currently afforded, conversion of farmland continues and is likely to continue in the future. The provisions of the Agricultural Districts Law are, of themselves, unlikely to reverse this process.

Part II of the report reviews the growth of the program over the past decade, and presents estimates of the tax savings to agriculture. Following rapid increases through the mid–1980's, the size of the program has risen only modestly in the past few years since most of the farms in the areas with the highest land values were already enrolled by then. As of 1989, over 35,000 agricultural parcels were in the program — together representing 622 towns, five cities, and 55 counties. The program now saves farmers roughly $33 million in property taxes annually. Taxes on enrolled land now average $6.51 per acre. For land enrolled in the program, the portion of value per acre not subject to taxation ranges from more than 95% in several downstate urbanized counties to 25% in St. Lawrence County.

Currently, the entire savings is accomplished through shifting the tax to non–eligible property. In the more urbanized areas, per–parcel savings are larger but the tax is shifted to a relatively large base of non–agricultural property. In heavily agricultural areas, the full benefit to farmers does not materialize due to a lack of nonagricultural property to bear the tax shift and the resulting higher tax rate on non–eligible farm property such as improvements. To offset this tax shifting and to offer protection to local governments against erosion of tax bases, a state–local cost sharing approach is recommended whereby the most heavily impacted jurisdictions would receive partial assistance from the state (Recommendation II–1).

Part III of the report discusses the evolution of the procedures used to calculate the annual per–acre values according to which participating farms are taxed. Current calculations use aggregate USDA farm income and expense data, which can fluctuate significantly from year to

year, and which do not permit estimation of the true income attributable to land alone. The calculations also add in a seemingly inappropriate non–cash income item — the imputed rental equivalent for the owner–occupied farm dwelling. The average per–acre value determined from the data is arbitrarily assigned to the best quality land, rather than to more typical land, with proportionately lower values assigned to less productive land categories. Despite these limitations, the procedure currently produces values which compare favorably with those implied by farm rental data and by expert opinion.

After reviewing these issues, the Panel was nearly unanimous in its recommendation that several technical adjustments be made to the calculations now used, and that the first data released by the U.S. Department of Agriculture for any given year should be "frozen" once published and not subsequently modified while used to calculate annual agricultural values (Recommendation III–1). This recommendation is intended to remove the destabilizing effect of annual USDA modifications to data from prior years, while retaining the basic income–based valuation approach. It must be understood, however, that a necessary outcome of basing taxable values on farm income is that the values will continue to fluctuate when income fluctuates. Even though fluctuations in net farm income may still cause double–digit percentage changes in the values during some future years, the Panel believes that the basic income approach now used should be retained.

Part IV of the report addresses the adequacy of sanctions to encourage continued agricultural use. Based on farmland conversion data submitted to SDEA, field research, and survey research, the Panel believes that the current statutory disincentives for conversion — variously referred to as "penalty taxes" and "sanctions" — are not what the nomenclature implies nor are they designed for maximum effectiveness and ease of administration. Since the provisions more resemble repayments of previous tax benefits than true penalties, the Panel recommends that the statutory language be changed to reflect this (Recommendation IV–1). Effective administration is currently hampered by: (a) the small penalties involved in many conversions; (b) by the amount of time which may elapse between a sale of a farm and commencement by a (sometimes unaware) new owner of the physical alterations required to trigger a penalty; (c) by the need for assessors to calculate separate penalties for all lots created; and (d) by the potential imposition of an unpaid penalty applicable to one lot on the owner of another lot.

The Panel believes that many of these difficulties could be avoided if penalty imposition was tied to the point of sale of farmland, with exceptions for cases where the land will be continued in farm use (Recommendation IV–2). This would correct the current difficulty arising when a sale of farmland occurs but actual physical conversion to non–agricultural use may not occur until a much later date. The conversion payment would be required immediately which will facilitate the job of the assessor. The Panel also believes that municipalities should be allowed to defray the costs of administration by imposing a minimum penalty payment of up to $100.

Several additional issues addressed by the Panel are discussed in Part V of the report. On the matter of eligibility for aquaculture operations, it is recommended that the current law provisions, enacted in 1990, be continued (Recommendation V–1). In terms of the filing of agricultural use commitments for non–district land, the Panel believes that the length of the

commitment term should continue to be eight years, but that farms in Suffolk County from which the County has bought the development rights should not have to file such annual use commitments (Recommendations V–2 and V–3).

The Panel also recognizes that the program is currently handicapped by inadequate data at many levels. When districts are formed, their boundaries may be poorly defined and participating farmers are not required to submit sufficient data for adequate local and state review. Data reported on conversions are inadequate to determine the type of conversion activity taking place. The tax bills received by farmers do not contain sufficient information on the tax benefits received under the program. To address these problems, the Panel recommends that additional data be developed at the individual farm, county, and state levels (Recommendations V–4 and V–5).

All the recommendations made by the Panel represent the view of the majority of the members. However, since many of the issues were complex and had a variety of effects on the constituencies represented, some individual members had views at variance with the majority view on some of the topics. In order to allow for presentation of such additional viewpoints, Part VI of the report is comprised of statements by individual members who wished to explain their positions.

Recommendations

The Panel's recommendations are summarized below, referenced by the section of the report in which they are discussed.

II–1. The Panel recommends that the state should provide assistance to local governments to the extent that taxes shifted under the agricultural assessment program exceed five percent of total local property tax levies.

III–1. The procedure currently required for calculation of annual agricultural assessment values should be modified as follows:

- All USDA income and expense data used in determining annual agricultural assessment values should be "frozen" at the levels first published by the agency for all the years included in the eight–year data averaging period (i.e., retroactively frozen in the case of prior years).

- The USDA accounting concept "Net Farm Income", as used in Section 304–a of Article 25AA of the Agriculture and Markets Law, should be replaced with the concept "Returns to Operators". This latter concept excludes imputed rental income attributable to the owner's dwelling.

- Expenses attributable to the owner's dwelling, identifiable as the excess of gross imputed rental income over net imputed rental

income (the latter is simply the excess of "Net Farm Income" over "Returns to Operators"), should be excluded from "Adjusted Production Expenses".

- The USDA figure used for property taxes should be the one which excludes taxes attributable to the owner's dwelling.

- The overall baseline value calculated from the data should be assigned to soil group 3a instead of soil group 1a.

IV–1. The term "penalty" should be deleted from Sections 305 and 306 of the Agricultural Districts Law and be replaced instead with the term "deferred payment". The proposed terminology would more accurately describe the payments New York law requires when lands are converted within the statutory time limit. At one time the term penalty may have been appropriate, especially for partial conversions of committed lands under the pre–1988 provisions, but under today's statute that term no longer fits.

IV–2. The following changes should be made to the statutory requirements governing conversion of farm land to non–agricultural purposes:

- That conversion be defined as occurring upon the legal transfer, physical modification, or use change of land that has benefited from agricultural assessment within statutory time limits.

- That no repayment be required in instances where conversion results from a transfer, provided that the buyer files with the assessor and the seller, by the date of closing, a form indicating that the land will be continued in agricultural use and will be enrolled in the agricultural assessment program.

- That, wherever a conversion occurs without a sale of land, the owner be required to notify the assessor within 60 days of the date such action is taken.

- That, in order to prevent the creation of multiple conversion provisions which apply to properties last receiving tax benefits in various years, the proposed changes be applied to all future conversions regardless of the year a property last received benefits.

- That municipalities have the option of imposing a minimum payment for conversions. The minimum payment should be set by individual assessing units, but should not exceed $100.

- That, in order to improve the information available to all parties involved in farm real estate transactions, a list of parcels which have been granted agricultural assessments should be reported to county

clerks' offices by county real property tax directors in the year the assessments are granted.

- That, in order to clarify laws pertaining to conversion, a brochure be published by the NYS Division of Equalization and Assessment which describes how deferred payments are calculated, and points out the circumstances under which they would become due.

V–1. No further changes should be made to the Agricultural Districts Law at this time with respect to aquaculture. The tax situation of producers should be monitored to determine if current liabilities are reasonable and affordable.

V–2. No change should be made in the length of the agricultural use commitment at this time.

V–3. Land in Suffolk County's Development Rights Program should be eligible to apply for agricultural assessment as though located in an agricultural district — without the expense or administrative burden involved in the filing of an individual commitment with the County Clerk.

V–4. To develop better information on the agricultural districts program, the following actions are recommended:

- The Agricultural Districts Law should be amended to grant authority and responsibility to the Department of Agriculture and Markets and counties to require that additional data be provided by farmers, when districts are formed or reviewed. The costs of data collection and maintenance should be shared between counties and the state. Farmers should be required to provide to county governments such production, gross income, land use, resource inventory, and other such information as the Department may deem appropriate. County governments should, in turn, be required to make this information, together with district maps showing tax parcel boundaries in relation to the district boundaries, available to the Department. Income data provided by farmers should be treated confidentially by government agencies and released only in aggregate form.

- The State Board of Equalization and Assessment should modify the form it uses for reporting of farmland conversions to include additional information such as the nature of the land use change, whether the land was rented, the price paid in the case of sales, the extent of other conversions on the same parcel or farm, and such other relevant information as either the Board or the Department may deem appropriate.

- The State Department of Agriculture and Markets should be encouraged to develop a program for entry of soil group acreages onto a computer file.

V–5. Municipalities should be encouraged to supply more detailed information to property owners on their assessments. Sufficient information should be supplied to farmers receiving benefits from the agricultural assessment program to provide them with a better idea of the extent of benefits from agricultural assessments. This information should accompany the mailing of the tax bills.

PART I. INTRODUCTION

New York's Agricultural Districts Law, Article 25AA of the Agriculture and Markets Law, was enacted in 1971 for the purpose of encouraging the continuance of farming in the state. The Law includes a variety of provisions which may be summarized in the following broad categories: (1) limitations on the right of local governments to enact ordinances which might inhibit farming practices and on state and local agencies to freely exercise their powers of eminent domain; (2) limitations on the right of improvement districts to levy benefit assessments or special ad valorem levies on farmland; (3) reduction of property taxes on eligible district farmland which is assessed at values greater than state–specified figures; (4) a similar reduction in property taxes for eligible non–district land if the owner commits the land to farming for eight years; and (5) requirements that state agencies conform their administrative rules and procedures to encourage the maintenance of viable farming in agricultural districts.

The Law was originally administered by the Department of Environmental Conservation but since 1980 has been administered by the Department of Agriculture and Markets. The Board of Equalization and Assessment is involved through its responsibility to calculate the annual land values which are used in the property tax reduction program and through its oversight of the local assessing function.

Many amendments have been made to the Law since its original enactment. In addition to switching responsibility for overall administration to a new agency, these amendments have included modification of eligibility criteria, changes to the procedures for formation of districts, changes in the penalties levied upon conversion of land receiving tax benefits to a nonfarm use, and changes in the way the state establishes the annual land values which are used in determining tax liabilities. Major changes in the latter category were made as part of Chapter 774 of the Laws of 1987 and the same legislation established the Agricultural Districts Review Panel.

As required by Chapter 774, the Panel produced an initial report to the Governor and the Legislature in March of 1989.[1] This report addressed a number of issues which were specifically designated for the Panel's review: local assessment practices for farm improvements; eligibility criteria; types of land afforded benefits; classification of organic soils; and the appropriateness and effectiveness of the Law's sanctions which are intended to encourage continued agricultural use. Full consideration of sanctions was deferred to the Panel's second and final report, due January 1, 1991, because of the lack of adequate data on conversion of farmland in March of 1989 and the desire to allow time for recent (Chapter 736 of the Laws of 1988) changes to the conversion provisions to be implemented. Similarly, the issue of eligibility of aquacultural enterprises for tax benefits under the Agricultural Districts Law was deferred to the second report to allow development of more data on this relatively new type of production.

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1 See: *Report of the Agricultural Districts Review Panel,* Albany, NY, March 1989.

In addition to the individual topics which were addressed in the first report, Chapter 774 required the Panel to undertake a more comprehensive review for its second report. Specifically the Panel was required to:

> "study the implementation of the agricultural valuation program pursuant to this act with particular attention to its impact upon the farming community and local government real property tax revenues and administration, and its effectiveness in furthering the protection of agricultural lands".

The present document, which constitutes the final report of the Panel, presents the Panel's findings and recommendations relative to this charge. Additionally, the Panel presents its final findings and recommendations relative to the two previously deferred items: the appropriateness and effectiveness of the program's sanctions and the matter of aquacultural enterprises.

Several legislative changes which affected items on the Panel's agenda were made during the 1990 legislative session (Chapter 390). One of those — the granting of eligibility to proceeds from the sale of honey and beeswax in determination of eligibility income — had been recommended by the Panel in its first report. Other changes included: extending the number of data years used in determining agricultural values from five to eight; requiring that farm structures be assessed at values not to exceed replacement cost less depreciation; and inclusion of additional types of special service districts under the provisions of the agricultural districts law.

The overall approach taken by the Panel involved periodic meetings for the purpose of deliberations and development of recommendations. In all, the Panel met five times, with individual meetings ranging from one–half day to two days in duration. At the request of the Panel, staff of the Division of Equalization and Assessment undertook survey and field research and provided technical assistance in the areas of land valuation and related matters. Staff of the Department of Agriculture and Markets provided data and technical assistance on the aquaculture industry.

The remainder of this report reviews the agricultural assessment program and presents both the Panel's findings and recommendations relative to the issues specifically included in its charge and related matters which arose during discussion.

PART II. PROGRAM TRENDS AND COST OF STATE ASSISTANCE TO OFFSET TAX SHIFTING

Background

The agricultural assessment program was enacted in 1971 as one of the major provisions of the Agricultural Districts Law (Article 25AA of the Agriculture and Markets Law). The program provides property tax relief to participating owners of farmland by effectively ignoring the market value of the qualified land, or its value in some alternative use, in arriving at an assessment for tax purposes. Instead, the taxable value assigned to qualified land is derived from an agricultural assessment value schedule which reflects variation in soil productivity. Under the program, any value attributable to qualified land in excess of its agricultural assessment is exempt from taxation.

This section reviews the available agricultural assessment program data relating to the recent past, paying particular attention to the period since the valuation approach was last modified. An analysis of program growth among the affected counties and towns is also included, along with estimates of the total fiscal impact of the program statewide and by county. A brief review of program changes that have occurred during the study period is also included to aid in understanding the status of the program and the trends observed up to and including 1989 assessment rolls — the most recent year for which program data are available.[2]

Since the implementation of the agricultural assessment program in 1973, the State Board of Equalization and Assessment (SBEA) has been responsible for the annual determination of an average agricultural value per acre schedule for use by local assessors in valuing qualified property. Until 1981, the values determined by SBEA were derived from the analysis of market sales of agricultural land involving only transactions between farmers. However, as discussed in Part III of this report, the valuation procedure was changed by Chapter 79 of the Laws of 1980 which required that SBEA adopt a capitalization of income approach beginning in 1981. The new arrangements also required use of a land classification system based upon soil productivity to be developed by the Department of Agriculture and Markets. Sales were still used in the new approach, but only in the valuation of organic (muck) soils which were difficult to develop necessary data for and which had little likelihood of alternative use.

In 1984, add–on values were instituted to reflect the additional value of nursery stock on orchard and vineyard properties, and in 1985 an exemption from the add–ons was provided for new plantings of trees and vines until fruit–bearing age was reached. The value schedule proposed for 1986 triggered the most vociferous response received by SBEA in any year's statewide hearing process. The proposed 1986 schedule would have yielded an upward shift in the weighted average upstate mineral soil value of over thirty percent. At the same time, two

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2 Three earlier reports containing agricultural assessment program data have been published by SBEA. See *Agricultural Value Assessment Impact Update: 1984 and 1985* (7/87), *Agricultural Use Assessment Impact Study for 1983* (5/85), and *Agricultural Use Assessment Impact Study for 1982* (11/84).

separate consultants had been retained by SBEA to review the existing valuation methodology and recommend improvements. The near unanimous outcry at the hearings resulted in the freezing of the 1986 value schedule at the 1985 level pending release of the consultant's studies.

In his 1986 message to the Legislature, Governor Cuomo cited the volatility associated with the methodology used to produce agricultural values and the adverse effects it had for farmers and local taxing jurisdictions. The consultants' reports were released later in 1986, and Governor Cuomo appointed a Task Force on Agricultural Value Assessment to review the methodology and recommend improvements. While the consultants had recommended changes to the existing methodology, which were designed to stabilize the values, the Task Force ultimately recommended a totally different approach, which it argued was simpler and which relied entirely upon aggregate economic data for New York farms as published annually by the United States Department of Agriculture (USDA)[3]. In its December 1986 report, the Task Force also recommended the removal of any regional differences in values and the repeal of the add–on values for orchards and vineyards. While the Task Force report was under consideration by state lawmakers, the 1987 value schedule was again frozen at the 1985 level. In August of 1987, the Task Force recommendations were signed into law as Chapter 774 of the Laws of 1987, to be effective beginning with 1988 assessment rolls.

Table 1 includes the values produced for each of the classifications of land under the agricultural assessment program during the period 1981 through 1989. As indicated by the weighted average mineral soil value, agricultural assessments under the 1981 methodology generally declined through the first several years. Values assigned to Long Island were generally much more stable, however, and organic soil values, which apply to less than one percent of the enrolled land, have shown steady increases through the entire period. As already mentioned, increases which would have occurred in 1986 and 1987 were held in abeyance pending review and eventual replacement of the valuation methodology. The values shown for 1988 and 1989 were derived using the new valuation methodology specified in Chapter 774 (discussed in Part III of this report).

By way of providing a frame of reference within which to evaluate the changes in the value schedules, Figure 1 (on page 6) shows the weighted average value for mineral soils arrived at under the agricultural assessment program and the USDA's estimated value of farmland in New York during the same period. The average agricultural assessment value peaked in 1982, when it represented about 56 percent of the USDA's estimated farm land value. The relationship of these two figures became most distant in 1987, when the average agricultural assessment fell to 22 percent of the USDA's estimate. As of the end of the period, the average agricultural assessment was about 31 percent of the USDA figure.

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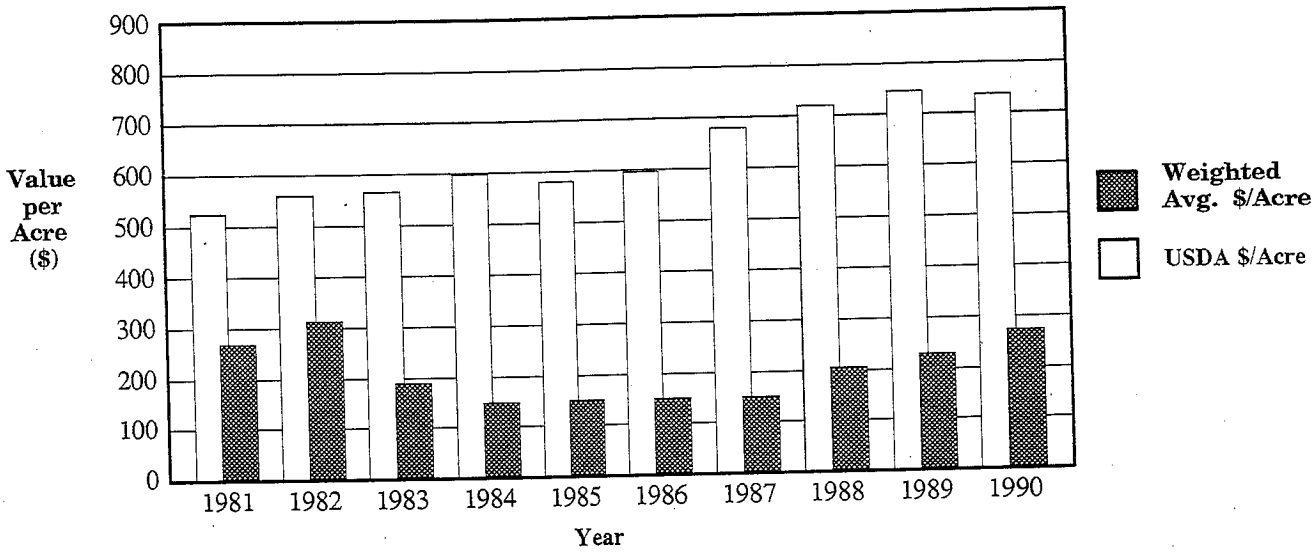
3 See: *Report of the Governor's Task Force on Agricultural Value Assessments,* Albany, NY, December 1986.

Table 1. Comparison of Final SBEA Agricultural Values per Acre, 1981–1989

State Wide Soil %	Mineral Soil Group	UPSTATE 1981	UPSTATE 1982	UPSTATE 1983	UPSTATE 1984	UPSTATE 1985–87	LONG ISLAND 1981	LONG ISLAND 1982	LONG ISLAND 1983	LONG ISLAND 1984	LONG ISLAND 1985–87	STATEWIDE 1988	STATEWIDE 1989
0.42%	1a	$860	$780	$560	$400	$420	$ —	$ —	$ —	$ —	$ —	394	437
2.01%	1b	730	700	470	310	330	1,110	1,090	1,110	510	1,150	351	389
7.32%	2a	710	670	470	340	360	—	—	—	—	—	351	389
6.91%	2b	590	590	380	260	260	1,110	1,080	1,110	500	1,080	311	345
5.10%	3a	540	560	380	280	290	—	—	—	—	—	311	345
9.03%	3b	420	480	300	200	200	910	890	900	310	1,000	268	297
1.09%	4a	320	400	230	140	140	—	—	—	—	—	268	297
8.97%	4b	200	320	150	130	130	410	450	410	130	500	229	253
4.95%	5a	180	340	190	130	130	—	—	—	—	—	229	253
12.68%	5b	180	260	110	100	100	160	260	110	110	400	185	205
1.89%	6a	150	160	100	100	100	—	—	—	—	—	185	205
15.88%	6b	130	140	90	90	90	130	140	90	90	300	146	162
11.24%	7	110	130	80	80	80	110	130	80	80	200	146	162
7.95%	8	80	110	70	70	70	80	110	70	70	100	102	114
3.50%	9	50	90	50	50	50	50	90	50	50	50	63	70
1.06%	10	30	30	30	30	30	30	30	30	30	30	20	22
Weighted Average:		269	313	190	149	151						207	230
Organic Soil Group:	**A**	1,100	1,200	1,300	1,400	1,420	—	—	—	—	—	1,762	2,056
	B	750	800	800	830	930	—	—	—	—	—	1,145	1,336
	C	350	750	750	830	770	—	—	—	—	—	969	1,131
	D	350	450	450	480	530	—	—	—	—	—	617	720
Woodland Class:	**1**	150	150	150	150	150	150	150	150	150	150	} 146	162
	2	125	125	125	125	125	125	125	125	125	125		
	3	100	100	100	100	100	100	100	100	100	100		
Orchard Add–on:													
Less than 60 trees per acre		—	—	—	130	150	—	—	—	130	150	—	—
60 trees and over		—	—	—	390	430	—	—	—	390	430	—	—
Vineyard Add–on:		—	—	—	390	360	—	—	—	960	990	—	—

Figure 1. USDA Farmland Value per Acre for New York Compared to Upstate New York Mineral Soil Weighted Average Value per Acre.



Program Participation

Figures 2 and 3 give an overview of the growing enrollment in the agricultural assessment program over the past decade. Even though the program was in place since 1973, less than 6,000 parcels were enrolled five years later in 1978. Dramatic growth occurred in the 1980's, however, particularly during the years when agricultural values were falling (1982–84). The number of enrolled parcels leveled off after 1986, with a minor decline in 1988 — the first year in which the newly–revised valuation procedure was implemented.

