

**REPORT OF THE**

# **Farmland Protection Task Force**

**TO THE GOVERNOR AND  
THE GENERAL ASSEMBLY OF VIRGINIA**



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## **I. AUTHORITY FOR STUDY**

The Farmland Protection Task Force was created pursuant to Senate Joint Resolution 134 of the 2000 Session of the General Assembly. The task force was composed of three members of the Senate, five members of the House of Delegates, one citizen member appointed by the Senate Committee on Privileges and Elections, and one citizen member appointed by the Speaker of the House. Senator Emmett W. Hanger, Jr., served as the chairman of the task force and Senator W. Roscoe Reynolds served as the vice-chairman of the task force.

Senate Joint Resolution 134 (2000) directed the task force to "develop a comprehensive farmland protection policy for the Commonwealth" that "shall set farmland protection goals, specify strategies for meeting the goals and designate a state government agency or official who is responsible for ensuring that the policy is observed and the goals achieved." SJR 134 (2000) also directed the task force to identify (i) existing efforts to protect farmland in the Commonwealth, (ii) additional incentives that may be needed to encourage landowners to maintain their land in agricultural uses, (iii) government actions that directly or indirectly cause or lead to the conversion of farmland to non-agricultural uses, and (iv) ways that government actions can be modified so that farmland protection goals are met. A copy of SJR 134 (2000) is attached as Appendix A.

SJR 134 (2000) provided that the task force was to complete its work in time to submit its findings and recommendations to the Governor and the 2001 Session of the General Assembly.

The task force met four times in the course of its deliberations: August 28, 2000, in the City of Richmond; October 4, 2000, in Loudoun County; November 20, 2000, in the City of Virginia Beach; and December 20, 2000, in the City of Richmond.

## **II. BACKGROUND**

### **A. FARMLAND IN THE COMMONWEALTH**

From colonial times to the present day agriculture has been an important industry in Virginia's economy and has played a critical role in defining the character of the Commonwealth and the quality of life of its citizens. As the productivity of farms has increased and the economies of the United States and Virginia have become increasingly diverse, however, the amount of land devoted to agricultural uses and the number of individuals employed in agriculture has decreased. For example, in 1965 there were more than 85,000 farms in Virginia, using more than 12.3 million acres; by 1998 the number of farms in Virginia had decreased to approximately 49,000 and the number of acres used by these farms was approximately 8.8 million acres.

Despite the decrease in the number of farms and farmers in Virginia, the agriculture industry remains an integral part of Virginia's economy and way of life. Nearly one out of every 10 jobs in Virginia is in agricultural industries. Statistics

provided to the task force by the Virginia Department of Agriculture and Consumer Services (VDACS) indicate that agriculture enterprises contribute \$26 billion in annual sales to Virginia's economy and \$12.8 billion to the Gross State Product.

In order for the task force to effectively develop a comprehensive and effective statewide farmland protection policy, it first had to examine the diversity of agricultural products and the needs and challenges of farmers throughout Virginia. At its meetings in Loudoun County and Virginia Beach, the task force received presentations from Mandi Smith, Assistant Director of Public Affairs with the Virginia Farm Bureau Federation, concerning the wide diversity of agricultural products in the regions around Loudoun County and Virginia Beach.

### **1. Agriculture in Northern Virginia.**

At its meeting in Loudoun County, the task force received a presentation regarding the state of agriculture in the counties of Northern Virginia. Despite seeing a large amount of development in recent years, Northern Virginia maintains a thriving and diverse agricultural industry. In Loudoun County, alfalfa, hay, corn, soybeans, and other crops are grown. In Fairfax County, a region that has seen a tremendous amount of development in the last few decades, farmers grow hay, bedding and gardening plants, cut flowers, sweet peppers, tomatoes, pumpkins and sweet corn. Prince William County farmers produce beef cattle and grow apples, tomatoes and grapes. Stafford County farmers raise hogs laying hens and beef cattle in addition to growing corn, wheat and hay. While primarily known for its thoroughbred horse industry, Fauquier County also has farms raising beef cattle, dairy cows, hogs, pigs, sheep and lambs. In Clarke County, farmers raise cattle, hogs and sheep and grow corn, wheat, soybeans and hay. Frederick County is the largest apple-producing county in the Commonwealth; more than two dozen varieties of apples are grown on the 33 orchards in the county. In addition, Frederick County farmers raise beef cattle, dairy cows, hogs, sheep, lambs and poultry.

### **2. Agriculture in Tidewater Virginia.**

The agricultural products produced by farmers in Tidewater Virginia vary from those produced by Northern Virginia farmers. For example, Tidewater Virginia is the only area in the Commonwealth where peanuts and cotton are grown. Peanuts are grown in the Counties of Northampton, Accomack, Southampton, Greensville, Sussex, Isle of Wight, Surry, Prince George, and King and Queen and the Cities of Suffolk, Virginia Beach and Chesapeake. Cotton is grown in the Counties of Southampton, Charles City, Isle of Wight, and Greensville and the City of Suffolk.

Grain production is a major component of the agriculture industry in Tidewater Virginia. For the year 1997, farmers in Tidewater Virginia planted more than 160,000 acres of corn for grain and seed, more than 130,000 acres of wheat for grain, and more than 254,000 acres of soybeans. Poultry production is also a leading component of the agriculture industry in Tidewater Virginia; two of the top five poultry-producing counties

in Virginia, Accomack and Isle of Wight, are located in the region. Farmers in the region also raise beef cattle and hogs.

Tidewater Virginia farmers also grow a wide variety of fruits and vegetables. Watermelons and cantaloupes are raised on many farms in the region, with Southampton County being the leading watermelon-producing county in Virginia. Farmers in the region also produce blueberries, strawberries, blackberries, raspberries, apples, peaches, and pumpkins. Vegetable production in the region includes cucumbers, sweet peppers, green peas, cabbage, sweet potatoes, squash, sweet corn, green beans, tomatoes and eggplant. In addition to the traditional agricultural industries, Tidewater Virginia is also home to a number of non-traditional enterprises, including wineries, vineyards, nurseries, and greenhouse plants and flowers.

Farmers in Northern Virginia and Tidewater Virginia receive a number of benefits from being in close proximity to growing communities. For example, farmers in these regions benefit from the readily accessible markets for "pick-your-own" and other direct sales from the farm.

## **B. CHALLENGES FACING OWNERS OF FARMLAND**

Despite the successes of agriculture in Virginia, farmers throughout the Commonwealth face a number of major challenges as they strive to maintain agriculture as a viable business enterprise, including market pressures and financial and other pressures brought about by land development.

The United States is a net exporter of food and fiber products. As agricultural industries are developed in other countries and as shipping and other production costs continue to decrease, farmers throughout the United States, including those in Virginia, are confronted with the prospect of increasing competition from foreign producers who have lower production costs. In response to the decreasing profitability of farming, more and more farm families are selling their land or relying on income earned off the farm to meet their financial obligations.

