

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 2635**

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**STATE OF NEW JERSEY**  
**211th LEGISLATURE**

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ADOPTED JUNE 7, 2004

**Sponsored by:**

**Assemblyman JOHN F. MCKEON**

**District 27 (Essex)**

**Assemblyman LOUIS MANZO**

**District 31 (Hudson)**

**Assemblyman ROBERT GORDON**

**District 38 (Bergen)**

**Assemblyman MICHAEL PANTER**

**District 12 (Mercer and Monmouth)**

**Assemblyman REED GUSCIORA**

**District 15 (Mercer)**

**Assemblyman JOHN E. ROONEY**

**District 39 (Bergen)**

**Co-Sponsored by:**

**Assemblymen Hackett, Connors, Assemblywoman Voss, Assemblyman Eagler, Assemblywoman Greenstein, Assemblyman Morgan and Assemblywoman Pou**

**SYNOPSIS**

The "Highlands Water Protection and Planning Act"; creates Highlands Water Protection and Planning Council; and dedicates a portion of realty transfer fee revenue annually for certain State aid purposes in the Highlands Region and the pinelands area.

**CURRENT VERSION OF TEXT**

Substitute as adopted by the Assembly Appropriations Committee.

**(Sponsorship Updated As Of: 6/11/2004)**

1 AN ACT concerning the Highlands Region, creating a Highlands Water  
2 Protection and Planning Council, dedicating a portion of the realty  
3 transfer fee revenue annually for certain State aid purposes in the  
4 Highlands Region and in the pinelands area, supplementing Title 13  
5 of the Revised Statutes, and amending and supplementing various  
6 sections of the statutory law.

7

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

10

11 1. (New section) This act shall be known, and may be cited, as  
12 the "Highlands Water Protection and Planning Act."

13

14 2. (New section) The Legislature finds and declares that the  
15 national Highlands Region is an area that extends from northwestern  
16 Connecticut across the lower Hudson River Valley and northern New  
17 Jersey into east central Pennsylvania; that the national Highlands  
18 Region has been recognized as a landscape of special significance by  
19 the United States Forest Service; that the New Jersey portion of the  
20 national Highlands Region is nearly 800,000 acres, or about 1,250  
21 miles, covering portions of 88 municipalities in seven counties; and  
22 that the New Jersey Highlands Region is designated as a Special  
23 Resource Area in the State Development and Redevelopment Plan.

24 The Legislature further finds and declares that the New Jersey  
25 Highlands is an essential source of drinking water, providing clean and  
26 plentiful drinking water for one-half of the State's population,  
27 including communities beyond the New Jersey Highlands, from only  
28 13 percent of the State's land area; that the New Jersey Highlands  
29 contains other exceptional natural resources such as clean air,  
30 contiguous forest lands, wetlands, pristine watersheds, and habitat for  
31 fauna and flora, includes many sites of historic significance, and  
32 provides abundant recreational opportunities for the citizens of the  
33 State.

34 The Legislature further finds and declares that the New Jersey  
35 Highlands provides a desirable quality of life and place where people  
36 live and work; that it is important to ensure the economic viability of  
37 communities throughout the New Jersey Highlands; and that  
38 residential, commercial, and industrial development, redevelopment,  
39 and economic growth in certain appropriate areas of the New Jersey  
40 Highlands are also in the best interests of all the citizens of the State,  
41 providing innumerable social, cultural, and economic benefits and  
42 opportunities.

43 The Legislature further finds and declares that there are

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 approximately 110,000 acres of agricultural lands in active production  
2 in the New Jersey Highlands; that these lands are important resources  
3 of the State that should be preserved; that the agricultural industry in  
4 the region is a vital component of the economy, welfare, and cultural  
5 landscape of the Garden State; and, that in order to preserve the  
6 agricultural industry in the region, it is necessary and important to  
7 recognize and reaffirm the goals, purposes, policies, and provisions of  
8 the "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1 et seq.) and the  
9 protections afforded to farmers thereby.

10 The Legislature further finds and declares that, since 1984, 65,000  
11 acres, or over 100 square miles, of the New Jersey Highlands have  
12 been lost to development; that sprawl and the pace of development in  
13 the region has dramatically increased, with the rate of loss of forested  
14 lands and wetlands more than doubling since 1995; that the New  
15 Jersey Highlands, because of its proximity to rapidly expanding  
16 suburban areas, is at serious risk of being fragmented and consumed  
17 by unplanned development; and that the existing land use and  
18 environmental regulation system cannot protect the water and natural  
19 resources of the New Jersey Highlands against the environmental  
20 impacts of sprawl development.

21 The Legislature further finds and declares that the protection of the  
22 New Jersey Highlands, because of its vital link to the future of the  
23 State's drinking water supplies and other key natural resources, is an  
24 issue of State level importance that cannot be left to the uncoordinated  
25 land use decisions of 88 municipalities, seven counties, and a myriad of  
26 private landowners; that the State should take action to delineate within  
27 the New Jersey Highlands a preservation area of exceptional natural  
28 resource value that includes watershed protection and other  
29 environmentally sensitive lands where stringent protection policies  
30 should be implemented; that a regional approach to land use planning  
31 in the preservation area should be established to replace the existing  
32 uncoordinated system; that such a new regional approach to land use  
33 planning should be complemented by increased standards more  
34 protective of the environment established by the Department of  
35 Environmental Protection for development in the preservation area of  
36 the New Jersey Highlands; that the new regional planning approach and  
37 the more stringent environmental regulatory standards should be  
38 accompanied, as a matter of wise public policy and fairness to property  
39 owners, by a strong and significant commitment by the State to fund the  
40 acquisition of exceptional natural resource value lands; and that in the  
41 light of the various pressures now arrayed against the New Jersey  
42 Highlands, these new approaches should be implemented as soon as  
43 possible.

44 The Legislature further finds and declares that in the New Jersey  
45 Highlands there is a mountain ridge running southwest from Hamburg  
46 Mountain in Sussex County that separates the eastern and the western

1 New Jersey Highlands; that much of the State's drinking water supplies  
2 originate in the eastern New Jersey Highlands; and that planning for  
3 the region and the environmental standards and regulations to protect  
4 those water supplies should be developed with regard to the  
5 differences in the topography of the Highlands Region and how the  
6 topography affects the quality of the water supplies.

7 The Legislature therefore determines, in the light of these findings  
8 set forth hereinabove, and with the intention of transforming them into  
9 action, that it is in the public interest of all the citizens of the State of  
10 New Jersey to enact legislation setting forth a comprehensive approach  
11 to the protection of the water and other natural resources of the New  
12 Jersey Highlands; that this comprehensive approach should consist of  
13 the identification of a preservation area of the New Jersey Highlands  
14 that would be subjected to stringent water and natural resource  
15 protection standards, policies, planning, and regulation; that this  
16 comprehensive approach should also consist of the establishment of a  
17 Highlands Water Protection and Planning Council charged with the  
18 preparation of a regional master plan for the preservation area in the  
19 New Jersey Highlands as well as for the region in general; that this  
20 comprehensive approach should also include the adoption by the  
21 Department of Environmental Protection of stringent standards  
22 governing major development in the Highlands preservation area; that,  
23 because of the imminent peril that the ongoing rush of development  
24 poses for the New Jersey Highlands, immediate, interim standards  
25 should be imposed on the date of enactment of this act on major  
26 development in the preservation area of the New Jersey Highlands,  
27 followed subsequently by adoption by the department of appropriate  
28 rules and regulations; that it is appropriate to encourage in certain  
29 areas of the New Jersey Highlands, consistent with the State  
30 Development and Redevelopment Plan and smart growth strategies  
31 and principles, appropriate patterns of compatible residential,  
32 commercial, and industrial development, redevelopment, and economic  
33 growth, in or adjacent to areas already utilized for such purposes, and  
34 to discourage piecemeal, scattered, and inappropriate development, in  
35 order to accommodate local and regional growth and economic  
36 development in an orderly way while protecting the Highlands  
37 environment from the individual and cumulative adverse impacts  
38 thereof; that the maintenance of agricultural production and a positive  
39 agricultural business climate should be encouraged to the maximum  
40 extent possible wherever appropriate in the New Jersey Highlands; and  
41 that all such aforementioned measures should be guided, in heart,  
42 mind, and spirit, by an abiding and generously given commitment to  
43 protecting the incomparable water resources and natural beauty of the  
44 New Jersey Highlands so as to preserve them intact, in trust, forever  
45 for the pleasure, enjoyment, and use of future generations while also  
46 providing every conceivable opportunity for appropriate economic

1 growth and development to advance the quality of life of the residents  
2 of the region and the entire State.

3

4 3. (New section) As used in this act:

5 "Agricultural or horticultural development" means construction for  
6 the purposes of supporting common farmsite activities, including but  
7 not limited to: the production, harvesting, storage, grading,  
8 packaging, processing, and the wholesale and retail marketing of  
9 crops, plants, animals, and other related commodities and the use and  
10 application of techniques and methods of soil preparation and  
11 management, fertilization, weed, disease, and pest control, disposal of  
12 farm waste, irrigation, drainage and water management, and grazing;

13 "Agricultural impervious cover" means agricultural or horticultural  
14 buildings, structures, or facilities with or without flooring, residential  
15 buildings, and paved areas, but shall not mean temporary coverings;

16 "Agricultural or horticultural use" means the use of land for  
17 common farmsite activities, including but not limited to: the  
18 production, harvesting, storage, grading, packaging, processing, and  
19 the wholesale and retail marketing of crops, plants, animals, and other  
20 related commodities and the use and application of techniques and  
21 methods of soil preparation and management, fertilization, weed,  
22 disease, and pest control, disposal of farm waste, irrigation, drainage  
23 and water management, and grazing;

24 "Application for development" means the application form and all  
25 accompanying documents required for approval of a subdivision plat,  
26 site plan, planned development, conditional use, zoning variance, or  
27 direction of the issuance of a permit pursuant to the "Municipal Land  
28 Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) or R.S.40:27-1 et  
29 seq., for any use, development, or construction;

30 "Capital improvement" means any facility for the provision of public  
31 services with a life expectancy of three or more years, owned and  
32 operated by or on behalf of the State or a political subdivision thereof;

33 "Construction beyond site preparation" means having completed the  
34 foundation for a building or structure, and does not include the  
35 clearing, cutting, or removing of vegetation, bringing construction  
36 materials to the site, or site grading or other earth work associated  
37 with preparing a site for construction;

38 "Construction materials facility" means any facility or land upon  
39 which the activities of production of ready mix concrete, bituminous  
40 concrete, or class B recycling occurs;

41 "Council" means the Highlands Water Protection and Planning  
42 Council established by section 4 of this act;

43 "Department" means the Department of Environmental Protection;

44 "Development" means the same as that term is defined in section  
45 3.1 of P.L.1975, c.291 (C.40:55D-4);

46 "Development regulation" means the same as that term is defined

1 in section 3.1 of P.L.1975, c.291 (C.40:55D-4);

2 "Disturbance" means the placement of impervious surface, the  
3 exposure or movement of soil or bedrock, or the clearing, cutting, or  
4 removing of vegetation;

5 "Environmental land use or water permit" means a permit, approval,  
6 or other authorization issued by the Department of Environmental  
7 Protection pursuant to the "Freshwater Wetlands Protection Act,"  
8 P.L.1987, c.156 (C.13:9B-1 et seq.), the "Water Supply Management  
9 Act," P.L.1981, c.262 (C.58:1A-1 et seq.), the "Water Pollution  
10 Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), "The Realty  
11 Improvement Sewerage and Facilities Act (1954)," P.L.1954, c.199  
12 (C.58:11-23 et seq.), the "Water Quality Planning Act," P.L.1977,  
13 c.75 (C.58:11A-1 et seq.), the "Safe Drinking Water Act," P.L.1977,  
14 c.224 (C.58:12A-1 et seq.), or the "Flood Hazard Area Control Act,"  
15 P.L.1962, c.19 (C.58:16A-50 et seq.);

16 "Facility expansion" means the expansion of the capacity of an  
17 existing capital improvement in order that the improvement may serve  
18 new development;

19 "Farm conservation plan" means a site specific plan that prescribes  
20 needed land treatment and related conservation and natural resource  
21 management measures, including forest management practices, that are  
22 determined to be practical and reasonable for the conservation,  
23 protection, and development of natural resources, the maintenance and  
24 enhancement of agricultural or horticultural productivity, and the  
25 control and prevention of nonpoint source pollution;

26 "Farm management unit" means a parcel or parcels of land, whether  
27 contiguous or noncontiguous, together with agricultural or  
28 horticultural buildings, structures and facilities, producing agricultural  
29 or horticultural products, and operated as a single enterprise;

30 "Highlands open waters" means all springs, streams including  
31 intermittent streams, wetlands, and bodies of surface water, whether  
32 natural or artificial, located wholly or partially within the boundaries  
33 of the Highlands Region, but shall not mean swimming pools;

34 "Highlands Region" means that region so designated by subsection  
35 a. of section 7 of this act;

36 "Immediate family member" means spouse, child, parent, sibling,  
37 aunt, uncle, niece, nephew, first cousin, grandparent, grandchild,  
38 father-in-law, mother-in-law, son-in-law, daughter-in-law, stepparent,  
39 stepchild, stepbrother, stepsister, half brother, or half sister, whether  
40 the individual is related by blood, marriage, or adoption;

41 "Impact fee" means cash or in-kind payments required to be paid by  
42 a developer as a condition for approval of a major subdivision or major  
43 site plan for the developer's proportional share of the cost of providing  
44 new or expanded reasonable and necessary public improvements  
45 located outside the property limits of the subdivision or development  
46 but reasonably related to the subdivision or development based upon

1 the need for the improvement created by, and the benefits conferred  
2 upon, the subdivision or development;

3 "Impervious surface" means any structure, surface, or improvement  
4 that reduces or prevents absorption of stormwater into land, and  
5 includes porous paving, paver blocks, gravel, crushed stone, decks,  
6 patios, elevated structures, and other similar structures, surfaces, or  
7 improvements;

8 "Individual unit of development" means a dwelling unit in the case  
9 of a residential development, a square foot in the case of a  
10 non-residential development, or any other standard employed by a  
11 municipality for different categories of development as a basis upon  
12 which to establish a service unit;

13 "Local government unit" means a municipality, county, or other  
14 political subdivision of the State, or any agency, board, commission,  
15 utilities authority or other authority, or other entity thereof;

16 "Major Highlands development" means, except as otherwise  
17 provided pursuant to subsection a. of section 30 of this act, (1) any  
18 non-residential development in the preservation area; (2) any  
19 residential development in the preservation area that requires an  
20 environmental land use or water permit or that results in the ultimate  
21 disturbance of one acre or more of land or a cumulative increase in  
22 impervious surface by one-quarter acre or more; (3) any activity  
23 undertaken or engaged in the preservation area that is not a  
24 development but results in the ultimate disturbance of one-quarter acre  
25 or more of forested area or that results in a cumulative increase in  
26 impervious surface by one-quarter acre or more on a lot; or (4) any  
27 capital or other project of a State entity or local government unit in  
28 the preservation area that requires an environmental land use or water  
29 permit or that results in the ultimate disturbance of one acre or more  
30 of land or a cumulative increase in impervious surface by one-quarter  
31 acre or more. Major Highlands development shall not mean an  
32 agricultural or horticultural development or agricultural or  
33 horticultural use in the preservation area;

34 "Mine" means any mine, whether on the surface or underground,  
35 and any mining plant, material, equipment, or explosives on the surface  
36 or underground, which may contribute to the mining or handling of ore  
37 or other metalliferous or non-metalliferous products. The term "mine"  
38 shall also include a quarry, sand pit, gravel pit, clay pit, or shale pit;

39 "Mine site" means the land upon which a mine, whether active or  
40 inactive, is located, for which the Commissioner of Labor has granted  
41 a certificate of registration pursuant to section 4 of P.L.1954, c.197  
42 (C.34:6-98.4) and the boundary of which includes all contiguous  
43 parcels, except as provided below, of property under common  
44 ownership or management, whether located in one or more  
45 municipalities, as such parcels are reflected by lot and block numbers  
46 or metes and bounds, including any mining plant, material, or

1 equipment. "Contiguous parcels" as used in this definition of "mine  
2 site" shall not include parcels for which mining or quarrying is not a  
3 permitted use or for which mining or quarrying is not permitted as a  
4 prior nonconforming use under the "Municipal Land Use Law,"  
5 P.L.1975, c.291 (C.40:55D-1 et seq.);

6 "Office of Smart Growth" means the Office of State Planning  
7 established pursuant to section 6 of P.L.1985, c.398 (C.52:18A-201);

8 "Planning area" means that portion of the Highlands Region not  
9 included within the preservation area;

10 "Preservation area" means that portion of the Highlands Region so  
11 designated by subsection b. of section 7 of this act;

12 "Public utility" means the same as that term is defined in  
13 R.S.48:2-13;

14 "Recreation and conservation purposes" means the same as that  
15 term is defined in section 3 of P.L.1999, c.152 (C.13:8C-3);

16 "Regional master plan" means the Highlands regional master plan  
17 or any revision thereof adopted by the council pursuant to section 8 of  
18 this act;

19 "Resource management systems plan" means a site specific  
20 conservation system plan that (1) prescribes needed land treatment and  
21 related conservation and natural resource management measures,  
22 including forest management practices, for the conservation,  
23 protection, and development of natural resources, the maintenance and  
24 enhancement of agricultural or horticultural productivity, and the  
25 control and prevention of nonpoint source pollution, and (2)  
26 establishes criteria for resources sustainability of soil, water, air,  
27 plants, and animals;

28 "Service area" means that area to be served by the capital  
29 improvement or facility expansion as designated in the capital  
30 improvement program adopted by a municipality under section 20 of  
31 P.L.1975, c.291 (C.40:55D-29);

32 "Service unit" means a standardized measure of consumption, use,  
33 generation or discharge attributable to an individual unit of  
34 development calculated in accordance with generally accepted  
35 engineering or planning standards for a particular category of capital  
36 improvements or facility expansions;

37 "Soil conservation district" means the same as that term is defined  
38 in R.S.4:24-2;

39 "State Development and Redevelopment Plan" means the State  
40 Development and Redevelopment Plan adopted pursuant to P.L.1985,  
41 c.398 (C.52:18A-196 et al.);

42 "State entity" means any State department, agency, board,  
43 commission, or other entity, district water supply commission,  
44 independent State authority or commission, or bi-state entity;

45 "State Soil Conservation Committee" means the State Soil  
46 Conservation Committee in the Department of Agriculture established

1 pursuant to R.S.4:24-3;

2 "Temporary coverings" means permeable, woven and non-woven  
3 geotextile fabrics that allow for water infiltration or impermeable  
4 materials that are in contact with the soil and are used for no more  
5 than two consecutive years; and

6 "Waters of the Highlands" means all springs, streams including  
7 intermittent streams, and bodies of surface or ground water, whether  
8 natural or artificial, located wholly or partially within the boundaries  
9 of the Highlands Region, but shall not mean swimming pools.

10

11 4. (New section) There is hereby established a public body  
12 corporate and politic, with corporate succession, to be known as the  
13 "Highlands Water Protection and Planning Council." The council shall  
14 constitute a political subdivision of the State established as an  
15 instrumentality exercising public and essential governmental functions,  
16 and the exercise by the council of the powers and duties conferred by  
17 this act shall be deemed and held to be an essential governmental  
18 function of the State. For the purpose of complying with the  
19 provisions of Article V, Section IV, paragraph 1 of the New Jersey  
20 Constitution, the council is hereby allocated within the Department of  
21 Environmental Protection, but, notwithstanding that allocation, the  
22 council shall be independent of any supervision or control by the  
23 department or by the commissioner or any officer or employee thereof.

24

25 5. (New section) a. The council shall consist of 15 voting  
26 members to be appointed and qualified as follows:

27 (1) Eight residents of the counties of Bergen, Hunterdon, Morris,  
28 Passaic, Somerset, Sussex, or Warren, appointed by the Governor,  
29 with the advice and consent of the Senate, (a) no more than four of  
30 whom shall be of the same political party, (b) of whom five shall be  
31 municipal officials residing in the Highlands Region and holding  
32 elective office at the time of appointment and three shall be county  
33 officials holding elective office at the time of appointment, and (c)  
34 among whom shall be (i) at least one resident from each of the  
35 counties of Bergen, Hunterdon, Morris, Passaic, Somerset, Sussex,  
36 and Warren, and (ii) two residents from the county that has the largest  
37 population residing in the Highlands Region, of whom no more than  
38 one shall be of the same political party; and

39 (2) Seven residents of the State, of whom five shall be appointed  
40 by the Governor, with the advice and consent of the Senate, one shall  
41 be appointed by the Governor upon the recommendation of the  
42 President of the Senate, and one shall be appointed by the Governor  
43 upon the recommendation of the Speaker of the General Assembly.  
44 The members appointed pursuant to this paragraph shall have, to the  
45 maximum extent practicable, expertise, knowledge, or experience in  
46 water quality protection, natural resources protection, environmental

1 protection, agriculture, forestry, land use, or economic development,  
2 and at least four of them shall be property owners, business owners,  
3 or farmers in the Highlands Region or residents or nonresidents of the  
4 Highlands Region who benefit from or consume water from the  
5 Highlands Region.

6 b. (1) Council members shall serve for terms of five years;  
7 provided, however, that of the members first appointed, five shall  
8 serve a term of three years, five shall serve a term of four years, and  
9 five shall serve a term of five years. The initial terms of the two  
10 council members appointed by the Governor upon the  
11 recommendation, respectively, of the President of the Senate and the  
12 Speaker of the General Assembly shall be among those council  
13 members assigned initial terms of five years pursuant to this paragraph.

14 (2) Each member shall serve for the term of the appointment and  
15 until a successor shall have been appointed and qualified. Any vacancy  
16 shall be filled in the same manner as the original appointment for the  
17 unexpired term only.

18 c. Any member of the council may be removed by the Governor,  
19 for cause, after a public hearing.

20 d. Each member of the council, before entering upon the member's  
21 duties, shall take and subscribe an oath to perform the duties of the  
22 office faithfully, impartially, and justly to the best of the member's  
23 ability, in addition to any oath that may be required by R.S.41:1-1 et  
24 seq. A record of the oath shall be filed in the Office of the Secretary  
25 of State.

26 e. The members of the council shall serve without compensation,  
27 but the council may, within the limits of funds appropriated or  
28 otherwise made available for such purposes, reimburse its members for  
29 necessary expenses incurred in the discharge of their official duties.

30 f. The powers of the council shall be vested in the members thereof  
31 in office. A majority of the total authorized membership of the council  
32 shall constitute a quorum and no action may be taken by the council  
33 except upon the affirmative vote of a majority of the total authorized  
34 membership of the council. No alternate or designee of any council  
35 member shall exercise any power to vote on any matter pending before  
36 the council.

37 g. The Governor shall designate one of the members of the council  
38 as chairperson. The council shall appoint an executive director, who  
39 shall be the chief administrative officer thereof. The executive director  
40 shall serve at the pleasure of the council, and shall be a person  
41 qualified by training and experience to perform the duties of the office.

42 h. The members and staff of the council shall be subject to the  
43 "New Jersey Conflicts of Interest Law," P.L.1971, c.182 (C.52:13D-  
44 12 et seq.).

45 i. The council shall be subject to the provisions of the "Open Public  
46 Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

1 j. A true copy of the minutes of every meeting of the council shall  
2 be prepared and forthwith delivered to the Governor. No action taken  
3 at a meeting by the council shall have force or effect until 10 days,  
4 exclusive of Saturdays, Sundays, and public holidays, after a copy of  
5 the minutes shall have been so delivered; provided, however, that no  
6 action taken with respect to the adoption of the regional master plan,  
7 or any portion or revision thereof, shall have force or effect until 30  
8 days, exclusive of Saturdays, Sundays, and public holidays, after a  
9 copy of the minutes shall have been so delivered. If, in the 10-day  
10 period, or 30-day period, as the case may be, the Governor returns the  
11 copy of the minutes with a veto of any action taken by the council at  
12 the meeting, the action shall be null and void and of no force and  
13 effect.