As can be seen in Figure 3, value exempted by the program had grown to over one billion dollars in 1989, the latest assessment year for which data are available. This represents growth in exempt value of about 500 percent over the previous ten years. Again, the strongest growth, showing nearly a 100 percent increase, occurred during the 1982–84 period when the values were declining annually and to a lesser extent during the years in which the values were frozen. Interestingly, while overall enrollment grew very modestly between 1988 and 1989, the exempt value grew by about 20 percent. Since the agricultural values actually increased in 1989 (Table 1), the explanation for this result must be found in the behavior of the equalization rate. Because assessments across the state reflect varying percentages of full value, assessors must use the equalization rate to adjust the annual agricultural values to their particular levels of assessment. When the rate declines, as it did in the late 1980's due to rapidly rising real estate values in most areas, the value exempt increases proportionately.

Figure 2. Agricultural Assessment Enrollments, 1978–1989

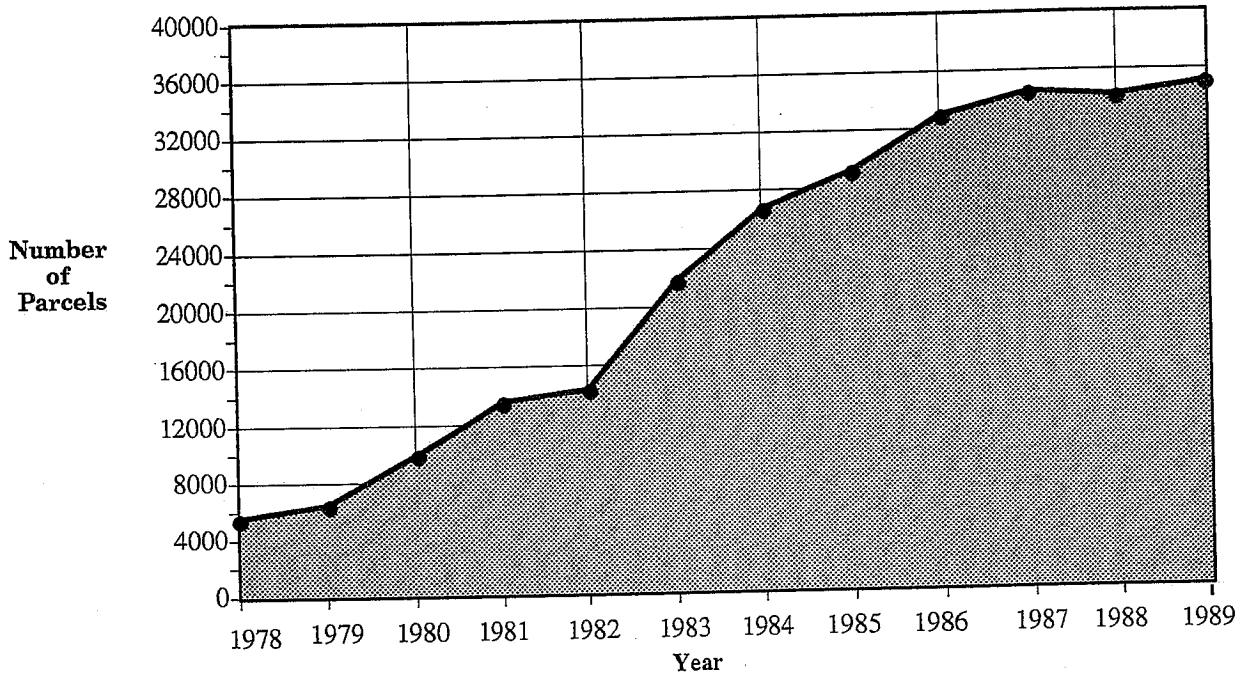
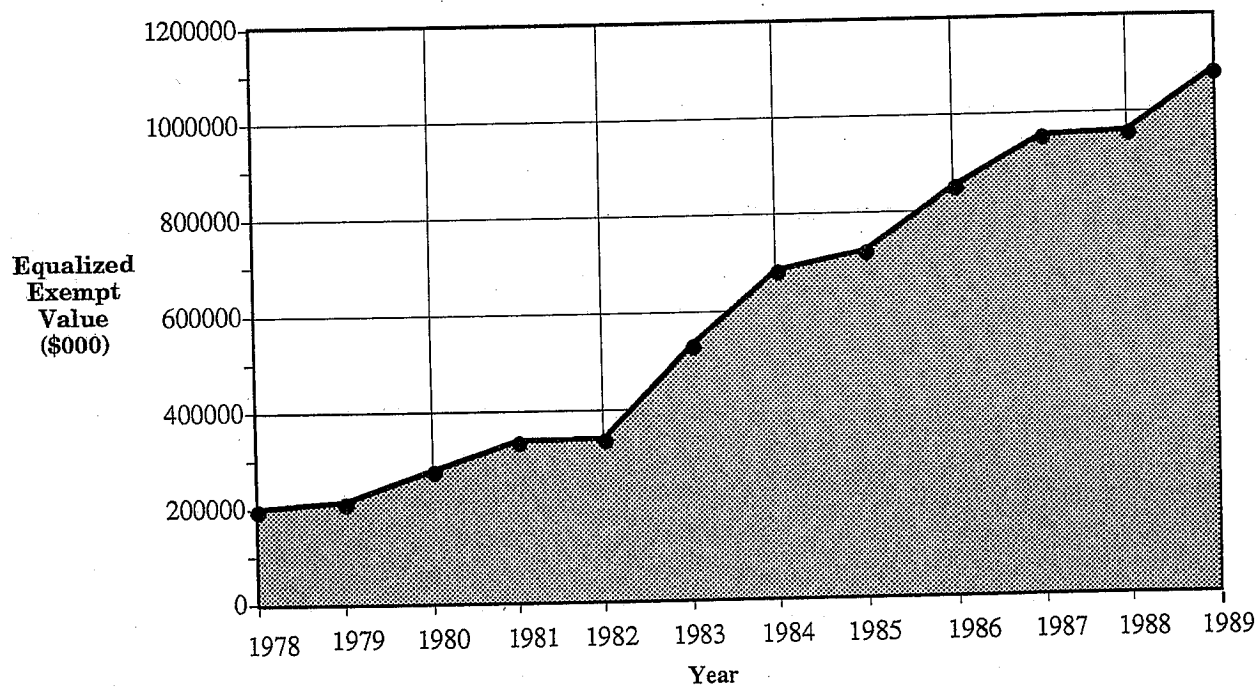


Figure 3. Value Exempted by Agricultural Assessments, 1978–1989



Further data relating to the agricultural assessment program during the 1978–1989 period are presented in Table 2. Part A of the table presents the statewide data, including the trends in exemptions, exempt value, and the number of affected localities in each year. Parts B and C of Table 2 present program data for the top ten counties according to numbers of enrolled parcels and amount of property value exempted from taxation in the years 1978, 1983 and 1989. The growing diffusion of the program is evident from these data. Whereas the top ten counties accounted for almost 89 and 94 percent respectively of the number of enrolled parcels and amount of value exempted in 1978, those percentages were only 45 and 61 respectively by 1989.

Table 3 provides information on the distribution of enrollments across the state. The largest numbers of enrollments occur in both predominantly agricultural counties (e.g., Cayuga Genesee, Livingston, Ontario) and those which are subject to significant urban influences on land markets (e.g, Erie, Orange, Niagara). The figures also show indirectly the influence of revaluation activity on program participation. For example, although the relatively urbanized Albany county has over 800 agricultural parcels, only one is enrolled, presumably because most of the towns have not revalued their parcels in the recent past.[4] On the other hand, in the neighboring Rensselaer and Saratoga Counties which have revalued recently, nearly two–thirds of the agricultural parcels are enrolled.

In general, the counties with low enrollments tend to be north of the Mohawk River or in the Southern Tier region, with few if any of their municipalities revaluing in the recent past. Examination of the data reveals that perhaps an additional 10,000 parcels could be enrolled over the next few years if these counties were to revalue. For a variety of reasons, including rapid growth in real estate values, state requirements, court proceedings, and increasing assessment capability at the local level, revaluation activity has been growing significantly in recent years and will probably continue to do so in the early 1990's. Thus, although growth of enrollments leveled off in the past few years, further increases are likely in the future.

Table 4 provides information on the number of enrolled parcels and the amount of property value exempted by the agricultural assessment program in each of the counties for each of the years 1986 to 1989. The period 1987 to 1988 is especially noteworthy, since these years mark the most recent change in valuation methodology used in the program. There was a net decline of 319 parcels between 1987 and 1988. A decline was also observed in 31 of the 55 affected counties, with Jefferson and Steuben showing the largest numbers of parcels withdrawing. Conversely, the counties of Chautauqua and Onondaga showed unusually large increases in parcels enrolled for 1988. By 1989, the majority of affected counties once again showed increased enrollments over the prior year.

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4 Traditional assessing practices in many areas have kept assessments on farm, forest, and other vacant lands at relatively low levels until property is revalued.

Table 2. Agricultural Assessment Program Trends, 1978–1989

A. Statewide Agricultural Assessment Program Statistics, 1978–1989

Year	No. of Parcels	Equalized Value Exempt	Number of Affected Counties	Number of Affected Towns/Cities*
1978	5,729	$ 205,920,989	29	NA
1979	6,610	219,596,973	32	NA
1980	10,061	284,106,336	37	NA
1981	13,759	343,753,149	51	392
1982	14,529	346,160,084	50	409
1983	21,883	534,526,462	53	489
1984	26,801	687,083,685	54	538
1985	29,299	724,821,366	54	559
1986	33,104	855,960,944	55	603
1987	34,696	959,340,605	55	620
1988	34,377	966,324,461	55	623
1989	35,288	1,093,268,686	55	627

* In 1989, agricultural assessments appeared on only five city assessment rolls: Auburn, Oneida, Lockport, Canandaigua and Saratoga Springs.

B. Top Ten Counties by Number of Parcels Receiving Agricultural Assessments

1989				1983			1978		
Rank	Counties	No. of Parcels	% of Total	Counties	No. of Parcels	% of Total	Counties	No. of Parcels	% of Total
1	Orange	1843	5.22	Orange	1975	9.03	Orange	1849	32.27
2	Ontario	1825	5.17	Livingston	1465	6.69	Dutchess	663	11.57
3	Wayne	1805	5.12	Ontario	1316	6.01	Ulster	459	8.01
4	Genesee	1666	4.72	Steuben	1263	5.77	Delaware	425	7.42
5	Livingston	1579	4.47	Cayuga	1108	5.06	Cortland	378	6.60
6	Cayuga	1544	4.38	Chenango	1058	4.83	Chenango	350	6.11
7	Erie	1474	4.18	Genesee	1002	4.58	Columbia	305	5.32
8	Steuben	1437	4.07	Dutchess	935	4.27	Monroe	272	4.78
9	Niagara	1333	3.78	Niagara	899	4.11	Suffolk	210	3.67
10	Wyoming	1329	3.77	Rensselaer	810	3.70	Otsego	158	2.76
Total Top 10			44.87%			54.05%			88.51%

C. Top Ten Counties by Exempt Value of Agricultural Assessment Parcels

1989				1983			1978		
Rank	Counties	Equalized Exempt Value ($000)	% of Total	Counties	Equalized Exempt Value ($000)	% of Total	Counties	Equalized Exempt Value ($000)	% of Total
1	Orange	$156,309	14.29	Orange	$97,778	18.29	Orange	$85,806	41.67
2	Suffolk	117,990	10.79	Dutchess	59,997	11.22	Dutchess	34,835	16.92
3	Dutchess	94,632	8.66	Ontario	32,599	6.10	Ulster	15,869	7.71
4	Columbia	65,189	5.96	Livingston	32,371	6.06	Columbia	13,131	6.38
5	Ontario	51,326	4.69	Suffolk	29,809	5.58	Suffolk	9,798	4.76
6	Ulster	45,780	4.19	Columbia	26,498	4.96	Delaware	9,511	4.62
7	Wayne	40,657	3.72	Ulster	19,783	3.70	Rockland	7,326	3.56
8	Erie	32,911	3.01	Rensselaer	19,716	3.69	Monroe	7,230	3.51
9	Cayuga	31,979	2.93	Cayuga	17,345	3.24	Westchester	6,143	2.98
10	Livingston	30,511	2.79	Delaware	16,728	3.13	Chenango	3,509	1.70
Total Top 10			61.04%			65.97%			93.81%

Table 3. Agricultural Parcels and Level of Program Participation, 1989

Counties	Number of Ag. Assessment Parcels	Number of Agricultural Parcels	Percent of Ag. Parcels Enrolled	Percent of All Parcels Described Agricultural
Albany	1	813	0.12 %	0.87 %
Allegany	157	2,057	7.63	7.40
Broome	144	1,162	12.39	1.48
Cattaraugus	95	2,642	3.60	6.24
Cayuga	1,544	3,474	44.44	10.86
Chautauqua	1,276	4,957	25.74	6.09
Chemung	59	728	8.10	2.00
Chenango	1,086	2,041	53.21	8.66
Clinton	350	815	42.94	2.83
Columbia	766	1,407	54.44	4.85
Cortland	736	1,588	46.35	9.07
Delaware	913	1,758	51.93	5.13
Dutchess	1,055	1,183	89.18	1.39
Erie	1,474	2,826	52.16	0.88
Essex	49	460	10.65	1.55
Franklin	123	2,448	5.02	9.30
Fulton	68	567	11.99	1.83
Genesee	1,666	2,430	68.56	11.17
Greene	2	391	0.51	1.31
Hamilton	0	0	—	0.00
Herkimer	151	2,113	7.59	5.59
Jefferson	311	3,059	10.17	6.73
Lewis	260	2,065	12.59	11.45
Livingston	1,579	2,954	53.45	13.02
Madison	936	2,829	33.09	9.61
Monroe	896	2,050	43.71	0.94
Montgomery	908	1,942	46.76	9.15
Nassau	7	N/A	N/A	N/A
Niagara	1,333	2,343	56.89	2.93
Oneida	147	3,258	4.51	3.59
Onondaga	702	3,068	22.88	2.00
Ontario	1,825	2,878	63.41	7.78
Orange	1,843	2,907	63.40	2.74
Orleans	884	2,504	35.30	14.12
Oswego	9	1,985	0.45	4.19
Otsego	306	3,028	10.11	9.93
Putnam	14	50	28.00	0.13
Rensselaer	895	1,187	75.40	2.19
Rockland	37	35	105.71*	0.05
St. Lawrence	285	3,643	7.82	6.81
Saratoga	670	1,043	64.24	1.57
Schenectady	55	174	31.61	0.33
Schoharie	279	1,716	16.26	9.76
Schuyler	59	1,124	5.25	11.68
Seneca	751	1,059	70.92	7.15
Steuben	1,437	4,839	29.70	10.41
Suffolk	776	1,985	39.09	0.38
Sullivan	168	745	22.55	1.37
Tioga	111	1,325	8.38	6.38
Tompkins	489	728	67.17	2.75
Ulster	791	1,062	74.48	1.45
Warren	0	26	0.00	0.07
Washington	728	1,760	41.36	6.83
Wayne	1,805	3,062	58.95	8.90
Westchester	74	143	51.75	0.06
Wyoming	1,329	2,780	47.81	14.58
Yates	874	1,499	50.43	11.41
TOTAL	**35,288**	**102,715**	**34.36**	**2.93**

* Because the number of agricultural parcels is derived from a year earlier than the latest available count of agricultural assessment parcels, three possible explanations of this percentage exist: there has been growth in the number of agricultural parcels on the roll since these data became available; there has been miscoding of the use of parcels; or non–agricultural parcels have received program benefits.

Table 4. Number of Agricultural Assessment Parcels and Equalized Exempt Value by County, 1986–1989

	COUNTY	1986		1987		1988		1989	
		PARCELS	Eq. Ex. Value	PARCELS	Eq. Ex. Value	PARCELS	Eq. Ex. Value	PARCELS	Eq. Ex. Value
1	ALBANY	2	$29,514	2	$29,464	1	$22,779	1	$24,845
2	ALLEGANY	190	1,672,051	221	1,971,820	204	1,389,428	157	1,083,814
3	BROOME	150	1,913,628	181	2,023,610	153	1,179,121	144	1,120,401
4	CATTARAUGUS	50	487,696	111	1,062,950	107	958,567	95	901,881
5	CAYUGA	1,582	33,371,478	1,640	34,717,943	1,556	31,540,101	1,544	31,979,022
6	CHAUTAUQUA	469	3,841,785	576	5,209,043	1,116	17,863,679	1,276	20,039,832
7	CHEMUNG	7	145,595	7	154,118	51	672,769	59	438,869
8	CHENANGO	1,231	15,403,730	1,240	15,796,310	1,114	10,050,190	1,086	8,989,579
9	CLINTON	164	3,904,520	285	6,229,567	349	6,853,133	350	6,397,181
10	COLUMBIA	712	41,640,712	718	49,433,674	729	56,700,098	766	65,189,353
11	CORTLAND	859	14,288,269	852	14,986,740	758	10,733,442	736	10,252,537
12	DELAWARE	958	22,810,594	947	22,587,874	877	18,049,060	913	20,186,217
13	DUTCHESS	1,020	75,346,911	1,052	77,902,656	1,031	86,606,489	1,055	94,632,496
14	ERIE	1,232	26,745,558	1,368	31,597,890	1,385	29,986,271	1,474	32,910,627
15	ESSEX	23	274,906	27	443,747	47	561,304	49	492,016
16	FRANKLIN	75	1,117,488	116	1,671,909	124	1,462,157	123	1,402,504
17	FULTON	1	5,036	35	254,335	72	512,359	68	462,798
18	GENESEE	1,592	32,532,299	1,611	33,015,895	1,664	30,307,345	1,666	28,641,040
19	GREENE	4	181,904	2	93,130	2	179,010	2	219,302
20	HAMILTON	54	757,999	150	2,075,345	134	1,311,856	151	1,644,570
21	HERKIMER	625	7,212,133	628	7,452,731	396	4,480,058	311	3,376,992
22	JEFFERSON	287	5,015,811	346	4,834,842	294	3,927,562	260	3,298,041
23	LEWIS	1,592	36,376,956	1,575	36,774,609	1,576	32,130,126	1,579	30,510,732
24	LIVINGSTON	1,006	14,062,788	1,053	16,292,673	970	12,524,971	936	11,789,956
25	MADISON	850	24,048,519	881	27,504,052	870	27,491,756	896	30,363,807
26	MONROE	935	19,908,197	984	21,607,001	882	17,164,155	908	19,888,308
27	MONTGOMERY	11	14,019,095	16	21,829,034	6	7,480,215	7	16,265,798
28	NASSAU	1,290	20,516,229	1,372	21,989,102	1,338	19,903,858	1,333	18,055,397
29	NIAGARA	116	1,741,364	144	2,037,350	183	2,593,331	147	1,709,959
30	ONEIDA	206	5,720,836	211	6,377,654	488	15,038,169	702	20,100,073
31	ONONDAGA	1,757	54,410,139	1,788	56,265,098	1,768	52,257,613	1,825	51,325,611
32	ONTARIO	2,033	104,135,723	1,950	108,238,669	1,847	129,086,427	1,843	156,308,681
33	ORANGE	793	10,540,453	823	11,458,243	846	10,438,600	884	8,358,975
34	ORLEANS	1	7,626	1	8,130	9	56,847	9	63,390
35	OSWEGO	312	4,410,110	324	5,139,596	313	4,521,878	306	3,929,742
36	OTSEGO	13	806,165	14	1,397,262	14	1,820,056	14	2,241,651
37	PUTNAM	841	23,717,261	838	24,080,704	828	23,011,660	895	26,344,129
38	RENSSELAER	39	5,754,473	38	6,495,465	32	7,111,523	37	9,630,086
39	ROCKLAND	498	4,619,371	517	5,085,824	385	2,510,933	285	1,900,587
40	ST. LAWRENCE	751	16,185,304	733	16,446,345	677	14,616,361	670	17,950,977
41	SARATOGA	36	608,096	44	716,944	55	869,047	55	986,001
42	SCHENECTADY	273	5,364,200	297	5,435,294	275	4,212,778	279	3,275,913
43	SCHOHARIE	44	329,927	57	488,284	59	866,052	59	1,211,512
44	SCHUYLER	540	6,393,553	645	8,761,020	699	8,632,730	751	10,943,314
45	SENECA	1,622	19,311,358	1,696	22,645,422	1,517	15,607,406	1,437	14,519,145
46	STEUBEN	705	51,888,385	674	78,272,790	665	86,847,980	776	117,990,012
47	SUFFOLK	12	513,217	108	1,847,889	116	1,879,783	168	2,827,679
48	SULLIVAN	109	888,775	115	1,688,558	105	1,506,949	111	1,267,672
49	TIOGA	524	7,826,084	512	8,743,020	481	7,137,288	489	8,294,670
50	TOMPKINS	803	27,046,795	790	30,323,118	790	38,449,565	791	45,779,552
51	ULSTER	369	7,358,811	517	11,101,285	603	13,618,235	728	19,073,513
52	WARREN	1,805	29,870,617	1,789	31,718,341	1,809	37,411,342	1,805	40,656,751
53	WASHINGTON	98	16,406,223	95	18,735,728	79	20,188,253	74	23,249,591
54	WAYNE	1,061	13,008,159	1,135	13,393,549	1,071	9,750,978	1,329	17,688,593
55	WESTCHESTER	772	19,466,518	845	22,896,959	857	24,240,818	874	25,082,992
56	WYOMING								
57	YATES								
	NEW YORK STATE	33,104	$855,960,944	34,696	$959,340,605	34,377	$966,324,461	35,288	$1,093,268,686

Table 5 and Figure 4 help explain some of the variation observed in enrollment among the counties by giving an indication of the average level of benefit received under the agricultural assessment program in each county. Table 5 lists the counties in descending order of average percentage value reduction received, and also includes the average agricultural value, the taxes paid, the average equalized assessed value and the average tax savings per enrolled acre (land only). On average, parcels enrolled in the program receive a reduction of about 64 percent. However, the range runs from a high reduction of nearly 99 percent in Nassau County to a low of about 25 percent in St. Lawrence County.

Figure 4 displays the average assessment reductions graphically. Not surprisingly, the ten counties with the highest levels of reduction are all in the Hudson Valley and greater metropolitan New York regions, which have traditionally been associated with the highest prevailing land values.

The countywide data can mask the impact of the program on individual towns, especially in counties where a range of urbanized and rural towns exists. However, since over 600 towns now have agricultural assessment parcels, it is difficult to present a full summary at the town level. As a partial solution, Tables 6, 7 and 8 outline data for the 25 towns most affected by the program in 1989. Table 6 includes towns with the most parcels receiving agricultural assessments. For purposes of Table 7, towns were included based on the total dollar value exempt, and inclusion in Table 8 was based on the percentage of the total taxable value which is exempt.

As indicated in Table 6, there are twenty towns which had at least 200 parcels receiving agricultural assessments as of 1989 rolls. The top twenty–five towns are drawn from thirteen different counties which are spread from Suffolk to Chautauqua and Niagara, with the runaway leader — the Town of Warwick — located in Orange County. According to 1989 assessment roll data, the Town of Warwick's 457 enrolled parcels are characterized by a relatively small average parcel size of 37 acres.