In addition to market pressures, farmers in Virginia are also faced with a number of pressures that result from the conversion of farmland to other uses. As the population of Virginia continues to grow and as individuals continue to purchase single-family houses, the conversion of farmland to residential use has been steadily increasing. It is estimated that Virginia is losing more than 45,000 acres of farmland each year to development. While the expansion of urban and suburban areas has resulted in increased property values for farmland, it also leads to higher real property taxes for property owners. Many farmers who are making a marginal profit, or no profit at all, are forced to sell their land to meet this increased property tax burden. In turn, the conversion of farmland to residential use raises the value of other farmland in the area. The net result is that, in many areas, farmland is converted to residential use at a constantly increasing rate. In addition, as residential and other uses are developed near farmland, conflicts often arise between the owners of farmland and the owners of these other properties as to

the use and enjoyment of their respective properties. Many farmers decide to sell their land to avoid these conflicts.

Many farmers also face pressures to sell their property as they plan for their retirement years. Statistics provided to the task force indicate that the average farmer in Virginia is 56.4 years old, that 60 percent of retiring farmers plan to use the sale or lease of assets related to their farms to fund their retirement, and that 70 percent of farmers' assets are in land or equipment. In addition, farmers are living longer than they did in the past, causing a further strain on the capability of these assets to be used to successfully fund farmers' retirements. These increased financial needs often result in the owners of farmland selling their property for residential and commercial development.

Pressure to sell production farmland also comes about when farmers and their families are faced with long-term health decisions. As Americans are living longer than ever, the amount of health care needs individuals require as they age is also increasing. Many federal and state programs provide that individuals can only become eligible for certain benefits after they have exhausted their personal savings, including any real property that they own. This forces many individuals to sell their farms to satisfy their health care bills or become eligible for federal or state programs.

Finally, development pressures also arise when the owner of farmland dies and the decedent's estate includes farmland. The surviving spouse and children of the landowner must decide whether they wish to continue to use the land in agricultural production or sell the land. Many times the beneficiaries must sell the land in order to meet their estate tax liability.

### **III. TASK FORCE DELIBERATIONS**

#### **A. EXISTING STATEWIDE PROGRAMS DESIGNED TO PROTECT FARMLAND**

The task force received a presentation from staff at its initial meeting regarding existing provisions of the Code of Virginia and existing statewide programs designed to protect farmland. Existing programs and policies designed to protect production farmland include the following:

1. *Agricultural protection zoning.* One of the purposes of zoning ordinances listed in § 15.2-2283 of the Code is "to provide for the preservation of agricultural and forestal lands and other lands of significance for the protection of the natural environment."

2. *Conservation easements.* The Virginia Conservation Easement Act (§§ 10.1-1009 through 10.1-1016), enacted in 1988, allows charitable organizations to hold conservation easements. The Conservation Easement Act defines a conservation easement as "a nonpossessory interest of a holder in real property, whether easement appurtenant or in gross, acquired through gift, purchase, devise, or bequest imposing



limitations or affirmative obligations, the purposes of which include retaining or protecting natural or open-space values of real property, assuring its availability for agricultural, forestal, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural or archaeological aspects of real property.” The use of conservation easements has been increasing in Virginia in the past decade through the establishment of tax credits and the expansion of other programs designed to protect undeveloped farmland.

3. Purchase of development rights. Localities and state agencies have authority under the Open-Space Land Act (§§ 10.1-1700 through 10.1-1705) to hold easements and other interests in land for the purpose of protecting open-space uses of the land. To do so, localities and the Commonwealth may appropriate funds, issue and sell general obligation bonds, and levy taxes and assessments. Several state entities are empowered to hold easements and provide money for localities and other entities to acquire easements, including:

a. *The Virginia Outdoors Foundation (VOF).* As of the end of 1999, VOF held easements on more than 600 properties, covering more than 110,000 acres of land. VOF receives operating funds from the General Assembly and private donations. In 1997, the General Assembly created the Open-Space Lands Preservation Trust Fund and provided that VOF would administer the Fund. Under the 1997 legislation, grants from the Fund were to be made only to persons conveying easements to VOF and a local co-holder. Grants could be used for legal and appraisal costs incurred in donating an easement or for all or part of the value of the easement. Under legislation passed in 2000, grants may also be made to localities acquiring easements.

b. *The Virginia Land Conservation Foundation (VLCF).* VLCF administers the Virginia Land Conservation Fund, which has been appropriated \$6.2 million for each of the next two years. Monies in the Fund may be used for directly acquiring interests in land and for providing grants to state agencies and matching grants to other localities and charitable organizations that are acquiring interests in land. Twenty-five percent of the money in the Fund is allocated to the Open-Space Lands Preservation Trust Fund. The remaining amount is to be divided equally among four uses: (i) natural area protection; (ii) open spaces and parks; (iii) farmlands and forest preservation; and (iv) historic area preservation. Legislation enacted in 2000 requires that the Foundation’s grant criteria include provisions for grants to localities for purchase of development rights programs.

4. Agricultural and forestal districts. The Virginia Agricultural and Forestal Districts Act (Chapter 43 of Title 15.2), enacted in 1977, provides a means by which any locality, upon landowner petition, can create agricultural and forestal districts. Within these districts land is eligible for land use taxation and the locality and state agencies have a responsibility to protect agricultural and forestal land uses. Exercises of eminent domain in agricultural and forestal districts are subject to a special local review process. Among the factors that are considered during the district creation process are (i) the agricultural and forestal significance of land within the district and in adjacent areas; (ii)

the nature and extent of land uses other than active farming or forestry within and adjacent to the district; (iii) local developmental patterns and needs; and (iv) the environmental benefits of retaining the lands in the district for agricultural and forestal uses.

5. Property tax relief. The Constitution of Virginia authorizes the General Assembly to allow localities to appraise real estate at its value for agricultural, horticultural forest, or open-space use and apply a jurisdiction-wide tax rate to the special use valuation. The General Assembly has enacted such a scheme (known as “land use taxation”) in Article 4 (§ 58.1-3229 et seq.) of Chapter 32 of Title 58.1. In a locality that has adopted an ordinance pursuant to this law, landowners must submit an annual application to the locality in order to receive the special tax rate. Land lying within an agricultural and forestal district that is used in agricultural or forestal production, however, automatically qualifies for such special use valuation, regardless of whether a special use valuation ordinance has been adopted by the locality. When land is removed from a district or the district is terminated, the owner must pay roll-back taxes for five years’ worth of the difference between the tax that would have been paid on the land’s fair market value and the special tax amount. The same rule applies to land that qualified for the special tax rate but was not part of a district if the land is subsequently developed to a more intensive use or rezoned to a more intensive classification at the request of the owner. Legislation that was passed in 1999 allows localities to establish a sliding-scale tax rate that would lower assessments for real estate subject to land-use taxation that is held for longer periods of time. The landowner and locality are required to execute and record a written agreement, for a term not exceeding 20 years. A change in use prior to the end of the agreed-upon period will result in a tax due from the date of the agreement at the highest tax rate for the year it ceases to be in a land-use program.