14

15 6. (New section) The council shall have the following powers,  
16 duties, and responsibilities, in addition to those prescribed elsewhere  
17 in this act:

18 a. To adopt and from time to time amend and repeal suitable  
19 bylaws for the management of its affairs;

20 b. To adopt and use an official seal and alter it at the council's  
21 pleasure;

22 c. To maintain an office at such place or places in the Highlands  
23 Region as it may designate;

24 d. To sue and be sued in its own name;

25 e. To appoint, retain and employ, without regard to the provisions  
26 of Title 11A of the New Jersey Statutes but within the limits of funds  
27 appropriated or otherwise made available for those purposes, such  
28 officers, employees, attorneys, agents, and experts as it may require,  
29 and to determine the qualifications, terms of office, duties, services,  
30 and compensation therefor;

31 f. To apply for, receive, and accept, from any federal, State, or  
32 other public or private source, grants or loans for, or in aid of, the  
33 council's authorized purposes or in the carrying out of the council's  
34 powers, duties, and responsibilities;

35 g. To enter into any and all agreements or contracts, execute any  
36 and all instruments, and do and perform any and all acts or things  
37 necessary, convenient, or desirable for the purposes of the council or  
38 to carry out any power, duty, or responsibility expressly given in this  
39 act;

40 h. To call to its assistance and avail itself of the services of such  
41 employees of any State entity or local government unit as may be  
42 required and made available for such purposes;

43 i. To adopt a regional master plan for the Highlands Region as  
44 provided pursuant to section 8 of this act;

45 j. To appoint advisory boards, commissions, councils, or panels to  
46 assist in its activities, including but not limited to a municipal advisory

- 1 council consisting of mayors, municipal council members, or other  
2 representatives of municipalities located in the Highlands Region;
- 3 k. To solicit and consider public input and comment on the  
4 council's activities, the regional master plan, and other issues and  
5 matters of importance in the Highlands Region by periodically holding  
6 public hearings or conferences and providing other opportunities for  
7 such input and comment by interested parties;
- 8 l. To conduct examinations and investigations, to hear testimony,  
9 taken under oath at public or private hearings, on any material matter,  
10 and to require attendance of witnesses and the production of books  
11 and papers;
- 12 m. To prepare and transmit to the Commissioner of Environmental  
13 Protection such recommendations for water quality and water supply  
14 standards for surface and ground waters in the Highlands Region, or  
15 in tributaries and watersheds thereof, and for other environmental  
16 protection standards pertaining to the lands and natural resources of  
17 the Highlands Region, as the council deems appropriate;
- 18 n. To identify and designate in the regional master plan special  
19 areas in the preservation area within which development shall not  
20 occur in order to protect water resources and environmentally  
21 sensitive lands while recognizing the need to provide just  
22 compensation to the owners of those lands when appropriate, whether  
23 through acquisition, transfer of development rights programs, or other  
24 means or strategies;
- 25 o. To identify any lands in which the public acquisition of a fee  
26 simple or lesser interest therein is necessary or desirable in order to  
27 ensure the preservation thereof, or to provide sites for public  
28 recreation, as well as any lands the beneficial use of which are so  
29 adversely affected by the restrictions imposed pursuant to this act as  
30 to require a guarantee of just compensation therefor, and to transmit  
31 a list of those lands to the Commissioner of Environmental Protection,  
32 affected local government units, and appropriate federal agencies;
- 33 p. To develop model land use ordinances and other development  
34 regulations, for consideration and possible adoption by municipalities  
35 in the planning area, that would help protect the environment,  
36 including, but not limited to, ordinances and other development  
37 regulations pertaining to steep slopes, forest cover, wellhead and  
38 water supply protection, water conservation, impervious surface, and  
39 clustering; and to provide guidance and technical assistance in  
40 connection therewith to those municipalities;
- 41 q. To identify and designate, and accept petitions from  
42 municipalities to designate, special critical environmental areas in high  
43 resource value lands in the planning area, and develop voluntary  
44 standards and guidelines for protection of such special areas for  
45 possible implementation by those municipalities;
- 46 r. To comment upon any application for development before a local

1 government unit, on the adoption of any master plan, development  
2 regulation, or other regulation by a local government unit, or on the  
3 enforcement by a local government unit of any development regulation  
4 or other regulation, which power shall be in addition to any other  
5 review, oversight, or intervention powers of the council prescribed by  
6 this act;

7 s. To work with interested municipalities to enter into agreements  
8 to establish, where appropriate, capacity-based development densities,  
9 including, but not limited to, appropriate higher densities to support  
10 transit villages or in centers designated by the State Development and  
11 Redevelopment Plan and endorsed by the State Planning Commission;

12 t. To establish and implement a road signage program in  
13 cooperation with the Department of Transportation and local  
14 government units to identify significant natural and historic resources  
15 and landmarks in the Highlands Region;

16 u. To promote, in conjunction with the Department of  
17 Environmental Protection and the Department of Agriculture,  
18 conservation of water resources both in the Highlands Region and in  
19 areas outside of the Highlands Region for which the Highlands is a  
20 source of drinking water;

21 v. To promote brownfield remediation and redevelopment in the  
22 Highlands Region;

23 w. To work with the State Agriculture Development Committee  
24 and the Garden State Preservation Trust to establish incentives for any  
25 landowner in the Highlands Region seeking to preserve land under the  
26 farmland preservation program that would be provided in exchange for  
27 the landowner agreeing to permanently restrict the amount of  
28 impervious surface and agricultural impervious cover on the farm to  
29 a maximum of five percent of the total land area of the farm;

30 x. To establish and charge, in accordance with a fee schedule to be  
31 set forth by rule or regulation adopted pursuant to the "Administrative  
32 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), reasonable fees  
33 for services performed relating to the review of applications for  
34 development and other applications filed with or otherwise brought  
35 before the council, or for other services, as may be required by this act  
36 or the regional master plan; and

37 y. To prepare, adopt, amend, or repeal, pursuant to the provisions  
38 of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1  
39 et seq.), such rules and regulations as may be necessary in order to  
40 exercise its powers and perform its duties and responsibilities under  
41 the provisions of this act.

42

43 7. (New section) a. The Highlands Region shall consist of all that  
44 area within the boundaries of the following municipalities:

45 (1) in Bergen County: Mahwah and Oakland;

46 (2) in Hunterdon County: Alexandria, Bethlehem, Bloomsbury,

1 Califon, Clinton Town, Clinton Township, Glen Gardner, Hampton,  
2 High Bridge, Holland, Lebanon Boro, Lebanon Township, Milford,  
3 Tewksbury, and Union;

4 (3) in Morris County: Boonton Town, Boonton Township, Butler,  
5 Chester Boro, Chester Township, Denville, Dover, Hanover, Harding,  
6 Jefferson, Kinnelon, Mendham Boro, Mendham Township, Mine Hill,  
7 Montville, Morris Plains, Morris Township, Morristown, Mount  
8 Arlington, Mount Olive, Mountain Lakes, Netcong, Parsippany-Troy  
9 Hills, Pequannock, Randolph, Riverdale, Rockaway Boro, Rockaway  
10 Township, Roxbury, Victory Gardens, Washington, and Wharton;

11 (4) in Passaic County: Bloomingdale, Pompton Lakes, Ringwood,  
12 Wanaque, and West Milford;

13 (5) in Somerset County: Bedminster, Bernards, Bernardsville, Far  
14 Hills, and Peapack-Gladstone;

15 (6) in Sussex County: Byram, Franklin, Green, Hamburg,  
16 Hardyston, Hopatcong, Ogdensburg, Sparta, Stanhope, and Vernon;  
17 and

18 (7) in Warren County: Allamuchy, Alpha, Belvidere, Franklin,  
19 Frelinghuysen, Greenwich, Hackettstown, Harmony, Hope,  
20 Independence, Liberty, Lopatcong, Mansfield, Oxford, Phillipsburg,  
21 Pohatcong, Washington Boro, Washington Township, and White.

22 b. (1) The preservation area shall consist of all that area within the  
23 boundaries described herein:

24

25 Beginning at the New Jersey and New York border and the  
26 intersection of State Highway 17 and Interstate 287 in northern  
27 Mahwah Township; thence southerly on Interstate 287 to its  
28 intersection with Ramapo Valley Road (U.S. Highway 202); thence  
29 southwesterly on Ramapo Valley Road (U.S. Highway 202) to its  
30 intersection with the Campgaw Mountain County Reservation,  
31 immediately south of Marion Drive; thence in a general northeastern  
32 direction along the boundary of the Campgaw Mountain County  
33 Reservation, until its intersection with Interstate 287; thence southerly  
34 on Interstate 287 to its intersection with the Mahwah Township and  
35 Oakland Borough corporate boundary; thence northwesterly along the  
36 Mahwah Township and Oakland Borough corporate boundary to its  
37 intersection with the Ramapo River; thence south on the east bank of  
38 the Ramapo River to its intersection with Interstate 287; thence  
39 westerly on Interstate 287 to its intersection with West Oakland  
40 Avenue; thence southerly and westerly on West Oakland Avenue to its  
41 intersection with Doty Road; thence southerly on Doty Road to its  
42 intersection with Ramapo Valley Road (U.S. Highway 202); thence  
43 westerly and southerly on Ramapo Valley Road (U.S. Highway 202)  
44 to its intersection with Long Hill Road (County Road 931); thence  
45 southerly on Long Hill Road (County Road 931) to its intersection  
46 with the Oakland Borough and Franklin Lakes Borough corporate

1 boundary; thence southerly on the Oakland Borough and Franklin  
2 Lakes Borough corporate boundary to its intersection with the  
3 Oakland Borough corporate boundary; thence northwesterly along the  
4 Oakland Borough corporate boundary to the Wanaque Borough  
5 corporate boundary; thence westerly and southerly along the Wanaque  
6 Borough and Pompton Lakes Borough corporate boundary to its  
7 intersection with Ringwood Avenue (Alternate 511) to its intersection  
8 with the southwestern corner of Block 478, lot 7 in Wanaque  
9 Borough; thence east along the boundary of Block 478, lot 7 to  
10 boundary of Block 479, lot 3 in Wanaque Borough; thence northerly  
11 along the boundary of Block 479, lot 3 to the boundary of Block 479,  
12 lot 2; thence westerly and northerly to Interstate 287; thence northerly  
13 on Interstate 287 to its intersection with the Pompton River; thence  
14 northerly along the western bank of the Pompton River to its  
15 intersection in Wanaque Borough with the abandoned railroad right of  
16 way east of Ringwood Avenue; thence northerly on the abandoned  
17 railroad right of way to its intersection with Belmont Avenue; thence  
18 easterly on Belmont Avenue to its intersection with Mullen Avenue;  
19 thence southerly and easterly on Mullen Avenue to its intersection  
20 with Belmont Avenue thence easterly to Meadow Brook; thence  
21 northerly on the eastern bank of Meadow Brook to its intersection  
22 with Meadow Brook Avenue in Wanaque Borough; thence easterly on  
23 Meadow Brook Avenue to its intersection with Crescent Road; thence  
24 northerly on Crescent Road to its intersection with Tremont Terrace;  
25 thence northerly on Tremont Terrace to its intersection with Wilson  
26 Drive; thence northerly on Wilson Drive to its intersection with  
27 Conklintown Road; thence westerly on Conklintown Road to its  
28 intersection with Ringwood Avenue (Alternate 511); thence southerly  
29 on Ringwood Avenue (Alternate 511) to its intersection with the  
30 Wanaque Reservoir public lands; thence southerly and westerly on the  
31 Wanaque Reservoir public lands boundary to its intersection with  
32 Posts Brook; thence southerly on the eastern bank of Posts Brook to  
33 its intersection with Doty Road; thence easterly on Doty Road to its  
34 intersection the northeast corner of Block 401, lot 3 in Wanaque  
35 Borough; thence southerly along the boundary of Block 401, lot 3 to  
36 the intersection with the Bloomingdale Borough and Wanaque  
37 Borough corporate boundary; thence southerly on Bloomingdale  
38 Borough and Wanaque Borough corporate boundary to its intersection  
39 with Union Avenue County Road 511); thence westerly on Union  
40 Avenue (County Road 511) to its intersection with Morse Lake Road;  
41 thence north on Morse Lake Road to the southeastern corner of Block  
42 57, lot 41 in Bloomingdale Borough; thence westerly along the  
43 boundary of Block 57, lot 41 to the boundary of Block 57, lot 40;  
44 thence northerly and westerly along the boundary of Block 57, lot 40  
45 to the northeast corner of Block 57, lot 43.01; thence continuing  
46 westerly and southerly along the boundary of Block 57, lot 43.01 to

1 the boundary of Block 92.08, lot 77; thence westerly along the  
2 boundary of Block 92.08, lot 77 to the northeast corner of Block  
3 92.08, lot 1; thence continuing westerly along the northern boundary  
4 of Block 92.08, lot 1 to the southern boundary of Block 49.02, lot 12;  
5 thence continuing westerly along the southern boundary of Block  
6 49.02, lot 12 to the southern boundary of Block 49.02, lot 28; thence  
7 continuing westerly along the southern boundary of Block 49.02, lot  
8 28 to Woodlot Road; thence westerly across Woodlot Road to the  
9 boundary of Block 49.09, lot 8; thence westerly along the southern  
10 boundary of Block 49.09, lot 8 to the boundary of Block 49.09, lot 12;  
11 thence westerly along the southern boundary of Block 49.09, lot 12 to  
12 Overlook Road (Natalie Court); thence westerly across Overlook  
13 Road (Natalie Court) to the boundary of Block 49.01, lot 5.04; thence  
14 northwesterly along the boundary of Block 49.01, lot 5.04 to the  
15 southern corner of Block 49.01, lot 5.05; thence northwesterly along  
16 the boundary of Block 49.01, lot 5.05 to a corner of Block 44, lot 182;  
17 thence generally westerly following the southern boundary of Block  
18 44, lot 182 to Glenwild Avenue (Carmantown Road) at South Road;  
19 thence northerly along the eastern edge of Glenwild Avenue  
20 (Carmantown Road) right of way to a point opposite Glade Road;  
21 thence south across Glenwild Avenue (Carmantown Road) to the  
22 northeast corner of Block 5, lot 28; thence south along the boundary  
23 of Block 5, lot 28 to the boundary of Block 5, lot 26.01; thence  
24 southerly along the boundary of Block 5, lot 26.01 to Star Lake Road  
25 (Ridge Road); thence southwest across Star Lake Road (Ridge Road)  
26 to the northern corner of Block 5, lot 26.11 along the boundary of  
27 Block 5, lot 26.01; thence westerly along the boundary of Block 5, lot  
28 26.01 to the northern corner of Block 5, lot 26.02; thence southerly  
29 and westerly following along the boundary of Block 5, lot 26.02 to the  
30 northeastern corner of Block 5, lot 25.02; thence westerly and  
31 southerly along the boundary of Block 5, lot 25.02 to the northern  
32 limit of the Macopin Road (County Road 693) right of way; thence  
33 northerly and westerly on Macopin Road (County Road 693) to its  
34 intersection with the Bloomingdale Borough and West Milford  
35 Township corporate boundary; thence southerly on the Bloomingdale  
36 Borough and West Milford Township corporate boundary to its  
37 intersection with the West Milford Township and Butler Borough  
38 corporate boundary; thence southerly along this corporate boundary  
39 to its intersection with the Kinnelon Borough, Butler Borough and  
40 Morris County Corporate boundary; thence westerly, southerly and  
41 easterly on the Kinnelon Borough and Butler Borough corporate  
42 boundary to its intersection with State Highway 23; thence easterly on  
43 State Highway 23 to its intersection with the Kinnelon Borough and  
44 Riverdale Borough corporate boundary; thence southerly and easterly  
45 on the Riverdale Borough and Pequannock Township corporate  
46 boundary to its intersection with Interstate 287; thence southerly on

1 Interstate 287 to its intersection with Old Lane Road Extension;  
2 thence westerly, northerly and westerly on Old Lane Road Extension  
3 to the intersection of Virginia Drive; thence southerly on Virginia  
4 Drive to its intersection with MacLeay Drive; thence southwesterly on  
5 MacLeay Drive to its intersection with West Lake Drive; thence  
6 southwesterly on West Lake Drive to Taylortown Road; thence  
7 northerly and westerly on Taylortown Road to its intersection with  
8 Boonton Avenue and Rockaway Valley Road; thence westerly on  
9 Rockaway Valley Road to its intersection with Powerville Road  
10 (County Road 618); thence northerly on Powerville Road (County  
11 Road 618) to its intersection with Kincaid Road; thence easterly on  
12 Kincaid Road to its intersection with the Boonton Township and  
13 Montville Township corporate boundary; thence northerly, along the  
14 corporate boundary to the intersection with the Boonton Township  
15 and Kinnelon Borough corporate boundary; thence westerly on the  
16 corporate boundary to the intersection with the Boonton Township  
17 and Rockaway Township corporate boundary; thence and southerly on  
18 the Boonton Township corporate boundary to its intersection with  
19 Split Rock Road; thence northerly on Split Rock Road to its  
20 intersection with Lyonsville Road; thence southerly and westerly on  
21 Lyonsville Road and its continuation as Meriden Lyonsville Road to  
22 its intersection with Beaver Brook; thence along the eastern bank of  
23 the Beaver Brook southerly to its intersection with Ford Road; thence  
24 southerly and westerly along Ford Road to its intersection with Morris  
25 Avenue; thence northerly and westerly along Morris Avenue to its  
26 intersection with Green Pond Road (County Road 513); thence  
27 northerly on Green Pond Road (County Road 513) to its intersection  
28 with the Wildcat Ridge Wildlife Management Area; thence westerly on  
29 the Wildcat Ridge Wildlife Management Area boundary to its  
30 intersection with Hibernia Brook; thence westerly on the southern  
31 bank of Hibernia Brook to its intersection with Valley View Drive;  
32 thence westerly on Valley View Drive to its intersection with Erie  
33 Avenue; thence northerly on Erie Avenue to its intersection with  
34 Comanche Avenue; thence southerly on Comanche Avenue to its  
35 intersection with West Lake Shore Drive; thence westerly on West  
36 Lake Shore Drive to its intersection with Jackson Avenue; thence  
37 westerly on Jackson Avenue to its intersection with Miami Trail;  
38 thence westerly and southerly on Miami Trail to its intersection with  
39 Cayuga Avenue; thence southerly on Cayuga Avenue to its  
40 intersection with South Brookside Avenue; thence easterly on South  
41 Brookside Avenue to its intersection with Montauk Avenue; thence  
42 southerly on Montauk Avenue to its intersection with Old Middletown  
43 Road; thence southwesterly on Old Middletown Road to its  
44 intersection with Ridge Road; thence westerly on Ridge Road to its  
45 intersection with Cathy's Place; thence southerly on Cathy's Place to  
46 its intersection with Mt. Hope Road (County Road 666); thence

1 northerly on Mt. Hope Road (County Road 666) to its intersection  
2 with the Mt. Hope Park public land boundary; thence southerly and  
3 westerly on the Mt. Hope Park public land boundary to its intersection  
4 with Block 70001 in Rockway Township (Picatinny Arsenal); thence  
5 northeasterly, northerly and southwesterly on the boundary of Block  
6 70001 (Picatinny Arsenal) to its intersection with State Highway 15;  
7 thence northerly on State Highway 15 to its intersection with the  
8 Rockaway Township and Jefferson Township corporate boundary;  
9 thence southwesterly on the Rockaway Township and Jefferson  
10 Township corporate boundary south of Interstate 80 to its intersection  
11 with the Conrail/NJ Transit right of way; thence westerly on  
12 Conrail/NJ Transit right of way to its intersection with the Roxbury  
13 Township and Mount Arlington Borough corporate boundary; thence  
14 northerly on the Roxbury Township and Mount Arlington Borough  
15 corporate boundary to its intersection with the southern corner of  
16 Block 22, lot 13 in Mount Arlington Borough; thence northerly and  
17 northwesterly on the boundary of Block 22, lot 13 to its intersection  
18 with Berkshire Avenue; thence westerly on Berkshire Avenue to its  
19 intersection with Mountainview Avenue; thence northerly on  
20 Mountainview Avenue to its intersection with the southern corner on  
21 Block 8, lot 5.01 in Mount Arlington Borough; thence easterly,  
22 northerly, southerly then northerly on the boundary of Block 8, lot  
23 5.01 to its intersection with Littel Way; thence westerly on Littel Way  
24 to its intersection with Howard Boulevard (County Road 615); thence  
25 northerly on Howard Boulevard, continuing northerly as it becomes  
26 Espanong Road, to its intersection with Edison Road (County Road  
27 615); thence easterly on Edison Road (County Road 615) to its  
28 intersection with State Highway 15; thence northerly on the eastern  
29 edge of the State Highway 15 right of way north of Lake Winona to  
30 its intersection with the electrical utility right of way; thence southerly  
31 and westerly on the utility right of way to its intersection with State  
32 Highway 181; thence southerly on State Highway 181 to its  
33 intersection with Prospect Point Road; thence southerly on Prospect  
34 Point Road to its intersection with Northwood Road (County Road  
35 609); thence southwesterly on Northwood Road to its intersection  
36 with a tributary of the Musconetcong River; thence northerly on the  
37 west bank of the tributary of the Musconetcong River to its  
38 intersection with the southwestern boundary of Block 70001, lot 4 in  
39 Hopatcong Borough; thence southwesterly on the southwestern  
40 boundary of Block 70001, lot 4 to its intersection with the  
41 southernmost corner of Block 70001, lot 5; thence northwesterly on  
42 the boundary of Block 70001, lot 5 to its intersection with Block  
43 70001, lot 1; thence southwesterly on Block 70001, lot 1 to its  
44 intersection with the easternmost point of Block 50002, lot 1; thence  
45 southwesterly on Block 50002, lot 1 to its intersection with Mohawk  
46 Trail and Block 50003, lot 1 in Hopatcong Borough; thence

1 northwesterly and southwesterly along the northeast border of Block  
2 5003, lot 1 to its intersection with the northwest corner of Block  
3 5002, lot 2; thence southerly along the western boundary of Block  
4 5002, lot 2 to its intersection with the northernmost corner Block  
5 5002, lot 4; thence southwesterly along the Block 5002, lot 4 to its  
6 intersection with Block 5002, lot 6; thence northwesterly,  
7 southwesterly, southeasterly and southwesterly along the boundary of  
8 Block 5002, lot 6 to its westernmost corner; thence westerly on a line  
9 to the intersection of Old Sparta Stanhope Road and Lubbers Run;  
10 thence northerly on Old Sparta Stanhope Road to its intersection with  
11 Sparta Stanhope Road (County Route 605); thence southerly on  
12 Sparta Stanhope Road (County Route 605) to the intersection of the  
13 Conrail right of way; thence southerly along the Conrail right of way  
14 to its intersection with the Byram Township and Stanhope Borough  
15 corporate boundary; thence westerly and southerly along the Byram  
16 Township and Stanhope Borough corporate boundary to its  
17 intersection with the southeastern corner of Block 42, lot 115 in  
18 Byram Township; thence northeasterly and westerly on the block limit  
19 of Block 42 to its intersection with the southeastern corner of Block  
20 42, lot 112; thence northerly on a line approximately 390 feet east of,  
21 and parallel to, State Highway 206 to its intersection with Brookwood  
22 Road; thence easterly on Brookwood Road to the southeastern corner  
23 of Block 40, lot 18; thence northerly on the boundary of Block 40, lot  
24 18 to its intersection with Block 40, lot 15; thence easterly and  
25 northerly on Block 40, lot 15 to its intersection with Block 40, lot 14;  
26 thence northeasterly, northerly, and westerly on the boundary of Block  
27 40, lot 14 to its intersection with the southeastern corner of Block  
28 365, lot 5; thence northeasterly on the boundary of Block 365, lot 5  
29 to Lake Lackawanna Road (also known as Lackawanna Drive) and the  
30 southeastern corner of Block 226, lot 16; thence northeasterly on the  
31 boundary of Block 226, lot 16 to its intersection with Block 226, lot  
32 11; thence westerly, northerly, westerly, southerly, and westerly on the  
33 boundary of Block 226, lot 11 to its intersection with State Highway  
34 206; thence southerly on State Highway 206 to its intersection with  
35 the northeast corner of Block 70, lot 7.02; thence westerly, southerly,  
36 westerly, and southerly on the boundary of Block 70, lot 7.02 to its  
37 intersection with Block 70, lot 7.01; thence southerly on the boundary  
38 of Block 70, lot 7.01 to its intersection with Block 70, lot 6; thence  
39 southerly on the boundary of Block 70, lot 6 to its intersection with Hi  
40 Glen Drive, continuing southerly to the northwest corner of Block 59,  
41 lot 5; thence southerly on the boundary of Block 59, lot 5 to its  
42 intersection with Block 34, lot 16; thence westerly, southerly, easterly  
43 and southerly on the boundary of Block 34, lot 16 to its intersection  
44 with Block 34, lot 17; thence westerly on the boundary of Block 34,  
45 Lot 17 to its intersection with Millstream Lane (as depicted on the  
46 municipal map); thence southerly on Millstream Lane (as depicted on