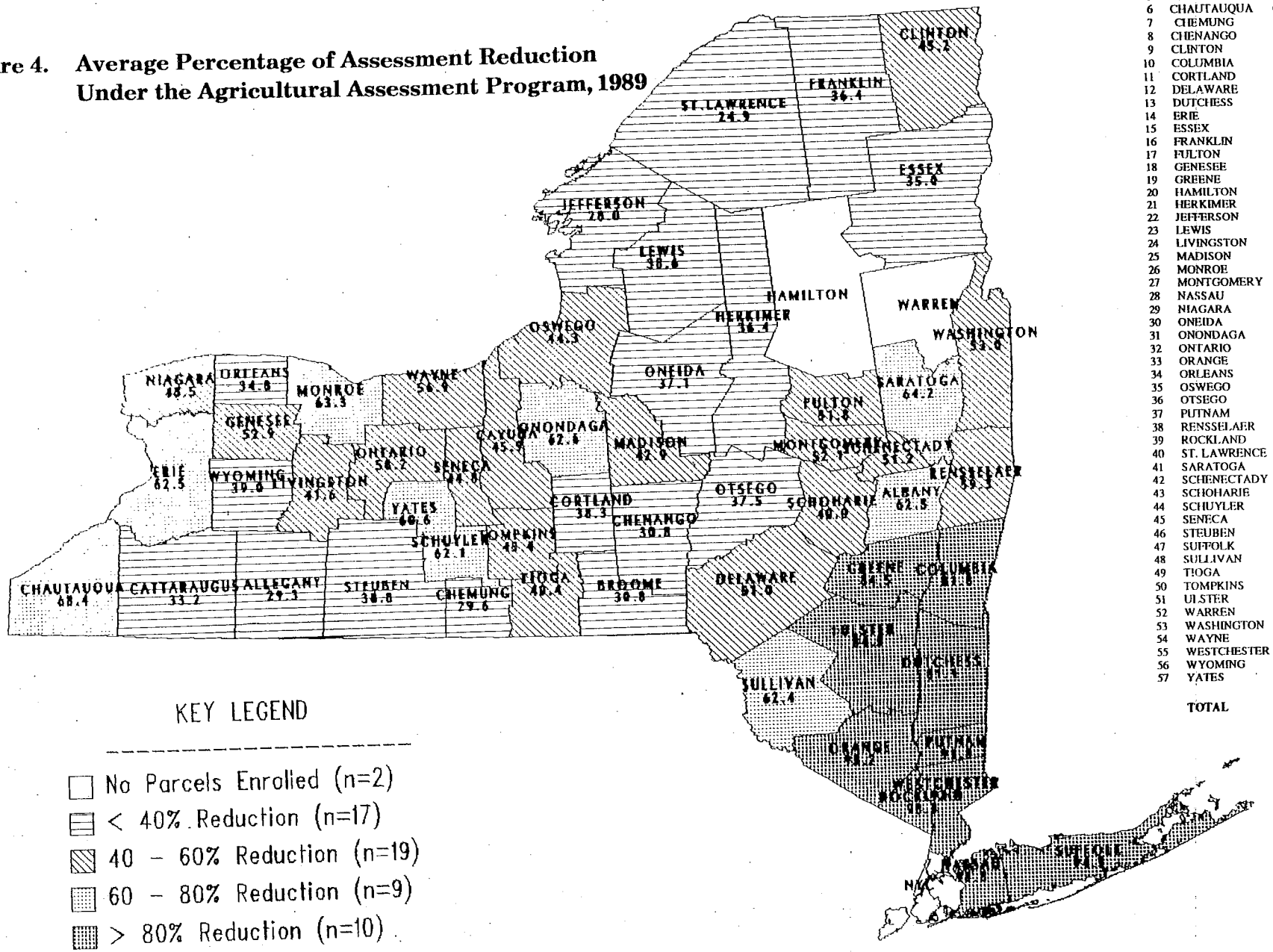
Table 7 shows once again that the areas with the highest exempt values are in the New York City metropolitan area, Long Island, and in the Hudson Valley. Only three towns of the top 25 do not fit this overall generalization: the Town of Ogden in Monroe County (which is near Rochester), and the towns of Seneca (Ontario County) and Benton (Yates County) which have relatively valuable mineral soils used for vegetable growing.

It is noteworthy that the ranks of many of the Hudson Valley towns have increased significantly in the past few years as land prices in the area have risen dramatically. For example, the Columbia County towns of Hillsdale and Livingston ranked 24th and 49th, respectively, in terms of value exempt in 1985 (Table 7). By 1989, they ranked 13th and 14th. Similarly, the Town of Stanford in Dutchess County ranked 20th in 1985 but had moved up to 11th by 1989. The rank of the Long Island town Oyster Bay (suburban Nassau County) increased most dramatically of all over this period, but this is an unusual situation involving very few parcels and highly valuable land.

Table 5. Counties Ranked by Percent of Land Value Reduction

RANK	COUNTY	1989 PERCENT REDUCTION	1989 WEIGHTED AVERAGE VALUE PER ACRE (w/woods)	1989 TAXES PAID PER ACRE USING 3%	AVERAGE ASSESSED VALUE/ACRE	TAX SAVINGS PER ACRE
1	NASSAU	98.8%	$209	$6.26	$17,547	$520.14
2	ROCKLAND	98.3%	207	$6.20	11,901	350.82
3	WESTCHESTER	97.8%	194	$5.83	8,673	254.36
4	ORANGE	95.2%	184	$5.52	3,868	110.51
5	SUFFOLK	94.5%	309	$9.27	5,631	159.66
6	PUTNAM	91.8%	193	$5.79	2,352	64.77
7	ULSTER	84.5%	196	$5.89	1,268	32.15
8	GREENE	84.5%	177	$5.32	1,141	28.91
9	COLUMBIA	81.8%	192	$5.77	1,057	25.93
10	DUTCHESS	81.1%	196	$5.87	1,036	25.21
11	CHAUTAUQUA	68.4%	209	$6.26	660	13.55
12	SARATOGA	64.2%	199	$5.98	557	10.73
13	MONROE	63.3%	282	$8.45	767	14.57
14	ONONDAGA	62.6%	267	$8.00	713	13.38
15	ERIE	62.5%	209	$6.28	558	10.48
16	ALBANY	62.5%	210	$6.30	560	10.50
17	SULLIVAN	62.4%	169	$5.06	449	8.41
18	SCHUYLER	62.1%	204	$6.13	539	10.04
19	YATES	60.6%	234	$7.02	595	10.82
20	RENSSELAER	59.3%	182	$5.45	446	7.94
21	ONTARIO	58.2%	251	$7.54	602	10.52
22	WAYNE	56.9%	251	$7.54	583	9.94
23	WASHINGTON	53.0%	167	$5.02	356	5.66
24	GENESEE	52.9%	262	$7.85	555	8.80
25	MONTGOMERY	52.1%	212	$6.37	443	6.92
26	FULTON	51.8%	217	$6.52	451	7.00
27	SCHENECTADY	51.2%	186	$5.59	381	5.86
28	DELAWARE	51.0%	165	$4.96	337	5.16
29	NIAGARA	48.5%	245	$7.34	474	6.90
30	CAYUGA	45.9%	277	$8.31	513	7.07
31	TOMPKINS	45.4%	229	$6.86	419	5.70
32	CLINTON	45.2%	182	$5.47	333	4.52
33	SENECA	44.8%	247	$7.42	448	6.02
34	OSWEGO	44.3%	161	$4.84	290	3.86
35	MADISON	42.9%	225	$6.75	395	5.08
36	LIVINGSTON	41.6%	242	$7.26	414	5.16
37	TIOGA	40.4%	185	$5.55	310	3.76
38	SCHOHARIE	40.0%	201	$6.04	336	4.03
39	WYOMING	39.0%	216	$6.49	354	4.14
40	STEUBEN	38.8%	173	$5.20	283	3.30
41	LEWIS	38.6%	212	$6.37	346	4.00
42	CORTLAND	38.3%	193	$5.80	313	3.60
43	OTSEGO	37.5%	196	$5.88	313	3.52
44	ONEIDA	37.1%	243	$7.29	386	4.30
45	FRANKLIN	36.4%	158	$4.75	249	2.72
46	HERKIMER	36.4%	207	$6.22	326	3.55
47	ESSEX	35.0%	174	$5.22	267	2.80
48	ORLEANS	34.8%	268	$8.05	411	4.29
49	CATTARAUGUS	33.2%	193	$5.80	289	2.88
50	CHENANGO	30.8%	181	$5.44	262	2.42
51	BROOME	30.8%	174	$5.21	251	2.31
52	CHEMUNG	29.6%	175	$5.25	249	2.20
53	ALLEGANY	29.3%	170	$5.11	241	2.12
54	JEFFERSON	28.0%	209	$6.26	290	2.43
55	ST. LAWRENCE	24.9%	183	$5.48	243	1.81
56	WARREN					
57	HAMILTON					
	AVERAGE	64.0%	$217	$6.51	$603	11.58

Figure 4. Average Percentage of Assessment Reduction Under the Agricultural Assessment Program, 1989



KEY LEGEND

- No Parcels Enrolled (n=2)
- < 40% Reduction (n=17)
- 40 – 60% Reduction (n=19)
- 60 – 80% Reduction (n=9)
- > 80% Reduction (n=10)

Statewide Average – 64.0%

SWIS CODE	COUNTY	'89 PCT. EXEMPT
1	ALBANY	62.5%
2	ALLEGANY	29.3%
3	BROOME	30.8%
4	CATTARAUGUS	33.2%
5	CAYUGA	45.9%
6	CHAUTAUQUA	68.4%
7	CHEMUNG	29.6%
8	CHENANGO	30.8%
9	CLINTON	45.2%
10	COLUMBIA	81.8%
11	CORTLAND	38.3%
12	DELAWARE	51.0%
13	DUTCHESS	81.1%
14	ERIE	62.5%
15	ESSEX	35.0%
16	FRANKLIN	36.4%
17	FULTON	51.8%
18	GENESEE	52.9%
19	GREENE	84.5%
20	HAMILTON	
21	HERKIMER	36.4%
22	JEFFERSON	28.0%
23	LEWIS	38.6%
24	LIVINGSTON	41.6%
25	MADISON	42.9%
26	MONROE	63.3%
27	MONTGOMERY	52.1%
28	NASSAU	98.8%
29	NIAGARA	48.5%
30	ONEIDA	37.1%
31	ONONDAGA	62.6%
32	ONTARIO	58.2%
33	ORANGE	95.2%
34	ORLEANS	34.8%
35	OSWEGO	44.3%
36	OTSEGO	37.5%
37	PUTNAM	91.8%
38	RENSSELAER	59.3%
39	ROCKLAND	98.3%
40	ST. LAWRENCE	24.9%
41	SARATOGA	64.2%
42	SCHENECTADY	51.2%
43	SCHOHARIE	40.0%
44	SCHUYLER	62.1%
45	SENECA	44.8%
46	STEUBEN	38.8%
47	SUFFOLK	94.5%
48	SULLIVAN	62.4%
49	TIOGA	40.4%
50	TOMPKINS	45.4%
51	ULSTER	84.5%
52	WARREN	
53	WASHINGTON	53.0%
54	WAYNE	56.9%
55	WESTCHESTER	97.8%
56	WYOMING	39.0%
57	YATES	60.6%
	TOTAL	64.0%

Table 6. Towns with Most Agricultural Assessment Parcels, 1989

1989 Rank	Town	County	1989 Agricultural Assessment Parcels
1	Warwick	Orange	457
2	Seneca	Ontario	320
3	Riverhead	Suffolk	262
4	Westfield	Chautauqua	257
5	Genoa	Cayuga	256
6	Phelps	Ontario	245
7	Newstead	Erie	239
8	Goshen	Orange	237
9	Venice	Cayuga	236
10	Cohocton	Steuben	230
11	Sodus	Wayne	218
12	Newfane	Niagara	215
13	Lyons	Wayne	209
14	Portland	Chautauqua	207
15	Scipio	Cayuga	205
16	Wawayanda	Orange	205
17	Galen	Wayne	205
18	Minden	Montgomery	204
19	Southampton	Suffolk	202
20	Sheldon	Wyoming	202
21	Wilson	Niagara	198
22	Howard	Steuben	198
23	Williamson	Wayne	197
24	Elba	Genesee	195
25	Benton	Yates	195

Table 7. Towns with Highest Equalized Value Exempted, 1989

1989 Rank	Town	County	1989 Article 25AA Value Exempted ($000)	1988 Rank	1987 Rank	1986 Rank	1985 Rank
1	Riverhead	Suffolk	51,361	1	1	1	1
2	Warwick	Orange	37,300	2	2	2	2
3	Southold	Suffolk	31,345	3	5	12	9
4	Seneca	Ontario	19,620	4	3	3	3
5	Southampton	Suffolk	19,248	5	6	9	*
6	Washington	Dutchess	18,180	6	8	8	10
7	Wawayanda	Orange	18,177	8	9	5	6
8	Ancram	Columbia	16,802	7	7	4	4
9	Goshen	Orange	14,234	10	11	7	7
10	Hamptonburgh	Orange	12,952	15	16	14	15
11	Stanford	Dutchess	11,949	12	13	10	20
12	Oyster Bay	Nassau	11,643	85	17	31	348
13	Hillsdale	Columbia	10,772	11	12	25	24
14	Livingston	Columbia	10,712	14	24	39	49
15	Blooming Grove	Orange	10,307	16	22	20	17
16	Bedford	Westchester	10,233	13	20	28	30
17	Pine Plains	Dutchess	9,281	19	21	19	18
18	Mongtomery	Orange	9,250	18	28	17	27
19	Benton	Yates	8,988	17	15	15	11
20	Wallkill	Orange	8,976	21	25	18	13
21	Lloyd	Ulster	8,836	23	33	38	33
22	New Windsor	Orange	8,785	22	32	26	22
23	Minisink	Orange	8,252	25	29	40	36
24	Shawangunk	Ulster	7,962	27	38	37	26
25	Ogden	Monroe	7,479	24	18	24	31

* Had no agricultural assessment parcels.

Table 8. Towns with Highest Article 25AA Exempt Value as a Percent of Total Value of Taxable Property, 1989

1989 Rank	Town	County	1989 Percent of Tax Base Reduced by Article 25AA	1988 Rank	1987 Rank	1986 Rank	1985 Rank
1	Seneca	Ontario	24.595	1	1	1	1
2	Ancram	Columbia	18.054	2	2	2	2
3	Venice	Cayuga	16.981	3	3	3	3
4	Scipio	Cayuga	13.260	4	4	4	5
5	Benton	Yates	12.349	5	5	6	8
6	Genoa	Cayuga	9.836	6	7	5	7
7	Hillsdale	Columbia	9.645	8	14	35	33
8	Livingston	Columbia	9.020	15	51	57	63
9	West Sparta	Livingston	8.724	10	10	11	11
10	Ledyard	Cayuga	8.695	7	9	10	9
11	Minisink	Orange	8.445	16	18	23	20
12	Howard	Steuben	8.259	12	6	7	6
13	Pine Plains	Dutchess	8.238	14	16	15	13
14	Wawayanda	Orange	8.178	19	22	20	15
15	Potter	Yates	7.820	13	12	12	10
16	Palatine	Montgomery	7.808	20	20	21	21
17	Meredith	Delaware	7.751	17	11	8	14
18	Alabama	Genesee	7.717	9	8	9	12
19	Bovina	Delaware	7.375	18	19	17	16
20	Ripley	Chautauqua	7.051	32	294	288	256
21	Cambridge	Washington	7.012	*	*	*	*
22	Byron	Genesee	6.904	23	27	24	19
23	Elba	Genesee	6.674	25	29	28	27
24	Pike	Wyoming	6.562	21	15	13	30
25	Stafford	Genesee	6.491	26	35	50	49

* Had no agricultural assessment parcels.

Table 8, based on the percentage of property value exempted by the program, presents a somewhat different picture. Using this criterion, the Town of Seneca — a predominantly agricultural area — leads the state with 25 percent of the value of its taxable property exempted by the program. The Hudson Valley Town of Ancram (Columbia County) ranks second with 18 percent of property value exempt. Three other towns have more than 10 percent of property value exempt and all of them are quite distant from metropolitan centers.

Once again, Table 8 shows the ranks of the Columbia County towns of Hillsdale and Livingston having increased dramatically in a relatively short period. The dramatic change in the rank of the Town of Ripley, Chautauqua County, in 1988 is due to the major reduction in the values for vineyard land which occurred when the new valuation procedure was instituted in that year. Aside from the effects of factors such as changing procedures for orchard and vineyard valuation, the data show that increasing concentration of program benefits in urbanizing areas of southeastern New York is likely in future years.

Tax Shift and the Cost of Providing State Assistance to Local Government

Table 9 shows the estimated fiscal impact of the program in terms of the total tax benefits to enrolled property (which can also be referred to as the cost imposed upon, or shifted to, non–participating property) in the localities involved. In some very rural jurisdictions, where there are high participation levels and much of the tax base is eligible agricultural land, the program costs are not easily shifted away from program beneficiaries and the full effect of the savings is not realized. According to Table 9, the overall fiscal impact of the program has grown to nearly $33 million, and the average savings per enrolled parcel was about $930 as of 1989.

Table 9. Statewide Estimate of Fiscal Impact, 1978–1989.

Year	Estimated Tax Shifted @ 3.0%	Average Savings per Parcel
1978	$ 6,177,630	$ 1,078
1979	6,587,909	997
1980	8,523,190	847
1981	10,312,594	750
1982	10,384,803	715
1983	16,035,794	733
1984	20,612,511	769
1985	21,744,641	742
1986	25,678,828	776
1987	28,780,218	830
1988	28,989,734	843
1989	32,798,061	929

Table 10 presents information by county on the extent of tax benefits to farmers and the estimated taxes shifted to property other than enrolled farmland. In order to facilitate regional comparisons, the counties are ranked in terms of the total equalized value exempt under the program. It is clear from the figures that the highest incidence of tax reductions, both on a per–county and a per–parcel basis, occurs in the lower Hudson Valley and Long Island areas. Suffolk, Orange, Dutchess and Columbia counties all have over $1.5 million in taxes shifted and an average tax shift per parcel of over $2,000. In the highly suburbanized counties of the New York City metropolitan area, extremely high tax shifts per parcel occur (e.g, $69,711 in Nassau, $9,426 in Westchester, $7,808 in Rockland), although relatively few parcels are involved.

Taxes shifted as a result of agricultural assessments are borne by owners of non–eligible property. As a result, proposals have often been put forth which would compensate local governments for the tax difference and thereby prevent the shifting. The basis for such proposals is that the exemption provides statewide rather than local benefits — in the form of increased capacity for food production and continuance of land in low intensity uses. Unlike certain other exemptions which municipalities are free to adopt or not adopt, this one is required by state law when land meets eligibility requirements and a valid application is submitted. In addition, this program, unlike other exemption programs that are spread evenly among municipalities, necessarily impacts the more rural municipalities of the state disproportionately. Local governments therefore argue that program costs should be borne on a statewide basis rather than locally.

The Agricultural Districts Law does contain provisions for state assistance to local governments at the rate of 50 percent of the taxes shifted in instances where agricultural districts comprising "unique and irreplaceable agricultural lands" are formed by the Commissioner of Agriculture and Markets (under Section 304). Although the legislation is nearly twenty years old, no districts have been formed under this provision to date. Since district status has no real bearing on either eligibility for agricultural assessment or on the amount of the resulting exemption, it is unclear why the current state assistance provisions were attached to state creation of districts.

The projected cost of full assistance, at current participation levels, is shown in Tables 9 and 10. To prevent the entire tax shift, approximately $33 million would have to be paid to local taxing jurisdictions annually. Again, the jurisdictions which would receive the largest payments are in downstate counties within commuting distance of the New York City metropolitan area or in the Hudson Valley area. Several predominantly rural counties in the central and western parts of the state would receive payments of at least $1 million annually and relatively low payments of $100,000 or less would be paid to about 20 counties which are primarily in the more hilly or mountainous parts of the state.

Table 10. Article 25AA Exempt Value and Estimated Tax Shift, by County, 1989

Rank	County	Equalized Exempt Value ($000)	Estimated Tax Shift/ Cost of Assistance*	Number of Parcels Enrolled	Average Tax Shift per Parcel
1.	Orange	$ 156,308,681	$ 4,689,260	1,843	$ 2,544
2.	Suffolk	117,990,012	3,539,700	776	4,561
3.	Dutchess	94,632,496	2,838,975	1,055	2,691
4.	Columbia	65,189,353	1,955,681	766	2,553
5.	Ontario	51,325,611	1,539,768	1,825	844
6.	Ulster	45,779,552	1,373,387	791	1,736
7.	Wayne	40,656,751	1,219,703	1,805	676
8.	Erie	32,910,627	987,319	1,474	670
9.	Cayuga	31,979,022	959,371	1,544	621
10.	Livingston	30,510,732	915,322	1,579	580
11.	Montgomery	30,363,807	910,914	908	1,017
12.	Genesee	28,641,040	859,321	1,666	516
13.	Rensselaer	26,344,129	790,324	895	883
14.	Yates	25,082,992	752,490	874	861
15.	Westchester	23,249,591	697,488	74	9,426
16.	Delaware	20,186,217	605,587	913	663
17.	Onondaga	20,100,073	603,002	702	859
18.	Chautauqua	20,039,832	601,195	1,276	471
19.	Montgomery	19,888,308	596,649	908	657
20.	Washington	19,073,513	572,205	728	786
21.	Niagara	18,055,397	541,662	133	406
22.	Saratoga	17,950,977	538,529	670	804
23.	Wyoming	17,699,593	530,658	1,329	399
24.	Nassau	16,265,798	487,974	7	69,711
25.	Steuben	14,519,145	435,574	1,437	303
26.	Madison	11,789,956	353,699	936	378
27.	Seneca	10,943,314	328,299	751	437
28.	Cortland	10,252,537	307,576	736	418
29.	Rockland	9,630,086	288,903	37	7,808
30.	Chenango	8,989,579	269,687	1,086	248
31.	Orleans	8,358,975	250,769	884	284
32.	Tompkins	8,294,670	248,840	489	509
33.	Clinton	6,397,181	191,915	350	548
34.	Otsego	3,929,742	117,892	306	385
35.	Jefferson	3,376,992	101,310	311	326
36.	Lewis	3,298,041	98,941	260	381
37.	Schoharie	3,275,913	98,277	279	352
38.	Sullivan	2,827,679	84,830	168	505
39.	Putnam	2,241,651	67,250	14	4,804
40.	St. Lawrence	1,900,587	57,018	285	200
41.	Oneida	1,709,959	51,299	147	349
42.	Herkimer	1,644,570	49,337	151	327
43.	Franklin	1,402,504	42,075	123	342
44.	Tioga	1,267,672	38,030	111	343
45.	Schuyler	1,211,512	36,345	59	616
46.	Broome	1,120,401	33,612	144	233
47.	Allegany	1,083,814	32,514	157	207
48.	Schenectady	986,001	29,580	55	538
49.	Cattaraugus	901,881	27,056	95	285
50.	Essex	492,016	14,760	49	301
51.	Fulton	462,789	13,884	68	204
52.	Chemung	438,869	13,166	59	223
53.	Greene	219,302	6,579	2	3,290
54.	Oswego	63,390	1,902	9	211
55.	Albany	24,845	745	1	745
56.	Hamilton	0	0	0	0
57.	Warren	0	0	0	0
	Total	**$1,093,268,686**	**$32,798,061**	**35,288**	**$ 929**

* Average tax rate of 3.0%.