6. Right to Farm Act. Virginia’s Right To Farm Act (§§ 3.1-22.28 and 3.1-22.29) protects agricultural operations from being considered public or private nuisances. Under the common law, a nuisance is the use of one’s property in a way that interferes with another’s use of his property (private nuisance) or in a way that endangers the public’s health, safety or welfare (public nuisance). In order to be eligible for nuisance protection under the Right to Farm Act, an operation must be conducted in accordance with existing best management practices and comply with existing laws. The Right to Farm Act also contains restrictions on local government power. It prohibits counties from requiring special exceptions or special use permits “for any production agriculture or silviculture activity in an area that is zoned as an agricultural district or classification” and provides that “no county, city or town shall enact zoning ordinances which would unreasonably restrict or regulate farm structures or farming and forestry practices in an agricultural district or classification unless such restrictions bear a relationship to the health, safety and general welfare of its citizens.”

7. State policy. Chapter 3.2 of Title 3.1 of the Code, “Protection of Farm and Forest Lands,” has existed in the Code since 1981 and was revised by legislation passed during the 2000 Session of the General Assembly. These statutory provisions require that the environmental impact reports that must be prepared for major state projects include

an analysis of the impact of the project on farm and forest lands. Under the environmental impact reporting law, these reports must be submitted to the Department of Environmental Quality, which provides comments on the reports to the Governor before he grants final approval for the project. The statute also requires that five state agencies have a farm and forest land protection plan: the State Corporation Commission and the Departments of Transportation, Health, Environmental Quality, and Conservation and Recreation. The plans must be updated annually and reviewed by the Secretary of Commerce and Trade, who must submit an annual report to the standing committees of jurisdiction in the General Assembly.

8. Income tax relief. The Virginia Land Conservation Incentives Act of 1999 (§§ 58.1-510 through 58.1-513) provides an income tax credit for individuals and corporations donating land for preservation purposes. The tax credit is 50 percent of the fair market value of the land interest transferred, not to exceed \$50,000 in the 2000 taxable year, \$75,000 in the 2001 taxable year and \$100,000 in the 2002 taxable year and taxable years thereafter. In addition, while the credit may only be used to offset taxes owed, it may be carried forward for a period of five years.

9. Agricultural Vitality Program. The budget for the 2000-2002 biennium includes an appropriation to VDACS of \$65,000 and \$50,000 for the next two years, respectively, to establish the Virginia Agricultural Vitality Program. The program is to consist of a Purchase of Development Rights (PDR) component and a Farm Link component. The Board of Agriculture and Consumer Services is to develop (i) standards for local PDR programs, (ii) criteria and a process for certification of local programs for eligibility, and (iii) a method and source of revenue for allocating funds to localities for such programs.

The task force received a presentation from William Dickinson, Assistant Commissioner at the Department of Agriculture and Consumer Services, on the implementation of the Agricultural Vitality Program. Mr. Dickinson indicated that the development of the Agricultural Vitality Program has been progressing well toward reaching the twin goals of the program: assisting the transition of farm businesses and preserving farmland.

Mr. Dickinson stated that the Farm Link component of the Agricultural Vitality Program is designed to assist the transition of farm businesses from retiring farmers to a new generation of farmers. Estimates are that 70 percent of farmland in Virginia will "change hands" in the next 15 years. Due to the increasing cost of land in Virginia and the reduced profitability of farming as a result of increased production costs and competition, entry into the business of farming is often a risky and expensive venture for new farmers. To assist in the transition of farm businesses, VDACS plans to "link" retiring farmers and new farmers, including the involvement of financial planners, estate planners, lawyers and family mediation counselors. VDACS is developing a database of those farmers who are considering retirement and those individuals who are seeking to enter the agriculture industry. Mr. Dickinson indicated that VDACS plans to conduct at least one seminar in the near future to discuss with farmers the need to consider estate

planning and other issues in the transition of farm businesses. This seminar may be expanded and held at other locations throughout Virginia to assist farmers in effectively preparing for the transition of their businesses in the future. VDACS is also investigating the creation of a Farm Transition Center that will perform most of these duties on a long-term basis.

Mr. Dickinson reported that VDACS is also working on the creation of a model PDR ordinance to be used throughout Virginia for the protection of farmland. This model ordinance would be used by localities in adopting a local PDR program and could provide some interjurisdictional consistency with respect to terms and definitions. The development of these standards will be accomplished with the cooperation of a number of public and private groups involved in land conservation, including the American Farmland Trust, the Virginia Cooperative Extension, the Department of Business Affairs, the Virginia Land Conservation Foundation and the Virginia Farm Bureau Federation.

## **B. EXISTING LOCAL PROGRAMS DESIGNED TO PROTECT FARMLAND**

### **1. Virginia Beach Agricultural Reserve Program (ARP).**

At the November 20, 2000, meeting in Virginia Beach, the task force was welcomed to the City by Mayor Meyera Oberndorf and received an update on Virginia Beach's programs to protect and preserve farmland from Louis Cullipher, Director of the Virginia Beach Agriculture Department, and Melvin Atkinson, ARP Coordinator. Prior to its working meeting, the task force visited a number of farms within the City, including a number that are enrolled in the Agricultural Reserve Program.

Agriculture has been, and continues to be, a major industry in Virginia Beach. The economic impact of agriculture ranks behind only the military and tourism industries. There are more than 150 farms in the City of Virginia Beach operating on approximately 32,700 acres. Farmers in Virginia Beach grow corn, wheat, soybeans, white potatoes, strawberries, peas, sweet potatoes, sweet corn and blueberries. Agriculture in Virginia Beach remains competitive due, in part, to highly productive soils, long growing seasons, good rainfall distribution and close proximity to markets.

Mayor Oberndorf indicated to the task force that agriculture adds to the rich diversity of the City and that, to help ensure that agriculture remains a viable industry in Virginia Beach, the City Council adopted the Agricultural Reserve Program in 1995. The objectives of the ARP are to (i) support the agricultural community by maintaining production farmland, (ii) minimize the impact of residential development on production farmland, (iii) preserve the rural character of the southern part of the City, (iv) preserve open space in the City, (v) protect environmentally sensitive areas of the City, and (vi) reduce the need for increased infrastructure in the southern part of the City. Prior to the adoption of the ARP, farmland in the City was being converted to residential or other development at a rate of approximately 500 acres per year.

The City of Virginia Beach has taken a number of steps to support agriculture and preserve farmland, including the development of a land use assessment program, the elimination of a tax on farm machinery, the development of a rural preservation plan, the establishment of an Agricultural Advisory Commission, the operation of a City-owned farmers market, and the establishment of an urban service boundary (known as "the Green Line"). The ARP is intended to work with these other programs to preserve farmland in the City.