1 the municipal map) to its intersection with Netcong Avenue; thence  
2 easterly on Netcong Avenue to its intersection with State Highway  
3 206; thence southerly on the western edge of the State Highway 206  
4 right of way to its intersection with the northeastern corner of Block  
5 36, lot 39.01; thence westerly, southerly and easterly along the  
6 boundary of lot 39.01 to the western edge of the State Highway 206  
7 right of way; thence southerly on the western edge of the State  
8 Highway 206 right of way to its intersection with the northeastern  
9 corner of Block 36, lot 40; thence westerly, northerly, westerly along  
10 the boundary of Block 36 Lot 40 to the boundary of Block 36, Lot 42;  
11 thence northerly, westerly, southerly along the boundary of Block 36,  
12 Lot 42 to Waterloo Road; thence westerly along Waterloo Road to the  
13 intersection with the northwestern corner of Block 29, Lot 201.03;  
14 thence southerly to the intersection of Block 29, Lot 201.02 and Block  
15 27, Lot 379; thence easterly to the northeast corner of Block 27, Lot  
16 379; thence southerly on a line approximately 143 feet west of, and  
17 paralleling, the western edge of the State Highway 206 right of way to  
18 the intersection with Acorn Street; thence easterly on Acorn Street to  
19 State Highway 206; thence southerly along the western edge of the  
20 State Highway 206 right of way to its intersection with the corporate  
21 boundary between Byram Township and Stanhope Borough; thence  
22 generally southerly along the corporate boundary between Byram  
23 Township and Stanhope Borough to the Musconetcong River and the  
24 corporate boundary between Byram Township and Mount Olive  
25 Township; thence northwesterly along the corporate boundary  
26 between Byram Township and Mount Olive Township to its  
27 intersection with Allamuchy State Park; thence southerly, westerly and  
28 southerly on the Allamuchy State Park boundary to its intersection  
29 with Interstate 80; thence southeasterly on Interstate 80 to its  
30 intersection with International Drive North; thence southeasterly on  
31 International Drive North to its intersection with Waterloo Valley  
32 Road; thence easterly and southerly on Waterloo Valley Road to its  
33 intersection with Allamuchy State Park; thence easterly and southerly  
34 and westerly on the Allamuchy State Park boundary to its intersection  
35 with Lozier Road; thence easterly on Lozier Road to its intersection  
36 with Waterloo Road; thence southerly on Waterloo Road to its  
37 intersection with 4th Street; thence westerly and southerly on 4th  
38 Street to its intersection with Hopkins Drive; thence southerly on  
39 Hopkins Drive to its intersection with Netcong Road (County Road  
40 649); thence southerly and westerly on Netcong Road (County Road  
41 649) to its intersection with Sand Shore Road (County Road 649);  
42 thence southerly on Sand Shore Road (County Road 649) to its  
43 intersection with U.S. Highway 46; thence northerly and easterly on  
44 U.S. Highway 46 to its intersection with Gold Mine Road; thence  
45 easterly on Gold Mine Road to its intersection with State Highway  
46 206; thence northerly on State Highway 206 to its intersection with

1 Mountain Road; thence southerly and easterly on Mountain Road to  
2 its intersection with Mooney Road; thence northerly on Mooney Road  
3 to its intersection with U.S. Highway 46; thence easterly and southerly  
4 on U.S. Highway 46 to its intersection with Main Street and the  
5 Morris Canal Park boundary; thence southerly on the Morris Canal  
6 Park boundary to its intersection with Mountain Road; thence  
7 northeasterly on Mountain Road to its intersection with Emmans  
8 Road; thence southerly and westerly on Emmans Road to its  
9 intersection with the Conrail right of way south of Drake's Brook;  
10 thence southerly and westerly on Conrail right of way to its  
11 intersection with State Highway 206; thence southerly on State  
12 Highway 206 to its intersection with the Mount Olive Township and  
13 Chester Township corporate boundary; thence northerly and westerly  
14 on the Chester Township corporate boundary to its intersection with  
15 the Roxbury Township corporate boundary, continuing northerly and  
16 westerly on the Roxbury Township and Chester Township corporate  
17 boundaries to the intersection with the Black River Wildlife  
18 Management Area; thence northerly and easterly on the boundary of  
19 the lands of the Morris County Utilities Authority to its intersection  
20 with easterly on Righter Road; thence easterly on Righter Road to its  
21 intersection with Park Avenue; thence southerly on Park Avenue to its  
22 intersection with the Randolph Township and Chester Township  
23 corporate boundary; thence southeasterly on the Chester Township  
24 corporate boundary to its intersection with North Road (County Road  
25 513); thence southerly and westerly on North Road (County Road  
26 513) to its intersection with the Chester Township and Chester  
27 Borough corporate boundary; thence northerly; thence westerly,  
28 southerly and easterly around the Chester Borough corporate  
29 boundary to its intersection with Main Street (County Road 510);  
30 thence southerly on County Route 510 to its intersection with Chester  
31 Township and Mendham Township corporate boundary; thence  
32 southerly on the Chester Township corporate boundary to its  
33 intersection with the Chester Township and Peapack-Gladstone  
34 Borough and Somerset County corporate boundary; thence  
35 southwesterly on the Chester Township and Peapack-Gladstone  
36 Borough and Somerset County corporate boundary to its intersection  
37 with the Bedminster Township corporate boundary; thence southerly  
38 on the Bedminster Township corporate boundary to its intersection  
39 with Pottersville Road (County Road 512); thence westerly on  
40 Pottersville Road (County Road 512) to its intersection with Black  
41 River Road; thence northerly and westerly on Black River Road to its  
42 intersection with the corporate boundaries of Bedminster Township  
43 and Tewksbury Township; thence northerly along the corporate  
44 boundaries to their intersection with the corporate boundary of  
45 Washington Township; thence westerly along the corporate boundaries  
46 of Washington Township and Tewksbury Township to the point where

1 it intersects Black River Road; thence northerly and westerly on Black  
2 River Road to the intersection of Hacklebarney Road; thence north on  
3 Hacklebarney Road to the intersection of Old Farmers Road; thence  
4 northerly and westerly on Old Farmers Road to the intersection of  
5 Flintlock Drive; thence easterly and northerly on Flintlock Drive to the  
6 intersection of Parker Road; thence westerly on Parker Road to the  
7 intersection of Old Farmers Road; thence northerly on Old Farmers  
8 Road to the intersection with the southwestern corner of Block 36.06  
9 in Washington Township; thence northeasterly on the southern  
10 boundary of Block 36.06 to its intersection with Block 36, lot 42;  
11 thence northwesterly on the boundary of Block 36, lot 42 to its  
12 intersection with the southern corner of Block 36, lot 41; thence  
13 northeasterly along the southern boundary of Block 36, lot 41 to its  
14 intersection with Block 36, lot 43; thence northwesterly on the eastern  
15 boundary of Block 36, lot 41 to its intersection with Block 36, lot  
16 43.01; thence westerly and northwesterly on the boundary of Block  
17 36, lot 43.01 to a point 560 feet southeast from the centerline of East  
18 Mill Road; thence easterly, and parallel to East Mill Road, a distance  
19 of 1300 feet to a point 560 feet from the centerline of East Mill Road;  
20 thence northerly to its intersection with East Mill Road; thence  
21 westerly on East Mill Road to its intersection with the southwestern  
22 corner of Block 28, lot 17.01; thence northwesterly on the western  
23 boundary of Block 28, lot 17.01 to its intersection with Block 28, lot  
24 17; thence westerly, easterly and northwesterly on Block 28, lot 17 to  
25 its intersection with Block 28, lot 300; thence northwesterly on Block  
26 28, lot 300 to its intersection with Block 28, lot 60; thence  
27 northwesterly on Block 28, lot 60 to its intersection with Fairview  
28 Avenue; thence southwesterly on Fairview Avenue to its intersection  
29 with Springtown Brook (Raritan River Tributary); thence northerly  
30 and northwesterly on Springtown Brook to its intersection with the  
31 southeastern corner of Block 25, lot 47; thence northwesterly and  
32 westerly on the boundary of Block 25, lot 47 to a point that is due east  
33 of the northernmost corner of Block 25, lot 48; thence due east to the  
34 northernmost corner of Block 25, lot 48; thence westerly, northerly  
35 and westerly on the northernmost boundaries of Block 25, lots 48, 49,  
36 47.01, 51, and 52.01 to the intersection of Block 25, lot 52.02; thence  
37 northwesterly on Block 25, lot 52.02 to Schooley's Mountain Road  
38 (County Road 517); thence across Schooley's Mountain Road (County  
39 Road 517) to the northeastern corner of Block 33, lot 19.01; thence  
40 westerly on Block 33, lot 19.01 to the northernmost corner of Block  
41 33, lot 19; thence southwesterly on a line to the southwestern corner  
42 of Block 33, lot 58.01; thence southeasterly on Block 33, lot 58.01 to  
43 its intersection with the abandoned railroad right of way (including the  
44 Columbia Gas transmission line); thence crossing the abandoned  
45 railroad right of way to the southeastern corner of Block 33, lot 58;  
46 thence southeasterly on Block 33, lot 58 to West Mill Road (County

1 Road 513); thence crossing to West Mill Road (County Road 513) to  
2 the eastern corner of Block 34, lot 46; thence southeasterly and  
3 northeasterly on Block 34, lot 46 to its intersection with Block 34, lot  
4 50; thence northeasterly on Block 34, lot 50 to its intersection with  
5 Block 34, lot 1.01; thence northeasterly on Block 34, lot 1.01 to its  
6 intersection with Block 34, lot 3.01; thence northeasterly on Block 34,  
7 lot 3.01 to its intersection with Fairmount Road (County Road 517);  
8 thence southerly along Fairmount Road to the intersection of Parker  
9 Road; thence northeast along Parker Road to Black River Road;  
10 thence east along Parker Road to Pickle Road; thence south on Pickle  
11 Road to the intersection of West Fairmount Road (County Road 512);  
12 thence southerly on West Fairmount Road (County Road 512) to its  
13 intersection with Hollow Brook Road; thence westerly on Hollow  
14 Brook Road to its intersection with Homestead Road; thence southerly  
15 on Homestead Road to its intersection with High Street (County Road  
16 517) and Hill and Dale Road; thence westerly on Hill and Dale Road  
17 to its intersection with Rockaway Road; thence westerly on Rockaway  
18 Road to its intersection with Meadow Road; thence southerly on  
19 Meadow Road to its intersection with Bissell Road; thence westerly on  
20 Bissell Road to its intersection with Welsh Road; thence southerly and  
21 westerly on Welsh Road to its intersection with the Tewksbury  
22 Township and Clinton Township corporate boundary; thence westerly  
23 on the Tewksbury Township and Clinton Township corporate  
24 boundary to its intersection with Cokesbury Road (County Road 639);  
25 thence northerly and westerly on Cokesbury Road (County Road 639)  
26 to its intersection with Cokesbury Califon Road; thence northerly on  
27 Cokesbury Califon Road to its intersection with the Lebanon  
28 Township and Clinton Township corporate boundary; thence westerly  
29 on the Lebanon Township and Clinton Township corporate boundary  
30 to its intersection with Mt. Grove Road; thence southerly on Mt.  
31 Grove Road to its intersection with Beaver Brook Ravine public land  
32 boundary; thence southerly, westerly and northerly on the Beaver  
33 Brook Ravine public land boundary to its intersection with Highbridge  
34 Cokesbury Road (County Road 639); thence westerly on Highbridge  
35 Cokesbury Road (County Road 639) to its intersection with Stone  
36 Mill Road; thence north on Stone Mill Road to the Clinton Township  
37 and Lebanon Township corporate boundary; thence westerly on the  
38 Clinton Township corporate boundary to its intersection with the High  
39 Bridge Borough and Lebanon Township corporate boundary; thence  
40 west and southerly along the corporate boundary to the intersection  
41 with Cregar Road; thence westerly on Cregar Road to its intersection  
42 with State Highway 31; thence southerly on State Highway 31 to its  
43 intersection with the Spruce Run Reservoir boundary; thence southerly  
44 and westerly on the Spruce Run Reservoir boundary to its intersection  
45 with Rupell Road; thence westerly on Rupell Road to its intersection  
46 with the Clinton Fish and Wildlife Management Area; thence westerly

1 on the Clinton Fish and Wildlife Management Area boundary to its  
2 intersection with Charlestown Road (County Road 635); thence  
3 southerly on Charlestown Road (County Road 635) to its intersection  
4 with South Frontage Road in Union Township; thence westerly on  
5 South Frontage Road to the intersection of Baptist Church Road;  
6 thence south on Baptist Church Road to the Norfolk Southern Lehigh  
7 Valley railroad right of way; thence easterly along the northern  
8 boundary of the Norfolk Southern Lehigh Valley railroad right of way  
9 to Mechlin Corner Road; thence north on Mechlin Corner Road to the  
10 intersection of Perryville Road; thence easterly and southerly on  
11 Perryville Road to its intersection with Race Street; thence easterly on  
12 Race Street to its intersection with the Franklin Township and Union  
13 Township corporate boundary; thence southerly on the Franklin  
14 Township and Union Township corporate boundary to Pittstown  
15 Clinton Road (County Road 513) to its intersection with Cook's Cross  
16 Road; thence westerly on Cook's Cross Road to its intersection with  
17 Bloomsbury Road (County Road 579); thence northerly and westerly  
18 on Bloomsbury Road (County Road 579) to its intersection with Little  
19 York Pattenburg Road (County Road 614); thence westerly and  
20 southerly on Little York Pattenburg Road (County Road 614) to its  
21 intersection with Little York Mt. Pleasant Road (County Road 631)  
22 and Ellis Road; thence westerly and northerly on Ellis Road to its  
23 intersection with Hawkes Schoolhouse Road; thence southerly on  
24 Hawkes Schoolhouse Road to its intersection with Milford Warren  
25 Glen Road (County Road 519); thence westerly on Milford Warren  
26 Glen Road (County Road 519) to its intersection with Dennis Road;  
27 thence westerly and northerly on Dennis Road to its intersection with  
28 Milford Warren Glen Road (County Road 519); thence northerly on  
29 Milford Warren Glen Road (County Road 519) to its intersection with  
30 the Musconetcong River; thence southerly and westerly on the  
31 southern bank of the Musconetcong River to its intersection with the  
32 Delaware River and the State of New Jersey corporate boundary;  
33 thence northerly and easterly on the Delaware River and the State of  
34 New Jersey corporate boundary to its intersection with the  
35 Phillipsburg Town and Pohatcong Township corporate boundary;  
36 thence northeasterly on the Phillipsburg Town and Pohatcong  
37 Township corporate boundary to its intersection with Interstate 78;  
38 thence southerly on interstate 78 to its intersection with the Pohatcong  
39 Township and Alpha Borough corporate boundary; thence southerly  
40 and westerly on the Pohatcong Township and Alpha Borough  
41 corporate boundary to its intersection with Snydersville Road; thence  
42 northeasterly on Snydersville Road to its intersection with Interstate  
43 78; thence noutheasterly on Interstate 78 to its intersection with the  
44 Pohatcong Township and Alpha Borough corporate boundary; thence  
45 northeasterly on the Pohatcong Township and Alpha Borough  
46 corporate boundary to its intersection with Edge Road; thence

1 northwesterly on Edge Road to its intersection with Interstate 78;  
2 thence northerly and easterly on Interstate 78 to its intersection with  
3 US Highway 22; thence southeasterly on US Highway 22 to its  
4 intersection with the Greenwich Township and Pohatcong Township  
5 corporate boundary; thence southerly on the Greenwich Township and  
6 Pohatcong Township corporate boundary to its intersection with  
7 Warren Glen Bloomsbury Road (County Road 639); thence northerly  
8 and easterly on Warren Glen Bloomsbury Road (County Road 639) to  
9 its intersection with State Highway 173 in Greenwich Township;  
10 thence easterly on State Highway 173 to its intersection with Church  
11 Street (County Road 579); thence easterly on Church Street (County  
12 Road 579) to its intersection with the Musconetcong River; thence  
13 northerly and easterly on the northern bank of the Musconetcong  
14 River to its intersection with the eastern most boundary of the  
15 Musconetcong Valley Acquisition public lands in Bethlehem  
16 Township; thence easterly and southerly on the Musconetcong Valley  
17 Acquisition public land boundary to its intersection with the Conrail  
18 right of way; thence easterly on the Conrail right of way to its  
19 intersection with D. Hull Private Road; thence southerly on the D.  
20 Hull Private Road to its intersection with State Highway 173; thence  
21 east to the intersection of West Portal Asbury Road (County Road  
22 643); thence easterly and northerly on West Portal Asbury Road  
23 (County Road 643); thence easterly and northerly on West  
24 Portal-Asbury Road (County Road 643) to its intersection with Maple  
25 Avenue in Warren County; thence northerly and easterly on Maple  
26 Avenue to its intersection with Shurts Road; thence southerly on  
27 Shurts Road, becoming Valley Road in Hunterdon County, continuing  
28 on Valley Road to its intersection with Main Street in Hampton  
29 Borough; thence northerly on Main Street to its intersection with State  
30 Highway 31; thence northerly on State Highway 31 to its intersection  
31 with the Musconetcong River; thence northerly and easterly on the  
32 northern bank of the Musconetcong River to its intersection with  
33 Newburgh Road; thence east on Newburgh Road to the intersection  
34 of Schooley's Mountain Road (County Route 517); thence northerly  
35 on Schooley's Mountain Road (County Route 517) to the  
36 Musconetcong River; thence northerly along the Musconetcong River  
37 to East Avenue; thence northeasterly along East Avenue to U.S.  
38 Highway 46; thence northerly and easterly along U.S. Highway 46 to  
39 the intersection with the Washington Township and Mount Olive  
40 Township corporate boundary; thence westerly and southerly along  
41 said corporate boundary to the Musconetcong River; thence northerly  
42 along the southern bank of the Musconetcong River to the Stephens  
43 State Park boundary; thence northerly, westerly, northerly, westerly  
44 along the Stephens State Park boundary to a point opposite the lands  
45 of Stephens State Park on the western and northern bank of the  
46 Musconetcong; thence across the Musconetcong River to the

1 boundary of the lands of Stephens State Park; thence along the  
2 southern boundary of Stephens State Park to the intersection of  
3 Willow Grove Road (Warren County Route 604); thence north along  
4 the lands of Stephens State Park and Willow Grove Road (Warren  
5 County Route 604) to a point opposite the lands of Stephens State  
6 Park on the west side of Willow Grove Road (Warren County Route  
7 604); thence crossing Willow Grove Road to the boundary of the lands  
8 of Stephens State Park; thence westerly along said State Park  
9 boundary lands to the intersection with the Conrail right of way;  
10 thence southerly on Conrail right of way to its intersection with Bilby  
11 Road; thence northerly and westerly on Bilby Road to its intersection  
12 with Old Bilby Road; thence northerly and westerly on Old Bilby Road  
13 to its intersection with High Street (County Road 517); thence  
14 southerly on High Street (County Road 517) to its intersection with  
15 Old Allamuchy Road; thence southerly and westerly on Old Allamuchy  
16 Road to its intersection with the Independence Township and  
17 Hackettstown Town corporate boundary; thence westerly and  
18 southerly on the Hackettstown Town corporate boundary to its  
19 intersection with the Hackettstown Town and Mansfield Township  
20 corporate boundary; thence southerly and easterly on the  
21 Hackettstown Town and Mansfield Township corporate boundary to  
22 its intersection with the Conrail railroad right of way at Rockport  
23 Road; thence southerly and westerly on the Conrail railroad right of  
24 way into Washington Township to a point along the Conrail railroad  
25 right of way 1,250 feet southwest of the Washington Township and  
26 Mansfield Township corporate boundary; thence proceeding  
27 northwesterly 380 feet more or less along a line projected to the  
28 southeastern corner of Block 43, lot 10.01 in Washington Township;  
29 thence continuing northwesterly and westerly along the boundary of  
30 Block 43, lot 10.01 to the northeastern corner of Block 43, lot 10;  
31 thence westerly along the boundary of Block 43, lot 10 to the  
32 southeastern corner of Block 43, lot 9; thence northerly along the  
33 eastern boundaries of Block 43, lots 9, 6 and 5; thence along a line  
34 projected from the northern corner of Block 43, lot 5 365 feet more  
35 or less across a portion of Block 43, lot 3 to the southeastern corner  
36 of Block 43, lot 4; thence northerly and westerly along the boundary  
37 of Block 43, lot 4 to Port Colden Road; thence northerly on Port  
38 Colden Road to the Shabbecong Creek crossing; thence southwestly  
39 along the northern bank of the Shabbecong Creek to its intersection  
40 with the western boundary of Block 40, lot 86; thence south along  
41 Block 40, lot 86 to the northeastern corner of Block 40, lot 87.02;  
42 thence westerly along the northern boundary of Block 40, lot 87.02;  
43 thence 60 feet more or less along a line projected from the  
44 northwestern corner of Block 40, lot 87.02 across a portion of Block  
45 40, lot 87 to the northeast corner of Block 40, lot 87.01 and a corner  
46 of Block 40, lot 87; thence westerly along the southern boundary of

1 Block 40, lot 87 to the Washington Township and Washington  
2 Borough corporate boundary; thence northerly and westerly along the  
3 Washington Township and Washington Borough corporate boundary  
4 to the southern corner of Block 40, lot 105; thence northeasterly to  
5 the corner and intersection with the boundary of Block 40, lot 87;  
6 thence northwesterly along the boundary of Block 40, lot 87 to the  
7 intersection with the first southwestern corner of Block 40, lot 110;  
8 thence northwesterly along the western boundary of Block 40, lot 110  
9 to the southern corner of Block 40, lot 25; thence northeasterly and  
10 northwesterly along the boundary of Block 40, lot 25 to the southern  
11 corner of Block 40, lot 28; thence northeasterly and northwesterly  
12 along the boundary of Block 40, lot 28 the intersection of Jackson  
13 Valley Road and State Highway 31; thence northerly along western  
14 edge of the right of way of State Highway 31 to a point 2,200 feet  
15 north of Jackson Valley Road intersection; thence turning 90 degrees  
16 west from the right of way edge and proceeding 1,300 feet more or  
17 less westerly across a portion of Block 38, lot 5 to the Conrail railroad  
18 tracks or right of way; thence south along the eastern edge of Conrail  
19 railroad tracks or right of way to the northern corner of Block 38, lot  
20 8; thence south along the western boundary of Block 38, lot 8 to the  
21 southern bank of the Pohatcong Creek; thence southwestery along the  
22 southern bank of the Pohatcong Creek to Mine Hill Road; thence  
23 northwesterly along Mine Hill Road to the intersection of Bowerstown  
24 Road; thence southwestery approximately 310 feet on the northern  
25 edge of the Bowerstown Road right of way to its intersection with a  
26 12 foot wide portion of Block 5, lot 18 which provides access to  
27 Bowerstown Road; thence 550 feet more or less westerly along the 12  
28 foot wide portion of Block 5, lot 18 to the point it intersects with the  
29 western limit of the 100 foot wide New Jersey Power and Light  
30 easement; thence turning south approximately 104 degrees more or  
31 less and projecting along a line 200 feet more or less to the northern  
32 corner of Block 5, lot 16.04; thence projected southerly along a line  
33 300 feet more or less to the northern corner of Block 5 , lot 17; thence  
34 continuing southerly along the western boundaries of Block 5, lots 17,  
35 16.01, 16.02, and 16.03 to the western corner of Block 5, lot 16.03;  
36 thence projecting southerly along a line 670 feet more or less to the  
37 eastern corner of Block 5, lot 22.01; thence continuing southerly along  
38 the eastern boundary of Block 5, lot 22.01 to Lannings Trail; thence  
39 southeast across Lannings Trail to the northeast corner of Block 6, lot  
40 13.05; thence southwestery and northwesterly along the eastern  
41 boundary of Block 6, lot 13.05 to the eastern corner of Block 6, lot  
42 11; thence southerly along the eastern boundary of Block 6, lot 11 to  
43 Lanning Terrace; thence southerly across Lanning Terrace to the  
44 northeastern corner of Block 6, lot 19.03; thence southerly along the  
45 eastern boundary of Block 6, lot 19.03 to the intersection of the  
46 northern boundary of Block 6, lot 20.01; thence following along the