The projections in Tables 9 and 10 assume full assistance to taxing jurisdictions. Partial assistance, as provided for in the case of state–created districts, can be readily estimated once the share to be borne by the state is known. Potentially higher participation levels in future years, rising local tax rates, and exemption increases due to declining agricultural values or equalization rates, are likely to increase the cost of state assistance beyond the estimates given.

One idea discussed by the Panel entailed a partial assistance scheme which would allow payments to occur only in those municipalities that had more than five percent of their tax base exempted by the agricultural assessment program. Under this scenario, every affected municipality would be expected to absorb the costs of the program, associated with the exemption of eligible land value, up to a level of five percent of the value of its taxable property. Those municipalities which have program costs in excess of the five percent threshold would receive state assistance for such excess costs.

Table 11 shows how this partial assistance program would have worked using 1989 assessment rolls. In that year, there were 41 towns from 18 counties which had at least five percent of the value of their taxable property exempted by the agricultural assessment program. Assuming an average tax rate of three percent, the partial assistance scheme would have resulted in a total payment of about $2.75 million, or about 8.4 percent of the cost of full state assistance. This type of partial assistance program includes the highly desirable feature of helping those municipalities most adversely affected by agricultural assessment enrollments without sending millions of dollars to less needy places.

The issue of state assistance was seen as a difficult one by the Panel. A majority of the members were opposed to recommending that the State absorb all of the costs associated with the agricultural assessment program. Some members were opposed because they felt that with full assistance, local governments could simply keep increasing the assessments — creating a bigger gap between these assessments and taxable agricultural value — when they needed more state money. Still others opposed state assistance because they felt that farmland should simply be assessed at agricultural value, resulting in no "exemption" and, therefore, no need for state assistance. However, a majority of Panel members expressed interest in the partial assistance scheme. It was pointed out that such a scheme would entail an appropriate cost sharing arrangement between the state and localities, which both benefit from farmland preservation.

RECOMMENDATION

The Panel recommends that the state should provide assistance to local governments to the extent that taxes shifted under the agricultural assessment program exceed five percent of total local property tax levies.

Table 11. Towns with at Least 5% Tax Shift on 1989 Assessment Rolls

1989 Rank	Town	County	1989 Percent of Tax Base Reduced by Article 25AA	Total Amount of Shift @ 3.0%	Shift in Excess of 5% Threshold
1	Seneca	Ontario	24.595	$588,600	$468,942
2	Ancram	Columbia	18.054	504,060	364,462
3	Venice	Cayuga	16.981	182,580	128,820
4	Scipio	Cayuga	13.260	189,420	117,994
5	Benton	Yates	12.349	269,640	160,465
6	Genoa	Cayuga	9.836	143,790	70,696
7	Hillsdale	Columbia	9.645	323,160	155,633
8	Livingston	Columbia	9.020	321,360	143,223
9	West Sparta	Livingston	8.724	69,750	29,774
10	Ledyard	Cayuga	8.695	110,940	47,145
11	Minisink	Orange	8.445	247,560	100,988
12	Howard	Steuben	8.259	83,250	32,851
13	Pine Plains	Dutchess	8.238	278,430	109,439
14	Wawayanda	Orange	8.178	545,310	211,910
15	Potter	Yates	7.820	86,880	31,330
16	Palatine	Montgomery	7.808	139,740	50,255
17	Meredith	Delaware	7.751	100,110	35,531
18	Alabama	Genesee	7.717	82,560	29,067
19	Bovina	Delaware	7.375	86,910	27,988
20	Ripley	Chautauqua	7.051	126,450	36,782
21	Cambridge	Washington	7.012	98,370	28,226
22	Byron	Genesee	6.904	108,270	29,859
23	Elba	Genesee	6.674	105,240	26,397
24	Pike	Wyoming	6.562	42,240	10,054
25	Stafford	Genesee	6.491	114,330	26,262
26	Minden	Montgomery	6.383	147,150	31,883
27	Hamptonburgh	Orange	6.313	388,560	80,814
28	Preble	Cortland	6.288	60,390	12,370
29	Fremont	Steuben	6.087	43,560	7,779
30	Gallatin	Columbia	6.058	157,440	27,496
31	Root	Montgomery	5.887	63,090	9,506
32	Stuyvesant	Columbia	5.856	124,350	18,177
33	Lincklaen	Chenango	5.821	21,090	2,974
34	Glen	Montgomery	5.779	103,170	13,907
35	Stanford	Dutchess	5.654	358,470	41,464
36	Romulus	Seneca	5.454	69,480	5,784
37	Southampton	Suffolk	5.138	577,440	15,509
38	Springport	Cayuga	5.137	81,510	2,174
39	Bethany	Genesee	5.076	58,140	871
40	Washington	Dutchess	5.038	545,400	4,113
41	Taghkanic	Columbia	5.023	110,100	504
				$7,858,290	**$2,749,418**

PART III. IMPLEMENTATION OF AGRICULTURAL VALUATION PROGRAM

Program Evolution

The basic underlying principle of the process by which taxable land values are determined in New York's agricultural assessment program is that value should reflect the worth of the land in terms of its ability to generate income from agricultural production. While this concept itself is reasonably straightforward, there are several methods by which such values may be determined — with the result that widely differing but equally defensible value estimates may be produced by the different methods. A wide range of approaches to value may be found among the 49 states now having programs of this type and three different approaches have been used in New York since its program was first implemented.

Until 1981 values in New York were established through analysis of farmer–to–farmer sales of agricultural land. The rationale for this approach was that the prices farmers pay for land should be indicative of the land's earning potential. The advantages of the approach are that it has a sound conceptual basis in economic theory, it relies on relatively solid data, and it involves relatively easy calculations. Disadvantages include the amount of work required to collect the sales data throughout the state and research required to exclude sales deemed unrepresentative of market conditions. As a result of the extensive staffing requirements, the Division of Equalization and Assessment was unable to conduct a complete market analysis on a yearly basis and, until 1979, relied on annual trending of the values established in 1973. However, when new market analysis results were incorporated in 1979, the values were raised significantly over the previous year's level, and this caused widespread dissatisfaction among farmers.

Farmers argued that, for a variety of reasons, the sales used were not indicative of the worth of the land in farming or, by extension, its income producing capability. They pointed to factors such as uninformed buyers paying too much, farmers paying too much in order to acquire adjoining land or to spread an excess of capital over a larger land area, the problem of land quality differences, the problem of separating the value of the improvements from that of the land, and many other issues of this nature. As a result of these criticisms, Chapter 79 of the Laws of 1980 instituted a new system which required that values be determined for a larger number of land quality levels, and that the values be more directly related to farm income and expenses.

The method adopted was the so–called "economic engineering" approach, which created individual per–acre income and expense statements ("economic profiles") for a variety of land quality levels. The annual calculations were based on estimated income and costs for the five previous years and separate value estimates were produced for Long Island and the rest of the state based on differences in cropping patterns. The new approach was used directly in valuing the sixteen different types of mineral soils which required separate values under this method, as identified in a classification promulgated by the Department of Agriculture and Markets. However, the approach produced negative income figures for the poorest types of land, so "nominal" values were assigned. Organic soils (mucklands) and farm woodlands continued to

be valued using market data because the necessary income data were either unavailable or were deemed unreliable. After 1983, orchards and vineyards were valued differently than other eligible agricultural lands although the approach utilized relied primarily on income and expense data.

The first values produced by the new approach, in 1981, averaged $269 per acre for cropland in upstate area (see Table 1). The values increased by an average of 16 percent in the following year due to an increase in farm profits in the data year which was added to the five–year series. The values fell by nearly 40 percent in 1983, to an average of $190 per acre, largely because the high oil prices and interest rates of the late 1970's and early 1980's began to enter the data used in the calculations. A further decline of over 20 percent occurred in 1984 but the 1985 values were virtually the same as those of the prior year.

For 1986, the economic engineering approach produced values which were over 30 percent higher than those of the previous year. This increase resulted from introduction of 1984 data, which reflected a major improvement in net income over the previous year. However, at the same time, the agricultural sector in some parts of the country was in the midst of a financial crisis, with bank foreclosures occurring in some midwestern states. Thus, even though the proposed 1986 values were approximately 25 percent lower than those originally set in 1981, strong objections were raised to the proposed increase. As a result, values were "frozen" at 1985 levels by SBEA in response to sentiments expressed by farmers at its public hearings, and a task force was instituted by the Governor to develop a new approach. The task force was charged specifically with addressing the problem of year–to–year volatility in the values and the issue of using nominal values for some land categories for which negative income levels were estimated.

The efforts of the task force resulted in several proposals, including a complete overhaul of the valuation method, which were implemented for the 1988 values. The new method relied on aggregate data published annually by the United States Department of Agriculture (USDA) rather than detailed "engineered" data specific to each of the many soil categories. Since the detailed steps, calculations, and data sources for the new method are specified in statute, there is no leeway of interpretation for the implementing agency; the annual values are, in effect, "automatic". The basic approach of the new method involves the following steps:

(1) derive an overall "profit percentage" from the aggregate income and expense data;

(2) estimate an overall value of production per acre for mineral and organic soils based on combining data for the different crops typically grown on these soils;

(3) apply the profit percentage to the value of production per acre for the two kinds of soils;

(4) capitalize these two "profit" figures at a statutory rate;

(5) assign the two resulting values to the highest quality mineral and organic soil categories;

(6) derive a value for each of the sixteen mineral soil categories based on inter–category crop yield differentials; and

(7) derive a value for each of the four organic soil categories based on the average (market–based) inter–category differentials of prior years.

The overall effect of implementing the new procedure in 1988 was an average value increase of 37 percent over the previous (frozen since 1985) level for mineral soils and 24 percent for organic soils. However, other changes also implemented in 1988 — such as discontinuance of the separate Long Island value schedule and ending the practice of valuing orchards and vineyards separately — resulted in major value reductions for certain kinds of farmland.

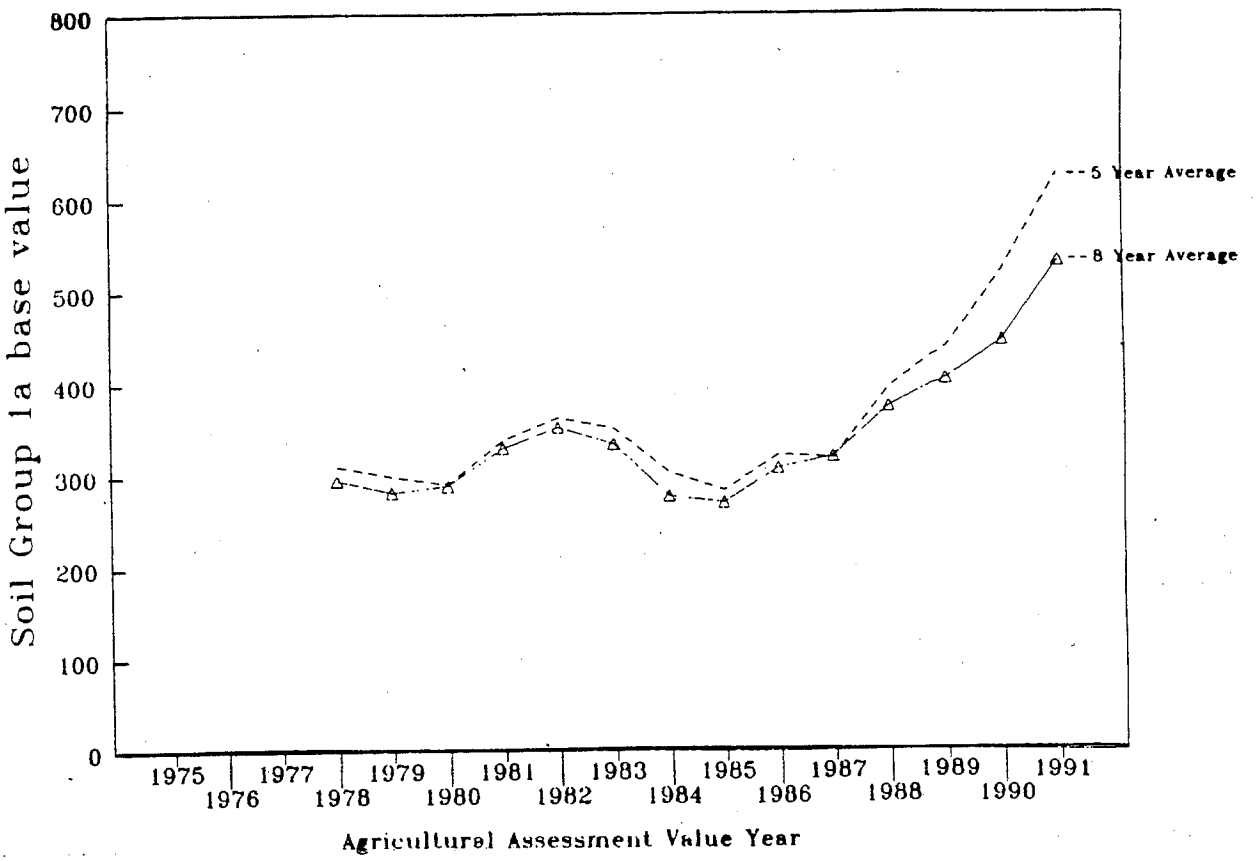
Results of New Valuation Procedure

Now that the revised method of determining values has been in effect for three years, it is possible to review its track record to date. Following the 37 percent increase in the values which immediately followed implementation in 1988, there was an 11 percent increase in 1989 and a further increase of approximately 20 percent in 1990. Whereas the data years which were available at the time the new procedure was devised reflected relatively modest profit levels, these increases were the result of annual incorporation of new data years during which cost/price relationships were increasingly favorable. This has resulted in greater volatility than anticipated by the task force proposals, and fluctuations have been in an upward direction.

Clearly, a major concern which motivated the 1988 change in the valuation procedure had been the issue of annual fluctuations. Prior to the period when the values were frozen (1985–87) annual changes in the overall average value were as large as –39 percent (1982–83). As mentioned above, the maximum annual fluctuation since initial implementation of the new system has been about 20 percent. It is obviously difficult to make meaningful comparisons and draw general conclusions on the basis of only a few years; later years may well show different results. However, based on the past few years of experience, it seems safe to conclude that the system instituted in 1988 will not remove all of, or even most of, the annual volatility which was deemed problematic.

As a result of the continuing annual variability under the new method, Chapter 390 of the Laws of 1990 was enacted to provide for use of eight years of data, rather than the existing five, in estimating values. As shown in Figure 5, this change has the effect of reducing annual fluctuations to some degree, if past experience may be used as a guide to the future. It may also be observed from the chart that, had this change not occurred, the 1991 values calculated under the 5–year method would have been 20 percent higher than the 1990 values. However, the one–time stabilizing effect of the 8–year approach in 1991 should not be seen as typical; volatility will continue to occur to the extent that there is a difference between the net income prevailing during the new data year which is added to the series annually and the net income in the old one which is deleted. In periods when income has trended upward or downward for a series of years, the switch from five to eight years may well increase this differential and thereby preclude any gain in overall stability.

Figure 5. Impact of Extending Data Period (5 years to 8 years) Annually Revised Data



A source of volatility which the eight–year approach did not address is the periodic correction of data by USDA. Corrections may be made in a single year for seven of the eight years in a given series. Although any set of data changes may be largely self–canceling, the more data changes that take place, the greater the potential for volatility in New York's agricultural assessment values.

It is also important to look at the overall level of the values. To do this, some standard of comparison is needed. From Figure 1, it is evident that the values produced for the program have always been significantly below market values, and the differential has generally grown over time. However, it is clear that market value provides a poor benchmark with which to compare figures intended to represent value in agricultural production.

Alternative benchmarks might include the judgment of people familiar with farm finance, or the rental value of land. Responses from a small number of extension agents surveyed (see Appendix) indicated that a reasonable and affordable tax for average cropland was about seven to fifteen dollars per acre. This would imply a per–acre assessment in the $230–$400 range, given current tax rates. Although the farmland rental market here is less active than the markets of the west and midwest, USDA nevertheless publishes average per–acre rental data for New York. The figures for recent years indicate an average cropland rental price of

$20–$25 per acre. Using a capitalization rate of 10 percent, this rent implies a value of $200–$250 per acre. Thus, the low end of the range suggested by extension agents and the figures based on rental income provide some support for the overall average value levels (Table 1) produced by the current system since 1988 ($200–$250 range). Looking at it another way, the average tax level per acre under the program was $6.51 in 1989 (Table 5), and this is roughly equal to the lower end of the range cited as appropriate by the extension agents who offered opinions on this issue.

Even though the overall level of values may be acceptable, the Panel thought the annual volatility noted was sufficient to justify further review and, based on the short period of experience available, that the existing procedure for determining values could not be assumed to yield satisfactory results in future years. The specific aspects of the procedure which were identified by the Panel for review were:

(1) the impact of USDA data revisions;

(2) the accuracy, usefulness, and stability of the income concept used; and

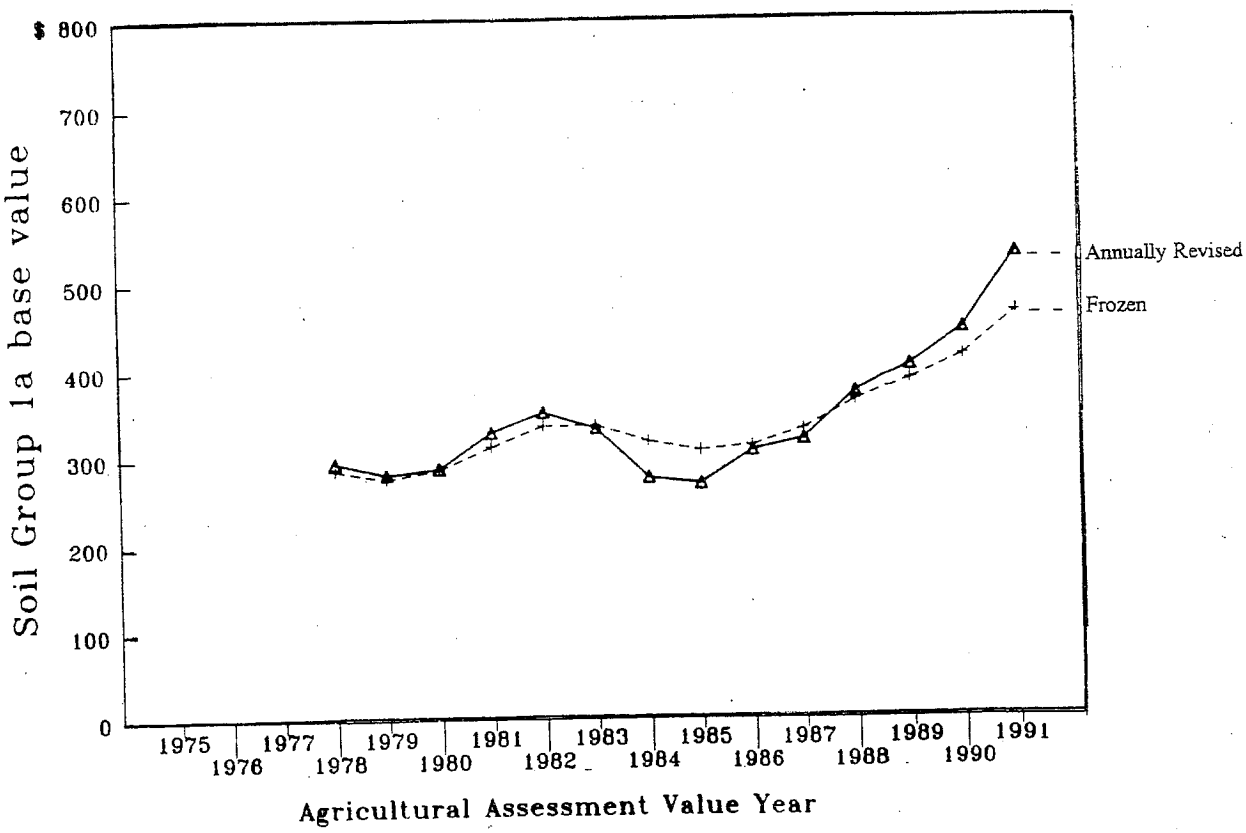
(3) the relationship of the income estimated to the soil classes which must be valued independently.

USDA Data Changes

As with all government data which comprise the National Income and Product Accounts, the USDA data which are used in the agricultural assessment program are continually revised for several years after initial release. This is normal and occurs because better information becomes available with the passage of time. Also, the data are periodically "rebenchmarked", a process which usually affects up to ten years of past data. This procedure is carried out if major new sources of independent and reliable information become available and/or if improved methods are devised for estimating some of the variables which are not available from surveys or other such sources (e.g, non–cash expense items).

As shown in Figure 6, the changes made by USDA are themselves a source of year–to–year volatility in the values. The annually revised series shown, as derived through the new eight year averaging method from the most up–to–date USDA figures available each year, exhibits more annual volatility than the "frozen" series, which uses initial–release data in constructing the eight–year average. The absolute value of the yearly percentage change averages 9.63 under the annually revised data and 5.86 using the "frozen" series. However, neither series yields unambiguously higher or lower values, indicating that USDA changes are not biased in one direction or the other. It is clear from Figure 6 that, while data revisions account for a significant share of the year–to–year value changes, the underlying changes in income and expenses will continue to cause some volatility. This is necessary if the program is to be as responsive to farm income levels as it was designed to be.

Figure 6. Annually Revised Versus Initial Release ("Frozen") USDA Data (8-year Data Period)



Because the law was recently modified specifically for the purpose of reducing volatility, it is necessary to examine the likely result of the modification before drawing any conclusions as to the need for further measures. Figure 5 shows the effect that eight-year averaging, as required by law for 1991 and thereafter, would have had on the annual values if it had been in place in prior years. The only noticeable difference is that the eight-year method produces lower values — a result which is to be expected since net farm income does tend to rise over time even though it may decline in a single year or over several years. The difference between the two methods is greatest in the most recent past; as the five-year method begins to leave behind the low profit years of the early 1980's, the eight-year method brings them back into the calculations. However, it must be remembered that, if farm incomes turn down in the future, the eight-year approach will prevent values from declining as fast as they would under the five-year approach.

The Income Concept Used

As stated earlier, the basic rationale of the program is that taxable value should be related to the income-producing capability of the land. This was the logic that initiated the land classification system, which designates many different types of land for which values must be estimated. The underlying rationale also suggests that, to the extent feasible, the income used

to determine value should be that applicable to land rather than that applicable to other factors of production.

The income concept currently used includes more than land returns. To a significant extent, this results from data limitations; the aggregate data used often do not permit identification of all the separate items which may be needed to calculate the return to land while excluding other asset returns. For example, particular difficulties are encountered in attempting to estimate the appropriate levels for non–cash income or expense items. In contrast to cash items, these require that assumptions be made and estimation techniques be chosen, and no good data are usually available.

Under the current method, appropriate deductions are made for cash expenses such as purchased labor, other purchased goods and services, and for interest. Non–cash deductions are estimated for capital consumption and management, but no deduction is made for unpaid family labor and for the return on equity capital. Income applicable to these assets therefore ends up in the "bottom line," and becomes part of the values calculated for the agricultural assessment program. One "income" item — the imputed rental value of owner–occupied housing — is added to farm income even though it is not part of the return to land and the home is not eligible for program benefits. The amount of annual imputed rent is readily identifiable from USDA data (Table 12). Its importance as an income item is apparent in the Table 12 data, which show it to be about 20 percent (on average) of Net Farm Income, the currently used income concept. It would be quite easy to exclude this item, but New York law currently requires that it be included in income.