The goal of the ARP is to preserve 20,000 acres of farmland in the City. Mr. Atkinson indicated that the ARP is not designed to protect non-agricultural properties that also provide open space. As of November 20, 2000, the City had received 87 applications offering more than 10,500 acres. Of the properties offered, more than 5,600 acres have been approved for purchase and more than 4,900 acres have been purchased so far.

Under the ARP, the purchase of a property's development rights is accomplished through the use of an installment purchase agreement. The City receives an easement on the property that extinguishes the residential and commercial development rights in perpetuity. In return, the City agrees to pay the purchase price to the property owner in one lump sum payment after 25 years. The City also agrees to pay interest on the purchase price twice per year. The property owner retains all other ownership rights in the property.

The use of an installment purchase agreement provides a number of benefits to the property owner, including (i) tax-exempt interest payments on a semi-annual basis; (ii) the deferral of the recognition of capital gains for income tax purposes until the receipt of the principal amount of the purchase at the end of the 25-year payment period; (iii) the ability to sell, transfer or securitize his interest in the installment purchase agreement after one year after the closing; and (iv) greater flexibility in estate planning, as the installment-purchase agreement can be transferred and the heirs of the property owner can sell their interest in the agreement.

Mr. Atkinson indicated that, under the ARP, conservation easements may be purchased only upon parcels meeting the following criteria:

1. The parcel must be 10 acres or larger, or be included in a grouping of continuous properties in which the combined area is not less than 10 acres;
2. The parcel must be wholly situated within a residential zoning district, certain agricultural districts, or a preservation district;
3. The parcel must be capable of being developed or subdivided for non-agricultural uses without the approval of City Council;
4. The parcel cannot contain any land required to be reserved or set aside for open-space, recreational or similar purposes pursuant to the provision of a conditional use permit, conditional zoning agreement, subdivision variance, or other action by the City Council, or any ordinance or regulation;

5. No uses shall be permitted on the parcel other than those permitted by conservation easements; and
6. The parcel cannot contain certain soil types that cannot be developed.

Once an application is submitted by the property owner to the Virginia Beach Agriculture Department, the Department reviews the application and orders a review of the soils on the property. After these reviews, adjustments are made to the eligible portion of the property and the number of development units for the property is determined. The City then contracts with an independent appraiser to conduct a fair market value appraisal of the property. The value of the development rights is determined by subtracting the agricultural value of the parcel from the fair market value. The agricultural value of property in Virginia Beach has been determined by the City Council to be \$900 per acre.

Once the value of the development rights for the property is determined, an offer is sent from the City Attorney to the property owner for the purchase of an easement on the property. The owner can accept or decline the offer. If the owner accepts the offer, the agreement will then go the City Council for review, approval, and the appropriation of the necessary funds. Funding for the ARP comes from a dedicated portion of the real estate tax (1.5 percent) and from proceeds from the City's cellular phone tax. After approval by the City Council and acceptance by the property owner, a closing is held where the transfer takes place. The City Attorney oversees the closing of the agreement at the City's expense. After the transfer is completed, the property owner is entitled to receive the semi-annual payments and the lump-sum payment at the end of the 25-year payment period.

Mr. Atkinson indicated that officials in Virginia Beach have learned a number of lessons in the administration of the program and have tried to improve the program since its inception. For example, they have found that there have been different expectations among property owners, their families, and residents of the City for the program. These differing expectations have led the City to modify its marketing and public education campaigns.

Mr. Atkinson stated to the task force that, while the ARP has been successful in Virginia Beach, it might not be as successful in other areas of Virginia. He did suggest, however, that aspects of the ARP might be incorporated into other localities' programs or in a statewide program.

## **2. Loudoun County Programs.**

At its October 4, 2000, meeting in Loudoun County, the task force received presentations from Loudoun County officials and private citizens on the problems facing farmers in Loudoun County and the programs administered by the County to help protect farmland. Prior to its working meeting, the task force visited a farm in the County to see firsthand the products produced by Loudoun County farmers and to hear about the challenges that they face.

*a. Existing programs in Loudoun County.*

(i) Land use assessment.

The task force received testimony from members of the Loudoun County Board of Supervisors regarding the County's Land Use Assessment Program. The Land Use Assessment Program provides that the amount of real property taxes assessed on a parcel being used for agricultural properties is to be based upon the value of the property in agricultural use and not the value of the property under other uses. There are 4,650 parcels enrolled in the program, comprising more than 188,000 acres in the County. Pursuant to authority granted by the General Assembly, the Loudoun County Board of Supervisors recently adopted an ordinance allowing a sliding-scale deferral of taxes for properties assessed under the Land Use Assessment Program. A property may qualify for the deferral of taxes if the owner of the property commits to keep the property in a certain use for a period of time. For those properties where the owner agrees to maintain the property in a certain use for between 10 and 20 years, the property owner may defer 99 percent of the use value taxes otherwise assessed. For those properties where the owner agrees to maintain the property in that use for more than five years and not more than 10 years, the property owner may defer 50 percent of the use value taxes otherwise assessed.

(ii) Agricultural Districts.

The task force received testimony on the use of Agricultural Districts in Loudoun County. There are 23 Agricultural Districts within Loudoun County, comprising more than 60,000 acres. Pursuant to the provisions of the Code of Virginia, properties in these districts are automatically eligible for participation in the County's Land Use Assessment Program. The task force received testimony that the use of Agricultural Districts has helped to preserve the character of many communities. Jim Burton, a member of the Loudoun County Board of Supervisors, indicated that the use of Agricultural Districts in Loudoun County has been successful and could be increased if the General Assembly created greater incentives for property owners to create or join such districts.

(iii) Conservation Easements/PDR program.

The task force received testimony that, historically, conservation easements have been used extensively in Loudoun County and that this trend continues. In 1997, 9,666 conservation easements, nearly one out of every 10 conservation easements in Virginia, were held in Loudoun County. By 2000, the number of conservation easements in Loudoun County had increased to more than 11,000. While conservation and open-space easements are used to protect a variety of natural resources including watershed areas, mountain views and lands adjacent to parks and game preserves, they have also been used to protect farmland.

In February 2000, the Loudoun County Board of Supervisors adopted an ordinance creating Loudoun's PDR program. Under the PDR program, the County

purchases conservation easements on qualified properties. Loudoun's PDR program is designed to protect properties that have agricultural resources, natural resources, and historic and scenic resources. The PDR program is administered by a seven-member PDR Board that has (i) experience in real estate practice, land use planning, finance and heritage preservation and (ii) expertise in agriculture, horticulture and forestry. The PDR program receives its funding from the County's general fund. For the current fiscal year, Loudoun County has set aside \$4 million for the PDR program. It is anticipated that additional funds will be allocated in the future.