1 boundary of Block 6, lot 20.01 easterly and then generally  
2 southwesterly to the eastern corner of Block 6, lot 32; thence  
3 southwesterly along the eastern boundary of Block 6, lot 32 to Forces  
4 Hill Road; thence easterly on Forces Hill Road to the intersection of  
5 Brass Castle Road; thence westerly along the southern edge of the  
6 Brass Castle Road right of way to the eastern corner of Block 14, lot  
7 1; thence southwesterly and southeasterly along the boundary of Block  
8 14, lot 1 to the northeastern corner of Block 14, lot 22; thence  
9 southeasterly and southwesterly along the boundary of Block 14, lot  
10 22 to Old Schoolhouse Road; thence southwesterly along the northern  
11 edge of the right of way for Old Schoolhouse Road to the intersection  
12 with the northern edge of the right of way of Little Philadelphia Road;  
13 thence southwesterly along the northern edge of the right of way for  
14 Little Philadelphia Road to the northeastern corner of Block 15, lot  
15 8.01; thence southwesterly along the northern boundary of Block 15,  
16 lot 8.01 to the Washington Township and Franklin Township  
17 corporate boundary; thence southeasterly along the Washington  
18 Township and Franklin Township corporate boundary to State  
19 Highway Route 57; thence southwesterly along State Highway Route  
20 57 to its intersection with Uniontown Road (County Road 519) in  
21 Lopatcong Township; thence northerly on Uniontown Road (County  
22 Road 519) to the intersection of Upper Belvidere Road Warren  
23 County Route 519; thence continuing northerly on Warren County  
24 Route 519 which becomes Belvidere Phillipsburg Road to its  
25 intersection with South Bridgeville Road (County Road 519); thence  
26 easterly and northerly on South Bridgeville Road (County Road 519)  
27 to its intersection with Brass Castle Road (County Road 623); thence  
28 easterly and southerly on Brass Castle Road (County Road 623) to its  
29 intersection with Hazen Oxford Road (County Road 624); thence  
30 easterly and southerly on Hazen Oxford Road (County Road 624) to  
31 its intersection with Belvidere Road (County Road 624); thence  
32 easterly and southerly on Belvidere Road (County Road 624) to its  
33 intersection with the northwestern corner of Block 24, lot 10 in  
34 Oxford Township; thence southerly, thence easterly on the boundary  
35 of Block 24, lot 10 to its intersection with the eastern boundary of  
36 Block 24, lot 20; thence southerly on the boundary of Block 24, lot 20  
37 to its intersection with the northern boundary of Block 24, lot 19;  
38 thence easterly, thence southeasterly on the boundary of Block 24, lot  
39 19 to its intersection with the northeastern corner of Block 24, lot  
40 13.01; thence southerly on the eastern boundary of Block 24, lot 13.01  
41 to its intersection with Block 24, lot 13; thence southerly on the  
42 eastern boundary of Block 24, lot 13 to its intersection with Buckley  
43 Avenue; thence easterly on Buckley Avenue to its intersection with the  
44 northwestern corner of Block 2, lot 30; thence southerly, thence  
45 easterly on the boundary of Block 2, lot 30, continuing easterly on the  
46 southern boundaries of Block 2, lots 31, 32, 33, 34, 35, and the

1 southeastern corner of lot 36; thence on a line due south to its  
2 intersection with Block 2, lot 18.01; thence easterly, thence southerly  
3 on the boundary of Block 2, lot 18.01 to its intersection with the  
4 northwestern corner of Block 2, lot 19.02 at Kent Place; thence  
5 southerly on the boundary of Block 2, lot 19.02 to its southwestern  
6 corner; thence southerly on a line to the southwestern corner of Block  
7 2, lot 61; thence easterly on the southern boundary of Block 2, lot 61  
8 to its intersection with Jonestown Road; thence southerly on  
9 Jonestown Road to its intersection with the southwestern corner of  
10 Block 1.01, lot 39.02; thence easterly on the southern boundary of  
11 Block 1.01, lot 39.02, continuing easterly on the southern boundary  
12 of Block 1.01, lots 39 and 39.01 to the intersection with Mine Hill  
13 Road; thence northerly on Mine Hill Road to the intersection with  
14 Academy Street and the Oxford Mountain public land boundary;  
15 thence northeasterly on the Oxford Mountain public land boundary to  
16 the intersection with State Highway 31; thence easterly on State  
17 Highway 31 to the intersection of Oram's Lane; thence easterly on  
18 Oram's Lane to its end and intersection with Block 34, lot 2; thence  
19 northerly, thence easterly on the boundary of Block 34, lot 2 to its  
20 intersection with Block 34, lot 2.01; thence easterly on the northern  
21 boundary of Block 34, lot 2.01 to its intersection with the Pequest  
22 Wildlife Management Area boundary; thence northerly on the Pequest  
23 Wildlife Management Area boundary to its intersection with Axford  
24 Avenue and the Pequest Wildlife Management Area boundary; thence  
25 westerly and northerly on the Pequest Wildlife Management Area  
26 boundary to its intersection with the Oxford Township and White  
27 Township corporate boundary; thence westerly on the Oxford  
28 Township and White Township corporate boundary to its intersection  
29 with State Highway 31; thence northerly on State Highway 31 to its  
30 intersection with U.S. 46; thence easterly on U.S. 46 to its intersection  
31 with Free Union Road; thence northerly on Free Union Road to its  
32 intersection with Beechwood Road; thence westerly on Beechwood  
33 Road to its intersection with Tamarack Road; thence northerly on  
34 Tamarack Road to its intersection with the White Township and  
35 Liberty Township corporate boundary; thence northerly and westerly  
36 on the White Township and Liberty Township corporate boundary to  
37 its intersection with Mountain Lake Road (County Road 617); thence  
38 southerly and westerly on Mountain Lake Road to its intersection with  
39 North Bridgeville Road (County Road 519); thence northerly on North  
40 Bridgeville Road (County Road 519) to its intersection with the White  
41 Township and Hope Township corporate boundary; thence easterly  
42 and southerly on the White Township and Hope Township corporate  
43 boundary to its intersection with the Hope Township and Liberty  
44 Township corporate boundary; thence northerly and easterly on the  
45 Hope Township and Liberty Township corporate boundary to its  
46 intersection with the Frelinghuysen Township and Independence

1 Township corporate boundary; thence northerly and easterly on the  
2 Frelinhuysen Township and Independence Township corporate  
3 boundary to its intersection with Frelinghuysen Township and  
4 Allamuchy Township corporate boundary; thence northerly and  
5 easterly on the Frelinghuysen Township and Allamuchy Township  
6 corporate boundary to its intersection with the southern boundary of  
7 the Interstate 80 right of way in Frelinghuysen Township; thence  
8 easterly along the southern boundary of the Interstate 80 right of way  
9 to its intersection with the Conrail right of way in Allamuchy  
10 Township; thence southerly and westerly on the Conrail right of way  
11 to its intersection with the southeastern corner of Block 29 , lot 29 in  
12 Independence Township; thence northwesterly along the southwest  
13 boundary of Block 29, lot 29 in Independence Township to the  
14 Pequest River; thence northerly on the western bank of the Pequest  
15 River to its intersection with the southern corner of Block 29, lot 44  
16 in Independence Township; thence northwesterly along the  
17 southwestern boundary of Block 29, lot 44 in Independence Township  
18 to Shades of Death Road; thence southerly and westerly on Shades of  
19 Death Road to its intersection with Hope Road (County Road 611);  
20 thence southerly and easterly on Hope Road (County Road 611) to its  
21 intersection with U.S. 46; thence northerly and easterly on U.S. 46 to  
22 its intersection with Old Cemetery Road; thence southerly and easterly  
23 on Old Cemetery Road across the Conrail right of way to its  
24 intersection with Cemetery Road; thence southerly and easterly on  
25 Cemetery Road to its intersection with Barkers Mill Road; thence  
26 southerly and easterly on Barkers Mill Road to its intersection with  
27 Johnson Road; thence easterly and northerly on Johnson Road to its  
28 intersection with U.S. 46 and Ketchum Road; thence northerly and  
29 easterly on Ketchum Road to its intersection with Petersburg Road  
30 (County Road 614) and Ridge Road; thence northerly and easterly on  
31 Ridge Road to its intersection with County Road 517; thence northerly  
32 on County Road 517 to its intersection with Stuyvestant Road and  
33 Allamuchy State Park boundary; thence northerly along the Allamuchy  
34 State Park boundary into Green Township; thence southeasterly and  
35 northeasterly along the Allamuchy State Park boundary to its  
36 intersection with the Green Township and Byram Township corporate  
37 boundary; thence continuing northerly and easterly on the Byram  
38 Township and Andover Borough corporate boundary; thence  
39 continuing northerly and easterly along the Byram Township and  
40 Andover Township corporate boundary to its intersection with the  
41 Sparta Township corporate boundary; thence easterly on the Sparta  
42 Township corporate boundary to its intersection with Tomahawk  
43 Trail; thence easterly and northerly on Tomahawk Trail to its  
44 intersection with Green Road; thence northerly on Green Road to its  
45 intersection with Sawmill Road; thence easterly and northerly on  
46 Sawmill Road to its intersection with State Highway 181; thence

1 northerly on State Highway 181 to its intersection with Blue Heron  
2 Road; thence easterly on Blue Heron Road to its intersection with  
3 State Highway 15; thence northerly along the western boundary of the  
4 State Highway 15 right of way to its intersection with the southern  
5 corner of Block 13.13, lot 21 in Sparta Township; thence easterly and  
6 thence northerly along the boundary of Block 13.13, lot 21 to its  
7 intersection with Block 13.13, lot 22; thence northeasterly on the  
8 boundary of Block 13.13, lot 22 to its intersection with Glen Road  
9 (Sussex County Route 620); thence westerly on Glen Road (Sussex  
10 County Route 620) to its intersection with the westernmost point of  
11 Block 7, lot 57; thence easterly on the boundary of Block 7, lot 57 to  
12 its intersection with Block 7, lot 58; thence northerly on the boundary  
13 of Block 7, lot 58 to its intersection with the southwestern edge of  
14 Block 7, lot 61.02; thence easterly, northerly, then westerly on the  
15 boundary of Block 7, lot 61.02 to its intersection with Main Street;  
16 thence southwesterly on Main Street to its intersection with the  
17 southernmost corner of Block 12, lot 3; thence westerly on the  
18 southern boundary of Block 12, lot 3 to its intersection with Sussex  
19 County Route 517); thence westerly on Sussex County Route 517 to  
20 its intersection with Station Road; thence northerly on Station Road  
21 to its intersection with the southernmost point of Block 19, lot 43;  
22 thence northerly, thence easterly on the boundary of Block 19, lot 43  
23 to its intersection with Block 19, lot 39; thence following the boundary  
24 of Block 19, lot 39 around the parcel in a counterclockwise manner to  
25 its intersection with Block 19, lot 99; thence southerly on the  
26 boundary of Block 19, lot 99 to its intersection with the western  
27 boundary of the State Highway 15 right of way; thence northerly along  
28 the western boundary of the State Highway 15 right of way to its  
29 intersection with Houses Corner Road; thence easterly and northerly  
30 on Houses Corner Road to its intersection with West Mountain Road;  
31 thence southerly on West Mountain Road to its intersection with  
32 Sparta Munsons Road; thence southeasterly across Sparta Munsons  
33 Road to the Conrail right of way; thence northerly and easterly along  
34 the northwestern boundary of the Conrail right of way to its  
35 intersection with the Ogdensburg Borough and Sparta Township  
36 corporate boundary; thence northeasterly to the southwestern end of  
37 Heater's Pond and proceeding northerly along the western edge of  
38 Heater's Pond to the intersection of Edison Road; thence westerly on  
39 Edison Road to the intersection with the New York Susquehanna and  
40 Western Railroad right of way; thence northerly along the the easterly  
41 edge of the New York Susquehanna and Western Railroad right of  
42 way to the Ogdensburg Borough and Hardyston Township corporate  
43 boundary; thence westerly on the Ogdensburg Borough and Hardyston  
44 Township corporate boundary to its intersection with the Franklin  
45 Borough corporate boundary; thence easterly and northerly on the  
46 Franklin Borough and Hardyston Township corporate boundary to its

1 intersection with Henderson Road (Hamburg Turnpike); thence  
2 southerly and easterly on Henderson Road (Hamburg Turnpike) to the  
3 intersection of Mountain Road in Hardyston Township; thence  
4 northerly on Mountain Road to its intersection with Rudetown Road  
5 (County Road 517); thence easterly and northerly on Rudetown Road  
6 (County Road 517) to the Black Creek in Vernon Township; thence  
7 easterly along Black Creek to its intersection with the boundary of  
8 Block 280, lot 22 in Vernon Township; thence easterly along said  
9 boundary to the western boundary of Block 280, lot 23; thence  
10 following the boundary of Block 280, lot 23 south to the boundary of  
11 Block 177, lot 49; thence easterly and northerly along the boundary of  
12 Block 177, lot 49 to the boundary of Block 190, lot 18.06; thence  
13 easterly along the boundary of Block 190, lot 18.06 to the boundary  
14 of Block 190, lot 18.05; thence southeasterly and thence northeasterly  
15 along the boundary Block 190, lot 18.05 to the boundary of Block  
16 190, lot 18.01; thence northeasterly along the boundary of Block 190,  
17 lot 18.01 to the boundary of Block 190, lot 18.S01; thence  
18 southeasterly along the boundary of Block 190, lot 18.S01 to the  
19 boundary of Block 190, lot 20; thence southwesterly and easterly  
20 along the boundary of Block 190, lot 20 to the boundary of Block 240,  
21 lot 1; thence easterly along the boundary of Block 240, lot 1 to County  
22 Road 515; thence northerly along County Road 515 to the intersection  
23 of Breakneck Road and County Road 515; thence easterly and  
24 southerly along the northern edge of the right of way of Breakneck  
25 Road to the intersection of the southeastern corner of Block 143, lot  
26 17 in Vernon Township; thence northerly along the eastern boundary  
27 of Block 143, lot 17 to the northern corner of Block 143, lot 25;  
28 thence northerly 1035 feet more or less along a line projected across  
29 Block 143, lot 17 to the southern corner of Block 143, lot 16; thence  
30 northerly along the eastern boundary of Block 143, lot 16 to the  
31 southern corner of Block 143, lot 15; thence westerly and northerly  
32 along the southwestern boundary of Block 143, lot 15 to Pond Eddy  
33 Road; thence northerly across Pond Eddy Road to the southern corner  
34 of Block 143, lot 10; thence northerly along the eastern boundary of  
35 Block 143, lot 10 to the boundary of Block 143, lot 7; thence westerly  
36 southerly and generally northerly along the western boundary of Block  
37 143, lot 7 to the limit of Block 143.01; thence northwesterly along the  
38 southern limit of Block 143.01 to the eastern corner of Block 143.01,  
39 lot 22; thence northwesterly along the northern boundary of Block  
40 143.01, lot 22 and lot 23 to Vernon Warwick Road (State Highway  
41 94); thence easterly and northerly on Vernon Warwick Road (State  
42 Highway 94) to its intersection with Maple Grange Road; thence  
43 northerly and westerly on Maple Grange Road to its intersection with  
44 Pochuck Creek and Wawayanda State Park/Appalachian Trail public  
45 land; thence northerly and westerly along the western and southern  
46 Wawayanda State Park/Appalachian Trail public land boundary to its

1 intersection with the western terminus of Thistle Avenue (Walnut Hill  
2 Drive); thence easterly and southerly on Thistle Avenue (Walnut Hill  
3 Drive) to its intersection with Phlox Terrace; thence southerly on  
4 Phlox Terrace to its intersection with Cedar Terrace; thence southerly  
5 on Cedar Terrace to its intersection with Clover Lane; thence easterly  
6 on Clover Lane to its intersection with Zinnia Drive; thence southerly  
7 and westerly on the eastern and southern bank of the tributary of  
8 Black Creek to its intersection with Lounsberry Hollow Road; thence  
9 northerly on Lounsberry Hollow Road to its intersection with  
10 Dorchester Road; thence westerly and southerly on Dorchester Road  
11 to its intersection with Rolling Hills Road; thence southerly on Rolling  
12 Hills Road to its intersection with a tributary of Black Creek to its  
13 intersection with Pochuck Mountain public land boundary; thence  
14 southerly and northerly on the Pochuck Mountain public land  
15 boundary to its intersection with a tributary of Black Creek; thence  
16 northerly on the western bank of the tributary of Black Creek to its  
17 intersection with Lake Glenwood; thence along the west shore of Lake  
18 Glenwood to Pochuck Creek; thence northerly and westerly on Lake  
19 Shore Drive to its intersection with Glenwood Martin Station Road  
20 (County Road 565); thence southerly and westerly on Glenwood  
21 Martin Station Road (County Road 565) to its intersection with  
22 Babtown Road; thence northerly on Babtown Road to its intersection  
23 with Maple Avenue; thence northerly on with Maple Avenue to its  
24 intersection with Spring Lane; thence northerly on Spring Lane to its  
25 intersection with Lakeside Drive; thence northerly on Lakeside Drive  
26 to its intersection with Glen Road; thence westerly on Glen Road to  
27 its intersection with Lake Walkill Road; thence northerly on Lake  
28 Walkill Road to its intersection with the New York State corporate  
29 boundary; thence easterly and southerly to its intersection with State  
30 Highway 17 and Interstate Highway 287 in northern Mahwah  
31 Township, at a point of origin.

32  
33 (2) Except as otherwise provided in paragraph (1) of this  
34 subsection, any natural geographical feature, including a river, stream,  
35 or brook, used in paragraph (1) of this subsection for the boundary  
36 description of the preservation area shall be considered to lie totally  
37 within the preservation area, and any road, railroad, or railroad right  
38 of way used in paragraph (1) of this subsection for the boundary  
39 description of the preservation area shall be considered to lie totally  
40 outside of the preservation area. The use of property block and lot  
41 designations include or exclude property from the preservation area.  
42 Where a survey gore exists between a property boundary depicted  
43 upon a municipal tax map and the limits of a surveyed property noted  
44 in paragraph (1) of this subsection, the surveyed property boundary  
45 description shall be considered to constitute the preservation area  
46 boundary.

1 c. The planning area shall consist of all that area of the Highlands  
2 Region not within the preservation area.

3 d. The preservation area shall not include any land located within  
4 the boundaries of any regional center or town center designated by the  
5 State Planning Commission pursuant to the "State Planning Act,"  
6 P.L.1985, c.398 (C.52:18A-196 et al.) as of the date of enactment of  
7 this act, except to the extent necessary as set forth in the boundary  
8 description of the preservation area in subsection b. of this section to  
9 reflect appropriate and nearest practicable, on-the-ground, and easily  
10 identified reference points.

11

12 8. (New section) a. The council shall, within 18 months after the  
13 date of its first meeting, and after holding at least five public hearings  
14 in various locations in the Highlands Region and at least one public  
15 hearing in Trenton, prepare and adopt a regional master plan for the  
16 Highlands Region. The Highlands regional master plan shall be  
17 periodically revised and updated at least once every six years, after  
18 public hearings.

19 The council shall not adopt the regional master plan unless it  
20 recommends receiving zones in the planning area and capacity therefor  
21 for each receiving zone pursuant to the transfer of development rights  
22 program authorized in section 13 of this act.

23 b. Within 60 days after adopting the regional master plan, the  
24 council shall submit the plan to the State Planning Commission for  
25 endorsement pursuant to the rules and regulations adopted by the  
26 State Planning Commission. The State Planning Commission review  
27 shall be limited to the planning area only.

28

29 9. (New section) a. During the preparation of the regional master  
30 plan or any revision thereof, the council shall consult with the  
31 Department of Environmental Protection, the Department of  
32 Community Affairs, the State Planning Commission, the Department  
33 of Agriculture, the State Agriculture Development Committee, the  
34 Department of Transportation, and appropriate officials of local  
35 government units and State, regional, and federal departments,  
36 agencies and other governmental entities with jurisdiction over lands,  
37 waters, and natural resources within the Highlands Region, with  
38 interested professional, scientific, and citizen organizations, and with  
39 any advisory groups that may be established by the council. The  
40 council shall also consult with the Department of Transportation in  
41 preparing the transportation component of the regional master plan.  
42 The council shall review all relevant federal, State, and private studies  
43 of the Highlands Region, the State Development and Redevelopment  
44 Plan, municipal, county, and regional plans, applicable federal and  
45 State laws and rules and regulations, and other pertinent information  
46 on the Highlands Region.

1       b. Prior to adoption of, and in preparing, the regional master plan,  
2 the council may, in conjunction with municipalities in the preservation  
3 area, identify areas in which redevelopment shall be encouraged in  
4 order to promote the economic well-being of the municipality,  
5 provided that the redevelopment conforms with the goals of the  
6 preservation area and this act, with the standards prescribed pursuant  
7 to section 32 of this act, and with the rules and regulations adopted by  
8 the Department of Environmental Protection pursuant to sections 33  
9 and 34 of this act. Any areas identified for possible redevelopment  
10 pursuant to this subsection shall be either a brownfield site designated  
11 by the Department of Environmental Protection or a site at which at  
12 least 70% of the area thereof is covered with impervious surface.

13       c. In preparing and implementing the regional master plan or any  
14 revision thereto, the council shall ensure that the goals, purposes,  
15 policies, and provisions of, and the protections afforded to farmers by,  
16 the "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1 et seq.), and any  
17 rules or regulations adopted pursuant thereto, are recognized and not  
18 compromised in any manner.

19       d. Upon adoption of the regional master plan or any revision  
20 thereof, copies thereof shall be transmitted to the Governor, the  
21 Legislature, the governing body of every municipality and county  
22 located in the Highlands Region, and the State Planning Commission.

23

24       10. (New section) a. The goal of the regional master plan with  
25 respect to the entire Highlands Region shall be to protect and enhance  
26 the significant values of the resources thereof in a manner which is  
27 consistent with the purposes and provisions of this act.

28       b. The goals of the regional master plan with respect to the  
29 preservation area shall be to:

30       (1) protect, restore, and enhance the quality and quantity of surface  
31 and ground waters therein;

32       (2) preserve extensive and, to the maximum extent possible,  
33 contiguous areas of land in its natural state, thereby ensuring the  
34 continuation of a Highlands environment which contains the unique  
35 and significant natural, scenic, and other resources representative of  
36 the Highlands Region;

37       (3) protect the natural, scenic, and other resources of the  
38 Highlands Region, including but not limited to contiguous forests,  
39 wetlands, vegetated stream corridors, steep slopes, and critical habitat  
40 for fauna and flora;

41       (4) preserve farmland and historic sites and other historic  
42 resources;

43       (5) preserve outdoor recreation opportunities, including hunting  
44 and fishing, on publicly owned land;

45       (6) promote conservation of water resources;

46       (7) promote brownfield remediation and redevelopment;

1 (8) promote compatible agricultural, horticultural, recreational, and  
2 cultural uses and opportunities within the framework of protecting the  
3 Highlands environment; and

4 (9) prohibit or limit to the maximum extent possible construction  
5 or development which is incompatible with preservation of this unique  
6 area.

7 c. The goals of the regional master plan with respect to the  
8 planning area shall be to:

9 (1) protect, restore, and enhance the quality and quantity of surface  
10 and ground waters therein;

11 (2) preserve to the maximum extent possible any environmentally  
12 sensitive lands and other lands needed for recreation and conservation  
13 purposes;

14 (3) protect and maintain the essential character of the Highlands  
15 environment;

16 (4) preserve farmland and historic sites and other historic  
17 resources;

18 (5) promote the continuation and expansion of agricultural,  
19 horticultural, recreational, and cultural uses and opportunities;

20 (6) preserve outdoor recreation opportunities, including hunting  
21 and fishing, on publicly owned land;

22 (7) promote conservation of water resources;

23 (8) promote brownfield remediation and redevelopment;

24 (9) encourage, consistent with the State Development and  
25 Redevelopment Plan and smart growth strategies and principles,  
26 appropriate patterns of compatible residential, commercial, and  
27 industrial development, redevelopment, and economic growth, in or  
28 adjacent to areas already utilized for such purposes, and discourage  
29 piecemeal, scattered, and inappropriate development, in order to  
30 accommodate local and regional growth and economic development  
31 in an orderly way while protecting the Highlands environment from the  
32 individual and cumulative adverse impacts thereof; and

33 (10) promote a sound, balanced transportation system that is  
34 consistent with smart growth strategies and principles and which  
35 preserves mobility in the Highlands Region.