Table 12. Imputed Rent to Owner–Occupied Dwellings in Farm Income and Expense Data (million $)

	Year											
	1989	1988	1987	1986	1985	1984	1983	1982	1981	1980	1979	1978
Net Farm Income	829.7	664.4	688.0	584.8	521.5	407.8	273.9	385.1	401.3	344.5	376.2	285.5
Gross Imputed Rent	237.3	242.0	238.9	216.8	255.6	247.9	247.5	237.0	207.3	186.7	174.6	162.7
Net Imputed Rent	85.7	80.1	83.4	75.6	89.0	117.9	112.8	105.6	87.0	75.2	71.7	64.7
Net Rent as a Percent of Net Income	10.3%	12.1%	12.1%	12.9%	17.1%	29.0%	41.2%	27.4%	21.7%	21.8%	19.1%	22.7%

Source: USDA–ERS (11/90)

Relationship to Soil Classes

Sixteen categories of mineral soils and four categories of organic soils must be valued annually under New York's agricultural assessment program. The soils were rated and grouped by Cornell University soil scientists at the request of the Department of Agriculture and Markets. The mineral soil categories reflect differences in corn and hay yields and cropping patterns, whereas the organic soils are rated according to depth and susceptibility to flooding. A further distinction based on lime requirements is made for most types of mineral soils. The resulting subcategories ("a" indicating high–lime and "b" indicating low–lime soils) were established in order to allow for the costs of liming to be accounted for in determining values.

Even though New York law has required income–based valuation of these separate soil categories since 1981, no actual data exist from which the income and expenses applicable to each soil category might be determined. As indicated earlier, this problem was initially addressed by use of "synthetic" data — consisting of estimates made by experts on the basis of experience, experimental results, and reference to more aggregated farm accounts data — for mineral soils during the period 1981 through 1987. Since there are fewer organic soil classes, and since the entire acreage in a given sale can usually be assigned to a single class, market data were used to derive organic soil values. When the 1981–87 approach was terminated due to rising annual values, the problem of determining separate values for all the soil categories arose once again.

As discussed earlier, the method used since 1988 to value mineral soils — and specifically mandated by law — involves calculation of a single per–acre average value and derivation of values for other categories as percentages of this average. In the case of the high–lime soils, the percentages used reflect only the corn/hay productivity and cropping differences on the basis of which the soils are classified. In either case, no recognition is given to the higher costs per unit of output which must be borne by those farming the poorer soils. Inclusion of such costs in the calculations would result in proportionately lower values for the poorer soils, but ignoring them may be justified on the following grounds: (1) there is no actual cost data available for the soil categories; and (2) if such data could be included, the methodology would essentially revert to the 1981–87 approach, with unacceptable annual value changes resulting from fluctuations in interest rates, fuel prices, etc.

Another anomaly of the procedure — the assignment of the average value estimated to the highest soil class — is harder to justify. Common sense suggests that, since aggregate data for New York farms were used to derive it, the resulting value should reflect the productivity of more typical land. The soil group 1a land to which it is currently assigned comprises less than one–half of one percent of the land in the program.

Review of program enrollment data pertaining to the statewide incidence of the various soil categories indicates that soil group 5 is the median category when all acres are equally weighted. However, this does not take into account the greater per–acre contribution which the better–quality land makes to the statewide crop production data used in the value calculations. Using acreage data weighted by corn/hay yields, soil group 4 appears to be the median category. This still fails to take adequate account of two other factors which influence

the statewide crop production data, however: (1) the fact that grain crops and high–value vegetable crops usually grown on the better soils are included in the production figures used; and (2) that the better land is more likely to be cropped than the poorer land, thereby raising the quality of the median acre actually under cultivation as compared with the overall median. While the data required to quantify these two effects do not exist, it is apparent that they both indicate that the true median acre from the production standpoint is in a higher soil category than the available soil distribution data suggest. These considerations are probably important enough to justify assignment of the overall average value to a soil group higher than group 4.

A final element of the procedure which seems somewhat arbitrary is the assignment of the same value to the low–lime sub–group of a given soil class and the high–lime subgroup of the next lowest class when productivity differences may exist between the two. This step was instituted in 1988 because the high–lime/low–lime distinction — an artifact of the earlier "economic engineering" approach to valuation — could not easily be removed from the statewide land classification system. All the farms in the program had already been classified into the existing soil categories, and lime requirements certainly do affect agricultural value, even though the aggregate data now used necessarily obscure this. In light of these considerations, there seem to be no better alternatives to the current convention for assigning value differences to high– and low–lime subcategories.

Fewer inconsistencies exist in the case of organic soils. The interclass relationships are based on market data from the mid–1980's and, while it is possible that they could become less accurate over time, they probably provide a logical basis for at least the foreseeable future. As with the mineral soils, the baseline average value per acre (which in this case is calculated from the same USDA overall farm income/expense data and specific production data for vegetable crops), is assigned to the highest quality soil. The primary reason for this seems to be that the annual estimate appears to be as high or higher than that indicated by sales of muckland (see Table 1).

It is not clear what advantages the current system for valuing muckland has over the market–based method employed prior to 1988 — other than the fact that it is cheaper to implement because no collection of sales is required. There may be a need in future years to check the correctness of the interclass relationships established with data from the mid–1980's, however, and this will probably require collection of new sales data.

The Panel reviewed these issues and most members felt that some or all of the problems noted with the procedure should be addressed. It was recognized that, had it not been for the enactment of eight–year data requirement during 1990, a value increase of over 20 percent would have occurred in 1991 — following an increase of the same magnitude in 1990. This is ample evidence that the existing procedure cannot be trusted to produce acceptable values in coming years.

The Panel directed SBEA staff to augment the separate analyses undertaken on the issues concerning stability of USDA data, the income concept used, and the impact of eight–year averaging, with a full simulation of 1991 values under the current method and an alternative procedure which would address the problems previously noted. The results of this effort

appear in Tables 13 and 14. Table 13 presents "Alternative A", which incorporates the following changes to the current procedure:

(1) It uses USDA initial–release data for all years. The data are "frozen" following initial publication (retroactively in the case of data years 1982–1988). In other words, any changes made by USDA following its initial publication of data for a given year are disregarded. This change makes a major contribution to annual stability in the values (see Figure 6).

(2) It excludes imputed rent attributable to owner–occupied housing from the net income on which values are based.

(3) It assigns the overall baseline value estimated from the income, expense, and production data to soil group 3a rather than group 1a.

Table 13. "Alternative A" Method of Deriving 1991 Agricultural Values for Mineral Soils ($/acre)

Soil Group	1991 Value Alternative A*	Actual 1990 Value	Percent Change
1a	527	522	+0.9
1b	469	464	+1.0
2a	469	464	+1.0
2b	415	412	+0.7
3a	415	412	+0.7
3b	357	355	+0.6
4a	357	355	+0.6
4b	303	303	0.0
5a	303	303	0.0
5b	245	245	0.0
6a	245	245	0.0
6b	195	193	+1.0
7	195	193	+1.0
8	137	136	+0.7
9	83	84	–1.2
10	25	26	–3.8

* Includes following modifications to current procedure: (1) use of initial– release USDA data for all years; (2) exclusion of imputed rent attributable to owner–occupied housing; and (3) assignment of overall base value estimated to soil group 3a.

Table 14 presents "Alternative B", which more closely resembles the current procedure than does the previous option. The only difference between Alternative B and the current approach is that, beginning with the USDA's upcoming data release (December 1990 or January 1991), the data series released at that time would be "frozen" at the then–current levels. In each subsequent year, when a new data year is added to the eight–year series, the initial–release figures for this new year would also be "frozen" and would remain so until exiting the series after eight years have passed. The values produced by Alternative B and the procedure required under existing law would thus be identical for 1991 — since they would both use the same data. However, they would differ in subsequent years, as the current approach continued to utilize the most recent revised data series for all years while Alternative B relied on the frozen data.

Table 14. "Alternative B" Method of Deriving 1991 Agricultural Values for Mineral Soils ($/acre)

Soil Group	1991 Value Alternative B	Actual 1990 Values	Percent Change
1a	536	522	+2.7
1b	477	464	+2.8
2a	477	464	+2.8
2b	423	412	+2.7
3a	423	412	+2.7
3b	364	355	+2.5
4a	364	355	+2.5
4b	311	303	+2.6
5a	311	303	+2.6
5b	252	245	+2.9
6a	252	245	+2.9
6b	198	193	+2.6
7	198	193	+2.6
8	139	136	+2.2
9	86	84	+2.4
10	27	26	+3.8

The Panel considered these alternatives and discussed them in detail. In the end, there was nearly unanimous agreement among members that Alternative A was preferable, as it removed some arbitrary steps in the current procedure and also prevented any annual volatility in the values which may result from USDA revisions of data from past years. To implement this approach, the Panel makes the following recommendation.

RECOMMENDATION

The procedure currently required for calculation of annual agricultural assessment values should be modified as follows:

- All USDA income and expense data used in determining annual agricultural assessment values should be "frozen" at the levels first published by the agency for all the years included in the eight-year data averaging period (i.e., retroactively frozen in the case of prior years).

- The USDA accounting concept "Net Farm Income", as used in Section 304-a of Article 25AA of the Agriculture and Markets Law, should be replaced with the concept "Returns to Operators". This latter concept excludes imputed rental income attributable to the owner's dwelling.

- Expenses attributable to the owner's dwelling, identifiable as the excess of gross imputed rental income over net imputed rental income (the latter is simply the excess of "Net Farm Income" over "Returns to Operators"), should be excluded from "Adjusted Production Expenses".

- The USDA figure used for property taxes should be the one which excludes taxes attributable to the owner's dwelling.

- The overall baseline value calculated from the data should be assigned to soil group 3a instead of soil group 1a.

PART IV. APPROPRIATENESS AND EFFECTIVENESS OF SANCTIONS

Background

The agricultural assessment program has, since it was initially established in 1971, contained provisions which are intended to discourage conversion of land receiving tax benefits to non–farm uses. The specific provisions in question have been modified several times, and the payments made by landowners converting to non–farm uses have been variously referred to as "roll back taxes," "penalty taxes," and "sanctions". A major charge to the Panel under Chapter 774 of the Laws of 1987 was to "review... the appropriateness and effectiveness of the sanctions which are intended to encourage agricultural use".

Table 15 shows the evolution of the penalty provisions since 1971. Under the original law, penalties for converting committed lands were more severe than those for district lands.

Table 15. Penalty Provisions of the Agricultural Districts Law

Version of Agricultural Districts Law	Penalty for Land Located Within an Agricultural District	Penalty for Land Under an 8 Year Individual Commitment
Original Law	Roll back Tax equal to taxes saved for past five years, applicable only to that portion of land converted to nonagricultural use.	Penalty Tax equal to 2X the land taxes levied in the year following conversion against all of the parcels previously under commitment.
1987 Amended Version (Chapter 774)	Single Penalty Tax, 5X the taxes saved in the last year, plus 6% interest per year, compounded annually, not exceeding five years. This penalty applicable only to converted portion of land.	Same as for land inside an agricultural district, except applicable to all parcels that include land subject to any commitment.
1988 Amended Version (Chapter 736)	Same as 1987 Version. Conversion defined more explicitly.	Penalty Tax equal to 9X the taxes saved in the last year the land benefited from the program plus interest of 6% per year compounded annually for each year an agricultural assessment was granted for up to eight years. Applicable only to that portion of land converted to nonagricultural use. Conversion defined.
1990 Amended Version (Chapter 396)	Same as 1988 Version.	Same as agricultural district penalty.

Penalties on committed land conversions were determined on the basis of taxes previously saved on all the committed land in all parcels under the same ownership, regardless of how much land was actually converted. In contrast, district penalties specified roll back taxes only on the portion of land converted. The provisions were changed by the Legislature in 1987, the major change being deletion of the "rollback" concept in favor of the penalty tax based on a multiple of the taxes saved in the most recent year. Another significant 1987 change was the charging of interest for the first time. These revised penalty provisions were easier to calculate, but penalty taxes on committed land conversions were still based on the taxes saved on all committed land under the same ownership.

Further modifications were made in 1988. This legislation made the penalties for conversion of committed land very similar to those on district lands in that both were now based on the acreage actually converted as opposed to the entire parcel or parcels. The non–district penalty continued to be more severe however: nine times the taxes saved in the most recent year versus five times for district land. A further change, which set the multiplier at five for committed land, was enacted in 1990. The only difference now between penalties on committed land and district land is that, in determining if the statutory time limit since the last benefit year has expired, the assessor uses the eight year commitment period for judging conversion penalty liability rather than the five years used in the case of district land.

In addition to the specific penalty provision changes, two important technical changes were made in the 1988 legislation. First, conversion was specifically defined as an "outward or affirmative act changing the use of agricultural land and shall not mean the non–use or idling of such land" (Section 301, Paragraph 8). Secondly, assessors are now required to report annually any penalty taxes imposed to SBEA. The first year for which such reporting was required was 1989.

Even before the 1990 legislation was passed, some of the the Panel members expressed misgivings about the penalty provisions. Some members questioned whether the penalties were really intended to be true sanctions, or were intended to be only a full or partial repayment of taxes. Questions also arose as to whether the penalties actually deterred conversions. Some Panel members said they were familiar with the small sum penalties typically amounted to in certain areas of the state, and questioned the usefulness of levying them. However, other than the experience of Panel members and agency staff and the single year of penalty data thus far reported to SBEA, the Panel found that there was a great lack of information on the implementation of the penalty provisions. To obtain more information, the Panel recommended that County Directors of Real Property Tax Services and Agricultural Extension Agents be surveyed by mail in order to solicit opinions and data relative to penalty adequacy and the quality of penalty administration. The Panel also recommended that the agricultural conversions reported for 1989 be field researched to determine the facts regarding the nature of the land use changes and other relevant aspects of the conversion.

Survey Research

Survey questionnaires were mailed to County Directors and to extension agents in 56 counties (excluding Hamilton County) in August of 1990. Each recipient was provided copies of

agricultural assessment conversions reported to the State Board of Equalization and Assessment for 1989 assessment rolls, and were asked if they were aware of any additional conversion activity in that year or earlier. They were also asked to provide data on any conversion instances with which they were familiar or could find information on. In addition to the issues of penalty adequacy and penalty administration, extension agents were also surveyed on matters relating to the stability of agricultural values, the effectiveness of the overall program, the affordability of farm taxes, the assessment of farm buildings, and the desirability of state reimbursement to localities.

In all, 17 of the 56 extension agents and 20 of the 56 County Directors surveyed completed the questionnaire (see Appendix for a detailed discussion of the survey results). Based on responses from both groups, it was found that reliable reporting of conversion activity occurred in the counties with the best administrative systems for supporting local assessors in their efforts to track conversions and levy penalties. Directors, and to a lesser extent, the extension agents, both questioned the adequacy of penalties. Directors tended to cite the small sums involved as disincentives to assessors in enforcing the penalties. Four of the 20 responding Directors (from Chenango, Dutchess, Genesee and Sullivan Counties) had knowledge of 40 additional conversions occurring in 1989 that were not reported by local assessors.

Directors also expressed disappointment about the time lag between cessation of agriculture and the imposition of penalties, given that the statutory definition of conversion usually requires that actual construction must start before the penalty can be levied. In many cases, the land may be sold and taken out of agricultural use but construction may not begin for several years. They indicated that, in addition to the small sums some penalties involve, the time lags constitute a further disincentive for assessors to enforce the provisions adequately.

Field Research

During the month of August 1990 SDEA staff conducted a field investigation of instances where conversion penalties were reported to have been levied by assessors during 1989. Original reports showed 288 cases but elimination of duplicates in the process of field research reduced this number to 230. A total of 204 of the reported 230 conversions, or 89 percent, were researched to obtain more detailed information than that which was reported to SDEA by assessors. As indicated in Table 16, the research was comprehensive, with 12 of the 16 counties reporting conversions (and 28 of the 46 affected towns) visited by staff. The researched conversions affected 87 farm operations. Counties and towns were selected based on the number of conversions reported, the acreage involved, and location (in order to achieve as complete geographic coverage as possible). Of the 1,584 acres reported as having been converted, 1,532 were reviewed, leaving only 52 acres not studied. While the review effort was directed toward those 1989 conversion instances reported to SDEA, some assessors or county officials supplied information on other unreported conversions or ones which will be coming up next year.

The overall approach taken in the field work consisted of using a combination of information sources. County offices were visited to ascertain location, ownership history, and sales information. In some instances, assessors were contacted directly to obtain this information or additional details on the conversions. In most instances, the land in question was visited. However, time and resource limitations precluded landowner interviews in most instances or the auditing of assessors' penalty calculations.

Table 16. 1989 Farmland Conversions Reported* to SDEA and Field Research Coverage

County	Affected Towns	Total Conversions	Acres Converted	Total Penalty	Penalty Tax Per Acre	Average Converted Acres	Conversions Researched	Percent Researched	Affected Farms
Cayuga	3	28**	67.3	$ 2,621	$ 39	2.4	28	100	8
Columbia	3	10	55.3	1,817	33	5.5	10	100	6
Dutchess	6	13	109.3	11,621	106	8.4	10	77	5
Erie	1	2	4.0	79	20	2.0	0	0	NA
Genesee	2	8	14.6	542	37	1.8	8	100	6
Jefferson	2	2	10.5	1,461	139	5.3	0	0	NA
Lewis	1	1	4.1	350	85	4.1	0	0	NA
Monroe	2	21	175.4	7,452	42	8.4	21	100	9
Montgomery	1	6	17.4	532	31	2.9	6	100	3
Ontario	9	33**	365.9	11,487	31	11.1	27	82	15
Orange	8	80**	350.5	48,899	140	4.4	73	91	26
Rockland	1	1	19.0	72,000	3,789	19.0	1	100	1
Suffolk	2	8**	124.0	107,300	865	15.5	8	100	4
Sullivan	2	9	227.7	16,535	73	25.3	7	78	1
Washington	1	5	39.2	718	18	7.8	5	100	3
Yates	2	3	4.9	170	35	1.6	0	0	NA
Total	**46**	**230****	**1,584.1**	**$283,584**	**$179**	**6.9**	**204**	**89**	**87**

* As of 6/18/90.

** Corrected from original reporting — duplicate records removed.

When initiating the field work, staff had already available the following information submitted to SDEA by assessors:

1. The name of the person on whom the penalty taxes were levied
2. Tax Map I.D. of the parcel on which the penalty taxes were levied
3. The acreage converted
4. The assessed value
5. The exempt amount
6. The amount of the penalty levied
7. Whether the land was in a district or subject to an eight–year commitment
8. The last year the land received an exemption
9. The number of years benefited (up to 5)

This list obviously excludes a lot of information relating to conversions. Thus, in examining documents and talking to knowledgeable local officials, an effort was made to develop additional information on the following issues:

1. The location of the converted land
2. The land use prior to and subsequent to the conversion
3. The ownership before and after conversion
4. The extent and nature of any previous conversion activity on the same parcel or farm
5. The sale price of the land converted
6. The general characteristics of the areas in which the conversions occurred

Each of the 204 field researched conversions was also referenced to a tax map identification number (section/block/lot).

Table 17 illustrates the extent to which the reported conversion penalties were concentrated on only a few parcels. Nearly 70 percent of all conversion penalty dollars and over one-quarter of all acreage converted occurred on ten parcels in four downstate counties. Six of these conversions involved individual commitments (law section 306) and the remainder were district farms (law section 305). These top ten conversions, however, do not reveal the full variety of conversion activity found in the field research.

Table 17. Top Ten Agricultural Assessment Conversion Penalties Reported, 1989

Rank	Amount	Acres	Avg./Acre	Law §	Town	County
1	$75,906	62.0	$1,224	306	Riverhead	Suffolk
2	72,000	19.0	3,789	305	Orangetown	Rockland
3	8,108	20.0	405	306	Riverhead	Suffolk
4	7,715	66.4	116	305	Crawford	Orange
5	7,447	17.0	438	306	Riverhead	Suffolk
6	7,229	156.1	46	306	Mamakating	Sullivan
7	4,912	13.7	359	306	Southold	Suffolk
8	4,865	7.1	685	306	Riverhead	Suffolk
9	4,424	35.3	125	305	Crawford	Orange
10	3,348	25.7	130	305	Crawford	Orange
	$195,954	**422.3**	**$ 464**			

The researched conversions lent themselves well to a taxonomy of conversion types. The boundaries between these conversion types are not always clear, but the categories specified do characterize the range of conversions that have occurred. The six conversion types are: (1) family; (2) periodic/piecemeal; (3) large acreage; (4) farmette/ranchette; (5) subdivision; and (6) miscellaneous. Table 18 shows the incidence of these various types of conversions, and descriptions of each type follow.

Table 18. Incidence of Various Conversion Types

Conversion Type	Percent of Total			
	All Reported Conversions	All Converted Acreage	All Conversion Penalty Dollars	All Farms Affected
Family	12.7	7.4	8.5	20.7
Periodic/Piecemeal	22.2	8.7	5.3	31.0
Large Acreage	9.0	29.0	8.7	11.5
Ranchette/Farmette	2.1	2.2	2.9	2.3
Subdivision	50.7	38.7	70.3	27.6
Miscellaneous	3.2	11.2	2.5	5.7

Note: Totals may not add to 100 because of rounding.

1. **Family Conversions** are those conversions that occurred within a farming family. Such conversions may involve sales or retentions of land in the family after the farm has been sold off. Sometimes these conversions involve no sales of property but the creation of another homestead on the farm property for a family member. Although this type accounts for one in every eight conversions, it accounts for less than ten percent of the converted acreage and penalty dollars (see Table 18). For example, the third and fifth largest penalties (see Table 17) were imposed on the residual land retained by the family after the sale of other pieces under the old individual commitment provisions.

2. **Periodic/Piecemeal Conversions** are those conversions occurring on small parcels of land, generally under five acres, that have been sold from a larger parent farm parcel with no apparent systematic subdivision plan. Although they comprise over one-fifth of all reported conversions (with the greatest activity occurring in Genesee and Ontario Counties), periodic parcels comprise relatively little converted acreage or penalty conversion dollars. The seventh largest conversion penalty was levied on a piecemeal conversion from an individual commitment farm in Suffolk County.

3. **Large Acreage Conversions** consist of parcels above five acres, or that which is well in excess of the acreage necessary to support one homesite. The largest sized parcels of this type may ultimately become subdivisions, but no known subdivision plans were uncovered. Larger sized parcels tend to occur where local zoning ordinances stipulate large minimum acreages and/or in instances where the owner wishes to sell lots without triggering the provisions of the public health law (comes into play when there are more than five lots of less than five acres each). Although less than one out of every ten conversions and conversion penalties were classified this way, the land-intensive nature of these conversions accounted for nearly thirty percent of all acreage converted. The sixth and ninth largest conversion

penalties were associated with large acre conversions, in Orange and Sullivan Counties.