In order for a particular property to be eligible to participate in Loudoun County's PDR program, certain criteria must be met. Conservation easements under the PDR program can only be purchased on parcels that meet all of the following:

1. The property must be located in Loudoun County;
2. The property must be capable of being subdivided or developed for non-agricultural uses without approval from the Loudoun County Board of Supervisors;
3. The proposed use of the property as permanent open space must conform with the policies set forth in the County's Comprehensive Plan;
4. No uses or structures other than those permitted by the conservation easement may be located on the property; and
5. The terms of the proposed easement conform to those approved by the County.

In addition, conservation easements under the PDR program are perpetual in nature and cannot contain an option for the property owner to re-purchase the conservation easement from the County at a future date.

Once an application has been submitted, the PDR Board ranks the property according to established criteria. In determining a property's ranking, the PDR Board looks at two different categories: agricultural resources and non-agricultural resources. For agricultural resources such as farmland, additional factors are considered, including (i) the proximity to public properties or properties on which easements have been placed, (ii) the size of the parcel, (iii) whether or not the entire parcel will be subject to the conservation easement, (iv) the amount of land in the parcel used as active cropland, pastureland or woodland, (v) the market value of the property, (vi) the proximity of the parcel to environmental areas and habitats, and (vii) the visual importance of the property.

In determining the valuation of the conservation easement, the County has established a process where the number of development rights and the purchase price will be negotiated by the property owner and a negotiating team from the PDR program. In negotiating the purchase price, the PDR program negotiating team uses an appraisal of the property and the assessed value of the property. Once a purchase price has been agreed upon, the property owner may be paid in a lump-sum payment or on a payment



schedule with an annual payment stream and a final payment at the end of a 20-year period.

The task force received testimony from 13 private citizens and groups concerning Loudoun County's PDR Program and the merits of the Program in protecting farmland in Loudoun County. All of the speakers were in favor of a voluntary PDR program that contained a mechanism to ensure that property owners were adequately compensated for the placement of conservation easements on their property. Many of the speakers, however, expressed concern over the implementation of Loudoun County's PDR program. A number of individuals indicated that it has become increasingly difficult to operate profitable farms in Loudoun County and that many farmers in Loudoun County have planned for their retirement years based upon their ability to sell their land. As the amount of residential and commercial development continues to grow in Loudoun County, many of these properties are more valuable for residential development than they are for use in agricultural production. Some of the speakers questioned whether they would be able to receive as much from the PDR program for the development rights on their property as they would if they sold the property to a private purchaser.

It was reported to the task force that the Loudoun County Board of Supervisors has also been examining the County's zoning ordinance and the financial ability of the County to provide needed services such as water, sewer, public facilities and schools should growth continue. In light of these concerns, the County is considering amendments to its comprehensive plan and zoning ordinance that would provide for less density in those areas of the County that have not yet been developed. One such proposal would allow development of residential uses on properties zoned as agricultural at a density of one house per every 25 acres as compared with one house per every three acres as is currently allowed.

Many of the speakers were opposed to the proposed amendments to the zoning ordinance and questioned the timing of the proposed changes in connection with the adoption of the PDR program. They argued that should the zoning amendments be adopted, the value of their properties would be drastically reduced and the value of any conservation easement purchased by the County would be proportionally reduced. The task force was told that some properties would have their market value reduced by 55 to 70 percent should the zoning amendments be adopted. Some questioned whether this would change the nature of the program from a voluntary one, as stated by the County, to one where property owners who had lost much of the value of their property felt compelled to participate in the program for fear of not being able to get adequate return on the equity they have in their properties. Speakers also argued that if the zoning amendments are adopted, many farmers who are already struggling financially will not be able to obtain financing for equipment, fertilizer, seed, and other items necessary for farming because of the reduced equity they will have in their properties.

(iv) County-assisted marketing programs.

The task force was also presented with information on programs in Loudoun County designed to help market products grown by Loudoun County farmers. Lou Nichols, the Agriculture Officer in the Loudoun County Economic Development Department, highlighted a number of the programs designed to promote agriculture in Loudoun County, including (i) the Spring Farm tour, where individuals can visit working farms to gain a greater appreciation for agriculture production, (ii) the creation of the Loudoun Wine Trail, (iii) the Color Farm tour, held in the fall, and (iv) "Christmas in the Loudoun Valleys," which provides information on Christmas tree growers in Loudoun County to those seeking fresh Christmas trees. Mr. Nichols also stated that the County has been studying ways to increase the profitability of farming and has been examining ways to better coordinate the agricultural industries in Loudoun County.

*b. Proposed Loudoun County programs.*

The task force also heard testimony on a number of programs that Loudoun County is considering to assist in the protection of farmland. One such program would be the creation of a linked deposits program connected with agricultural loans. In a linked deposit program, a local government agrees to place funds with a bank or other financial institution in exchange for that institution's pledge to lend money according to certain criteria. The Loudoun County government currently has a linked deposit program with institutions that provide loans for affordable housing in the county. Under the proposed plan, the Loudoun County government would have linked deposits in financial institutions that agree to extend farm loans at an interest rate lower than their normal loan rate.

Loudoun County is also considering the creation of a farm viability program similar to the Agricultural Vitality Program. Under the program, the County would refer individuals with expertise to work with local farmers in developing business plans for their farms. Under the proposed program, a farmer would be eligible for grants from the County if he agrees to abide by the business plan for a period of five years.

**3. Albemarle County Acquisition of Conservation Easements (ACE) Program.**

In addition to presentations on the land preservation programs in Virginia Beach and Loudoun County, the task force also received a presentation on Albemarle County's proposed land preservation program, the Acquisition of Conservation Easements (ACE) Program. The purpose of the ACE Program is to (i) prevent the continued loss of farmland and forest land in Albemarle County to development, (ii) preserve open space, (iii) preserve the rural character of the county, (iv) conserve and protect water resources and environmentally sensitive lands, (v) promote tourism, and (vi) improve the quality of life for people in the county.

Similar to Loudoun County's PDR program, Albemarle's ACE Program identifies multiple purposes for its open-space program, including the protection of farmland, and ranks properties based on established criteria. Properties are ranked based upon four factors: open-space resources; the threat of conversion of the property; natural, cultural and scenic resources; and the ability of the County to leverage monies in acquiring the easement. In order to qualify for the program, a parcel must attain a minimum score based on point assessments under the ranking system.

The value of a conservation easement under the ACE program is adjusted based upon the income of the owner of record and members of his immediate family in the three most recent tax years. The value of an easement is discounted once the average annual income of the owner and his family exceeds \$50,000 per year.

Funding for the ACE program comes from Albemarle County's general fund and the County has set aside \$1 million for the first year of the program. An ACE committee, containing 10 members appointed by the board of supervisors, administers the program. Under the program the County will pay all costs associated with the purchase of the conservation easement, including environmental site assessments, surveys, recording costs, grantor's tax, and other charges, but will not pay fees for independent appraisals, legal or financial advice, or fees associated with the subordination or release of existing liens on the property. Once the purchase of the conservation easement has been approved, the property owner will be paid in a lump-sum payment.