36

37 11. (New section) a. The regional master plan shall include, but  
38 need not necessarily be limited to:

39 (1) A resource assessment which:

40 (a) determines the amount and type of human development and  
41 activity which the ecosystem of the Highlands Region can sustain  
42 while still maintaining the overall ecological values thereof, with  
43 special reference to surface and ground water quality and supply;  
44 contiguous forests and woodlands; endangered and threatened animals,  
45 plants, and biotic communities; ecological factors relating to the  
46 protection and enhancement of agricultural or horticultural production

1 or activity; air quality; and other appropriate considerations affecting  
2 the ecological integrity of the Highlands Region; and

3 (b) includes an assessment of scenic, aesthetic, cultural, historic,  
4 open space, farmland, and outdoor recreation resources of the region,  
5 together with a determination of overall policies required to maintain  
6 and enhance such resources;

7 (2) A financial component, together with a cash flow timetable  
8 which:

9 (a) details the cost of implementing the regional master plan,  
10 including, but not limited to, property tax stabilization measures,  
11 watershed moratorium offset aid, planning grants and other State aid  
12 for local government units, capital requirements for any development  
13 transfer bank, payments in lieu-of-taxes, acquisition, within five years  
14 and within 10 years after the date of enactment of this act, of fee  
15 simple or other interests in lands for preservation or recreation and  
16 conservation purposes, compensation guarantees, general  
17 administrative costs, and any anticipated extraordinary or continuing  
18 costs; and

19 (b) details the sources of revenue for covering such costs,  
20 including, but not limited to, grants, donations, and loans from local,  
21 State, and federal departments, agencies, and other governmental  
22 entities, and from the private sector;

23 (3) A component to provide for the maximum feasible local  
24 government and public input into the council's operations, which shall  
25 include a framework for developing policies for the planning area in  
26 conjunction with those local government units in the planning area  
27 who choose to conform to the regional master plan;

28 (4) A coordination and consistency component which details the  
29 ways in which local, State, and federal programs and policies may best  
30 be coordinated to promote the goals, purposes, policies, and  
31 provisions of the regional master plan, and which details how land,  
32 water, and structures managed by governmental or nongovernmental  
33 entities in the public interest within the Highlands Region may be  
34 integrated into the regional master plan;

35 (5) A transportation component that provides a plan for  
36 transportation system preservation, includes all federally mandated  
37 projects or programs, and recognizes smart growth strategies and  
38 principles. The transportation component shall include projects to  
39 promote a sound, balanced transportation system that is consistent  
40 with smart growth strategies and principles and which preserves  
41 mobility and maintains the transportation infrastructure of the  
42 Highlands Region. Transportation projects and programs shall be  
43 reviewed and approved by the council in consultation with the  
44 Department of Transportation prior to inclusion in the transportation  
45 component; and

46 (6) A smart growth component that includes an assessment, based

1 upon the resource assessment prepared pursuant to paragraph (1) of  
2 subsection a. of this section, of opportunities for appropriate  
3 development, redevelopment, and economic growth, and a transfer of  
4 development rights program which shall include consideration of  
5 public investment priorities, infrastructure investments, economic  
6 development, revitalization, housing, transportation, energy resources,  
7 waste management, recycling, brownfields, and design such as mixed-  
8 use, compact design, and transit villages. In preparing this component,  
9 the council shall:

10 (a) prepare a land use capability map;

11 (b) identify existing developed areas capable of sustaining  
12 redevelopment activities and investment;

13 (c) identify undeveloped areas in the planning area, which are not  
14 significantly constrained by environmental limitations such as steep  
15 slopes, wetlands, or dense forests, are not prime agricultural areas, and  
16 are located near or adjacent to existing development and  
17 infrastructure, that could be developed;

18 (d) identify transportation, water, wastewater, and power  
19 infrastructure that would support or limit development and  
20 redevelopment in the planning area. This analysis shall also provide  
21 proposed densities for development, redevelopment, or voluntary  
22 receiving zones for the transfer of development rights;

23 (e) identify potential voluntary receiving zones in the planning area  
24 for the transfer of development rights through the appropriate  
25 expansion of infrastructure or the modified uses of existing  
26 infrastructure;

27 (f) issue model minimum standards for municipal and county  
28 master planning and development regulations outside of the  
29 preservation area, including density standards for center-based  
30 development to encourage, where appropriate, the adoption of such  
31 standards;

32 (g) identify special critical environmental areas and other critical  
33 natural resource lands where development should be limited; and

34 (h) identify areas appropriate for redevelopment and set  
35 appropriate density standards for redevelopment. Any area identified  
36 for possible redevelopment pursuant to this subparagraph shall be  
37 either a brownfield site designated by the Department of  
38 Environmental Protection or a site at which at least 70% of the area  
39 thereof is covered with impervious surface.

40 b. The resource assessment, transportation component, and smart  
41 growth component prepared pursuant to subsection a. of this section  
42 shall be used only for advisory purposes in the planning area and shall  
43 have no binding or regulatory effect therein.

44

45 12. (New section) In addition to the contents of the regional  
46 master plan described in section 11 of this act, the plan shall also

1 include, with respect to the preservation area, a land use capability  
2 map and a comprehensive statement of policies for planning and  
3 managing the development and use of land in the preservation area,  
4 which shall be based upon, comply with, and implement the  
5 environmental standards adopted by the Department of Environmental  
6 Protection pursuant to sections 33 and 34 of this act, and the resource  
7 assessment prepared pursuant to paragraph (1) of subsection a. of  
8 section 11 of this act.

9 These policies shall include provision for implementing the regional  
10 master plan by the State and local government units in the preservation  
11 area in a manner that will ensure the continued, uniform, and  
12 consistent protection of the Highlands Region in accordance with the  
13 goals, purposes, policies, and provisions of this act, and shall include:

14 a. a preservation zone element that identifies zones within the  
15 preservation area where development shall not occur in order to  
16 protect water resources and environmentally sensitive lands and which  
17 shall be permanently preserved through use of a variety of tools,  
18 including but not limited to land acquisition and the transfer of  
19 development rights; and

20 b. minimum standards governing municipal and county master  
21 planning, development regulations, and other regulations concerning  
22 the development and use of land in the preservation area, including,  
23 but not limited to, standards for minimum lot sizes and stream  
24 setbacks, construction on steep slopes, maximum appropriate  
25 population densities, and regulated or prohibited uses for specific  
26 portions of the preservation area.

27  
28 13. (New section) a. The council shall use the regional master  
29 plan elements prepared pursuant to sections 11 and 12 of this act,  
30 including the resource assessment and the smart growth component,  
31 to establish a transfer of development rights program for the Highlands  
32 Region that furthers the goals of the regional master plan. The transfer  
33 of development rights program shall be consistent with the "State  
34 Transfer of Development Rights Act," P.L.2004, c.2 (C.40:55D-137  
35 et seq.) or any applicable transfer of development rights program  
36 created otherwise by law, except as otherwise provided in this section.

37 b. In consultation with municipal, county, and State entities, the  
38 council shall, within 18 months after the date of enactment of this act,  
39 and from time to time thereafter as may be appropriate, identify areas  
40 within the preservation area that are appropriate as sending zones  
41 pursuant to P.L.2004, c.2 (C.40:55D-137 et seq.).

42 c. In consultation with municipal, county, and State entities, the  
43 council shall, within 18 months after the date of enactment of this act,  
44 and from time to time thereafter as may be appropriate, identify areas  
45 within the planning area that are appropriate for development as  
46 voluntary receiving zones pursuant to P.L.2004, c.2 (C.40:55D-137

1 et seq.) considering the information gathered pursuant to sections 11  
2 and 12 of this act, including but not limited to the information  
3 gathered on the transfer of development rights pursuant to paragraph  
4 (6) of subsection a. of section 11 of this act. For the purposes of the  
5 council establishing a transfer of development rights program prior to  
6 the preparation of the initial regional master plan, the council in  
7 identifying areas appropriate for development as voluntary receiving  
8 zones shall consider such information as may be gathered pursuant to  
9 sections 11 and 12 of this act and as may be available at the time, but  
10 the council need not delay the creation of the transfer of development  
11 rights program until the initial regional master plan has been prepared.  
12 The council shall set a goal of identifying areas within the planning  
13 area that are appropriate for development as voluntary receiving zones  
14 that, combined together, constitute four percent of the land area of the  
15 planning area, to the extent that the goal is compatible with the  
16 amount and type of human development and activity that would not  
17 compromise the integrity of the ecosystem of the planning area.

18 d. The council shall work with municipalities and the State  
19 Planning Commission to identify centers, designated by the State  
20 Planning Commission, as voluntary receiving zones for the transfer of  
21 development rights program.

22 e. In consultation with municipal, county, and State entities, the  
23 council shall assist municipalities or counties in analyzing voluntary  
24 receiving zone capacity.

25 f. In consultation with municipal, county, and State entities, the  
26 council shall work with municipalities outside of the preservation area  
27 to assist these municipalities in developing ordinances necessary to  
28 implement the transfer of development rights. The council shall also  
29 establish advisory or model ordinances and other information for this  
30 purpose.

31 The council shall make assistance available to municipalities that  
32 desire to create additional sending zones on any lands within their  
33 boundaries which lie within the planning area and are designated for  
34 conservation in the regional master plan.

35 g. Notwithstanding the provisions of P.L.2004, c.2 (C.40:55D-137  
36 et seq.) to the contrary, the council shall perform the real estate  
37 analysis for the Highlands Region that is required to be performed by  
38 a municipality prior to the adoption or amendment of any development  
39 transfer ordinance pursuant to P.L.2004, c.2.

40 h. (1) The council shall set the initial value of a development right.  
41 The Office of Green Acres in the Department of Environmental  
42 Protection and the State Agriculture Development Committee shall  
43 provide support and technical assistance to the council in the operation  
44 of the transfer of development rights program. The council shall  
45 establish the initial value of a development right considering the  
46 Department of Environmental Protection rules and regulations in effect

1 the day before the date of enactment of this act.

2 (2) The council shall give priority consideration for inclusion in a  
3 transfer of development rights program any lands that comprise a  
4 major Highlands development that would have qualified for an  
5 exemption pursuant to paragraph (3) of subsection a. of section 30 of  
6 this act but for the lack of a necessary State permit as specified in  
7 subparagraphs (b) or (c), as appropriate, of paragraph (3) of  
8 subsection a. of section 30 of this act, and for which an application for  
9 such a permit had been submitted to the Department of Environmental  
10 Protection and deemed by the department to be complete for review  
11 on or before March 29, 2004.

12 i. (1) The council may use the State Transfer of Development  
13 Rights Bank established pursuant to section 3 of P.L.1993, c.339  
14 (C.4:1C-51) for the purposes of facilitating the transfer of  
15 development potential in accordance with this section and the regional  
16 master plan. The council may also establish a development transfer  
17 bank for such purposes.

18 (2) At the request of the council, the Department of Banking and  
19 Insurance, the State Transfer of Developments Right Bank, the State  
20 Agriculture Development Committee, and the Pinelands Development  
21 Credit Bank shall provide technical assistance to the council in  
22 establishing and operating a development transfer bank as authorized  
23 pursuant to paragraph (1) of this subsection.

24 (3) Any bank established by the council shall operate in accordance  
25 with provisions of general law authorizing the creation of development  
26 transfer banks by municipalities and counties.

27 j. The Office of Smart Growth shall review and coordinate State  
28 infrastructure capital investment, community development and  
29 financial assistance in the planning area in furtherance of the regional  
30 master plan. Prior to the council establishing its transfer of  
31 development rights program, the Office of Smart Growth shall  
32 establish a transfer of development rights pilot program that includes  
33 Highlands Region municipalities.

34 k. Any municipality in the planning area whose municipal master  
35 plan and development regulations have been approved by the council  
36 to be in conformance with the regional master plan in accordance with  
37 sections 14 or 15 of this act, and that amends its development  
38 regulations to accommodate voluntary receiving zones within its  
39 boundaries which are identified pursuant to subsection c. of this  
40 section and which provide for a minimum residential density of five  
41 dwelling units per acre, shall, for those receiving zones, be: eligible  
42 for an enhanced planning grant from the council of up to \$250,000;  
43 eligible for a grant to reimburse the reasonable costs of amending the  
44 municipal development regulations; authorized to impose impact fees  
45 in accordance with subsection m. of this section; entitled to legal  
46 representation pursuant to section 22 of this act; accorded priority

1 status in the Highlands Region for any State capital or infrastructure  
2 programs; and eligible for any other appropriate assistance, incentives,  
3 or benefits provided pursuant to section 18 of this act.

4 1. Any municipality located outside of the Highlands Region in any  
5 county that has a municipality in the Highlands Region that has  
6 received plan endorsement by the State Planning Commission pursuant  
7 to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et al.),  
8 that establishes a receiving zone which provides for a minimum  
9 residential density of five dwelling units per acre for the transfer of  
10 development rights from a sending zone in the Highlands Region, and  
11 that accepts that transfer of development rights shall, for those  
12 receiving zones, be eligible for the same grants, authority, and other  
13 assistance, incentives, and benefits as provided to municipalities in the  
14 planning area pursuant to subsection k. of this section except for legal  
15 representation as provided pursuant to section 22 of this act and  
16 priority status in the Highlands Region for any State capital or  
17 infrastructure programs.

18 m. (1) A municipality that is authorized to impose impact fees  
19 under subsection k. of this section shall exercise that authority by  
20 ordinance.

21 (2) Any impact fee ordinance adopted pursuant to this subsection  
22 shall include detailed standards and guidelines regarding: (a) the  
23 definition of a service unit, including specific measures of  
24 consumption, use, generation or discharge attributable to particular  
25 land uses, densities and characteristics of development; and (b) the  
26 specific purposes for which the impact fee revenues may be expended.

27 (3) An impact fee ordinance shall also include a delineation of  
28 service areas for each capital improvement whose upgrading or  
29 expansion is to be funded out of impact fee revenues, a fee schedule  
30 which clearly sets forth the amount of the fee to be charged for each  
31 service unit, and a payment schedule.

32 (4) An impact fee may be imposed by a municipality pursuant to  
33 this subsection in order to generate revenue for funding or recouping  
34 the costs of new capital improvements or facility expansions  
35 necessitated by new development, to be paid by the developer as  
36 defined pursuant to section 3.1 of P.L.1975, c.291 (C.40:55D-4).  
37 Improvements and expansions for which an impact fee is to be  
38 imposed shall bear a reasonable relationship to needs created by the  
39 new development, but in no case shall an impact fee assessed pursuant  
40 to this subsection exceed \$15,000 per dwelling unit unless and until  
41 impact fees are otherwise established by law at which time the impact  
42 fee shall be 200% of the calculated impact fee.

43 (5) No impact fee shall be assessed pursuant to this subsection  
44 against any low or moderate income housing unit within an  
45 inclusionary development as defined under P.L.1985, c.222  
46 (C.52:27D-301 et al.).

1 No impact fee authorized under this subsection shall include a  
2 contribution for any transportation improvement necessitated by a new  
3 development in a county which is covered by a transportation  
4 development district created pursuant to the "New Jersey  
5 Transportation Development District Act of 1989," P.L.1989, c.100  
6 (C.27:1C-1 et al.).

7  
8 14. (New section) a. Within nine to 15 months after the date of  
9 adoption of the regional master plan or any revision thereof, according  
10 to a schedule to be established by the council, each municipality  
11 located wholly or partially in the preservation area shall submit to the  
12 council such revisions of the municipal master plan and development  
13 regulations, as applicable to the development and use of land in the  
14 preservation area, as may be necessary in order to conform them with  
15 the goals, requirements, and provisions of the regional master plan.  
16 After receiving and reviewing the revisions, the council shall approve,  
17 reject, or approve with conditions the revised plan and development  
18 regulations, as it deems appropriate, after public hearing, within 60  
19 days after the date of submission thereof.

20 Upon rejecting or conditionally approving any such revised plan or  
21 development regulations, the council shall identify such changes  
22 therein that it deems necessary for council approval thereof, and the  
23 relevant municipality shall adopt and enforce the plan or development  
24 regulations as so changed.

25 b. Within nine to 15 months after the date of adoption of the  
26 regional master plan or any revision thereof, according to a schedule  
27 to be established by the council, each county located wholly or  
28 partially in the preservation area shall submit to the council such  
29 revisions of the county master plan and associated regulations, as  
30 applicable to the development and use of land in the preservation area,  
31 as may be necessary in order to conform them with the goals,  
32 requirements, and provisions of the regional master plan. After  
33 receiving and reviewing the revisions, the council shall approve, reject,  
34 or approve with conditions those revised plans and associated  
35 regulations, as it deems appropriate, after public hearing, within 60  
36 days after the date of submission thereof.

37 Upon rejecting or conditionally approving any such revised plan or  
38 associated regulations, the council shall identify such changes therein  
39 that it deems necessary for council approval thereof, and the relevant  
40 county shall adopt and enforce the plan or associated regulations as so  
41 changed.

42 c. The council may revoke a conformance approval granted  
43 pursuant to this section or section 15 of this act, after conducting a  
44 hearing, if the council finds that the local government unit has taken  
45 action inconsistent with the regional master plan.

46 d. In the event that any municipality or county fails to adopt or

1 enforce an approved revised master plan, development regulations, or  
2 other regulations, as the case may be, including any condition thereto  
3 imposed by the council, as required pursuant to subsections a. or b. of  
4 this section, the council shall adopt and enforce such rules and  
5 regulations as may be necessary to implement the minimum standards  
6 contained in the regional master plan as applicable to any municipality  
7 or county within the preservation area. If any municipality or county  
8 fails to adopt or enforce an approved revised master plan, development  
9 regulations, or other regulations, as the case may be, including any  
10 condition thereto imposed by the council, as required pursuant to  
11 subsections a. or b. of this section, the council shall have all local  
12 enforcement authority provided pursuant to the "Municipal Land Use  
13 Law," P.L.1975, c.291 (C.40:55D-1 et seq.), R.S.40:27-1 et seq., and  
14 this act, as well as the authority to issue stop construction orders, as  
15 may be necessary to implement the provisions of this act, any rules and  
16 regulations adopted pursuant thereto, and the requirements and  
17 provisions of the regional master plan.

18 e. A municipality or county may adopt revisions to its master plan,  
19 development regulations, or other regulations for the purposes of this  
20 section that are stricter, as determined by the council, than the  
21 minimum necessary to obtain approval of conformance with the  
22 regional master plan.

23 f. The requirements of this section shall not apply to any  
24 municipality or county located wholly within the planning area. Any  
25 municipality or county located partially within the preservation area  
26 and partially within the planning area shall be required to comply with  
27 the provisions of this section and the regional master plan only with  
28 respect to that portion of the municipality or county lying within the  
29 preservation area. Voluntary conformance with the regional master  
30 plan as it may apply to those portions of a municipality or county lying  
31 within the planning area shall be permitted as provided pursuant to  
32 section 15 of this act.

33

34 15. (New section) a. (1) For any municipality located wholly in  
35 the planning area or for any portion of a municipality lying within the  
36 planning area, the municipality may, by ordinance, petition the council  
37 of its intention to revise its master plan and development regulations,  
38 as applicable to the development and use of land in the planning area,  
39 to conform with the goals, requirements, and provisions of the  
40 regional master plan.

41 The municipality shall proceed in revising its master plan and  
42 development regulations in accordance with the framework adopted  
43 by the council pursuant to subsection a. of section 14 of this act.

44 After receiving and reviewing those revisions, and after consulting  
45 with the State Planning Commission, the council shall approve, reject,  
46 or approve with conditions the revised plan and development

1 regulations, as it deems appropriate, after public hearing, within 60  
2 days after the date of submission thereof.

3 (2) Upon rejecting or conditionally approving any such revised plan  
4 or development regulations, the council shall identify such changes  
5 therein that it deems necessary for council approval thereof, and the  
6 municipality may adopt and enforce the plan or development  
7 regulations as so changed in order for them to be deemed approved in  
8 conformance with the regional master plan.

9 (3) Any municipality approved by the council to be in conformance  
10 with the regional master plan pursuant to this subsection shall be  
11 entitled to any financial or other assistance or incentives received by  
12 a municipality from the State as a benefit or result of obtaining council  
13 approval pursuant to section 14 of this act.

14 (4) Upon the commencement of each reexamination by the  
15 municipality of its master plan and development regulations as  
16 required pursuant to section 76 of P.L.1975, c.291 (C.40:55D-89)  
17 which have been previously approved by the council to be in  
18 conformance with the regional master plan pursuant to this subsection,  
19 the municipality shall so notify the council and, thereafter, submit to  
20 the council the draft revision of its master plan and development  
21 regulations for review, by the council, of conformance with the  
22 regional master plan. If, after conducting the reexamination, the  
23 municipality does not resubmit to the council its master plan and  
24 development regulations as they pertain to the planning area and  
25 obtain reapproval thereof from the council in accordance with this  
26 subsection, or if the council finds the reexamined master plan or  
27 development regulations not to be in conformance with the regional  
28 master plan, the council may require the municipality to reimburse the  
29 council or the State, as appropriate, in whole or in part for any  
30 financial or other assistance or incentives received by the municipality  
31 from the State as a benefit or result of obtaining council approval  
32 pursuant to this subsection.

33 (5) A municipality may adopt revisions to its master plan or  
34 development regulations for the purposes of this subsection that are  
35 stricter, as determined by the council, than the minimum necessary to  
36 obtain approval of conformance with the regional master plan.

37 b. (1) Each county with lands in the planning area may, by  
38 ordinance or resolution, as appropriate, petition the council of its  
39 intention to revise its master plan and associated regulations, as  
40 applicable to the development and use of land in the planning area, to  
41 conform with the goals, requirements, and provisions of the regional  
42 master plan.

43 The county shall proceed in revising its master plan and associated  
44 regulations in accordance with the framework adopted by the council  
45 pursuant to subsection b. of section 14 of this act.

46 After receiving and reviewing those revisions, and after consulting

1 with the State Planning Commission, the council shall approve, reject,  
2 or approve with conditions the revised plan and associated regulations,  
3 as it deems appropriate, after public hearing, within 60 days after the  
4 date of submission thereof.

5 (2) Upon rejecting or conditionally approving any such revised plan  
6 or associated regulations, the council shall identify such changes  
7 therein that it deems necessary for council approval thereof, and the  
8 county may adopt and enforce the plan or associated regulations as so  
9 changed in order for them to be deemed approved in conformance with  
10 the regional master plan.

11 (3) Any county approved by the council to be in conformance with  
12 the regional master plan pursuant to this subsection shall be entitled to  
13 any financial or other assistance or incentives received by a county  
14 from the State as a benefit or result of obtaining council approval  
15 pursuant to section 14 of this act.

16

17 16. (New section) a. The council may provide comments and  
18 recommendations on any capital or other project proposed to be  
19 undertaken by any State entity or local government unit in the  
20 Highlands Region.

21 b. Within the preservation area, any capital or other project of a  
22 State entity or local government unit that involves the ultimate  
23 disturbance of two acres or more of land or a cumulative increase in  
24 impervious surface by one acre or more shall be submitted to the  
25 council for review, except that no such submission shall be required  
26 for (1) the routine maintenance and operations, rehabilitation,  
27 preservation, reconstruction, or repair of transportation or  
28 infrastructure systems by a State entity or local government unit,  
29 provided that the activity is consistent with the goals and purposes of  
30 this act and does not result in the construction of any new through-  
31 capacity travel lanes, or (2) the construction of transportation safety  
32 projects and bicycle and pedestrian facilities, provided that the activity  
33 does not result in the construction of any new through-capacity travel  
34 lanes. The council shall establish procedures for conducting such  
35 reviews and shall have the power to approve, approve with conditions,  
36 or disapprove the project. No such project shall proceed without the  
37 approval of the council; provided that, in the case of a project of a  
38 State entity, if the council disapproves the project, the head of the  
39 appropriate principal department of State government with primary  
40 responsibility for the project may override the council's disapproval  
41 upon making a written finding, which shall be submitted to the council  
42 and the Governor, that the project is necessary for public health,  
43 safety, or welfare and including with that finding a factual basis and  
44 explanation in support thereof. In the case of a project of an  
45 independent State authority or commission or a bi-state entity, any  
46 such finding shall be made by the Governor or such other State

1 governmental official as the Governor may designate for that purpose.

2 The council shall review any submission pursuant to this subsection  
3 within 30 days after receipt. If the council fails to act within the 30-  
4 day period, or within such other time period as may be mutually  
5 agreed upon by the parties, the project shall be deemed approved.

6 c. Within the planning area, any capital or other project of a State  
7 entity or local government unit that provides for the ultimate  
8 disturbance of two acres or more of land or a cumulative increase in  
9 impervious surface by one acre or more shall be submitted to the  
10 council for a nonbinding review and comment , except that no such  
11 submission shall be required for (1) the routine maintenance and  
12 operations, rehabilitation, preservation, reconstruction, or repair of  
13 transportation or infrastructure systems by a State entity or local  
14 government unit, provided that the activity is consistent with the goals  
15 and purposes of this act and does not result in the construction of any  
16 new through-capacity travel lanes, or (2) the construction of  
17 transportation safety projects and bicycle and pedestrian facilities by  
18 a State entity or local government unit, provided that the activity does  
19 not result in the construction of any new through-capacity travel lanes.  
20 The council shall establish procedures for conducting such reviews  
21 within 30 days after receipt or within such other time period as may be  
22 mutually agreed upon by the parties. The failure of the council to act  
23 within the 30-day or other agreed upon time period on any such  
24 review pursuant to this subsection shall not be cause for delay of the  
25 project, and the project may proceed whether or not the council has  
26 conducted the review authorized pursuant to this subsection.

27

28 17. (New section) a. (1) Subsequent to adoption of the regional  
29 master plan, the council may review, within 15 days after any final  
30 local government unit approval, rejection, or approval with conditions  
31 thereof, any application for development in the preservation area.  
32 Upon determining to exercise that authority, the council shall transmit,  
33 by certified mail, written notice thereof to the person who submitted  
34 the application to the local government unit. The council shall, after  
35 public hearing thereon, approve, reject, or approve with conditions any  
36 such application or decision within 60 days after transmitting the  
37 notice; provided, however, that an application shall not be rejected or  
38 conditionally approved unless the council determines that the  
39 development does not conform with the regional master plan, as  
40 applicable to the local government unit wherein the development is  
41 located, or that the development could result in substantial impairment  
42 of the resources of the Highlands Region. Such approval, rejection,  
43 or conditional approval shall be binding upon the person who  
44 submitted the application, shall supersede any local government unit  
45 decision on any such development, and shall be subject only to judicial  
46 review as provided in section 28 of this act. Pending completion of

1 the review by the council of any final local government approval or  
2 approval with conditions of an application for development in the  
3 preservation area and the issuance of the council's decision thereon,  
4 the applicant shall not proceed with the development.

5 (2) No cause of action may be filed in the Superior Court to  
6 contest a local government unit decision on an application for  
7 development in the preservation area if the council exercises its review  
8 authority pursuant to this section. Any such cause of action filed  
9 before the date that the council exercises its review authority pursuant  
10 to this section shall be dismissed by the court for lack of jurisdiction.  
11 Upon determination of the council to exercise its review authority  
12 pursuant to this section, judicial review of the decision of the local  
13 government unit and of the council pursuant to this section shall  
14 proceed as provided pursuant to section 28 of this act.