4. **Farmette/Ranchette Conversions** consist of lands of five to twenty acres, occupied by a residence and including some evidence of continued agricultural use. These farms are often known as "hobby farms". A small auxiliary building, along with fencing, often accompanies the house. Although such properties include some degree of agriculture, their primary use is residential and they could be thought of as "gentlemen" farms or country estates, where there is an emphasis on recreational farming. These conversions comprise less than three percent of all converted parcels, acreage, and penalty dollars, although the eighth largest conversion penalty, occurring in Suffolk County, was classified this way.

5. **Subdivision Conversions** are those conversions associated with properties covered by known subdivision maps. In some instances these conversion penalties have been imposed on the whole subdivision and in others only on individual lots which have been sold. Over one–half of all conversions fall into this category, with over three–fifths of these occurring in Orange County alone. Over one half of all penalty dollars levied came from the top two conversions alone — subdivisions in Suffolk and Rockland Counties. Because the residential subdivision lots are frequently under two acres, this category of conversion accounts for less than 35 percent of all acreage converted.

6. **Miscellaneous Conversions** are those conversions which didn't fit any of the other classifications. The most common example of this relates to the mining of stone and gravel, which alone accounted for nearly ten percent of all converted acreage. Another miscellaneous conversion involved the construction of a communication tower and ancillary structures on land leased from a farm receiving an agricultural assessment.

Up to this point, we have considered the level of conversion activity by number of parcels converted. But if we examine conversion activity by the number of farm operations affected, some different patterns emerge. The 204 researched conversions affected 87 farm operations (Table 16). Periodic conversions appear on more farms than any other type. Although subdivision conversions are numerous, they tend to occur on relatively few farms. Family conversions, although relatively few, occur on over one–fifth of all farms.

The land use change information gathered in the field review indicates that nearly 95 percent of all converted acreage on these farms was originally in cropland. Corn and soybeans, with some hay, were the predominant crops in central and western New York, but less so in downstate areas. Corn was secondary to hay in Orange, Dutchess and Sullivan Counties. Vegetable cropping was most prevalent on the lands converted in Rockland and Suffolk Counties, and in Columbia County orchard lands were most often involved. The remaining few conversions occurred on pastures and woodlands.

The length of ownership of the converted farmlands by the parties last holding the agricultural assessment was also analyzed. The average length of ownership for a converted parcel was

16.6 years statewide. Thirty percent of the lands converted were owned and farmed for over 15 years, with 24 percent held for less than 5 years. Orange County owners of land under agricultural assessment prior to conversion held their lands for less than 12 years overall. Unlike upstate New York, where land converted is often transferred directly from farmer to residential owner, Orange County conversion penalties often occur after the farmer sells to a developer or investment group, which in turn subdivides and sells for residential development. Such multiple transactions on each ultimate conversion indicate a more speculative environment for farmland in Orange County than is prevalent in upstate areas.

Of the field researched conversions, 36 percent are known to have been part of farmland rented to others, according to information provided by assessors. Although no satisfactory figures are available to prove it, it does appear that rented land has a much higher incidence in terms of conversion than owner–operated land. Rental activity was highest on farmlands that eventually became subdivisions, especially in Orange County. The length of ownership of the these rented lands is comparatively shorter than for all reported conversions, and the cultivation was in field crops of primarily hay and some corn. The attractiveness of the agricultural assessment program to land developers and speculators in places such as Orange County is not surprising in that tax reduction of over 95 percent may be achieved through enrollment (Table 5).

Field research also revealed that the number of penalty conversions exceeds the number reported to SDEA. Local assessors alerted field staff to additional conversion activity in adjacent towns, and sometimes in adjacent counties, that was not reported. Further investigation indicated that many assessors failing to report conversion activity did in fact enforce penalties. More than one of these assessors requested the new reporting forms, which suggests that there may be communication problems in the field. These assessors calculated penalties on their own worksheets, and maintained their own records.

Occasionally, conversions were reported where no evidence of actual physical conversion had taken place. This is in all likelihood due to the fact that the definition of conversion was not clarified until the 1988 law changes. On many conversions, especially on individual subdivision lots and piecemeal development, penalties were very low in relation to selling prices, but were time consuming for assessors and local county tax offices to administer, particularly if staff support was lacking. Drawing on both field research and the survey of local officials, the following section discusses the adequacy and enforcement of conversion penalties in greater detail.

Penalty Adequacy

Of the sixteen County Directors responding on the survey question of penalty adequacy, eight said that both the committed land and district penalties were too low, and another three supported higher penalties for committed land alone. Conversely, only four of the thirteen agents responding on this issue believed that both penalties were inadequate. The fact that the conversion penalty provisions have been in a state of flux for several years should be taken into account in interpreting these responses. Since 1987, the conversion penalty for

committed lands has changed twice, with the last change signed into law in August 1990, the month survey questionnaires were mailed out. It is therefore likely that, despite efforts to solicit responses pertinent to the then–current penalty provisions, a variety of provisions were assumed by the respondents.

Field research provided a more conclusive answer to the issue of penalty adequacy. Of 204 researched conversions, 94 involved arm's length sales of vacant lands. The penalties imposed on these conversions averaged less than one–half of one percent of the selling price. The largest penalties levied in 1989 occurred in downstate areas, typified by high values per acre and also by the frequency of committed lands which if converted under pre–1988 law, would subject all of the owner's parcels under commitment to penalty taxes. However, even these penalty taxes were comparatively small in relation to the sales price of the land.

For example, the largest reported penalty involving the sale of an entire property amounted to $72,000 and was levied on committed lands in Rockland County. This represented only four percent of the selling price. The conversion was typical for the downstate counties in that it involved residential subdivision development — a predominant trend in the affected areas. The direction of residential development may be steered by local zoning or planning laws, but it is difficult to argue that it can be affected by such evidently small penalties for converting formerly agricultural lands. Thus, the data seem to indicate that there is little evidence that New York State's agricultural conversion penalties act as a real deterrent to non–agricultural development.

If the conversion penalties fail to act as a deterrent, then one must ask what purpose they do in fact serve. It is true that the payment for conversion is in fact a "penalty" — as opposed to a simple repayment of taxes saved — if the land converted has benefited from agricultural assessment for less than five years prior to converting (this assumes that the last year's taxes on which the penalty is based are not significantly different than the average annual tax savings). However, in cases where the parcel is enrolled for more than five years, there is a net gain to the landowner even if the land is converted and the penalty paid. It must also be recognized that interest is charged at a rate significantly below market rates (six percent) and that this also amounts to a benefit to the landowner. Thus, given the evidence presented regarding the amount of the typical payments, and recognizing that the payments made in most cases will only be a partial repayment of taxes saved, it may be more appropriate to view the current "penalties" as simply remittances, or deferred tax payments.

Further insight on the conversion penalty question may be gained by looking at practices elsewhere. Many other states and even some local governments have conversion provisions similar to New York's, but do not generally refer to the payments as penalties; instead, they are usually called rollbacks or deferred taxes. A true penalty tax would be something over and above a tax repayment. For example, the Town of Perinton (Monroe County) has a program which grants preferential assessments for certain farmland. If the land use agreement is broken during the commitment period, the land is subject not only to a tax payment equal to the annual savings benefited under the tax abatement times the number of years so benefited, but also to a penalty which is inversely related to the length of time in the easement program. The separate penalty, over and above repayment of taxes saved, provides a greater incentive for the landowner to keep the land in the program as long as possible.

True penalties are also levied on agricultural conversions in the nearby states of Vermont and New Hampshire. Both states currently impose a land use change tax, equal to ten percent of the full market value of the land, plus the current year's real estate tax at market value. If a similar system of ad valorem payments were in effect in New York State, the penalty taxes paid on typical 1989 conversions involving subdivisions would be about twenty times higher than they are currently.

Given that there is no evidence that the current New York State system of payments on conversions has deterred conversion of land to any significant extent, and given that New York State's current provisions are significantly different in character from the true penalties used by other states and some local governments, the Panel recommends the following.

RECOMMENDATION

The term "penalty" be deleted from Sections 305 and 306 of the Agricultural Districts Law and be replaced instead with the term "deferred payment". The proposed terminology would more accurately describe the payments New York law requires when lands are converted within the statutory time limit. At one time the term penalty may have been appropriate, especially for partial conversions of committed lands under the pre–1988 provisions, but under today's statute that term no longer fits.

Penalty Administration

Under the present provisions of the Agricultural Districts Law, the assessor is ultimately responsible for determining when a conversion occurs and the amount of penalty taxes due and payable. Since the law does not require the owner of the land undergoing conversion to notify the assessor, that official must periodically inventory and investigate all parcels under agricultural assessment in order to enforce the law. Moreover, many conversions that are detected will occur on lands that, at the time of detection, will be owned by people who may have purchased only a small portion of land that once benefited from agricultural assessment. This creates significant administrative problems for assessors, who are often part–time officials and may not have any staff to help them. It almost insures that enforcement will be spotty at best.

Despite the obvious difficulties enforcement presents, it would seem that administration of penalties has operated well when assistance to the local assessor is strong, both at the municipal and county level. In field research it was found that in some areas reporting heavy conversion activity assessors managed the workload reasonably well through the assistance of staff and desktop computers. It was also found that even part–time assessors with little or no staff support could administer the conversions, provided there was help in keeping track of parcels over time from the county real property tax office.

Ontario County best exemplified good conversion administration at the county level. Whenever a property transaction occurs that involving land under agricultural assessment

within five years of the date of sale, the tax office compiles information on the sold parcel's tax map number, the acreage sold, and the name of the buyer, along with acreage and ownership information on the original parcel from which new parcels had been created. A sketch is made of the parent parcel and the portion that was sold. This information is then sent to the local assessor on a form developed by the county tax office. The local assessor is asked to indicate whether the sold land was still under agricultural use, and if not, to provide information about any outward changes to the land. Once this information is returned, the county tax office determines whether conversion has in fact occurred and, if necessary, the penalty taxes are calculated. Sales of land not undergoing immediate conversion are tracked for five years or until conversion has occurred. The system has worked well in that it sets up "conversion watches" on lands that may become subject to conversion penalties.

Unfortunately, however, there are inherent and unavoidable administrative problems which cause undue burdens on local officials and which even the most competent staff cannot solve completely. As discussed earlier, many conversion (especially piecemeal and within–family conversions) involve small lot sizes and conversion penalties which are quite small. For example, over 30 percent of all reported conversions in 1989 incurred penalties of under $100. Both County Directors and assessors consistently pointed out the time and expense involved in enforcing these small penalties. Some of the County Directors responding to the survey suggested that certain conversions are neither reported nor enforced in some municipalities because the local assessors think that it is not worth the effort to collect what they believe to be a paltry sum. County Directors also pointed out that their own staff has limited time to perform their duties, and that allocating resources to administer small penalties is unproductive.

Despite the clarifications enacted in late 1988, another persistent problem in administering conversion penalties is interpreting the meaning of conversion. According to Section 301 of the Agricultural Districts Law "conversion means an outward or affirmative act changing the use of agricultural land and shall not mean the non–use or idling of such land." In some instances, staff observed that penalties had been levied where no conversion, as defined above, had in fact occurred. As mentioned earlier, this phenomenon may be partially explained by the fact that the definition of conversion was not clear before 1988. However, the new definition alone cannot eliminate all inconsistencies in enforcement of penalties and in reporting conversion activity. An assessor can be faced with ambiguous situations. Was a road built for subsequent residential subdivisions, or was it built for improving access for continued agricultural operations? Were electric and water lines placed on the parcel for development or are they related solely to agricultural requirements such as irrigation? Ponds are being excavated on the land, but are they being built for enhancing and accelerating homesite lot sales, or for watering livestock? Maple trees or orchards are being removed, but is the land moving out of agriculture, or simply into pasture or cropland?

Far more serious difficulties arise in the timing of conversion penalties. Both the survey and the field research have shown that one of the main complaints made by County Directors and assessors is that physical conversion, as currently defined, often occurs several years after the time of sale and/or the time the land no longer qualifies for agricultural assessment. This lag has negative ramifications for the municipalities affected, and creates difficulties in

enforcement and record keeping. This is especially true in towns where a new assessor has been elected or appointed in the recent past.

One obvious ramification of this lag is that conversion penalties may never in fact be levied. It is possible, for example, for a speculator to purchase farmland recently under agricultural assessment and wait five years before actual construction or sale of lots. One County Director responding in the survey put the issue succinctly:

> "Entire farms are being bought up, split up, and sold off to multiple non–resident owners with no intention of building for several years; thus no 'conversion' has occurred but another farm has just as effectively 'died'."

Not only has there been loss of farmland in this case, but the municipality has also lost the ability to collect the penalty tax. According to the local officials surveyed and interviewed, this can create feelings of resentment from property owners who have their parcels assessed at market value and from those owners actively engaged in farming.

Even if penalties can be levied within the statutory time limit, and the considerable time and effort required for tracking the conversions is available, problems still persist. Instead of levying a conversion penalty on the entire parcel in the case of a residential subdivision, the assessor must wait for the "outward or affirmative act" which changes the use of the land on each lot. This can occur over a number of years, with some lots being built on after the statutory limit. Moreover, land formerly under agricultural assessment may sell more than once, particularly if there is a lot of speculation in local real estate markets. An already difficult process thus becomes more complicated, since the assessor must track many conversions and calculate many penalties over an extended period even though there was only one original parcel. And, in calculating each one, the particular land categories it includes must be identified and separated from the remainder of the parcel. In such instances, administrative efficiency would greatly increase if the law permitted the penalties for all lots to be calculated and levied at the same time.

Some local officials interviewed said that the failure of the present law to connect conversion to property transfer can cause inconvenience and uncertainty for the purchaser of farmland which may subsequently be used for nonfarm purposes. If the penalty were calculated at closing, its existence and the amount of the payment would be clear to all parties to the transaction. In many instances, substantial funds must now be held in escrow until eventual conversion and subsequent imposition of penalties. To remedy this problem, the Panel recommended in its earlier report (March 1989) that an amendment be enacted that would allow for early voluntary payment of penalties, even though conversion had not yet occurred. Thus far, however, no action has been taken on this proposal by the Legislature.

Furthermore, the present definition of conversion may cause complications for other owners. At present, the lien that results from imposing the penalty tax on converted land applies to the entire original parcel containing the converted land, even if only a portion of the original parcel underwent conversion. If a current owner of converted land is delinquent in paying the

imposed penalty tax, the unpaid amount will be levied on all acreage in the original parcel that benefited from agricultural assessment. This lien would even extend onto portions of the original parcel which now may be owned by other persons, and even to those who have actually paid the penalties on their own acreage.

Several other states have laws which allow for more simple administration of conversions and imposition of penalty taxes. These statutes declare that conversions have occurred at the point of sale unless it can be conclusively demonstrated that the subsequent land use is an eligible agricultural activity. The assessor is thus relieved of the burden of determining when, if at all, actual construction, excavation or other modification have occurred. Moreover, point of sale conversions guarantee that citizens of the municipality granting the original agricultural assessment (and thus shifting a tax burden to other property owners) will be repaid some or all of the tax shifted to their property as a result of the program. Buyers and sellers are also advantaged in that they can negotiate the final selling price with any penalty tax payments in mind.

To handle situations of continued agricultural use, conversion payment can be waived when the buyer agrees to keep the sold land within the agricultural assessment program. Such waivers are common among states having programs of this type. Waiver generally requires submission of a form which indicates the intended land use and other pertinent data.

There are also instances in which conversion can occur without a sale. Common examples might be where a farmer builds a marketing or processing facility, or a house for a relative. A conversion would also occur if an owner makes physical alterations to the land through such activities as gravel mining. However, current law does not require the owner to notify the assessor of such activity in a reasonable period, so there is no way for the assessor to know of such cases without making continued inspections. This contrasts with laws in many other states, which require owners to notify the local assessor if they modify the land or change its use.

RECOMMENDATION

The following changes should be made to the statutory requirements governing conversion of farm land to non-agricultural purposes:

- **That conversion be defined as occurring upon the legal transfer, physical modification, or use change of land that has benefited from agricultural assessment within statutory time limits.**

- **That no repayment be required in instances where conversion results from a transfer, provided that the buyer files with the assessor and the seller, by the date of closing, a form indicating that the land will be continued in agricultural use and will be enrolled in the agricultural assessment program.**

- **That, wherever a conversion occurs without a sale of land, the owner be required to notify the assessor within 60 days of the date such action is taken.**

- That, in order to prevent the creation of multiple conversion provisions which apply to properties last receiving tax benefits in various years, the proposed changes be applied to all future conversions regardless of the year a property last received benefits.

- That municipalities have the option of imposing a minimum payment for conversions. The minimum payment should be set by individual assessing units, but should not exceed $100.

- That, in order to improve the information available to all parties involved in farm real estate transactions, a list of parcels which have been granted agricultural assessments should be reported to county clerks' offices by county real property tax directors in the year the assessments are granted.

- That, in order to clarify laws pertaining to conversion, a brochure be published by the NYS Division of Equalization and Assessment which describes how deferred payments are calculated, and points out the circumstances under which they would become due.

PART V. OTHER ISSUES

The Panel also addressed several additional issues relating to the agricultural assessment program which do not fall into any of the major items specified in the legislature's charge. These are discussed below.

Aquaculture

Aquaculture, or the controlled cultivation and harvest of aquatic plants and animals, is a fledgling sector of New York's larger food and agriculture industry. While data on the aquaculture sector is very limited, experts on the industry estimate that about 125 active commercial firms exist in the state. This number is expected to increase significantly in the future as the industry begins to penetrate the ever expanding market for fish for food and sport.

The state's aquaculture industry includes fish production either within a natural setting or man–made environment. The former category may be further broken down into pond culture and mariculture. Pond culture occurs principally in upstate areas and the largest volume of production involves bait fish to serve the sport fishery. Pond culture also provides stocking fish for both the sport fishery and hatchery grow–out, and to a more limited extent, food fish for direct human consumption. Mariculture involves the production of fish and aquatic products in open waters within the marine district, and is limited exclusively to shellfish in New York.

Production of fish in a man–made environment relies on facilities like raceways and tanks, and involves more fish production per unit of water. Because it is more intensive, it is generally more costly and involves more equipment, greater supplementary feeding, increased labor, and larger amounts of energy for water recirculation or aeration. Consequently, aquaculturalists who utilize man–made facilities generally produce fish species like trout, oysters, and clams which command a high market price. Production from these types of facilities is used primarily for stocking or food consumption purposes with only negligible production of bait fish.

The size of aquacultural operations varies widely, with half the pond and all mariculture operations in excess of ten acres. Between 40 and 50 operations are generating gross sales in excess of $10,000 and about 30 to 40 may meet the dual agricultural assessment eligibility thresholds of ten acres and $10,000 in gross sales value. The vast majority of these firms are unlinked to other forms of agricultural production and, therefore, do not qualify for agricultural assessment under the present law.

The Panel reviewed the available information on the aquaculture industry, but deemed it insufficient at the present time to justify additional expansion of eligibility beyond the provisions enacted in 1990 (allows the counting of aquaculture income toward the $10,000 minimum gross sales requirement). An area where information was particularly lacking was the actual tax liability of aquacultural operations. Since the current tax liability is unknown, it cannot be determined if there is a "tax problem" in the industry. Identification of a possible

problem was deemed important by some of the Panel members since other arguments for eligibility, such as preservation of land from urban encroachment, are likely to be irrelevant in the case of mariculture and possibly other aquaculture operations also.

In future years, information may become available which clarifies the current situation with respect to taxes paid by aquaculturalists. Additional data from the industry may also make clearer the characteristics of individual operations by which relative values may be distinguished and the extent to which they are located in areas threatened by nonagricultural demand for land.

RECOMMENDATION

No further changes should be made to the Agricultural Districts Law with respect to aquaculture. The tax situation of producers should be monitored to determine if current liabilities are reasonable and affordable.

Altering Length of Individual Commitments

One suggestion raised was that the length of individual commitments be reduced from eight to five years. It was argued that since agricultural district parcels are effectively "committed" for only five years (because the penalty uses a multiplier of five and can only be imposed within five years of the last benefit received), the same term should apply to committed lands.

It was also pointed out, however, that agricultural districts are created (and recertified) for a minimum of eight years and that this is the origin of the current eight year commitment. Consequently, the individual commitments can be viewed as *de facto* individual agricultural districts.

Also raised was the possibility of creating a new class of program that would involve much longer commitment periods and more substantial, if not total, property tax relief in exchange for longer term commitments. Terms in the vicinity of twenty to thirty years were suggested. It was agreed that discussion of this idea required much further study, which was beyond the scope of this Panel at this time.

RECOMMENDATION

No change should be made in the length of the agricultural use commitment at this time.

Filing of Annual Commitment Forms Where Development Rights Have Been Sold

During the course of the Panel's deliberations, an issue was raised relating to the treatment of parcels in Suffolk County's Development Rights Program which no longer have any alternative use to agricultural production. Concern was expressed that the annual filing of an

eight–year commitment to agricultural production on these parcels was superfluous since they are effectively committed in perpetuity through the sale of development rights to the county, which only buys development rights on working farms.

At present, there are about 100 properties involved in the Suffolk County Development Rights Program, covering almost 5,000 acres. An additional 1,500 acres are involved in contracts currently being negotiated for the sale of development rights to the County. Although the acreage already included in the program is spread among eight of the County's ten towns, the bulk of it, some 3,300 acres, is found in the Town of Riverhead. According to one of the assessors in Riverhead, filing fees associated with the individual commitment papers on these properties typically run in the $30 to $60 range per applicant or farm operation annually. In addition, there is a substantial amount of administrative work for the assessor in preparation and verification of the forms prior to filing with the county clerk.

In discussion of this subject, the Panel raised concerns that new development rights programs with more lenient restrictions might emerge in the future and that these should not automatically be included for favorable treatment under any alternative filing procedures. Similarly, there are approximately 1,000 acres of Suffolk County farm lands which are now protected through the sale of development rights to three different townships. Because of the potential variation in program requirements, it is probably not possible to devise a general simplified filing procedure for all parcels from which development rights may have been severed. However, in the case of Suffolk County's program, there is sufficient evidence that the filing of annual commitments is unnecessary

RECOMMENDATION

Land in Suffolk County's Development Rights Program should be eligible to apply for agricultural assessment as though located in an agricultural district — without the expense or administrative burden involved in the filing of an individual commitment with the County Clerk.

Data Requirements

In the course of the Panel's work, many instances were found where key information needed to make appropriate policy recommendations was lacking. The Panel tried to make up for this by requesting mail surveys of local officials and field inspections of certain property, but adequate information could not be generated in all instances. Since the agricultural districts program has now grown to encompass over 8.5 million acres and results in an annual tax shift of approximately $33 million, the state government should be making a greater effort to keep track of its key attributes over time.

The data problem begins with formation of the districts themselves. The exact boundaries are vague in some areas, having been drawn on maps of large scale, and it is impossible to distinguish the tax parcels which are in the district from those which are outside. In most

cases, assessors have no ready means of finding out whether a parcel is inside or outside the boundary. Some boundaries may not, by design, even follow parcel lines — creating additional problems.

Farmers in the districts are currently not required to provide information on production and sales which permit judgments to be made regarding the viability of agriculture in various areas or changes in profitability. The data now available, generated under a voluntary submission arrangement, are seriously lacking and thus of limited utility. The data prove inadequate not only for state–level administration of the program but also for county–level approval and review of districts. Since the voluntary approach is not working, data can only be gathered adequately if compulsory submission is required. Confidentiality of such data is understandably important to farmers, and this can be achieved through government data release procedures similar to those currently used for tax returns data and similar financial information.