### **C. TOOLS USED BY OTHER STATES TO PROTECT FARMLAND**

There are numerous programs in place throughout the United States to help encourage the preservation of farmland and open space. During the course of its deliberations, the task force received testimony concerning the attempts by other states to preserve farmland. Many of these programs are designed for the preservation of open space and are not designed primarily for the protection of farmland. In this way, these other programs are similar to those administered by the Virginia Land Conservation Foundation and the Virginia Outdoors Foundation and the programs being developed in Loudoun County and Albemarle County.

Many states have adopted circuit breaker tax relief programs to assist in the protection of production farmland. Circuit breaker tax relief gives landowners a tax credit when the amount of real property tax they pay exceeds a certain percentage of their income. These programs are designed to help the landowners who do not wish to sell their land for development but are under financial pressure to sell because the income derived from the land is insufficient to meet their real property tax burden.

Transfer of Development Rights (TDR) programs are used in a number of states to preserve open space and protect farmland. TDR programs are similar to PDR programs, but with an important difference. In PDR programs the development rights of one property are purchased, normally by a locality or a conservation group, through the use of a conservation easement that prohibits the development of the property. In a TDR

program, the right to develop a parcel of property is transferred from one property to another. TDR programs are normally established with "sending" areas and "receiving" areas. Landowners in the sending area can transfer development rights to landowners in the receiving area. By receiving these development rights, the landowner can develop his property at a higher density than would otherwise be allowed. Development rights are usually sold in the private market, although in certain areas local governments have established TDR banks to buy and sell development rights.

#### **D. TASK FORCE FINDINGS AND RECOMMENDATIONS**

The task force met in Richmond in December, 2000, to review the presentations received at the earlier meetings and to discuss possible recommendations by the task force to the 2001 Session of the General Assembly.

##### **1. Statewide policy for the protection of farmland.**

As is set forth in Chapter 3.2 of Title 3.1 of the Code of Virginia, the policy of the Commonwealth is to preserve production farmland. After reviewing the testimony presented, the task force finds that this policy should be reasserted and reinforced.

Agriculture has long played an important part in the quality of life of all Virginians. While the number of farms and farmers in Virginia has been decreasing in the recent past, agriculture continues to make important economic and non-economic contributions. Agriculture is, and will continue to be, a major employer in Virginia. The use of land in agricultural uses benefits localities throughout Virginia as it helps localities control many of the costs associated with commercial and residential development. Information presented to the task force indicates that the development of farmland places a strain on localities as they attempt to provide the necessary services, such as water, sewer and emergency services, to newly developed properties. Production farmland provides localities with a net revenue; farm properties produce more revenue in property tax receipts than it costs the locality to provide water, sewer and other services for the property. The task force received information that for every dollar that is paid in property taxes on farmland, an average of 20 cents is expended by the local government to provide services for that property; for properties that contain residential uses, local governments are required to expend more than \$1.20 in services for every dollar in taxes collected.

Once farmland is developed, it rarely is restored to agricultural use. The continued demand for land and the decreasing profitability of small-scale agricultural production make it cost-prohibitive in most cases to convert land that is used for industrial, commercial or residential purposes to agricultural uses. The increasing rate of development leads to speculative land prices as investors seek to purchase land in areas adjacent to developing regions. New farmers often cannot afford to purchase existing farmland and enter agricultural enterprises in these areas and existing farmers are faced with the reality that their land is worth more for development than it is for agricultural use. This trend of continuing loss of farmland will have negative consequences for Virginia's economy and the quality of life of all Virginians if left unaddressed.

In light of these factors, the task force concludes that the existing state policy encouraging the protection and preservation of production farmland should be reinforced and that programs should be created or expanded to help effectuate this policy.

**2. Designation of state agency to ensure farmland protection policy goals are achieved.**

Farmers in Virginia face a number of challenges as they attempt to maintain their land in agricultural production. In order to address these various needs and to ensure that state programs or actions do not benefit one region of Virginia while directly or indirectly leading to the conversion of farmland to other uses in another region, there should be one state agency to monitor statewide preservation efforts.

After considering the information presented, the task force concludes that the Department of Agriculture and Consumer Services should be designated as the state agency to oversee the implementation of the Commonwealth's farmland protection policy. Specifically, the task force recommends that the Agricultural Vitality Program, currently administered by VDACS, be expanded into an Office of Farmland Preservation within VDACS. The Agricultural Vitality Program was created through an appropriation in the state budget; the task force recommends that the Office of Farmland Preservation be made permanent and that its powers and duties be set forth in the Code of Virginia. In addition to having the powers currently granted to the Agricultural Vitality Program, the Office of Farmland Preservation would be empowered to assist farmers in business marketing, provide education for farmers on issues relating to the preservation of production farmland, and maintain a referral list of individuals with expertise in areas related to farmland preservation, including the names of attorneys and financial planners who would be available to assist farmers in estate planning matters.

The task force also recommends that the proposed Office of Farmland Preservation be required to report to the General Assembly on an annual basis through reports to the Senate Committee on Agriculture, Conservation and Natural Resources and the House Committee on Agriculture so that the General Assembly can be made aware of the existing programs for the protection and preservation of farmland and the need, if any, for modifying the powers and duties of the Office of Farmland Preservation. A copy of legislation drafted in response to this recommendation and introduced by Senator Hanger is attached as Appendix B.

**3. Additional funding and programs to encourage farmland protection.**

There are a number of financial incentives and programs in place in Virginia designed to encourage the protection and preservation of production farmland. While a number of these programs have been successful in protecting farmland, the task force concludes that additional funding and new programs are needed to protect and preserve farmland in Virginia.

*a. Budget Amendments.*

The task force recommends that budget amendments be introduced during the 2001 Session of the General Assembly to assist in farmland protection efforts. The task force recommends that additional funding be provided for:

1. The farm link component of the Agricultural Vitality Program, in the amount of \$350,000;
2. The Virginia Land Conservation Foundation, in the amount of \$2 million. The additional funding for VLCF would contain the requirement that the portion of the funds that are statutorily allocated for farmland protection be directed to the Agricultural Vitality Program for the development of model language for PDR programs throughout Virginia; and
3. The "Agriculture in the Classroom" program, in the amount of \$25,000. This additional funding will assist in showing students in Virginia the importance of agriculture to the heritage and economy of Virginia, and will discuss some of the challenges facing today's farmers.

Copies of the proposed budget amendments are attached as Appendix C.