15 b. Every person submitting an application for development in the  
16 preservation area shall be required to provide a notice of the  
17 application to the council in accordance with such procedures therefor  
18 as shall be established by the council.

19 c. Notwithstanding any provision of subsections a. or b. of this  
20 section to the contrary, for any municipality or county that has  
21 adopted an approved revised master plan, development regulations, or  
22 other regulations, as the case may be, including any condition thereto  
23 imposed by the council, the requirements of this section shall apply  
24 only to applications for development that provide for the ultimate  
25 disturbance of two acres or more of land or a cumulative increase in  
26 impervious surface by one acre or more. The council, however, may  
27 provide, pursuant to subsection d. of section 14 of this act, that the  
28 requirements of this section apply to any application for development  
29 within the preservation area in any municipality or county that fails to  
30 adopt or enforce an approved revised master plan, development  
31 regulations, or other regulations, as the case may be, including any  
32 condition thereto imposed by the council.

33 d. Any member of the public may request the council to consider  
34 reviewing an application for development in the preservation area as  
35 provided in this section.

36  
37 18. (New section) a. Any municipality in the Highlands Region  
38 whose municipal master plan and development regulations, and any  
39 county in the Highlands Region whose county master plan and  
40 associated regulations, have been approved by the council to be in  
41 conformance with the regional master plan in accordance with sections  
42 14 or 15 of this act shall qualify for State aid, planning assistance,  
43 technical assistance, and other benefits and incentives that may be  
44 awarded or provided by the State to municipalities and counties which  
45 have received plan endorsement by the State Planning Commission  
46 pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196

1 et al.) or which otherwise practice or implement smart growth  
2 strategies and principles. Any such municipality or county shall also  
3 qualify for any State aid that may be provided for smart growth  
4 projects.

5 b. The council shall make available grants and other financial and  
6 technical assistance to municipalities and counties for any revision of  
7 their master plans, development regulations, or other regulations  
8 which is designed to bring those plans, development regulations, or  
9 other regulations into conformance with the regional master plan or  
10 for implementation of a transfer of development rights program  
11 pursuant to this act. The grants and other financial assistance shall pay  
12 for the reasonable expenses therefor incurred by a municipality or  
13 county and shall be distributed according to such procedures and  
14 guidelines as may be established by the council. The council shall  
15 make the grants and other financial assistance from any State, federal,  
16 or other funds that shall be appropriated or otherwise made available  
17 to it for that purpose, including monies required to be made available  
18 therefor from the "Highlands Protection Fund" created pursuant to  
19 section 21 of this act.

20

21 19. (New section) a. (1) There is established in the Department  
22 of the Treasury the "Highlands Municipal Property Tax Stabilization  
23 Board," which shall consist of three members to be appointed by the  
24 Governor, who shall be recognized experts in the field of taxation.  
25 Members of the board may also be members of the Highlands Water  
26 Protection and Planning Council established pursuant to section 4 of  
27 P.L. , c. (C. ) (now before the Legislature as this bill).

28 (2) Within 120 days after the date of enactment of P.L. , c.  
29 (C. ) (now before the Legislature as this bill), the board, in  
30 consultation with the Highlands Water Protection and Planning  
31 Council, shall establish procedures for determining the valuation base  
32 of a qualified municipality, whether fiscal stress has been caused by the  
33 implementation of the "Highlands Water Protection and Planning Act,"  
34 P.L. , c. (C. ) (now before the Legislature as this bill) in a  
35 qualified municipality, and the amount due a qualified municipality to  
36 compensate for a decline in the aggregate true value of vacant land  
37 directly attributable to the implementation of the "Highlands Water  
38 Protection and Planning Act."

39 b. The "Highlands Municipal Property Tax Stabilization Fund" is  
40 established in the General Fund as a special nonlapsing fund for the  
41 purpose of providing State aid to qualified municipalities pursuant to  
42 this section. There shall be credited each State fiscal year from the  
43 "Highlands Protection Fund" created pursuant to section 21 of P.L. ,  
44 c. (C. ) (now before the Legislature as this bill) to the Highlands  
45 Municipal Property Tax Stabilization Fund such sums as shall be  
46 necessary to provide State aid to qualified municipalities pursuant to

1 this section. Every qualified municipality shall be eligible for a  
2 distribution from the fund pursuant to the provisions of this section.

3 c. The assessor of every qualified municipality shall certify to the  
4 county tax board on a form to be prescribed by the Director of the  
5 Division of Taxation in the Department of the Treasury, and on or  
6 before December 1 annually, a report of the assessed value of each  
7 parcel of vacant land in the base year and the change in the assessed  
8 value of each such parcel in the current tax year attributable to  
9 successful appeals of assessed values of vacant land to the county tax  
10 board pursuant to R.S.54:3-21 et seq. or attributable to a revaluation  
11 approved by the director and implemented or a reassessment approved  
12 by the county board of taxation. If a judgment or an appeal is  
13 overturned or modified, upon a final judgment an appropriate  
14 adjustment shall be made by the director in the payment of the  
15 entitlement due next following the judgment.

16 d. (1) Upon receipt of reports filed pursuant to subsection c. of  
17 this section and using procedures developed by the board pursuant to  
18 subsection a. of this section, the county tax board shall compute and  
19 certify to the director on or before December 20 of each year, in such  
20 manner as to identify for each qualified municipality the aggregate  
21 decline, if any, in the true value of vacant land, comparing the current  
22 tax year to the base year. The aggregate changes so identified for each  
23 qualified municipality shall constitute its valuation base for purposes  
24 of this section.

25 (2) The Director of the Division of Taxation shall, on or before  
26 January 10 of each year, provide the board with all relevant  
27 information collected pursuant to the provisions of this section and any  
28 other information deemed necessary by the board to determine the  
29 valuation base.

30 (3) Upon receipt of the information, the board shall make a final  
31 determination on the valuation base of each qualified municipality;  
32 calculate the amount due a qualified municipality, in accordance with  
33 the procedures developed pursuant to subsection a. of this section, to  
34 compensate for a decline, if any, by multiplying its valuation base by  
35 its tax rate; and certify to the director and the State Treasurer, on or  
36 before February 1 of each year, that amount to which each qualified  
37 municipality is entitled.

38 e. Upon receipt of the certification by the board, the State  
39 Treasurer shall certify to each qualified municipality, on or before  
40 February 15, its property tax stabilization amount. A copy of the  
41 certified amounts shall be forwarded to the Director of the Division of  
42 Local Government Services in the Department of Community Affairs.

43 f. (1) The State Treasurer, upon warrant of the Director of the  
44 Division of Budget and Accounting in the Department of the Treasury,  
45 shall pay to each qualified municipality its entitlement as State aid  
46 from the sums available in the "Highlands Municipal Property Tax

1 Stabilization Fund" in two equal installments pursuant to a schedule  
2 prescribed by the Division of Local Government Services.

3 (2) If the amount available in the "Highlands Municipal Property  
4 Tax Stabilization Fund" in any year is insufficient to pay the full  
5 amount to which each qualified municipality is entitled pursuant to this  
6 section, the payments shall be made on a pro rata basis.

7 (3) Notwithstanding any provisions of this section to the contrary,  
8 in the sixth, seventh, eighth, ninth, and tenth years of the State aid  
9 program created by this section, a qualified municipality shall be  
10 entitled to receive, respectively, 90%, 70%, 50%, 30%, and 10% of  
11 the sum it otherwise would have been paid pursuant to this subsection,  
12 and thereafter the program shall expire.

13 g. Any municipality receiving a certification from the State  
14 Treasurer pursuant to subsection e. of this section shall anticipate such  
15 sums in its annual budget or any amendments or supplements thereto  
16 as a direct offset to the amount to be raised by taxation.

17 h. The Director of the Division of Taxation in reviewing the  
18 reports filed pursuant to subsection c. of this section may make such  
19 changes therein as the director deems necessary to ensure that the  
20 reports accurately reflect the change in the assessed value of vacant  
21 land.

22 i. The Director of the Division of Local Government Services shall  
23 make such changes in the budget of any qualified municipality to  
24 ensure that all sums received pursuant to this section are utilized as a  
25 direct offset to the amount to be raised by taxation and shall make  
26 such changes therein as the director deems necessary to ensure that the  
27 offset occurs.

28 j. Any sum received by a qualified municipality pursuant to this  
29 section shall not be considered as an exception or exemption under  
30 P.L.1976, c.68 (C.40A:4-45.1 et seq.).

31 k. Notwithstanding the provisions of the "Local Budget Law"  
32 (N.J.S.40A:4-1 et seq.), a qualified municipality which is due a  
33 property tax stabilization payment pursuant to this section may  
34 anticipate the amount of the entitlement in its annual budget for the  
35 year in which the payment is made.

36 l. The State Treasurer may deduct from the State aid a municipality  
37 would otherwise receive pursuant to this section an amount equivalent  
38 to that portion of any sums received by a municipality pursuant to  
39 section 1 of P.L.1999, c.225 (C.58:29-8) that the State Treasurer, in  
40 consultation with the Director of the Division of Local Government  
41 Services, determines to be duplicative of any State aid received  
42 pursuant to this section.

43 m. The Director of the Division of Taxation and the Director of the  
44 Division of Local Government Services shall each adopt, pursuant to  
45 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
46 seq.), such rules and regulations as may be necessary to implement the

1 provisions of this section.

2 n. As used in this section:

3 "Base year" means the calendar year 2003;

4 "Board" means the Highlands Municipal Property Tax Stabilization  
5 Board established pursuant to subsection a. of this section;

6 "Current tax year" means the most recent year for which a report  
7 is filed pursuant to subsection c. of this section;

8 "Highlands preservation area" means the preservation area of the  
9 Highlands Region designated by subsection b. of section 7 of P.L. ,  
10 c. (C. ) (now before the Legislature as this bill);

11 "Qualified municipality" means any municipality located wholly or  
12 partially in the Highlands preservation area, provided however, that  
13 after the adoption of the Highlands regional master plan by the  
14 Highlands Water Protection and Planning Council pursuant to section  
15 8 of P.L. , c. (C. ) (now before the Legislature as this bill),  
16 qualified municipality shall mean only a municipality that has  
17 conformed its municipal master plan and development regulations to  
18 the Highlands regional master plan pursuant to section 14 of P.L. ,  
19 c. (C. ) (now before the Legislature as this bill);

20 "Tax rate" means that portion of the effective property tax rate for  
21 the current tax year which reflects local taxes to be raised for district  
22 school purposes and local municipal purposes, calculated by dividing  
23 the total of column 12, section C by net valuation on which county  
24 taxes are apportioned in column 11, both as reflected in the Abstract  
25 of Ratables for the current tax year, and expressed as a rate per \$100  
26 of true value;

27 "True value of vacant land" or "true value" means the aggregate  
28 assessed value of vacant land divided by the average ratio of  
29 assessed-to-true value of real property (commonly known as the  
30 equalization rate) promulgated by the Director of the Division of  
31 Taxation in the Department of the Treasury and published in the table  
32 of equalized valuation; and

33 "Valuation base" means the change in the aggregate true value of  
34 vacant land directly attributable to the implementation of the  
35 "Highlands Water Protection and Planning Act," P.L. , c. (C. )  
36 (now before the Legislature as this bill) in a qualified municipality  
37 when comparing the current tax year to the base year.

38 o. This section shall expire July 1 next following one year after the  
39 date the last State aid payment is made to a qualified municipality in  
40 the tenth year as provided pursuant to paragraph (3) of subsection f.  
41 of this section.

42

43 20. (New section) a. The "Pinelands Property Tax Assistance  
44 Fund" is established in the General Fund as a special nonlapsing fund  
45 for the purpose of providing State aid to qualifying municipalities in  
46 the pinelands area. The Commissioner of Community Affairs shall

- 1 serve as administrator of the fund.
- 2 b. Every qualifying municipality in the pinelands area shall be  
3 eligible for State aid made with monies in the fund. The Commissioner  
4 of Community Affairs shall annually distribute to each qualifying  
5 municipality in the pinelands area a percentage of the monies annually  
6 allocated to the fund equal to the percentage the qualifying  
7 municipality received of the total sum distributed from the "Pinelands  
8 Municipal Property Tax Stabilization Fund" pursuant to P.L.1983,  
9 c.551 (C.54:1-68 et seq.).
- 10 c. The State Treasurer shall annually credit, in each of the first five  
11 years after the date of enactment of P.L. , c. (C. ) (now before  
12 the Legislature as this bill), to the "Pinelands Property Tax Assistance  
13 Fund" from the "Highlands Protection Fund" established pursuant to  
14 section 21 of P.L. , c. (C. ) (now before the Legislature as this  
15 bill), the sum of \$1,800,000.
- 16 d. Any State aid made available with monies from the "Pinelands  
17 Property Tax Assistance Fund" pursuant to this section shall be in  
18 addition to any other moneys appropriated or otherwise made available  
19 pursuant to any other federal or State program for the same category  
20 of aid.
- 21 e. Any qualifying municipality receiving State aid pursuant to this  
22 section shall anticipate those sums in its annual budget or any  
23 amendments or supplements thereto as a direct offset to the amount to  
24 be raised by taxation.
- 25 f. The Director of the Division of Local Government Services in  
26 the Department of Community Affairs shall make such changes in the  
27 budget of any qualifying municipality to ensure that all sums received  
28 pursuant to this section are utilized as a direct offset to the amount to  
29 be raised by taxation and shall make such changes therein as the  
30 director deems necessary to ensure that the offset occurs.
- 31 g. Any sum received by a qualifying municipality pursuant to this  
32 section shall not be considered as an exception or exemption under  
33 P.L.1976, c.68 (C.40A:4-45.1 et seq.).
- 34 h. Notwithstanding the provisions of the "Local Budget Law"  
35 (N.J.S.40A:4-1 et seq.), a qualifying municipality which is due a  
36 payment pursuant to this section may anticipate the amount of the  
37 entitlement in its annual budget for the year in which the payment is  
38 made.
- 39 i. The Director of the Division of Local Government Services shall  
40 adopt, pursuant to the "Administrative Procedure Act," P.L.1968,  
41 c.410 (C.52:14B-1 et seq.), such rules and regulations as may be  
42 necessary to implement the provisions of this section.
- 43 j. As used in this section:
- 44 "Pinelands area" means the area so designated in section 10 of  
45 P.L.1979, c.111 (C.13:18A-11); and
- 46 "Qualifying municipality" means any municipality that received

1 State aid distributed from the "Pinelands Municipal Property Tax  
2 Stabilization Fund" pursuant to P.L.1983, c.551 (C.54:1-68 et seq.).

3 k. This section shall expire July 1 next following one year after the  
4 date the last State aid payment is made to a qualifying municipality in  
5 the fifth year as provided pursuant to subsection c. of this section.

6  
7 21. (New section) a. There is created in the Department of the  
8 Treasury a special non-lapsing fund to be known as the "Highlands  
9 Protection Fund." The monies in the fund are dedicated and shall be  
10 used only to carry out the purposes enumerated in subsection b. of this  
11 section. The fund shall be credited with all revenues collected and  
12 deposited in the fund pursuant to section 4 of P.L.1968, c.49  
13 (C.46:15-8), all interest and other income received from the  
14 investment of monies in the fund, and any monies which, from time to  
15 time, may otherwise become available for the purposes of the fund.  
16 Pending the use thereof pursuant to the provisions of subsection b. of  
17 this section, the monies deposited in the fund shall be held in  
18 interest-bearing accounts in public depositories, as defined pursuant to  
19 section 1 of P.L.1970, c.236 (C.17:9-41), and may be invested or  
20 reinvested in such securities as are approved by the State Treasurer.  
21 Interest or other income earned on monies deposited into the fund  
22 shall be credited to the fund for use as set forth in subsection b. of this  
23 section for other monies in the fund.

24 b. Monies deposited in the "Highlands Protection Fund" shall be  
25 used only for:

26 (1) payments to the "Highlands Municipal Property Tax  
27 Stabilization Fund" established pursuant to subsection b. of section 19  
28 of this act in such amounts as are necessary to provide property tax  
29 stabilization aid pursuant to that section;

30 (2) payments of watershed moratorium offset aid pursuant to  
31 section 1 of P.L.1999, c.225 (C.58:29-8);

32 (3) the making of grants by the Highlands Water Protection and  
33 Planning Council pursuant to sections 13 and 18 of this act; and

34 (4) allocations to the Pinelands Property Tax Assistance Fund  
35 established pursuant to section 20 of this act.

36  
37 22. (New section) The council shall provide legal representation  
38 to any requesting local government unit located in the Highlands  
39 Region in any cause of action filed against the local government unit  
40 and contesting an act or decision of the local government unit taken  
41 or made under authority granted pursuant to the "Municipal Land Use  
42 Law," P.L.1975, c.291 (C.40:55D-1 et seq.), R.S.40:27-1 et seq., the  
43 "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-  
44 119 et seq.), or this act, provided that:

45 a. the municipal master plan and development regulations, or, in  
46 the case of a county governmental entity, the county master plan and

1 associated regulations, have been approved by the council to be in  
2 conformance with the regional master plan in accordance with sections  
3 14 or 15 of this act;

4 b. the council determines that the act or decision of the local  
5 government unit which is the subject of the cause of action is  
6 consistent with the regional master plan; and

7 c. the act or decision of the local government unit that is the  
8 subject of the cause of action involves an application for development  
9 that provides for the ultimate disturbance of two acres or more of land  
10 or a cumulative increase in impervious surface by one acre or more.

11

12 23. (New section) Within 10 days after the date of enactment of  
13 this act, the Department of Community Affairs, in consultation with  
14 the Department of Environmental Protection, shall provide guidelines  
15 and instructions to all local government units located wholly or  
16 partially within the preservation area with respect to the processing,  
17 review, and enforcement of applications for development after the date  
18 of enactment of this act and before adoption of the regional master  
19 plan.

20

21 24. (New section) The municipal master plan and development  
22 regulations of any municipality, and the county master plan and  
23 associated regulations of any county, located in the Highlands Region  
24 which have been approved by the council to be in conformance with  
25 the regional master plan in accordance with sections 14 or 15 of this  
26 act shall be entitled to a strong presumption of validity. In any cause  
27 of action filed against such a local government unit and contesting an  
28 act or decision of the local government unit taken or made under  
29 authority granted pursuant to the "Municipal Land Use Law,"  
30 P.L.1975, c.291 (C.40:55D-1 et seq.), R.S.40:27-1 et seq., the "State  
31 Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et  
32 seq.), or this act, the court shall give extraordinary deference to the  
33 local government unit, provided that the municipal master plan and  
34 development regulations, or, in the case of a county governmental  
35 entity, the county master plan and associated regulations, have been  
36 approved by the council to be in conformance with the regional master  
37 plan in accordance with sections 14 or 15 of this act. The plaintiff  
38 shall have the burden of proof to demonstrate by clear and convincing  
39 evidence that the act or decision of any such local government unit  
40 was arbitrary, capricious, or unreasonable or in patent abuse of  
41 discretion.

42

43 25. (New section) a. The Council on Affordable Housing shall  
44 take into consideration the regional master plan prior to making any  
45 determination regarding the allocation of the prospective fair share of  
46 the housing need in any municipality in the Highlands Region under the

1 "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) for the fair  
2 share period subsequent to 1999.

3 b. Nothing in this act shall affect protections provided through a  
4 grant of substantive certification or a judgment of repose granted prior  
5 to the date of enactment of this act.

6  
7 26. (New section) Within 90 days after the first meeting of the  
8 Highlands Water Protection and Planning Council, the Site  
9 Improvement Advisory Board established pursuant to section 3 of  
10 P.L.1993, c.32 (C.40:55D-40.3) and the Commissioner of Community  
11 Affairs shall consult with the council and the Commissioner of  
12 Environmental Protection concerning whether the site improvement  
13 standards for residential development adopted pursuant to P.L.1993,  
14 c.32 (C.40:55D-40.1 et seq.) are appropriate and sufficiently  
15 protective for the Highlands Region, especially for the preservation  
16 area; and if it is determined they are not, those standards shall be  
17 modified accordingly as soon as practicable thereafter to meet that  
18 objective.

19  
20 27. (New section) The council may institute an action or  
21 proceeding in Superior Court for injunctive relief for any violation of  
22 this act, or any rule or regulation adopted pursuant thereto, or, in the  
23 preservation area for any violation of, or nonconformance with, the  
24 regional master plan. The council may also institute an action or  
25 proceeding for injunctive relief for any violation of the regional master  
26 plan in the planning area as it relates to a municipality or county that  
27 has been approved to be in conformance with the regional master plan  
28 pursuant to section 15 of this act. In any action or proceeding brought  
29 pursuant to this section, the court may proceed in a summary manner  
30 and may also grant temporary or interlocutory relief.

31  
32 28. (New section) Any decision rendered or action taken by the  
33 council pursuant to this act shall be a final agency action subject to  
34 judicial review in the Appellate Division of the Superior Court of New  
35 Jersey in accordance with the Rules of Court. The court may grant  
36 such relief as it deems just and proper, and to make and enter an order  
37 enforcing, modifying, and enforcing as so modified, remanding for  
38 further specific evidence or findings, or setting aside in whole or in  
39 part, the decision of the council. The findings of fact upon which the  
40 council's decision is based shall be conclusive if supported by  
41 substantial evidence on the record considered as a whole.

42  
43 29. (New section) On or before March 31 in each year the council  
44 shall make an annual report of its activities for the preceding calendar  
45 year to the Governor, the Legislature, and the governing body and the  
46 chief executive officer of each municipality and county in the

1 Highlands Region. Each such report shall set forth a complete  
2 operating and financial statement covering its operations during the  
3 year.

4  
5 30. (New section) a. The following are exempt from the  
6 provisions of this act, the regional master plan, any rules or regulations  
7 adopted by the Department of Environmental Protection pursuant to  
8 this act, or any amendments to a master plan, development regulations,  
9 or other regulations adopted by a local government unit to specifically  
10 conform them with the regional master plan:

11 (1) the construction of a single family dwelling, for an individual's  
12 own use or the use of an immediate family member, on a lot owned by  
13 the individual on the date of enactment of this act or on a lot for which  
14 the individual has on or before May 17, 2004 entered into a binding  
15 contract of sale to purchase that lot;

16 (2) the construction of a single family dwelling on a lot in existence  
17 on the date of enactment of this act, provided that the construction  
18 does not result in the ultimate disturbance of one acre or more of land  
19 or a cumulative increase in impervious surface by one-quarter acre or  
20 more;

21 (3) a major Highlands development that received on or before  
22 March 29, 2004:

23 (a) one of the following approvals pursuant to the "Municipal Land  
24 Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.):

25 (i) preliminary or final site plan approval;

26 (ii) final municipal building or construction permit;

27 (iii) minor subdivision approval where no subsequent site plan  
28 approval is required;

29 (iv) final subdivision approval where no subsequent site plan  
30 approval is required; or

31 (v) preliminary subdivision approval where no subsequent site plan  
32 approval is required; and

33 (b) at least one of the following permits from the Department of  
34 Environmental Protection, if applicable to the proposed major  
35 Highlands development:

36 (i) a permit or certification pursuant to the "Water Supply  
37 Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.);

38 (ii) a water extension permit or other approval or authorization  
39 pursuant to the "Safe Drinking Water Act," P.L.1977, c.224  
40 (C.58:12A-1 et seq.);

41 (iii) a certification or other approval or authorization issued  
42 pursuant to the "The Realty Improvement Sewerage and Facilities Act  
43 (1954)," P.L.1954, c.199 (C.58:11-23 et seq.); or

44 (iv) a treatment works approval pursuant to the "Water Pollution  
45 Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.); or

46 (c) one of the following permits from the Department of

1 Environmental Protection, if applicable to the proposed major  
2 Highlands development, and if the proposed major Highlands  
3 development does not require one of the permits listed in  
4 subparagraphs (i) through (iv) of subparagraph (b) of this  
5 paragraph:

6 (i) a permit or other approval or authorization issued pursuant to  
7 the "Freshwater Wetlands Protection Act," P.L.1987, c.156  
8 (C.13:9B-1 et seq.); or

9 (ii) a permit or other approval or authorization issued pursuant to  
10 the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50  
11 et seq.).