The first reported data on farmland conversions, pertaining to the 1989 assessment roll, were reviewed by the Panel and are discussed earlier in Part IV of this report. During this review, it became apparent that the reporting mechanism used by SBEA was designed to produce information only on the existence of a conversion and the extent of the penalty imposed. Other relevant facts such as the type of land use change which occurred, whether the land had been rented, the price paid (if the land had sold), and whether other land from the same parcel or farm had been converted in prior years, were lacking, and field research had to be carried out to supplement what was available. The additional information noted must be gathered if hard facts on the conversion of farmland to non–farm uses are to be developed. Assessors typically have this information available in doing their day–to–day work, so including it on the reporting form currently used by SBEA should not be burdensome.

RECOMMENDATION

To develop better information on the agricultural districts program, the following actions are recommended:

- **The Agricultural Districts Law should be amended to grant authority and responsibility to the Department of Agriculture and Markets and counties to require that additional data be provided by farmers, when districts are formed or reviewed. The costs of data collection and maintenance should be shared between counties and the state. Farmers should be required to provide to county governments such production, gross income, land use, resource inventory, and other such information as the Department may deem appropriate. County governments should, in turn, be required to make this information, together with district maps showing tax parcel boundaries in relation to the district boundaries, available to the Department. Income data provided by farmers should be treated confidentially by government agencies and released only in aggregate form.**

- **The State Board of Equalization and Assessment should modify the form it uses for reporting of farmland conversions to include**

additional information such as the nature of the land use change, whether the land was rented, the price paid in the case of sales, the extent of other conversions on the same parcel or farm, and such other relevant information as either the Board or the Department may deem appropriate.

- **The State Department of Agriculture and Markets should be encouraged to develop a program for entry of soil group acreages onto a computer file.**

Property Tax Billing and Assessment Information Available to Farmers

One important aspect of the administration of agricultural assessment is the availability of assessment information to agricultural property owners, particularly when property tax bills are received. Members of the Panel were concerned that local tax bills contain too little detail for understanding the components of assessed values. This concern was reinforced when the Panel reviewed examples of tax bills, which generally showed little information other than the tax rate and the assessed value.

Some Panel members stated their frustration at determining what portions of the assessed property value were attributable to separate property components: land, residential improvements, and agricultural improvements. This was seen as a major flaw in tax billing, particularly since two types of agricultural exemptions are applied only to land, and one type is applied only to agricultural improvements. Even when the exempt amount is shown, a further problem arises in that only the aggregate value for all exemptions is shown, including such exemptions as those for veterans and senior citizens. Representatives of the Division of Equalization and Assessment noted that these problems are faced by a wide variety of property owners, not just by farmers, and that the bills must accommodate a wide variety of property types.

The representative of the Association of Towns was sympathetic to these concerns, but warned that placing state mandates on municipalities for supplying additional information on tax bills would be onerous. Although detailed information addressing the above concerns is available in worksheet form at the local assessor's office, this information, unlike that currently listed on tax bills, is not computerized. It was noted that computerizing worksheet information would entail considerable time and expense, and that much of the concern may exist only in specific municipalities and not in the state as a whole. It was suggested that municipalities could inform property owners of the availability of worksheets for their inspection at the local assessor's office.

RECOMMENDATION

Municipalities should be encouraged to supply more detailed information to property owners on their assessments. Sufficient information should be supplied to farmers receiving benefits from the agricultural assessment program to provide them with a better idea of the extent of benefits from agricultural assessments. This information should accompany the mailing of the tax bills.

PART VI. STATEMENTS OF PANEL MEMBERS

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December 20, 1990

David Gaskell, Chairman
Ag Districts Review Panel
NYS Division of E&A
16 Sharidan Ave.
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Dear Mr. Gaskell,

As the deliberations with resulting recommendations of the Ag Districts Review Panel come to a close, I would like to offer the following observations and suggestions:

1. I was overly impressed with the dedication and knowledge that the staff of E&A exhibited in regard to understanding NYS Agricultur and its problems. The staffs of both E&A and the Dept. of Ag & Markets responded to the charge before the Panel in a very thorough manner and a true "concern for fairness" for all parties involved.

2. The Panel openly recognized that the Ag Districts Law in and by itself is not effective in retaining NYS's better soils for agricultural use by future generations. The suggestion that farm land retention might be accomplished by long term land owner commitment coupled with substantial tax relief should be further explored.

3. The possibility of making available a more detailed breakdown of tax bills would certainly be well accepted by the tax paying farmer.

4. Other recommendations tend to eliminate some flaws in the Ag Districts Law that exsist today--namely: shifting time of conversion to time of sale, fine tuning methodolgy of calculating Ag values, and possible partial compensation to municipalities with 5% or more of their tax base being excluded from the tax rolls because of agricultural assessment.

I enjoyed serving on the Panel. I would hope that some or all of our recommendations might someday become law.

Very truly yours,

E. D. Fessenden

Edwin D. Fessenden, member

FARM BUREAU OF NEW YORK

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December 20, 1990

Mr. David Gaskell, Chairman
Agricultural Districts Review Panel
Division of Equalization and Assessment
16 Sheridan Avenue
Albany, New York 12210-2714

Dear Mr. Gaskell:

It has been a pleasure to continue to serve on the Agricultural Districts Review Panel in preparation of this final report. The Panel issued its first report in March, 1989 and several recommendations have subsequently been enacted into law. This final report addresses the impact of changes made in 1987 to the methodology used to determine agricultural use values on both farmers and local government tax revenues, as well as its effectiveness in furthering the protection of agricultural lands. Farm Bureau generally feels the new methodology is meeting the objectives it was designed to achieve. However, we remain concerned over the stability from year to year of the agricultural values. As with several of the recommendations, we agree there is a need to further refine the new methodology to address the stability question.

I would like to provide some comments on the Panel recommendations, specifically those that Farm Bureau opposes. Although we concur with many of them, there are some fundamental areas of disagreement.

Of particular concern is the recommendation relative to the effectiveness of the program in furthering the protection of agricultural lands. With regard to the conversion of farm land to non-agricultural use, the Panel recommends that conversion be defined as occurring upon the legal transfer of the land unless the buyer signs a statement that the land will stay in agriculture and remain in the agricultural assessment program. This would assume a conversion will occur unless the buyer signs an agreement. In other words, the farmer would be considered "guilty" of a conversion unless proven "innocent" by the signed agreement.

Farm Bureau feels this change would alter a fundamental element of the Agriculture Districts Law that promotes voluntary participation in a program designed to protect agricultural land from pressures such as high property taxes that might otherwise force it out of production. To require subsequent owners of farmland to continue receiving an agricultural assessment or else pay a penalty defies the voluntary intent for the initial program participant.

Up to this time, farmers are only liable for the penalty provisions if they actually convert the land. If the legal transfer of land is considered a conversion, because the buyer does not agree to stay in the agricultural assessment program, then a penalty tax will be levied, even if the land remains in agriculture.

It has been argued that the farmer is not affected, as long as the buyer agrees to stay in the agricultural assessment program. However, there are several instances where the buyer may not stay in the program. For instance the buyer may not qualify for an agricultural assessment because he or she does not meet the $10,000 minimum sales requirement, even though they plan to continue farming the land.

The other recommendation of concern deals with the state reimbursement question. The panel is recommending a proposal that would provide partial reimbursement to local governments for tax shifts associated with the agricultural assessment program.

Our organization remains opposed to any state reimbursement for various reasons, primarily because the members do not consider this an exemption program, but rather a fair assessment on the current use value of farmland. In this sense, there is not a true loss of tax dollars, but rather an equitable assessment and subsequent taxation of farmland.

In conclusion, although Farm Bureau does not support all the recommendations of the Panel, the organization appreciates the opportunity to work with the various organizations represented on the Panel as we continue to discuss policy directions for the Agriculture Districts Law.

Sincerely,

John Lincoln

John Lincoln, Vice President

JL:sg

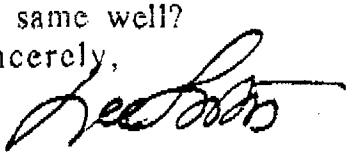
Lee Foster
Box 384
Sagaponack, N.Y. 11962
December 27, 1990

To those of the panel with whom I have enjoyed working, and to those who will utilize this report;

I feel that the review panel, undaunted by the complexity and the integrated issues which surfaced, has been focused and has concluded the process with the help of excellent documentation furnished by the staff at E and A. To me, the results of the review signify that the economic dilemmas, which can only be projected, will most likely have the greatest impact on the future of Agricultural Districts.

My primary dissent concerns the consideration of state cost sharing. Something disturbing is made more tolerable politically, by diminishing the impact by dilution. It appears to me that in order to ease a tax shift burden which is perceived as intolerable, we make the error of not dealing with the pain of realization. The revenue shifts consequent to farmland preservation are presently not cushioned by any other economic factor within localities. Therefore the tax shift is then a true reflection of a local imbalance consequent to individuals participating in Ag. Districts or committments. The ability of that locality to be flexible and resourceful is in danger, if it is comprehended that restoration of balance can be solved by dissipating the revenue shift over a greater area. I feel this is inaccurate; the wobble remains, it is just not so clearly disclosed. This tendancy to dilution demonstrates a repetitious, habitual avoidance of a problem in real property tax law, not Agricultural Districts legislation. Taxing land at its use value has had complex reverberations, but the pain associated with this distinction should be addressed from the position of objectives. The consequences of feeding ourselves, serving to keep a region productive, and the cost- effectiveness of nonconversion are not just isolated blips on the socioeconomic screen. Partial assistance at a certain threshold can be attained, sustained and altered as time goes on, but that is not the method of amelioration which I feel is prudent even if presented as a minor improvement, well intentioned. The question we should be asking is why is so important a resource as productive land treated with such indifference? And as revenue sources go dry, do you go back to the same well?

Sincerely,



YATES COUNTY REAL PROPERTY TAX SERVICE AGENCY
110 Court Street
PENN YAN, NEW YORK 14527

315-536-2723

JOHN R. ALBERTSON, *Director*

December 28, 1990

N.Y.S. Div. Equalization & Assessment
16 Sheridan Avenue
Albany, NY 12210-2714

ATTENTION: Mr. David Gaskell
FAX #518-474-3864

RE: Final Report of the Agricultural Districts Review Panel, Draft of January 1, 1991

Dear Mr. Gaskell:

I am writing to express the views of the Real Property Tax Directors' Legislative Committee on the Final Report of the Agricultural Districts Review Panel, Draft of January 1, 1991.

We agree with the concept of State Cost Sharing of this Program, preferably by State Circuit Breaker Program on Income Taxes.

Page 21 If this isn't feasable by the cap of a 5% impact on Agricultural Municipalities. We agree with the minimum up to $100 by Municipal Option.

Page 33 We agree with using Option "B" to calculate Annual Agricultural Values as having less fluctuations.

Page 47 & 48 We agree that the penalties are not being collected under the present system, and believe that penalties should be tied to point of sale so that the penalty is collected, and that the seller who benifitted from the Tax Savings, pays it back through a lower net profit on the sale or a lower negotiated sale price, with the penalty on the table at the time of closing.

Continued on Page 2

December 28, 1990

Mr. David Gaskell

Page 53 We agree that the information should be readily available at Assessor's Office and Municipal Clerk's Office, available to all taxpayers at minimum expense. But do not agree with this information being sent with Tax Bills, because of cost and administrative problems.

Thank you for considerations of our views.

Sincerely,

John R. Albertson, C.C.D., I.A.O.
Ag. Chmn., R.P.T.D. Leg. Comm.

JRA:tl

APPENDIX

Summary of Responses to Survey of

Extension Agents and

Real Property Tax Directors

INTRODUCTION

Two questionnaires (included at the end of this Appendix) were prepared at the request of the Panel to survey County Cooperative Extension Agents and Directors of Real Property Tax Services regarding matters on which the Panel sought to develop information.

As indicated in the cover letter sent with the questionnaires and attachments, responses were sought within a two week period. In all, 17 of the 56 Extension Agents and 20 of the 56 Tax Directors surveyed replied in time to be included in the analysis, representing response rates of 30 and 36 percent respectively. The overall response rate was 33 percent, and at least one survey was received from 32 counties. Both the Extension Agent and Tax Director responded in only five of the counties — Allegany, Chemung, Chenango, Delaware and Essex. The higher level of response on the part of Tax Directors was foretold in the results of a pre–test of the questionnaires, where only one of the three Agents and two of the three Tax Directors replied.

Table 1 shows the counties responding to each survey, along with the number of parcels benefiting from agricultural assessments and conversion penalties reported in 1989. The last column of information in Table 1 relates to additional conversions reported by survey respondents, which will be discussed later. The 24 counties from which no response was received represent 45 percent of the agricultural assessment parcels and 34 percent of the conversions reported in 1989. Although the counties responding represent a majority of both measures, as indicated in Table 1, several of the counties best suited to comment on the matters before the Panel were not heard from. Noteworthy absences were the Counties of Cayuga, Columbia, Erie, Monroe, Montgomery, Suffolk and Yates.

Given the different focus of the two questionnaires, the responses received are discussed below according to their respective groups and subject areas.

Table 1. Agricultural District Review Panel Questionnaire Responses

County	1989 Ag. Assessment Parcels	1989 Conversions Reported	County Tax Director Response Received	Coop. Extension Agent Response Received	Additional Conversions from Surveys (CTD)	Additional Conversions from Surveys (CEA)
Albany	1			x		
Allegany	157		x	x		
Broome	144		x			
Cattaraugus	95		x			
Cayuga	1,544	28				
Chautauqua	1,276			x		
Chemung	59		x	x		1
Chenango	1,086		x	x	27	
Clinton	350		x			
Columbia	766	10				
Cortland	736					
Delaware	913		x	x		
Dutchess	1,055	13	x		7	
Erie	1,474	2				
Essex	49		x	x		
Franklin	123					
Fulton	68		x			
Genesee	1,666	8	x		4	
Greene	2			x		
Hamilton	0					
Herkimer	151		x			
Jefferson	311	2	x			
Lewis	260	1	x			
Livingston	1,579		x			
Madison	936					
Monroe	896	21				
Montgomery	908	6				
Nassau	7					
Niagara	1,333					
Oneida	147			x		5
Onondaga	702					
Ontario	1,825	33	x			
Orange	1,843	80		x		
Orleans	844					
Oswego	9			x		
Otsego	306			x		
Putnam	14					
Rensselaer	895		x			
Rockland	37	1				
St. Lawrence	285		x			
Saratoga	670					
Schenectady	55			x		
Schoharie	279			x		6
Schuyler	59					
Seneca	751					
Steuben	1,437					
Suffolk	776	8				
Sullivan	168	9	x		2	
Tioga	111					
Tompkins	489			x		4
Ulster	791					
Warren	0					
Washington	728	5	x			
Wayne	1,805			x		
Westchester	74					
Wyoming	1,329			x		
Yates	874	3				
Total	**35,288**	**230**	**20**	**17**	**40**	**16**

COOPERATIVE EXTENSION AGENT RESPONSES

The Extension Agent surveyed in each county was drawn from a list prepared by Nelson Bills of the extension faculty at Cornell University. He supplied the names and addresses of agents known as Agricultural Program Leaders in their respective counties and indicated that these would be the most appropriate recipients of the survey as they are the most likely to be familiar with the provisions of the agricultural districts law. Of the 17 agent responses received, two were not completed — one because of the absence of the agent (Schenectady) and the other because of an incorrectly perceived lack of agricultural assessments (Albany). Consequently, the base number of responses for analysis is fifteen.

The questionnaires sent to the Extension Agents contained five subjects not included on those sent to the Tax Directors. These related to the effectiveness of the existing agricultural assessment program, the stability of agricultural values, and the affordability of farm taxes, and also covered issues relating to the assessment of farm structures and reimbursement of localities for program costs.

Program Effectiveness/Importance

Of the fifteen usable responses reviewed, nine were unequivocal in citing the positive effects and importance of the agricultural assessment provisions in their counties. Only two Agents, from Greene and Wyoming Counties, cited the agricultural assessment program as having little or no effect on agriculture in their counties. The remaining four agents gave responses that were more equivocal and could not be neatly classified in either camp. Most of these indicated that their feelings depended on the level of the agricultural values, or that the program benefited certain farms (e.g., vineyards, upland, and large farms) but not others (e.g., field crops, muckland, and small farms).

Some of the agents cited the growing importance of the agricultural assessment provisions in light of renewed revaluation activity and increased land values and development pressure, while others reported decreasing importance in the wake of higher agricultural assessments. The latter of these included observations that the prevailing level of assessment in some rural areas was not high enough to realize any benefit from agricultural assessment enrollment. According to the agents, in these places it is the lack of competing land uses rather

than the agricultural districts law which keeps land in agriculture. One agent said that the agricultural assessment provisions are effective in that the better land is being retained and the attrition rate of farmers would be much higher without agricultural assessments. Another indicated that although there was great development pressure in the county, the benefits of the program were not significant enough for farmers to enroll. That agent went on to explain that the apparent contradiction results from the aging local farm population, which looks forward to liquidating its land wealth for retirement purposes and therefore is not willing to be subjected to penalties upon conversion.

A few of the agents referred to the agricultural assessment provisions as helpful to the financial situation of commercial farmers, though not necessarily effective at keeping land under agricultural production. One indicated that although the provisions are important, farm profitability needs more of a boost if farming is to continue.

Stability of Agricultural Values

The Extension Agent surveys included a bar graph (copy included at the end of this Appendix) depicting the annual weighted average mineral soil group value for the period 1981 through 1990. The agents were asked to respond to the annual value changes under the new valuation method implemented in 1988, and to indicate a maximum acceptable level of annual fluctuation. Three of the 15 agents offered no comments in this area, leaving 12 responses available for review.

The most common response, echoed in eight of the surveys reviewed, indicated that the recent annual changes were excessive relative to changes in actual farm income potential. Two of these cited the problem of using statewide figures, drawn from a variety of crops, to generate values for more limited local farm enterprises. Four of the agents did not comment on the changes which occurred, but offered maximum acceptable levels of annual fluctuation. All together, seven agents specified maximum acceptable levels of fluctuation. These ranged from a low of 3% to a high of 12% per year. Four of the agents suggested an annual maximum of 10% fluctuation.

Two other agents also offered strategies for stabilizing the agricultural assessment values, but didn't rely on a fixed percentage. One suggested limiting the annual fluctuation to

the annual rate of inflation plus an unspecified percentage, while the other said the Panel should not be aiming for a maximum percent solution. Instead, this agent suggested fixing the agricultural assessment values for periods of three to four years, allowing for adjustments as needed at the intervals, and doing away with the inherent problems of the annual averaging process. This agent was not alone in citing predictability and consistency as being of paramount importance in determining farm tax obligations from one year to the next.

Affordability of Farm Taxes

Agents were asked to comment on the affordability of current property tax levels under the agricultural assessment program to commercial farmers in their counties, and to indicate what they thought an affordable tax per acre would be. Once again, twelve agents commented on this subject area, but only four offered an indication of an affordable tax.

Eight of the agents agreed in their characterization of current tax levels as too high. Two of these responses evidence the extent to which this answer is instinctive, as they included statements to the effect that "I don't really know, but..." or "I don't have sufficient data, but...". One agent said that current tax levels are affordable, but raised the spectre of revaluations looming on the horizon.

The remaining three agents did not pass judgment on the affordability issue because of the variability among farm enterprises and/or their dissatisfaction with the question. Two of these indicated that affordability was irrelevant. Instead, one said the relevant question was one of "equity", while the other said the Panel should be "thinking about what can be done to encourage the continuation of farming". This latter respondent suggested that given the amenities which flow from agriculture, including rural atmosphere and open space, decision makers should err on the low side when it comes to taxing farms.

The range in the four affordable tax level per acre responses ran from a low of seven to a high of fifteen dollars for land, and from fifteen to twenty–two dollars for land and buildings combined. One of these indicated an affordable percentage of gross income, 2 to 3 percent, rather than a dollar amount per acre. These affordable rates were contrasted to prevailing local rates running as high as 38 dollars per acre and 5 to 7 percent of gross income.

Assessment of Farm Buildings

The agents were asked to comment on the effectiveness of current statutory provisions relating to the taxation of farm structures and cite any problems that they may be aware of. All fifteen of the agents offered comments on this subject, most of which were positive with respect to the current law.

The most common type of response, given by seven of the agents, characterized the current tax treatment of farm structures in terms such as good, helpful, equitable, accepted, and free of problems. One agent summed this sentiment up by indicating that this was one of the few areas of tax law to have yielded positive experiences. The next most common response called for the inclusion of buildings under the agricultural assessment program, though none of these three agents offered a strategy for how it could be accomplished. One of these agents said that the current treatment of structures is a farce because assessors are raising building values beyond the amount of benefit received by land under agricultural assessment. Three other agents joined in citing the shifting of values from land onto buildings, although two of these admitted to relying upon hearsay evidence.

Two agents expressed the need to reduce taxes on farm structures. In fact, one of these even suggested the total exemption of structures used in agriculture, while the other encouraged the use of resale value rather than cost in setting building assessments. One agent indicated that farmers seem unaware of the building exemption program or of how to enroll. The other two responses are difficult to characterize as they relate to specific cases without sufficient elaboration. One of these indicated that greenhouses need to be reviewed but didn't say why, and the other recounted the reconstruction and subsequent exemption of an absentee owner's barn after a fire, which upset local farmers.

State Reimbursement to Localities

The agents were asked to indicate whether or not the state should institute a program of reimbursement to localities for the costs associated with the agricultural assessment and building exemption programs. Nine of the fifteen agents indicated their support for state assumption of the costs associated with both land and building programs. The most common rationale offered identified the need to better equate benefits of the programs with costs.

Agents holding this view believe that since the benefits of continued agriculture flow statewide, so should the costs. Some of the agents in this group pointed out that the need was amplified in many rural townships with limited tax bases. Two of the agents supporting reimbursement suggested that the state could share in the program costs without necessarily assuming the total burden.

Two of the remaining agents also supported the state reimbursement of localities — but only for agricultural assessment properties, not for building exemptions. Neither of these agents, however, offered a rationale for their viewpoint. Two other agents were unsure on this subject, and two were against the idea of reimbursement all together. The agents subscribing to this latter view mentioned the advantages which accrue to localities from agriculture, and one thought it was better to have localities operate on locally generated revenue. Overall, this particular subject area evidenced the highest degree of unanimity among the views offered by the Extension Agents.

The remainder of the Extension Agent questionnaire parallels the questionnaire sent to the County Tax Directors. Based on the responses received, it is evident that these questions relating to farmland conversion activity and penalty provisions were best suited to the Tax Directors. For example, only four of the agents provided any information on conversion activity in their counties. Several of the agents indicated they had no idea about conversion activity, including some counties, such as Orange, where substantial evidence of agricultural assessment conversions exists. This was a surprising result, as the importance of maintaining viable agriculture and the threat of urban encroachment are frequently cited by agents and others in defending reductions in farm assessments. One would expect that, at least in places where the pressure on farms was heaviest, agents would be aware of instances where land was converted to nonfarm uses. Most of the agents, however, did provide comments regarding the adequacy of the penalty provisions and included additional thoughts in the concluding general comment portion of the survey. A list of the general comments received from the Extension Agents follows, while their information relating to conversion activity and penalties is discussed below with that provided by the County Tax Directors.