*b. Other incentives/programs.*

The task force heard testimony on a number of potential programs for farmland protection and finds that the following programs merit additional study for their use as tools in protecting production farmland: (i) the use of loans by economic development authorities to assist in the transition of farm businesses from retiring farmers to active or new farmers; (ii) the creation of a "farms in transition" program that would assist in the purchase of farmland by new farmers provided a permanent agricultural easement were placed on the property; (iii) the use of funds from the national tobacco settlement to help protect farmland, either through grants or loans to farmers; and (iv) the creation of Agricultural Industrial Development Authorities that would focus their efforts on encouraging and developing agricultural industries in Virginia. In addition, the task force finds that the Commissioner of Agriculture and Consumer Services should have a mechanism through which he can make the General Assembly aware of potential programs to protect farmland and make recommendations for the modification of existing farmland protection programs.

**4. Government actions that indirectly or directly lead to the conversion of production farmland.**

During the course of its deliberations, the task force was presented with a number of examples where government actions or programs either directly or indirectly lead to the conversion of production farmland to other uses. The task force finds that the clearest example of government actions indirectly or directly leading to the conversion of production farmland is the assessment and collection of estate and property taxes by federal, state and local governments.

The estate tax structure established by the federal government both directly and indirectly leads to the conversion of farmland to other uses. As the value of farmland increases for development purposes, the collection of the estate tax often requires the beneficiaries of a deceased farmer to sell the farmland in order to satisfy the tax obligation, even if they had planned to maintain the property as farmland. Many farmers, therefore, decide to sell their land so that their spouses and children are not confronted with difficult decisions regarding the sale of the land after the farmer has died. Accordingly, the task force recommends that a resolution be introduced during the 2001 Session of the General Assembly memorializing Congress to enact legislation to repeal the federal estate tax. A copy of the resolution drafted in response to this recommendation and introduced by Senator Hanger is attached as Appendix D.

The task force also finds that the state and local property tax structure indirectly leads to the conversion of farmland. Localities, heavily dependent upon property taxes for revenue, impose personal property taxes on farm machinery and equipment and real property taxes on farmland. Localities have limited flexibility in establishing and assessing real property tax rates for production farmland that are lower than for other uses. Farmers who are struggling to maintain their operations as profitable are often forced to delay or forego purchases or improvements in their operations in order to satisfy their tax liability. Accordingly, the task force concludes that an examination of the local property tax structure should be undertaken and that localities should be given increased funding to decrease their reliance on real property and personal property taxes.

#### **IV. CONCLUSION**

The protection of farmland in Virginia is a complex and far-reaching issue which often involves a balancing of the desire to protect Virginia's cultural heritage and way of life with the need for continued economic growth. This study provided a valuable opportunity to examine the many farmland protection programs currently in place in Virginia and those being developed on a statewide or local level. The task force wishes to thank all the interested parties who contributed to its understanding of the challenges facing farmers in Virginia and the many tools and programs available to protect production farmland. After completing its study, the task force concludes that a combined effort at the state and local level is needed to protect farmland and the farmers who work the land. There are already a number of successful programs underway that preserve farmland. The task force commends those who work on these programs and encourages them and all Virginians to work to protect farmland.

Respectfully submitted,  
Senator Emmett W. Hanger, Jr., Chairman  
Senator W. Roscoe Reynolds, Vice Chairman  
Senator Phillip P. Puckett  
Delegate Robert D. Orrock, Sr.  
Delegate Richard Black  
Delegate Terrie L. Suit  
Delegate W. B. Keister  
Delegate Kristen J. Amundson  
Ms. Katherine S. Whitesell  
Mr. David Taliaferro



# **APPENDICES**



2000 SESSION

ENROLLED

SENATE JOINT RESOLUTION NO. 134

*Establishing a farmland protection task force.*

Agreed to by the Senate, March 9, 2000

Agreed to by the House of Delegates, March 8, 2000

WHEREAS, it is the stated policy of the Commonwealth to conserve and protect agricultural lands as valued economic and natural resources, which provide food and other agricultural and forest products, essential open spaces for clean air sheds, watershed protection, and wildlife habitat, as well as for aesthetic purposes; and

WHEREAS, agriculture comprises a significant segment of the Commonwealth's economy and plays a critical role in defining the character of the Commonwealth and the quality of life of its citizens; and

WHEREAS, farmland generates more revenue for localities in property taxes than it costs in terms of public services; and

WHEREAS, the General Assembly has created a number of laws, programs and entities through which agricultural uses of land can be preserved, including the Agricultural and Forestal Districts Act, the Conservation Easement Act, the Open-Space Land Act, the Right to Farm Act, the important farmlands law, the Virginia Outdoors Foundation, the Virginia Land Conservation Foundation, and tax relief measures such as land use taxation; and

WHEREAS, Virginia has nevertheless lost an average of 45,000 acres of prime farmland each year during the past decade, according to the American Farmland Trust; and

WHEREAS, there are a number of factors that contribute to farmland loss, including suburban growth patterns and market conditions and government policies that detract from the profitability of agricultural enterprises; and

WHEREAS, states surrounding Virginia are utilizing farmland protection tools not currently available in the Commonwealth, including transferable development rights, circuit breaker tax credits, and farmland preservation programs that are funded and administered separately from other land conservation programs; and

WHEREAS, a comprehensive examination of existing and potential measures that Virginia can employ to encourage rural landowners to maintain the agricultural uses of their land is needed; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That a farmland protection task force be established. The task force shall be composed of 10 members, which shall include 8 legislative members and 2 nonlegislative citizen members as follows: three members of the Senate to be appointed by the Senate Committee on Privileges and Elections; five members of the House of Delegates to be appointed by the Speaker of the House, in accordance with the principles of Rule 16 of the Rules of the House of Delegates; one citizen to be appointed by the Senate Committee on Privileges and Elections; and one citizen to be appointed by the Speaker of the House.

In conducting its study, the task force shall develop a comprehensive farmland protection policy for the Commonwealth. The policy shall set farmland protection goals, specify strategies for meeting the goals and designate a state government agency or official who is responsible for ensuring that the policy is observed and the goals achieved. The policy shall identify the Commonwealth's existing farmland protection efforts, additional incentives that may be needed to encourage landowners to keep their land in agricultural uses, government actions that directly or indirectly tend to lead to or cause farmland conversion, and ways that such government actions can be modified so that farmland protection goals are met.

The direct costs of this study shall not exceed \$11,000.

The Division of Legislative Services shall provide staff support for the study. Technical assistance shall be provided by the Department of Agriculture and Consumer Services. All agencies of the Commonwealth shall provide assistance to the task force, upon request.

The task force shall complete its work in time to submit its findings and recommendations to the Governor and the 2001 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may withhold expenditures or delay the period for the conduct of the study.

SENATE BILL NO. \_\_\_\_\_ HOUSE BILL NO. \_\_\_\_\_

Appendix B

1 A BILL to amend the Code of Virginia by adding in Title 3.1 a chapter numbered 3.3, consisting  
2 of sections numbered 3.1-18.9 through 3.1-18.12, relating to the Office of Farmland  
3 Preservation.