12 The exemption provided in this paragraph shall apply only to the  
13 land area and the scope of the major Highlands development addressed  
14 by the qualifying approvals pursuant to subparagraphs (a) and (b), or  
15 (c) if applicable, of this paragraph, shall expire if any of those  
16 qualifying approvals expire, and shall expire if construction beyond site  
17 preparation does not commence within three years after the date of  
18 enactment of this act;

19 (4) the reconstruction of any building or structure for any reason  
20 within 125% of the footprint of the lawfully existing impervious  
21 surfaces on the site, provided that the reconstruction does not increase  
22 the lawfully existing impervious surface by one-quarter acre or more.  
23 This exemption shall not apply to the reconstruction of any agricultural  
24 or horticultural building or structure for a non-agricultural or non-  
25 horticultural use;

26 (5) any improvement to a single family dwelling in existence on the  
27 date of enactment of this act, including but not limited to an addition,  
28 garage, shed, driveway, porch, deck, patio, swimming pool, or septic  
29 system;

30 (6) any improvement, for non-residential purposes, to a place of  
31 worship owned by a nonprofit entity, society or association, or  
32 association organized primarily for religious purposes, or a public or  
33 private school, or a hospital, in existence on the date of enactment of  
34 this act, including but not limited to new structures, an addition to an  
35 existing building or structure, a site improvement, or a sanitary facility;

36 (7) an activity conducted in accordance with an approved  
37 woodland management plan pursuant to section 3 of P.L.1964, c.48  
38 (C.54:4-23.3) or the normal harvesting of forest products in  
39 accordance with a forest management plan approved by the State  
40 Forester;

41 (8) the construction or extension of trails with non-impervious  
42 surfaces on publicly owned lands or on privately owned lands where  
43 a conservation or recreational use easement has been established;

44 (9) the routine maintenance and operations, rehabilitation,  
45 preservation, reconstruction, or repair of transportation or  
46 infrastructure systems by a State entity or local government unit,

1 provided that the activity is consistent with the goals and purposes of  
2 this act and does not result in the construction of any new through-  
3 capacity travel lanes;

4 (10) the construction of transportation safety projects and bicycle  
5 and pedestrian facilities by a State entity or local government unit,  
6 provided that the activity does not result in the construction of any  
7 new through-capacity travel lanes;

8 (11) the routine maintenance and operations, rehabilitation,  
9 preservation, reconstruction, repair, or upgrade of public utility lines,  
10 rights of way, or systems, by a public utility, provided that the activity  
11 is consistent with the goals and purposes of this act;

12 (12) the reactivation of rail lines and rail beds existing on the date  
13 of enactment of this act;

14 (13) the construction of a public infrastructure project approved by  
15 public referendum prior to January 1, 2005 or a capital project  
16 approved by public referendum prior to January 1, 2005;

17 (14) the mining, quarrying, or production of ready mix concrete,  
18 bituminous concrete, or Class B recycling materials occurring or which  
19 are permitted to occur on any mine, mine site, or construction  
20 materials facility existing on June 7, 2004;

21 (15) the remediation of any contaminated site pursuant to  
22 P.L.1993, c.139 (C.58:10B-1 et seq.);

23 (16) any lands of a federal military installation existing on the date  
24 of enactment of this act that lie within the Highlands Region; and

25 (17) a major Highlands development located within an area  
26 designated as Planning Area 1 (Metropolitan), or Planning Area 2  
27 (Suburban), as designated pursuant to P.L.1985, c.398 (C.52:18A-196  
28 et seq.) as of March 29, 2004, that on or before March 29, 2004 has  
29 been the subject of a settlement agreement and stipulation of dismissal  
30 filed in the Superior Court, or a builder's remedy issued by the  
31 Superior Court, to satisfy the constitutional requirement to provide for  
32 the fulfillment of the fair share obligation of the municipality in which  
33 the development is located. The exemption provided pursuant to this  
34 paragraph shall expire if construction beyond site preparation does not  
35 commence within three years after receiving all final approvals  
36 required pursuant to the "Municipal Land Use Law," P.L.1975, c.291  
37 (C.40:55D-1 et seq.).

38 b. The exemptions provided in subsection a. of this section shall  
39 not be construed to alter or obviate the requirements of any other  
40 applicable State or local laws, rules, regulations, development  
41 regulations, or ordinances.

42 c. Nothing in this act shall be construed to alter the funding  
43 allocation formulas established pursuant to the "Garden State  
44 Preservation Trust Act," P.L.1999, c.152 (C.13:8C-1 et seq.).

45 d. Nothing in this act shall be construed to repeal, reduce, or  
46 otherwise modify the obligation of counties, municipalities, and other

1 municipal and public agencies of the State to pay property taxes on  
2 lands used for the purpose and for the protection of a public water  
3 supply, without regard to any buildings or other improvements  
4 thereon, pursuant to R.S.54:4-3.3.

5  
6 31. (New section) a. (1) Any agricultural or horticultural  
7 development in the preservation area that would result in the increase,  
8 after the date of enactment of this act either individually or  
9 cumulatively, of agricultural impervious cover by three percent or  
10 more of the total land area of a farm management unit in the  
11 preservation area shall require the review and approval by the local  
12 soil conservation district of a farm conservation plan which shall be  
13 prepared and submitted by the owner or operator of the farm  
14 management unit. Upon approval of the farm conservation plan by the  
15 local soil conservation district, the owner or operator of the farm  
16 management unit shall implement the plan on the farm management  
17 unit. The local soil conservation district shall transmit a copy of an  
18 approved farm conservation plan to the State Soil Conservation  
19 Committee, and, if any part of the farm management unit is preserved  
20 under any farmland preservation program, to the State Agriculture  
21 Development Committee.

22 (2) Any agricultural or horticultural development in the  
23 preservation area that would result in the increase, after the date of  
24 enactment of this act either individually or cumulatively, of agricultural  
25 impervious cover by nine percent or more of the total land area of a  
26 farm management unit in the preservation area shall require the review  
27 and approval by the local soil conservation district of a resource  
28 management systems plan which shall be prepared and submitted by  
29 the owner or operator of the farm management unit.

30 Prior to the approval of a resource management systems plan by a  
31 local soil conservation district, a copy of the resource management  
32 systems plan shall be forwarded by the local soil conservation district  
33 to the Department of Environmental Protection for review and  
34 approval, with or without conditions, or denial within 60 days after  
35 receipt by the department. Upon approval of the resource  
36 management systems plan by the local soil conservation district and  
37 the Department of Environmental Protection, the owner or operator  
38 of the farm management unit shall implement the plan on the farm  
39 management unit. The local soil conservation district shall transmit a  
40 copy of an approved resource management systems plan to the State  
41 Soil Conservation Committee, and, if any part of the farm management  
42 unit is preserved under any farmland preservation program, to the  
43 State Agriculture Development Committee.

44 (3) A farm conservation plan required pursuant to paragraph (1) of  
45 this subsection and a resource management systems plan required  
46 pursuant to paragraph (2) of this subsection shall be prepared in

1 accordance with science-based standards, consistent with the goals and  
2 purposes of this act, which standards shall be established by the State  
3 Board of Agriculture and the Department of Agriculture, in  
4 consultation with the Department of Environmental Protection, the  
5 State Agriculture Development Committee, Rutgers Cooperative  
6 Extension, and the Natural Resources Conservation Service in the  
7 United States Department of Agriculture. Within 270 days after the  
8 date of enactment of this act, the State Department of Agriculture, in  
9 consultation with the Department of Environmental Protection, shall  
10 develop and adopt, pursuant to the "Administrative Procedure Act,"  
11 P.L.1968, c.410 (C.52:14B-1 et seq.), these standards and any other  
12 rules and regulations necessary to implement this section.

13 b. (1) If any person violates any provision of subsection a. of this  
14 section, any rule or regulation adopted pursuant to subsection a. of  
15 this section, or a farm conservation plan or a resource management  
16 systems plan approved pursuant to subsection a. of this section, the  
17 Department of Agriculture or the local soil conservation district may  
18 institute a civil action in the Superior Court for injunctive relief to  
19 prohibit and prevent the violation or violations and the court may  
20 proceed in a summary manner.

21 (2) (a) Any person who violates any provision of subsection a. of  
22 this section, any rule or regulation adopted pursuant to subsection a.  
23 of this section, or a farm conservation plan or a resource management  
24 systems plan approved pursuant to subsection a. of this section shall  
25 be liable to a civil administrative penalty of up to \$5,000 for each  
26 violation. If the violation is of a continuing nature, each day during  
27 which it continues shall constitute an additional, separate, and distinct  
28 offense. No assessment shall be levied pursuant to this subsection  
29 until after the party has been notified by certified mail or personal  
30 service and provided an opportunity for a hearing.

31 (b) Any amount assessed under this subsection shall fall within a  
32 range established in a penalty schedule adopted by the Department of  
33 Agriculture pursuant to the "Administrative Procedure Act," which  
34 shall take into account the seriousness and duration of the violation  
35 and whether the violation involves the failure to prepare or to  
36 implement a farm conservation plan or resource management systems  
37 plan. The schedule shall also provide for an enhanced penalty if the  
38 violation causes an impairment to water quality. Any civil  
39 administrative penalty assessed under this subsection may be  
40 compromised by the Secretary of Agriculture upon the posting of a  
41 performance bond by the violator, or upon such terms and conditions  
42 as the secretary may establish by regulation.

43 (c) Any person who fails to pay a civil administrative penalty in full  
44 pursuant to this subsection shall be subject, upon order of a court, to  
45 a civil penalty of up to \$5,000 for each violation. If the violation is of  
46 a continuing nature, each day during which it continues shall constitute

1 an additional, separate, and distinct offense. Any such civil penalty  
2 imposed may be collected with costs in a summary proceeding  
3 pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274  
4 (C.2A:58-10 et seq.). The Superior Court and the municipal court  
5 shall have jurisdiction to enforce the provisions of the "Penalty  
6 Enforcement Law of 1999" in connection with this subsection.

7 (d) All penalties collected pursuant to this subsection shall either  
8 be used, as determined by the council, by the State Agriculture  
9 Development Committee for the preservation of farmland in the  
10 preservation area or by any development transfer bank used or  
11 established by the council to purchase development potential in the  
12 preservation area.

13 c. Nothing in this act, the regional master plan, any rules or  
14 regulations adopted by the Department of Environmental Protection  
15 pursuant to this act, or any amendments to a master plan, development  
16 regulations, or other regulations adopted by a local government unit  
17 to specifically conform them with the regional master plan shall be  
18 construed to alter or compromise the goals, purposes, policies, and  
19 provisions of, or lessen the protections afforded to farmers by, the  
20 "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1 et seq.), and any rules  
21 or regulations adopted pursuant thereto.

22 d. The provisions of this section shall not be construed to alter or  
23 obviate the requirements of any other applicable State or local laws,  
24 rules, regulations, development regulations, or ordinances.

25  
26 32. (New section) a. Commencing on the date of enactment of  
27 this act and until the effective date of the rules and regulations adopted  
28 by the Department of Environmental Protection pursuant to sections  
29 33 and 34 of this act, all major Highlands development in the  
30 preservation area shall require a Highlands Preservation Area approval  
31 from the department. The Highlands Preservation Area approval shall  
32 consist of the related aspects of other regulatory programs which may  
33 include, but need not be limited to, the "Freshwater Wetlands  
34 Protection Act," P.L.1987, c.156 (C.13:9B-1 et seq.), "The  
35 Endangered and Nongame Species Conservation Act," P.L.1973,  
36 c.309 (C.23:2A-1 et seq.), the "Water Supply Management Act,"  
37 P.L.1981, c.262 (C.58:1A-1 et seq.), the "Water Pollution Control  
38 Act," P.L.1977, c.74 (C.58:10A-1 et seq.), "The Realty Improvement  
39 Sewerage and Facilities Act (1954)," P.L.1954, c.199 (C.58:11-23 et  
40 seq.), the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1  
41 et seq.), the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1  
42 et seq.), the "Flood Hazard Area Control Act," P.L.1962, c.19  
43 (C.58:16A-50 et seq.), and any rules and regulations adopted pursuant  
44 thereto. For the purposes of this section, the provisions of P.L.1975,  
45 c.232 (C.13:1D-29 et seq.) shall not apply to an application for a  
46 permit pursuant to the "Flood Hazard Area Control Act," P.L.1962,

1 c.19 (C.58:16A-50 et seq.).

2 b. The Highlands Preservation Area approval shall also require:

3 (1) a prohibition on major Highlands development within 300 feet

4 of any Highlands open waters, and a 300-foot buffer adjacent to all

5 Highlands open waters; provided, however, that this buffer shall not

6 extend into the planning area. For the purposes of this paragraph,

7 major Highlands development does not include linear development for

8 infrastructure, utilities, and the rights-of-way therefor, provided that

9 there is no other feasible alternative, as determined by the department,

10 for the linear development outside of the buffer. Structures or land

11 uses in the buffer existing on the date of enactment of this act may

12 remain, provided that the area of disturbance shall not be increased.

13 This paragraph shall not be construed to limit the authority of the

14 department to establish buffers of any size or any other protections for

15 category one waters designated by the department pursuant to the

16 "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.),

17 or any other law, or any rule or regulation adopted pursuant thereto,

18 for major Highlands development or for other development that does

19 not qualify as major Highlands development;

20 (2) the quality of all Highlands open waters and waters of the

21 Highlands within the preservation area to be maintained, restored, or

22 enhanced, as required pursuant to the "Water Pollution Control Act,"

23 P.L.1977, c.74 (C.58:10A-1 et seq.) or the "Water Quality Planning

24 Act," P.L.1977, c.75 (C.58:11A-1 et seq.), or any rule or regulation

25 adopted pursuant thereto, and any new or expanded point source

26 discharge, except discharges from water supply facilities, shall not

27 degrade existing water quality. In the case of water supply facilities,

28 all reasonable measures shall be taken to eliminate or minimize water

29 quality impacts;

30 (3) notwithstanding the provisions of subsection a. of section 5 of

31 P.L.1981, c.262 (C.58:1A-5), or any rule or regulation adopted

32 pursuant thereto, to the contrary, any diversion of more than 50,000

33 gallons per day, and multiple diversions by the same or related entities

34 for the same or related projects or developments of more than 50,000

35 gallons per day, of waters of the Highlands shall require a permit

36 pursuant to the "Water Supply Management Act," P.L.1981, c.262

37 (C.58:1A-1 et seq.), and any permit issued pursuant thereto shall be

38 based on consideration of individual and cumulative impacts of

39 multiple diversions, maintenance of stream base flows, minimization

40 of depletive use, maintenance of existing water quality, and protection

41 of ecological uses. Any new or increased diversion for nonpotable

42 purposes that is more than 50% consumptive shall require an

43 equivalent reduction in water demand within the same subdrainage

44 area through such means as groundwater recharge of stormwater or

45 reuse. Existing unused allocation or allocations used for nonpotable

46 purposes may be revoked by the department where measures to the

1 maximum extent practicable are not implemented to reduce demand.  
2 All new or increased diversions shall be required to implement water  
3 conservation measures to the maximum extent practicable;

4 (4) a zero net fill requirement for flood hazard areas pursuant to  
5 the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50  
6 et seq.);

7 (5) the antidegradation provisions of the surface water quality  
8 standards and the stormwater regulations applicable to category one  
9 waters to be applied to Highlands open waters;

10 (6) a prohibition on impervious surfaces of greater than three  
11 percent of the land area of a lot existing on the date of enactment of  
12 this act, except that Highlands open waters shall not be included in the  
13 calculation of that land area;

14 (7) a prohibition on development, except linear development for  
15 infrastructure, utilities, and the rights-of-way therefor, provided that  
16 no other feasible alternative, as determined by the department, exists  
17 for the linear development, on steep slopes with a grade of 20% or  
18 greater; and

19 (8) a prohibition on development that disturbs upland forested  
20 areas, in order to prevent soil erosion and sedimentation, protect water  
21 quality, prevent stormwater runoff, and protect threatened and  
22 endangered animal and plant species sites and designated habitats.  
23 Notwithstanding the provisions of this paragraph to the contrary, if a  
24 major Highlands development complies with all other applicable  
25 requirements for a Highlands Preservation Area approval pursuant to  
26 this subsection and disturbance to an upland forested area is  
27 unavoidable, the department shall allow the disturbance to an upland  
28 forested area of no more than 20 feet directly adjacent to a structure  
29 and of no more than 10 feet on each side of a driveway as necessary  
30 to access a non-forested area of a site.

31 c. Application for a Highlands Preservation Area approval shall be  
32 made on forms made available by the department and shall be  
33 accompanied by a fee established in accordance with a fee schedule  
34 issued by the department within 10 days after the date of enactment of  
35 this act and published in the New Jersey Register. The fee schedule  
36 shall be exempt from the rulemaking requirements of the  
37 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)  
38 and shall expire upon the adoption of the rules and regulations  
39 required pursuant to subsection a. of section 33 of this act.

40 d. The requirements and provisions of this section shall not apply  
41 in the planning area.

42

43 33. (New section) a. Within 270 days after the date of enactment  
44 of this act, and notwithstanding the provisions of the "Administrative  
45 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary,  
46 the Commissioner of Environmental Protection, after consultation with

1 the Department of Agriculture, the Department of Community Affairs,  
2 the State Planning Commission, and the Department of Transportation,  
3 shall, immediately upon filing proper notice with the Office of  
4 Administrative Law, adopt the rules and regulations prepared by the  
5 department pursuant to section 34 of this act and any other rules and  
6 regulations necessary to establish the Highlands permitting review  
7 program established pursuant to section 35 of this act.

8 b. The rules and regulations adopted pursuant to subsection a. of  
9 this section shall be in effect for a period not to exceed one year after  
10 the date of the filing. These rules and regulations shall thereafter be  
11 adopted, amended, or readopted by the commissioner in accordance  
12 with the requirements of the "Administrative Procedure Act," after  
13 consultation with the council, the Department of Agriculture, the  
14 Department of Community Affairs, the State Planning Commission,  
15 and the Department of Transportation .

16 c. The requirements and provisions of sections 33 through 43 of  
17 this act shall not apply in the planning area.

18

19 34. (New section) The Department of Environmental Protection  
20 shall prepare rules and regulations establishing the environmental  
21 standards for the preservation area upon which the regional master  
22 plan adopted by the council and the Highlands permitting review  
23 program administered by the department pursuant to this act shall be  
24 based. These rules and regulations shall provide for at least the  
25 following:

26 a. a prohibition on major Highlands development within 300 feet  
27 of any Highlands open waters, and the establishment of a 300-foot  
28 buffer adjacent to all Highlands open waters; provided, however, that  
29 this buffer shall not extend into the planning area. For the purposes of  
30 this subsection, major Highlands development does not include linear  
31 development for infrastructure, utilities, and the rights-of-way  
32 therefor, provided that there is no other feasible alternative, as  
33 determined by the department, for the linear development outside of  
34 the buffer. Structures or land uses in the buffer existing on the date of  
35 enactment of this act may remain, provided that the area of disturbance  
36 shall not be increased. This subsection shall not be construed to limit  
37 any authority of the department to establish buffers of any size or any  
38 other protections for category one waters designated by the  
39 department pursuant to the "Water Pollution Control Act," P.L.1977,  
40 c.74 (C.58:10A-1 et seq.), or any other law, or any rule or regulation  
41 adopted pursuant thereto, for major Highlands development or for  
42 other development that does not qualify as major Highlands  
43 development;

44 b. measures to ensure that existing water quality shall be  
45 maintained, restored, or enhanced, as required pursuant to the "Water  
46 Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) or the

1 "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.),  
2 or any rule or regulation adopted pursuant thereto, in all Highlands  
3 open waters and waters of the Highlands, and to provide that any new  
4 or expanded point source discharge, except discharges from water  
5 supply facilities, shall not degrade existing water quality. In the case  
6 of water supply facilities, all reasonable measures shall be taken to  
7 eliminate or minimize water quality impacts;

8 c. notwithstanding the provisions of section 23 of P.L.1987, c.156  
9 (C.13:9B-23), or any rule or regulation adopted pursuant thereto, to  
10 the contrary, the criteria for the type of activity or activities eligible  
11 for the use of a general permit for any portion of an activity located  
12 within a freshwater wetland or freshwater wetland transition area  
13 located in the preservation area, provided that these criteria are at  
14 least as protective as those provided in section 23 of P.L.1987, c.156  
15 (C.13:9B-23);

16 d. notwithstanding the provisions of subsection a. of section 5 of  
17 P.L.1981, c.262 (C.58:1A-5), or any rule or regulation adopted  
18 pursuant thereto, to the contrary, a system for the regulation of any  
19 diversion of more than 50,000 gallons per day, and multiple diversions  
20 by the same or related entities for the same or related projects or  
21 developments of more than 50,000 gallons per day, of waters of the  
22 Highlands pursuant to the "Water Supply Management Act,"  
23 P.L.1981, c.262 (C.58:1A-1 et seq.), and any permit issued pursuant  
24 thereto shall be based on consideration of individual and cumulative  
25 impacts of multiple diversions, maintenance of stream base flows,  
26 minimization of depletive use, maintenance of existing water quality,  
27 and protection of ecological uses. Any new or increased diversion for  
28 nonpotable purposes that is more than 50% consumptive shall require  
29 an equivalent reduction in water demand within the same subdrainage  
30 area through such means as groundwater recharge of stormwater or  
31 reuse. Existing unused allocation or allocations used for nonpotable  
32 purposes may be revoked by the department where measures to the  
33 maximum extent practicable are not implemented to reduce demand.  
34 All new or increased diversions shall be required to implement water  
35 conservation measures to the maximum extent practicable;

36 e. a septic system density standard established at a level to prevent  
37 the degradation of water quality, or to require the restoration of water  
38 quality, and to protect ecological uses from individual, secondary, and  
39 cumulative impacts, in consideration of deep aquifer recharge available  
40 for dilution;

41 f. a zero net fill requirement for flood hazard areas pursuant to the  
42 "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et  
43 seq.);

44 g. the antidegradation provisions of the surface water quality  
45 standards and the stormwater regulations applicable to category one  
46 waters to be applied to Highlands open waters;

1 h. a prohibition on impervious surfaces of greater than three  
2 percent of the land area, except that Highlands open waters shall not  
3 be included in the calculation of that land area;

4 i. notwithstanding the provisions of the "Safe Drinking Water Act,"  
5 P.L.1977, c.224 (C.58:12A-1 et seq.), or any rule or regulation  
6 adopted pursuant thereto, to the contrary, a limitation or prohibition  
7 on the construction of new public water systems or the extension of  
8 existing public water systems to serve development in the preservation  
9 area, except in the case of a demonstrated need to protect public  
10 health and safety;

11 j. a prohibition on development, except linear development for  
12 infrastructure, utilities, and the rights-of-way therefor, provided that  
13 no other feasible alternative, as determined by the department, exists  
14 for the linear development, on steep slopes in the preservation area  
15 with a grade of 20% or greater, and standards for development on  
16 slopes in the preservation area exhibiting a grade of between 10% and  
17 20%. The standards shall assure that developments on slopes  
18 exhibiting a grade of between 10% and 20% preserve and protect  
19 steep slopes from the negative consequences of development on the  
20 site and the cumulative impact in the Highlands Region. The standards  
21 shall be developed to prevent soil erosion and sedimentation, protect  
22 water quality, prevent stormwater runoff, protect threatened and  
23 endangered animal and plant species sites and designated habitats,  
24 provide for minimal practicable degradation of unique or irreplaceable  
25 land types, historical or archeological areas, and existing scenic  
26 attributes at the site and within the surrounding area, protect upland  
27 forest, and restrict impervious surface; and shall take into  
28 consideration differing soil types, soil erodability, topography,  
29 hydrology, geology, and vegetation types; and

30 k. a prohibition on development that disturbs upland forested  
31 areas, in order to prevent soil erosion and sedimentation, protect water  
32 quality, prevent stormwater runoff, and protect threatened and  
33 endangered animal and plant species sites and designated habitats; and  
34 standards to protect upland forested areas that require all appropriate  
35 measures be taken to avoid impacts or disturbance to upland forested  
36 areas, and where avoidance is not possible that all appropriate  
37 measures have been taken to minimize and mitigate impacts to upland  
38 forested areas and to prevent soil erosion and sedimentation, protect  
39 water quality, prevent stormwater runoff, and protect threatened and  
40 endangered animal and plant species sites and designated habitats.

41  
42 35. (New section) a. The Department of Environmental  
43 Protection shall establish a Highlands permitting review program to  
44 provide for the coordinated review of any major Highlands  
45 development in the preservation area based upon the rules and  
46 regulations adopted by the department pursuant to sections 33 and 34

1 of this act. The Highlands permitting review program established  
2 pursuant to this section shall consolidate the related aspects of other  
3 regulatory programs which may include, but need not be limited to, the  
4 "Freshwater Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-1  
5 et seq.), "The Endangered and Nongame Species Conservation Act,"  
6 P.L.1973, c.309 (C.23:2A-1 et seq.), the "Water Supply Management  
7 Act," P.L.1981, c.262 (C.58:1A-1 et seq.), the "Water Pollution  
8 Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), "The Realty  
9 Improvement Sewerage and Facilities Act (1954)," P.L.1954, c.199  
10 (C.58:11-23 et seq.), the "Water Quality Planning Act," P.L.1977,  
11 c.75 (C.58:11A-1 et seq.), the "Safe Drinking Water Act," P.L.1977,  
12 c.224 (C.58:12A-1 et seq.), the "Flood Hazard Area Control Act,"  
13 P.L.1962, c.19 (C.58:16A-50 et seq.), and any rules and regulations  
14 adopted pursuant thereto, and the rules and regulations adopted  
15 pursuant to sections 33 and 34 of this act. For the purposes of this  
16 section, the provisions of P.L.1975, c.232 (C.13:1D-29 et seq.) shall  
17 not apply to an application for a permit pursuant to the "Flood Hazard  
18 Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.).