County	Comments
Chautauqua	Need to address the problem of exemptions in rural communities with narrow tax bases. The preservation of our state's viable farmland should be shared by all our citizens.
Chemung	Should be looking for a new tax system to replace the unfair, antiquated property tax. Horse boarding facilities should be included in provisions.
Chenango	Statewide average agricultural assessment is indefensible given the diversity of New York agriculture. Local farmers are hard–pressed by state's high agriculture values.
Delaware	There is a lack of consistency among local assessors in administering these programs — Assessors need training.
Essex	Pleased to receive annual updates on law changes.
Orange	Stronger programs need to be put in place to truly protect farmland in southeast New York State and surrounding metropolitan areas. Fire taxes should not apply to farmland, only building.
Oswego	Farm management studies show property tax is a high percentage of net farm profit. In many cases over 50%.
Otsego	Problem is not with agricultural values, but with the undervaluation of non–agricultural lands. Rented land is becoming more important and should be made easier to qualify (e.g., one year contracts).
Schoharie	Why not begin with a general percentage of total value for farm value? Generally accepted that development rights represent 90% of the land value in areas where growth is occurring.
Tompkins	Need additional mechanisms in the state to maintain farmland. Circuit Breakers, PDR, and Farm or Cropland zoning should be considered to maintain the best land in agriculture.
Wayne	Need fact sheets explaining the Agricultural District Program and penalties. County Agents need a brochure on this soon.

COUNTY TAX DIRECTOR RESPONSES

The questionnaire, cover letter, and sample attachments sent to the Director of Real Property Tax Services in each of the counties surveyed appear at the end of this Appendix. The information sought from the Tax Directors related to the areas of agricultural assessment conversion activity, and the administration of the current penalty provisions. The Tax Directors were also given an opportunity to offer any other comments on the current agricultural assessment program.

Conversion Activity

The Tax Directors were provided with copies of the agricultural assessment conversions reported to the State Board of Equalization and Assessment for 1989 assessment rolls, and asked if they were aware of any additional conversion activity either in that year or earlier. Of the twenty directors responding, eleven had knowledge of, and provided information for, additional conversion activity in their counties. Of these, ten related to assessment roll years earlier than 1989, one related to the 1990 roll, and four reported both additional 1989 and earlier information. The counties which reported additional 1989 information are indicated in the last column of Table 1, with the number of additional conversions involved under the heading "CTD".

Table 1 also indicates the additional conversions reported by extension agents under the heading "CEA". However, the assessment rolls which those conversions would have been associated with cannot be ascertained. The Tax Director figures listed in Table 1 provide an indication of a failure to report conversions where penalties were levied in 1989 and can be added directly to the 230 already known through reporting to the Division of Equalization and Assessment. This addition would represent a 17 percent increase in the number of 1989 conversions, and add Chenango to the list of affected counties. These additional forty conversions involved a total of 170 acres.

As indicated in Table 1, the additional conversion activity from the agent surveys, including years prior to 1989, extends the list of counties known to be affected by conversions to twenty–one. The pre–1989 conversion activity reported by directors affected the counties of Broome, Delaware, Livingston and Rensselaer in addition to others already known. Overall,

the survey responses have added nine additional counties to the original sixteen known to have conversion activity. This represents a 56% increase drawn from a survey with only a 33% response rate.

Of the nine directors not reporting additional conversion activity, eight indicated they had no knowledge of such activity and one indicated uncertainty. However, some of these indicated elsewhere in their responses that agricultural assessment conversions were occurring but that penalties were not being enforced and therefore not reported. Ironically, even the director who originally indicted uncertainty on conversions later said "The assessors have not reported any, but I'm sure there have been dozens." The reasons for this phenomenon offered by the directors are discussed further in the section below on administration of the penalty provision.

Several of the questions put to the Tax Directors related to the additional conversion activity they were aware of and as a result, were not answered by nine of the directors. Together, the pre–1989 data offered showed 286 conversions involving 1,930 acres. Because these data relate to an indefinite time frame, it is difficult to draw conclusions as to rates of activity. However, 98% of these conversions and 87% of the acreage involved occurred in four counties — Delaware, Dutchess, Genesee, and Ontario. In fact, Ontario County alone accounts for 55 and nearly 40 percent of the conversions and acreage respectively. The conclusion to be drawn here, buttressed by the field research discussed elsewhere in this report, is that counties with the best administrative systems know what conversions are occurring and therefore are able to supply the most data. For example, Ontario County provided five years worth of data while the next longest period covered was by Genesee — three years. Delaware and Dutchess provided only two years worth of data, but activity levels there are relatively high.

To get an indication of the rate of activity and how it compares to the 1989 data reported, the directors were asked to provide an indication of the average amount of conversion activity per year and the towns affected in their counties. Given the less than perfect response and reporting rates, there are only seven counties where both an indication of the average activity and the 1989 activity are available for comparison. In all of the cases but one, Sullivan County, the 1989 data available are very close to the average annual activity indicated. In Sullivan County the 1989 data are notably above average. Most counties report that the average

annual conversion activity occurs in a few towns, while others such as Ontario, Genesee, Chenango and Dutchess report activity spread more widely over the county.

Directors were also asked to indicate whether conversions were occurring in or outside of agricultural districts, involved part or all of the farm property, and what kinds of land use changes were occurring. Overwhelmingly, the directors reported that conversions were occurring in agricultural districts, involving only part of a farm parcel, and the land was put to residential use. The only notable departure from the norm occurred in Delaware County, where the director indicated that 98% of the conversions involved entire parcels or farms.

Administration of Penalty Provisions

The directors were asked to comment on the success of conversion penalty administration in their counties, and many responded to the opportunity with seeming alacrity. Only four directors who had actually been involved in the process described it in positive terms. However, two of these indicated that they have seldom had occasion for the procedures to be used, while another indicated that the process worked well only if the assessor initiated it. Seven of the directors characterized the existing penalty administration process in negative ways.

The lack of satisfaction expressed by directors stems primarily from the amount of work involved in the process especially given what most described as a small amount of money involved. Several of the directors cited this problem in explaining the lack of initiative on the part of assessors in enforcing the penalty provisions. Aside from the poor cost–benefit ratio, some of the directors expressed frustration over the fact that the penalty often is levied against what they perceive as the wrong person — the unsuspecting buyer — because the process can only be triggered once the statutory definition of conversion has been met. The definition problem was also cited in allowing speculators to escape penalties because "they can afford to wait five years," and also in complicating an already difficult process.

The director from Chenango County, summarized his frustration with the current process as follows:

> "Entire farms are being bought up, split up, and sold off to multiple non–resident owners with no intention of building for several years; thus no 'conversion' has occurred but another farm has just as effectively 'died'."

Adequacy of Penalties

Both the Tax Directors and Extension Agents were asked for their thoughts regarding the adequacy of the agricultural district and individual commitment penalties. Five of thirteen agents and five of sixteen directors characterized both penalties as adequate. Conversely, four of the agents and eight of the directors said both penalties were inadequate.

The remaining respondents characterized only one of the two penalties as inadequate. Interestingly, the three remaining directors all said the individual commitment penalty was adequate but the agricultural district penalty was not, while four remaining agents all said the opposite. Three of these four agents said the individual commitment penalty was excessive, and one indicated that the old penalty (2 x post conversion taxes) was more effective at keeping "speculators (both farm and non–farm) from 'parking' land in the program while waiting for appreciated values."

The majority of the respondents indicated that the two penalties should be the same, however, as indicated above there were differences of opinion on how to accomplish that. Some of the respondents, primarily agents, said that the penalty for committed lands should be higher than that inside of districts in order to encourage Agricultural Districts. One of these agents would make an exception to the higher penalty for farms that tried but were denied in the formation of a district.

Finally, the directors were also given a chance to offer comments on any other aspects of the current agricultural assessment program. A list of other comments received follows:

County	Comments
Chemung	Need better identification on tax maps and assessment records. Soil people should make sure farmers are aware of penalties that accompany the exemption.
Chenango	As currently implemented it is not a stable vehicle for farmers to rely on for property tax burden considerations.
Delaware	Should assess at current use value.
Genesee	Would rather have this program completely administered as a circuit breaker (supporting letter available).
Lewis	County can no longer survive as a farming community only. Agricultural land should be preserved but non–agricultural growth which is occurring is also needed.
Livingston	Program is a joke as far as preserving farmland. No penalty is levied on the farmer so why not sell for development? Just like all exemptions, the state should forget the property tax and work with the income tax.
St. Lawrence	Farm property with alternative use (primarily seasonal residences) is not being enrolled in the program to begin with.
Sullivan	Penalties are not a factor given high sales prices.

DAVID GASKELL
EXECUTIVE DIRECTOR

STATE OF NEW YORK
EXECUTIVE DEPARTMENT
DIVISION OF EQUALIZATION AND ASSESSMENT
16 SHERIDAN AVENUE
ALBANY, NEW YORK 12210-2714

MEMORANDUM

July 31, 1990

TO: County Extension Agents

FROM: David Gaskell, Chairman
Agricultural Districts Review Panel

SUBJECT: Panel Survey

Attached is a survey questionnaire which is being sent to you on behalf of the Panel in order to solicit any data or other information you may have concerning: (a) the adequacy of the State's agricultural valuation program; (b) the extent of conversion of land receiving an agricultural exemption to non-agricultural uses; and (c) the levying of penalty taxes on such conversions. The Panel, formed by Chapter 774 of the Laws of 1987, is charged with reviewing several aspects of the agricultural districts law, among which are "the implementation of the agricultural valuation program", and "the appropriateness and effectiveness of the sanctions which are intended to encourage continued agricultural use." We will be presenting our report to the Governor and the Legislature prior to January 1, 1991.

I have attached two items for your reference. The first consists of a chart showing average per-acre agricultural values for the 1981-1990 period. The chart shows the values established under an earlier valuation system (1981-1985), those which were "frozen" (1986-1987), and those established under the new valuation procedure required by Chapter 774 (1988-1990). In responding to the questions, please comment on the values calculated under the new procedure.

The second item is a list of conversions (if any) reported to the Division of Equalization and Assessment by assessors in your county for 1989 (the first year in which such reporting was required) and a summary of data for other counties. Please review this list for completeness, and indicate in the appropriate places on the questionnaire the extent to which it represents all conversion activity in 1989 which you have knowledge of. Other questions relate to the amount of conversion activity in years prior to 1989, the new land uses for which farmland is converted, and the effectiveness of imposing the conversion penalties.

We realize that you may not have all the information you need to answer all the questions. However, please do your best, and make estimates based on your experience and that of other staff if the exact figures are not available. Please complete the questionnaire and return it to the address listed below by August 13th. If you have any questions, please contact:

Jim Dunne or Paul Miller
Office of Policy Analysis and Development
Division of Equalization and Assessment
16 Sheridan Avenue
Albany, New York 12210-2714
(518) 473-4532

On behalf of the Panel, I thank you for your assistance.

attachments

AGRICULTURAL DISTRICTS REVIEW PANEL

Survey of County Extension Agents

COUNTY _____

NAME OF PERSON COMPLETING FORM _____

PHONE NUMBER _____

Agricultural Assessment Program and Farm Structure Exemptions

1. Program Effectiveness. Do you think the agricultural assessment provisions of the Agricultural Districts Law are important for maintaining land in agricultural production in your county? Please use your knowledge of local farming trends to comment on the overall effectiveness and adequacy of the agricultural assessment provisions.

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

2. Stability of Values. Recognizing that the annual agricultural assessment values developed by the State Board of Equalization and Assessment are intended to reflect agricultural income potential, including possible trends or fluctuations over time, please rate the annual value changes under the new valuation method used in 1988, 1989, and 1990. (See attached data on value trends over time.) What do you think the maximum acceptable level of annual fluctuation (percent) should be ?

3. Affordability of Farm Taxes. Please comment on the affordability of current property tax levels to commercial farmers in your county, assuming that they are receiving agricultural assessments. What is an affordable level of property tax per acre? Are current tax levels affordable given current farm incomes?

Affordable Tax Per Acre

Including Farm Structures	**Excluding Farm Structures**
$ _____	$ _____

Comments: _____

4. Assessment of Farm Buildings. Under current law, most new or reconstructed farm structures are eligible for a 10–year property tax exemption. Other farm structures are fully taxable. Please comment on the effectiveness of the current law for taxation of farm structures and, if applicable, any specific instances you may know of where problems have occurred.

5. State Reimbursement. Agricultural assessments and farm structure exemptions currently shift property taxes to owners of non–eligible property. State reimbursement to local governments would prevent such tax shifting. Please indicate your opinion as to whether reimbursement should be instituted for land and/or structure exemptions.

Reimbursement for:	**Yes**	**No**	**Not sure**
Land Exemptions	____	____	____
Structure Exemptions	____	____	____

Conversion of Farmland to Non–Agricultural Uses

6. We have enclosed a list of any reported conversions to non–farm use of farmland in your county which has received an agricultural assessment. Reporting of such conversions and the penalties levied was not required until 1989. Do you have knowledge of any additional conversions in your county which do not appear on this list, including those which may have occurred prior to 1989?

Yes ____
No ____
Not sure ____

7. If you are aware of any such additional conversions, please indicate the total number, the percentage they represent of all parcels in your county which are receiving agricultural assessments, and, if possible, the acreage converted. Actual numbers are preferred but, if unavailable, reasonable approximations may be used.

_____ #
_____ %
_____ **Acres**

8. Please estimate the average amount of conversion activity per year in your county during the last few years. Which towns are the conversions occurring in ?

 # Conversions Per Year _____

 # Acres Per Year _____

Town(s) _____

9. Of all conversions in your county, including any appearing on the attached list, how much of the converted acreage is in agricultural districts as opposed to being under an eight–year commitment to agricultural use ?

_____ **% in Ag. District**

10. Conversions must involve an explicit change to a nonagricultural use (i.e., not just a termination of farm production) in order to invoke a conversion penalty. If possible, please characterize the use changes which you have observed in connection with any specific conversions you have knowledge of.

New Land Use	**Estimated % of Conversions**	**Estimated # of Conversions**
Residential	_____	_____
Commercial	_____	_____
Industrial	_____	_____
Other	_____	_____

(please specify) _____

_____

_____

11. Conversions may involve entire parcels or entire farms, or only portions of either. Please estimate the percentage of conversions identified above which fall into each of these categories.

Portion of Parcel or Farm	_____%
Entire Parcel	_____%
Entire Farm	_____%

12. Do you think the conversion sanctions (penalty tax on the converted acreage with interest) are adequate or inadequate from the standpoint of protecting farmland for future food production? Please explain. In your answer, please rate the district conversion penalty (5 times the tax saved in the last year, plus interest) and the non–district conversion penalty (9 times the tax saved in the last year, plus interest) separately. Should the non–district penalty be greater than the district penalty ?

	Agricultural District	**Non–District 8–Year Commitment**
Adequate	_____	_____
Inadequate	_____	_____

_____

_____

_____

_____

_____

13. Please use the space below or use additional sheets to discuss any further concerns you have regarding the agricultural assessment program as currently implemented.

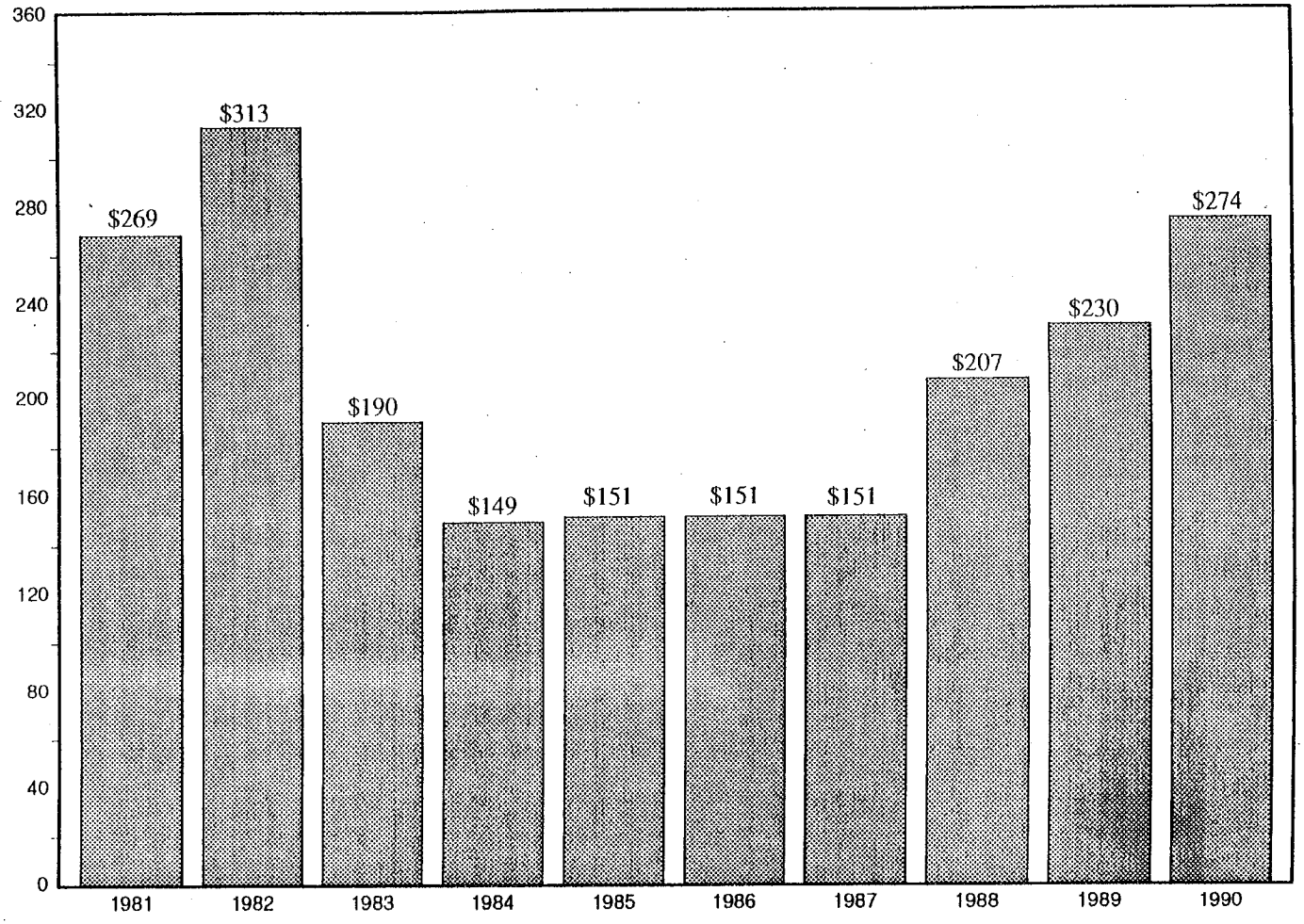
_____

_____

_____

_____

Weighted Average Value
Mineral Soil Groups



DAVID GASKELL
EXECUTIVE DIRECTOR

STATE OF NEW YORK
EXECUTIVE DEPARTMENT
DIVISION OF EQUALIZATION AND ASSESSMENT
16 SHERIDAN AVENUE
ALBANY, NEW YORK 12210-2714

MEMORANDUM

July 31, 1990

TO: County Directors of Real Property Tax Services

FROM: David Gaskell, Chairman
Agricultural Districts Review Panel

SUBJECT: Panel Survey

Attached is a survey questionnaire which is being sent to you on behalf of the Panel in order to solicit any data or other information you may have concerning conversion of land receiving an agricultural exemption to non-agricultural uses and the levying of penalty taxes on such conversions. The Panel, formed by Chapter 774 of the Laws of 1987, is charged with reviewing several aspects of the agricultural districts law, among which is "the appropriateness and effectiveness of the sanctions which are intended to encourage continued agricultural use." We will be presenting our report to the Governor and the Legislature prior to January 1, 1991.

I have attached for your reference a list of conversions (if any) reported to the Division of Equalization and Assessment by assessors in your county for 1989 (the first year in which such reporting was required) and a summary of data for other counties. Please review this list for completeness, and indicate in the appropriate places on the questionnaire the extent to which it represents all conversion activity in 1989. Other questions relate to the amount of conversion activity in years prior to 1989, the new land uses for which farmland is converted, and both the effectiveness and administrative efficiency of imposing the conversion penalties.

We realize that you may not have all the information you need to answer all the questions. However, please do your best, and make estimates based on your experience and that of your staff if the exact figures are not available. Please complete the questionnaire and return it to the address listed below by August 13th. If you have any questions, please contact:

Jim Dunne or Paul Miller
Office of Policy Analysis and Development
Division of Equalization and Assessment
16 Sheridan Avenue
Albany, New York 12210-2714
(518) 473-4532

On behalf of the Panel, I thank you for your assistance.

attachments

AGRICULTURAL DISTRICTS REVIEW PANEL

Survey of County Directors of Real Property Tax Services

COUNTY _____

NAME OF PERSON COMPLETING FORM _____

PHONE NUMBER _____

Conversion of Farmland to Non-Agricultural Uses

1. We have enclosed a list of any reported conversions to non-farm use of farmland in your county which has received an agricultural assessment. Reporting of such conversions and the penalties levied was not required until 1989 assessment rolls. Do you have knowledge of any additional 1989 roll conversions in your county which do not appear on this list? Do you know of any conversions which occurred for pre-1989 assessment rolls?

Additional 1989 Roll Conversions		**Pre-1989 Conversions**	
Yes	_____	**Yes**	_____
No	_____	**No**	_____
Not sure	_____	**Not sure**	_____

2. If you are aware of any such additional conversions, please indicate the total number, the percentage they represent of all parcels in your county which are receiving agricultural assessments, and, if possible, the total acreage converted. Actual numbers are preferred but, if unavailable, reasonable approximations may be used.

Additional 1989 Roll Conversions		**Pre-1989 Conversions**	
_____	#	_____	#
_____	%	_____	%
_____	**Acres**	_____	**Acres**

3. Please estimate the average amount of conversion activity per year in your county during the last few years. Which towns are the conversions occurring in ?

 # Conversions Per Year _____

 # Acres Per Year _____

Town(s) _____

4. Of <u>all conversions</u> in your county, including any appearing on the attach ed list, how much of the converted acreage is in agricultural districts as opposed to being under an eight–year commitment to agricultural use ?

_____ % in Ag. District

5. Conversions must involve an explicit change to a nonagricultural use (i.e., not just a termination of farm production) in order to invoke a conversion penalty. If possible, please characterize the use changes which you have observed in connection with any specific conversions you have knowledge of.

New Land Use	**#Parcels**	**#Acres**
Residential	_____	_____
Commercial	_____	_____
Industrial	_____	_____
Other	_____	_____

(please specify) _____

_____

_____

_____

_____

_____

6. Conversions may involve entire parcels or entire farms, or only portions of either. Please estimate the percentage of conversions identified above which fall into each of these categories.

Portion of Parcel or Farm _____%

Entire Parcel _____%

Entire Farm _____%

7. How successful has the administrative process of levying penalties and distributing penalty revenues to taxing units been in your county ?

8. Do you think the conversion sanctions (penalty tax on the converted acreage, with interest) are adequate or inadequate from the standpoint of protecting farmland for future food production ? Please explain. In your answer, please rate the district conversion penalty (5 times the tax saved in the last year, plus interest) and the non–district conversion penalty (9 times the tax saved in the last year, plus interest) separately. Should the non–district penalty be greater than the district penalty ?

	Agricultural District	**Non–District 8–Year Commitment**
Adequate	_____	_____
Inadequate	_____	_____

9. Please use the space below or use additional sheets to discuss any further concerns you have regarding the agricultural assessment program as currently implemented.