4 Be it enacted by the General Assembly of Virginia:

5 1. That the Code of Virginia is amended by adding in Title 3.1 a chapter numbered 3.3,  
6 consisting of sections numbered 3.1-18.9 through 3.1-18.12, as follows:

7 CHAPTER 3.3.

8 OFFICE OF FARMLAND PRESERVATION.

9 § 3.1-18.9. Agricultural Vitality Program continued as Office of Farmland Preservation.

10 The Agricultural Vitality Program within the Department is continued and hereafter shall  
11 be known as the Office of Farmland Preservation.

12 § 3.1-18.10. Powers and duties of Office of Farmland Preservation.

13 The Office of Farmland Preservation shall have the following powers and duties:

14 1. To develop, in cooperation with the Department of Business Assistance, the Virginia  
15 Farm Bureau Federation, the American Farmland Trust, the Virginia Land Conservation  
16 Foundation, and the Virginia Cooperative Extension, (i) standards to be applied in local  
17 purchase of development rights programs; (ii) criteria for the certification of local purchase of  
18 development rights programs as eligible to receive grants, loans or other funds from public  
19 sources; and (iii) methods and sources of revenue for allocating funds to localities to purchase  
20 agricultural conservation easements;

21 2. To create programs to educate the public about the importance of farmland  
22 preservation to the quality of life in the Commonwealth;



*Request for Amendment to House Document X, House Bill XX, Senate Bill XX*

**Chief Patron:**

Item 410

**BUDGET AMENDMENT**

**Natural Resources**

Virginia Land Conservation Foundation

**FY01-02**

**\$2,000,000 GF**

**Co-Patron(s):**

**Language:**

The portion of this \$2,000,000 allocated to the Virginia Land Conservation Foundation which is designated pursuant to Virginia Code § 10.1-1020 to be used for farmlands preservation shall be expended by the Foundation in the form of matching grants to local purchase of development rights programs to aid in securing open-space easements on farmland in support of the Virginia Agricultural Vitality Program as developed by the Department of Agriculture and Consumer Services. The Commissioner of Agriculture and Consumer Services shall present in writing recommendations for land conservation funding priorities under the Agricultural Vitality Program to the Board of the Foundation by September 1, 2001. No matching grants shall be made from the Virginia Land Conservation Fund to any local purchase of development rights program for farmlands preservation unless the Commissioner of Agriculture and Consumer Services has recommended that the grant be made.

*Request for Amendment to House Document X, House Bill XX, Senate Bill XX*

**Chief Patron:**

Item 93

**BUDGET AMENDMENT**

**Commerce and Trade**

Department of Agriculture and Consumer Services

**FY01-02**

\$350,000 GF  
1.0 FTE

Co-Patron(s):

Language:

Page 84, line 43, strike "7,059,883" and insert "7,409,883."

Page 85, line 5, strike "\$65,000 the first year and \$50,000 the second year from the general fund shall be provided to," and insert "the Board of Agriculture and Consumer Services shall"

Page 85, line 14, after "shall" insert "(1)"

Page 85, line 14, after "for" strike "(1)"

Page 85, line 15, after "(2)" insert "develop"

Page 85, line 17, after "(3)" insert "develop"

Page 85, line 19, after "(4)" strike "creating and administering" and insert "create and administer"

Page 85, line 21, after "2." insert: "Out of the amounts for this item, \$350,000 for FY 01-02 shall be provided to establish the Virginia Farm Link program."

\* \* \*

The budget would then read as follows:

Page 85, lines 5-29:

B1. Out of the amounts provided for this Item, the Board of Agriculture and Consumer Services shall establish the Virginia Agricultural Vitality Program. In establishing this program, the Board of Agriculture and Consumer Services, in cooperation with one representative each from the Farm Bureau, the American Farmland Trust, the Virginia Land Conservation Foundation, the Virginia Cooperative Extension, and the Department of Business Assistance, shall (1) develop standards for local Purchase of Development Rights programs; (2) develop criteria and a process for certification of local programs for eligibility; (3) develop a method and source of revenue for allocating funds to localities to purchase agricultural conservation easements; and (4) create and administer the Virginia Farm Link program.



2. Out of the amounts for this item, \$350,000 for FY 01-02 shall be provided to establish the Virginia Farm Link program. The Farm Link program shall provide state assistance in the transition of farm businesses and properties from retiring farmers to active farmers. This assistance includes the preparation of business plans for the transition of business interests; matching of existing properties and agricultural operations to buyers; information on innovative techniques and methods; and advice and research assistance on agricultural, financial, marketing, and other matters.

SENATE JOINT RESOLUTION NO. \_\_\_\_\_

Appendix D

1 Memorializing the Congress of the United States to enact legislation repealing the federal  
2 estate tax.

3 WHEREAS, the industry of agriculture is recognized as the largest single industry in the  
4 Commonwealth and plays a critical role in defining the character of the Commonwealth; and

5 WHEREAS, it is the stated policy of the Commonwealth to conserve and protect  
6 agricultural lands as valued economic resources that provide food and other agricultural and  
7 forest products, essential open spaces for clean air sheds, watershed protection, and wildlife  
8 habitat, as well as for aesthetic purposes; and

9 WHEREAS, the 2000 Session of the General Assembly passed Senate Joint Resolution  
10 134, which created a farmland protection task force to identify challenges facing farmers in the  
11 Commonwealth and to examine existing and potential measures that can be employed to  
12 encourage rural landowners to maintain the agricultural uses of their land; and

13 WHEREAS, the liability for the federal estate tax is one of the challenges that the  
14 farmland protection task force has identified as facing farmers in the Commonwealth and their  
15 families in keeping their land in use as production farmland; and

16 WHEREAS, an increasing concern of farmers in the Commonwealth and their families is  
17 the impact that the payment of federal estate taxes upon the death of one generation will have  
18 upon the ability of subsequent generations to maintain the agricultural uses of their land; and

19 WHEREAS, production farmland is being converted to nonagricultural uses at an  
20 increasing pace as many families sell their land to avoid the future consequences of federal  
21 estate tax liability or are forced to sell their land to satisfy current federal estate tax liability; and

22 WHEREAS, the conversion of farmland to nonagricultural uses has many negative  
23 effects on the quality of life in the Commonwealth, including the spread of harmful urban

1 sprawl and the loss of environmentally sensitive land, and undermines the Commonwealth's  
2 food production capabilities; and

3 WHEREAS, the elimination of the federal estate tax would benefit farmers in the  
4 Commonwealth and their families as it would allow farmers and their families to maintain the  
5 agricultural uses of their land; now, therefore, be it

6 RESOLVED by the Senate, the House of Delegates concurring, That the Congress of  
7 the United States be urged to enact legislation repealing the estate tax; and be it

8 RESOLVED FURTHER, That the Clerk of the Senate transmit copies of this resolution  
9 to the Speaker of the United States House of Representatives, the President of the United  
10 States Senate, and the members of the Virginia Congressional Delegation in order that they  
11 may be apprised of the sense of the Virginia General Assembly in this matter.

12 #