19 b. The Highlands permitting review program established pursuant  
20 to this section shall include:

21 (1) a provision that may allow for a waiver of any provision of a  
22 Highlands permitting review on a case-by-case basis if determined to  
23 be necessary by the department in order to protect public health and  
24 safety;

25 (2) a provision that may allow for a waiver of any provision of a  
26 Highlands permitting review on a case-by-case basis for redevelopment  
27 in certain previously developed areas in the preservation area identified  
28 by the council pursuant to subsection b. of section 9 or subparagraph  
29 (h) of paragraph (6) of subsection a. of section 11 of this act; and

30 (3) a provision that may allow for a waiver of any provision of the  
31 Highlands permitting review on a case-by-case basis in order to avoid  
32 the taking of property without just compensation.

33 The grant of a waiver pursuant to this subsection by the department  
34 shall be conditioned upon the department's determination that the  
35 major Highlands development meets the requirements prescribed for  
36 a finding as listed in subsection a. of section 36 of this act to the  
37 maximum extent possible.

38 c. The waiver provisions of subsection b. of this section are  
39 limited to the provisions of the rules and regulations adopted pursuant  
40 to section 34 of this act, and shall not limit the department's  
41 jurisdiction or authority pursuant to any other provision of law, or any  
42 rule or regulation adopted pursuant thereto, that is incorporated into  
43 the Highlands permitting review program.

44 d. The Highlands permitting review program established pursuant  
45 to this section may provide for the issuance of a general permit,  
46 provided that the department adopts rules and regulations which

1 identify the activities subject to general permit review and establish the  
2 criteria for the approval or disapproval of a general permit.

3 e. Any person proposing to construct or cause to be constructed,  
4 or to undertake or cause to be undertaken, as the case may be, a major  
5 Highlands development in the preservation area shall file an application  
6 for a Highlands permitting review with the department, on forms and  
7 in a manner prescribed by the department.

8 f. The department shall, in accordance with a fee schedule adopted  
9 as a rule or regulation, establish and charge reasonable fees necessary  
10 to meet the administrative costs of the department associated with the  
11 processing, review, and enforcement of any application for a Highlands  
12 permitting review. These fees shall be deposited in the "Environmental  
13 Services Fund," established pursuant to section 5 of P.L.1975, c.232  
14 (C.13:1D-33), and kept separate and apart from all other State  
15 receipts and appropriated only as provided herein. There shall be  
16 appropriated annually to the department revenue from that fund  
17 sufficient to defray in full the costs incurred in the processing, review,  
18 and enforcement of applications for Highlands permitting reviews.

19

20 36. (New section) a. The Commissioner of Environmental  
21 Protection shall review filed applications for Highlands permitting  
22 reviews, including any information presented at public hearings or  
23 during a comment period, or submitted during the application review  
24 period.

25 Except as otherwise provided by subsection b. of this section, a  
26 Highlands permitting review approval may be issued only upon a  
27 finding that the proposed major Highlands development:

28 (1) would have a de minimis impact on water resources and would  
29 not cause or contribute to a significant degradation of surface or  
30 ground waters. In making this determination, the commissioner shall  
31 consider the extent of any impacts on water resources resulting from  
32 the proposed major Highlands development, including, but not limited  
33 to, the regenerative capacity of aquifers or other surface or ground  
34 water supplies, increases in stormwater generated, increases in  
35 impervious surface, increases in stormwater pollutant loading, changes  
36 in land use, and changes in vegetative cover;

37 (2) would cause minimal feasible interference with the natural  
38 functioning of animal, plant, and other natural resources at the site and  
39 within the surrounding area, and minimal feasible individual and  
40 cumulative adverse impacts to the environment both onsite and offsite  
41 of the major Highlands development;

42 (3) will result in minimum feasible alteration or impairment of the  
43 aquatic ecosystem including existing contour, vegetation, fish and  
44 wildlife resources, and aquatic circulation of a freshwater wetland;

45 (4) will not jeopardize the continued existence of species listed  
46 pursuant to "The Endangered and Nongame Species Conservation

1 Act," P.L.1973, c.309 (C.23:2A-1 et seq.) or the "Endangered Plant  
2 Species List Act," P.L.1989, c.56 (C.13:1B-15.151 et seq.), or which  
3 appear on the federal endangered or threatened species list, and will  
4 not result in the likelihood of the destruction or adverse modification  
5 of habitat for any rare, threatened, or endangered species of animal or  
6 plant;

7 (5) is located or constructed so as to neither endanger human life  
8 or property nor otherwise impair the public health, safety, and welfare;

9 (6) would result in minimal practicable degradation of unique or  
10 irreplaceable land types, historical or archeological areas, and existing  
11 public scenic attributes at the site and within the surrounding area; and

12 (7) meets all other applicable department standards, rules, and  
13 regulations and State laws.

14 b. A Highlands permitting review approval may be issued to a  
15 major Highlands development granted a waiver pursuant to the  
16 provisions of subsection b. of section 35 of this act notwithstanding  
17 the inability to make the finding required pursuant to subsection a. of  
18 this section.

19

20 37. (New section) a. Whenever the Commissioner of  
21 Environmental Protection finds that a person has violated any  
22 provision of section 32 of this act, a Highlands permitting review  
23 approval issued pursuant to section 36 of this act, or any rule or  
24 regulation adopted pursuant to sections 33 and 34 of this act, the  
25 commissioner may:

26 (1) Issue an order requiring any such person to comply in  
27 accordance with subsection b. of this section; or

28 (2) Bring a civil action in accordance with subsection c. of this  
29 section; or

30 (3) Levy a civil administrative penalty in accordance with  
31 subsection d. of this section; or

32 (4) Bring an action for a civil penalty in accordance with  
33 subsection e. of this section; or

34 (5) Petition the Attorney General to bring a criminal action in  
35 accordance with subsection f. of this section.

36 Recourse to any of the remedies available under this section shall  
37 not preclude recourse to any of the other remedies prescribed in this  
38 section or by any other applicable law.

39 b. Whenever, on the basis of available information, the  
40 commissioner finds a person in violation of any provision of section 32  
41 of this act, a Highlands permitting review approval issued pursuant to  
42 section 36 of this act, or any rule or regulation adopted pursuant to  
43 sections 33 and 34 of this act, the commissioner may issue an order:

44 (1) specifying the provision or provisions of the law, rule, regulation,  
45 permit, approval, or authorization of which the person is in violation;

46 (2) citing the action which constituted the violation; (3) requiring

1 compliance with the provision or provisions violated; (4) requiring the  
2 restoration of the area which is the site of the violation; and (5)  
3 providing notice to the person of the right to a hearing on the matters  
4 contained in the order.

5 c. The commissioner is authorized to institute a civil action in  
6 Superior Court for appropriate relief from any violation of any  
7 provision of section 32 of this act, a Highlands permitting review  
8 approval issued pursuant to section 36 of this act, or any rule or  
9 regulation adopted pursuant to sections 33 and 34 of this act. Such  
10 relief may include, singly or in combination:

11 (1) A temporary or permanent injunction;

12 (2) Assessment of the violator for the costs of any investigation,  
13 inspection, or monitoring survey which led to the establishment of the  
14 violation, and for the reasonable costs of preparing and bringing legal  
15 action under this subsection;

16 (3) Assessment of the violator for any costs incurred by the State  
17 in removing, correcting, or terminating the adverse effects resulting  
18 from any unauthorized regulated activity for which legal action under  
19 this subsection may have been brought;

20 (4) Assessment against the violator for compensatory damages for  
21 any loss or destruction of wildlife, fish or aquatic life, and for any  
22 other actual damages caused by an unauthorized regulated activity;

23 (5) A requirement that the violator restore the site of the violation  
24 to the maximum extent practicable and feasible.

25 d. The commissioner is authorized to assess a civil administrative  
26 penalty of up to \$25,000 for each violation of any provision of section  
27 32 of this act, a Highlands permitting review approval issued pursuant  
28 to section 36 of this act, or any rule or regulation adopted pursuant to  
29 sections 33 and 34 of this act, and each day during which each  
30 violation continues shall constitute an additional, separate, and distinct  
31 offense. Any amount assessed under this subsection shall fall within  
32 a range established by regulation by the commissioner for violations of  
33 similar type, seriousness, and duration. In adopting rules and  
34 regulations establishing the amount of any penalty to be assessed, the  
35 commissioner may take into account the economic benefits from the  
36 violation gained by the violator. No assessment shall be levied  
37 pursuant to this section until after the party has been notified by  
38 certified mail or personal service. The notice shall: (1) identify the  
39 section of the law, rule, regulation, permit, approval, or authorization  
40 violated; (2) recite the facts alleged to constitute a violation; (3) state  
41 the amount of the civil penalties to be imposed; and (4) affirm the  
42 rights of the alleged violator to a hearing. The ordered party shall  
43 have 20 days from receipt of the notice within which to deliver to the  
44 commissioner a written request for a hearing. After the hearing and  
45 upon finding that a violation has occurred, the commissioner may issue  
46 a final order after assessing the amount of the fine specified in the

1 notice. If no hearing is requested, the notice shall become a final order  
2 after the expiration of the 20-day period. Payment of the assessment  
3 is due when a final order is issued or the notice becomes a final order.  
4 The authority to levy an administrative penalty is in addition to all  
5 other enforcement provisions in this act and in any other applicable  
6 law, rule, or regulation, and the payment of any assessment shall not  
7 be deemed to affect the availability of any other enforcement  
8 provisions in connection with the violation for which the assessment  
9 is levied. Any civil administrative penalty assessed under this section  
10 may be compromised by the commissioner upon the posting of a  
11 performance bond by the violator, or upon such terms and conditions  
12 as the commissioner may establish by regulation.

13 e. A person who violates any provision of section 32 of this act, a  
14 Highlands permitting review approval issued pursuant to section 36 of  
15 this act, or any rule or regulation adopted pursuant to sections 33 and  
16 34 of this act, an administrative order issued pursuant to subsection b.  
17 of this section, or a court order issued pursuant to subsection c. of this  
18 section, or who fails to pay a civil administrative penalty in full  
19 pursuant to subsection d. of this section, shall be subject, upon order  
20 of a court, to a civil penalty not to exceed \$10,000 per day of such  
21 violation, and each day during which the violation continues shall  
22 constitute an additional, separate, and distinct offense. Any civil  
23 penalty imposed pursuant to this subsection may be collected with  
24 costs in a summary proceeding pursuant to the "Penalty Enforcement  
25 Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). In addition to  
26 any penalties, costs or interest charges, the court may assess against  
27 the violator the amount of actual economic benefit accruing to the  
28 violator from the violation. The Superior Court and the municipal  
29 court shall have jurisdiction to enforce the provisions of the "Penalty  
30 Enforcement Law of 1999" in connection with this act.

31 f. A person who purposely or negligently violates any provision of  
32 section 32 of this act, a Highlands permitting review approval issued  
33 pursuant to section 36 of this act, or any rule or regulation adopted  
34 pursuant to sections 33 and 34 of this act, shall be guilty, upon  
35 conviction, of a crime of the fourth degree and, notwithstanding any  
36 provision of N.J.S.2C:43-3 to the contrary, shall be subject to a fine  
37 of not less than \$2,500 nor more than \$25,000 per day of violation, in  
38 addition to any other applicable penalties and provisions under Title  
39 2C of the New Jersey Statutes. A second or subsequent offense under  
40 this subsection shall subject the violator to a fine, notwithstanding any  
41 provision of N.J.S.2C:43-3 to the contrary, of not less than \$5,000 nor  
42 more than \$50,000 per day of violation, in addition to any other  
43 applicable penalties and provisions under Title 2C of the New Jersey  
44 Statutes. A person who knowingly makes a false statement,  
45 representation, or certification in any application, record, or other  
46 document filed or required to be maintained under this act shall be  
47 guilty, upon conviction, of a crime of the fourth degree and,

1 notwithstanding any provision of N.J.S.2C:43-3 to the contrary, shall  
2 be subject to a fine of not more than \$10,000, in addition to any other  
3 applicable penalties and provisions under Title 2C of the New Jersey  
4 Statutes.

5 g. In addition to the penalties prescribed in this section, a notice of  
6 violation of any provision of section 32 of this act, a Highlands  
7 permitting review approval issued pursuant to section 36 of this act,  
8 or any rule or regulation adopted pursuant to sections 33 and 34 of  
9 this act, shall be recorded on the deed of the property wherein the  
10 violation occurred, on order of the commissioner, by the clerk or  
11 register of deeds and mortgages of the county wherein the affected  
12 property is located and with the clerk of the Superior Court and shall  
13 remain attached thereto until such time as the violation has been  
14 remedied and the commissioner orders the notice of violation  
15 removed.

16 h. The department may require an applicant or permittee to provide  
17 any information the department requires to determine compliance with  
18 any provision of section 32 of this act, a Highlands permitting review  
19 approval issued pursuant to section 36 of this act, or any rule or  
20 regulation adopted pursuant to sections 33 and 34 of this act.

21 i. Any person who knowingly, recklessly, or negligently makes a  
22 false statement, representation, or certification in any application,  
23 record, or other document filed or required to be maintained under this  
24 act shall be in violation of this act and shall be subject to the penalties  
25 assessed pursuant to subsections d. and e. of this section.

26 j. All penalties collected pursuant to this section shall either be  
27 used, as determined by the council, by the department for the  
28 acquisition of lands in the preservation area or by any development  
29 transfer bank used or established by the council to purchase  
30 development potential in the preservation area.

31 k. The department shall have the authority to enter any property,  
32 facility, premises, or site for the purpose of conducting inspections or  
33 sampling of soil or water, and for otherwise determining compliance  
34 with the provisions of sections 32 through 36 this act.

35

36 38. (New section) Notwithstanding the provisions P.L.1987, c.156  
37 (C.13:9B-1 et seq.), or any rule or regulation adopted pursuant  
38 thereto, to the contrary, major Highlands development as defined in  
39 section 3 of P.L. , c. (C. ) (now before the Legislature as this  
40 bill) that includes a regulated activity as defined in section 3 of  
41 P.L.1987, c.156 (C.13:9B-3) in a freshwater wetland or freshwater  
42 wetland transition area located in the Highlands preservation area as  
43 defined in section 3 of P.L. , c. (C. ) (now before the Legislature  
44 as this bill) shall also be regulated pursuant to sections 32 through 37  
45 of P.L. , c. (C. ) (now before the Legislature as this bill).

1 39. (New section) Notwithstanding the provisions of subsection  
2 a. of section 5 of P.L.1981, c.262 (C.58:1A-5), or any rule or  
3 regulation adopted pursuant thereto, to the contrary, the Department  
4 of Environmental Protection, pursuant to section 34 of P.L. , c.  
5 (C. ) (now before the Legislature as this bill), shall establish a permit  
6 system to provide for review of allocations or reallocations, for other  
7 than agricultural or horticultural purposes, of waters of the Highlands,  
8 as defined in section 3 of P.L. , c. (C. ) (now before the  
9 Legislature as this bill), to provide for the issuance of permits for  
10 diversions either individually or cumulatively of more than 50,000  
11 gallons per day of waters of the Highlands in the Highlands  
12 preservation area as defined in section 3 of P.L. , c. (C. ) (now  
13 before the Legislature as this bill).

14  
15 40. (New section) Notwithstanding the provisions of the "Water  
16 Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) and the  
17 "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.),  
18 or any rule or regulation adopted pursuant thereto, to the contrary, the  
19 Department of Environmental Protection, pursuant to section 34 of  
20 P.L. , c. (C. ) (now before the Legislature as this bill), shall  
21 establish a septic system density standard at a level to prevent the  
22 degradation of water quality or to require the restoration of water  
23 quality, as required pursuant to the "Water Pollution Control Act,"  
24 P.L.1977, c.74 (C.58:10A-1 et seq.) or the "Water Quality Planning  
25 Act," P.L.1977, c.75 (C.58:11A-1 et seq.), or any rule or regulation  
26 adopted pursuant thereto, and to protect ecological uses from  
27 individual, secondary, and cumulative impacts, in consideration of  
28 deep aquifer recharge available for dilution, which standard shall be  
29 applied to any major Highlands development as defined in section 3 of  
30 P.L. , c. (C. ) (now before the Legislature as this bill) located in  
31 the Highlands preservation area as defined in section 3 of P.L. ,  
32 c. (C. ) (now before the Legislature as this bill).

33  
34 41. (New section) Notwithstanding the provisions of the "Safe  
35 Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), or any  
36 rule or regulation adopted pursuant thereto, to the contrary, the  
37 Department of Environmental Protection, pursuant to section 34 of  
38 P.L. , c. (C. ) (now before the Legislature as this bill), within the  
39 Highlands preservation area as defined in section 3 of P.L. , c.  
40 (C. ) (now before the Legislature as this bill), shall limit or prohibit  
41 the construction of new public water systems or the extension of  
42 existing public water systems to serve development in the Highlands  
43 preservation area as defined in section 3 of P.L. , c. (C. ) (now  
44 before the Legislature as this bill), except in the case of a  
45 demonstrated need to protect public health and safety, and except to  
46 serve development in the Highlands preservation area that is exempt

1 from the provisions of P.L. , c. (C. ) (now before the Legislature  
2 as this bill) pursuant to subsection a. of section 30 of P.L. , c.  
3 (C. ) (now before the Legislature as this bill).

4  
5 42. (New section) Notwithstanding the provisions of the "Water  
6 Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) and the  
7 "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.),  
8 or any rule or regulation adopted pursuant thereto, to the contrary,  
9 within the Highlands preservation area as defined in section 3 of  
10 P.L. , c. (C. ) (now before the Legislature as this bill),  
11 designated sewer service areas for which wastewater collection  
12 systems have not been installed on the date of enactment of P.L. ,  
13 c. (C. ) (now before the Legislature as this bill) are hereby  
14 revoked, and any associated treatment works approvals in the  
15 impacted areas shall expire on the date of enactment of P.L. , c.  
16 (C. ) (now before the Legislature as this bill), except that any  
17 designated sewer service area shall not be revoked and any associated  
18 treatment works approvals shall not expire if necessary to serve  
19 development in the Highlands preservation area that is exempt from  
20 the provisions of P.L. , c. (C. ) (now before the Legislature as  
21 this bill) pursuant to subsection a. of section 30 of P.L. , c. (C. )  
22 (now before the Legislature as this bill). The Department of  
23 Environmental Protection shall implement measures to amend any  
24 water quality management plan as appropriate to reflect the revocation  
25 of designated sewer service areas pursuant to this section.

26  
27 43. (New section) Notwithstanding the provisions of the "Flood  
28 Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.), or  
29 any rule or regulation adopted pursuant thereto, to the contrary, the  
30 Department of Environmental Protection, pursuant to section 34 of  
31 P.L. , c. (C. ) (now before the Legislature as this bill), shall  
32 establish a zero net fill requirement within any flood hazard area  
33 located in the Highlands preservation area as defined in section 3 of  
34 P.L. , c. (C. ) (now before the Legislature as this bill).

35  
36 44. Section 24 of P.L.1983, c.32 (C.4:1C-31) is amended to read  
37 as follows:

38 24. a. Any landowner applying to the board to sell a development  
39 easement pursuant to section 17 of P.L.1983, c.32 (C.4:1C-24) shall  
40 offer to sell the development easement at a price which, in the opinion  
41 of the landowner, represents a fair value of the development potential  
42 of the land for nonagricultural purposes, as determined in accordance  
43 with the provisions of P.L.1983, c.32.

44 b. Any offer shall be reviewed and evaluated by the board and the  
45 committee in order to determine the suitability of the land for  
46 development easement purchase. Decisions regarding suitability shall

1 be based on the following criteria:

2 (1) Priority consideration shall be given, in any one county, to  
 3 offers with higher numerical values obtained by applying the following  
 4 formula:

5  
 6 nonagricultural - agricultural - landowner's  
 7 developmental value value asking price  
 8 -----  
 9 nonagricultural - agricultural  
 10 development value value

11  
 12 (2) The degree to which the purchase would encourage the  
 13 survivability of the municipally approved program in productive  
 14 agriculture; and

15 (3) The degree of imminence of change of the land from productive  
 16 agriculture to nonagricultural use.

17 The board and the committee shall reject any offer for the sale of  
 18 development easements which is unsuitable according to the above  
 19 criteria and which has not been approved by the board and the  
 20 municipality.

21 c. Two independent appraisals paid for by the board shall be  
 22 conducted for each parcel of land so offered and deemed suitable. The  
 23 appraisals shall be conducted by independent, professional appraisers  
 24 selected by the board and the committee from among members of  
 25 recognized organizations of real estate appraisers. The appraisals shall  
 26 determine the current overall value of the parcel for nonagricultural  
 27 purposes, as well as the current market value of the parcel for  
 28 agricultural purposes. The difference between the two values shall  
 29 represent an appraisal of the value of the development easement. If  
 30 Burlington County or a municipality therein has established a  
 31 development transfer bank pursuant to the provisions of P.L.1989,  
 32 c.86 (C.40:55D-113 et seq.) or if any county or any municipality in  
 33 any county has established a development transfer bank pursuant to  
 34 section 22 of P.L.2004, c.2 (C.40:55D-158) or the Highlands Water  
 35 Protection and Planning Council has established a development  
 36 transfer bank pursuant to section 13 of P.L. , c. (C. ) (now  
 37 before the Legislature as this bill) , the municipal average of the value  
 38 of the development potential of property in a sending zone established  
 39 by the bank may be the value used by the board in determining the  
 40 value of the development easement. If a development easement is  
 41 purchased using moneys appropriated from the fund, the State shall  
 42 provide no more than 80%, except 100% under emergency conditions  
 43 specified by the committee pursuant to rules or regulations, of the cost  
 44 of the appraisals conducted pursuant to this section.

45 d. Upon receiving the results of the appraisals, or in Burlington  
 46 county or a municipality therein or elsewhere where a municipal

1 average has been established under subsection c. of this section, upon  
2 receiving an application from the landowners, the board and the  
3 committee shall compare the appraised value, or the municipal  
4 average, as the case may be, and the landowner's offer and, pursuant  
5 to the suitability criteria established in subsection b. of this section:

6 (1) Approve the application to sell the development easement and  
7 rank the application in accordance with the criteria established in  
8 subsection b. of this section; or

9 (2) Disapprove the application, stating the reasons therefor.

10 e. Upon approval by the committee and the board, the secretary is  
11 authorized to provide the board, within the limits of funds  
12 appropriated therefor, an amount equal to no more than 80%, except  
13 100% under emergency conditions specified by the committee  
14 pursuant to rules or regulations, of the purchase price of the  
15 development easement, as determined pursuant to the provisions of  
16 this section. The board shall provide its required share and accept the  
17 landowner's offer to sell the development easement. The acceptance  
18 shall cite the specific terms, contingencies and conditions of the  
19 purchase.

20 f. The landowner shall accept or reject the offer within 30 days of  
21 receipt thereof. Any offer not accepted within that time shall be  
22 deemed rejected.

23 g. Any landowner whose application to sell a development  
24 easement has been rejected for any reason other than insufficient funds  
25 may not reapply to sell a development easement on the same land  
26 within two years of the original application.

27 h. No development easement shall be purchased at a price greater  
28 than the appraised value determined pursuant to subsection c. of this  
29 section or the municipal average, as the case may be.

30 i. The appraisals conducted pursuant to this section or the fair  
31 market value of land restricted to agricultural use shall not be used to  
32 increase the assessment and taxation of agricultural land pursuant to  
33 the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1  
34 et seq.).

35 j. (1) In determining the suitability of land for development  
36 easement purchase, the board and the committee may also include as  
37 additional factors for consideration the presence of a historic building  
38 or structure on the land and the willingness of the landowner to  
39 preserve that building or structure, but only if the committee first  
40 adopts, pursuant to the "Administrative Procedure Act," P.L.1968,  
41 c.410 (C.52:14B-1 et seq.), rules and regulations implementing this  
42 subsection. The committee may, by rule or regulation adopted  
43 pursuant to the "Administrative Procedure Act," assign any such  
44 weight it deems appropriate to be given to these factors.

45 (2) The provisions of paragraph (1) of this subsection may also be  
46 applied in determining the suitability of land for fee simple purchase

1 for farmland preservation purposes as authorized by P.L.1983, c.31  
2 (C.4:1C-1 et seq.), P.L.1983, c.32 (C.4:1C-11 et seq.), and P.L.1999,  
3 c.152 (C.13:8C-1 et seq.).

4 (3) (a) For the purposes of paragraph (1) of this subsection:  
5 "historic building or structure" means the same as that term is defined  
6 pursuant to subsection c. of section 2 of P.L.2001, c.405  
7 (C.13:8C-40.2).

8 (b) For the purposes of paragraph (2) of this subsection, "historic  
9 building or structure" means the same as that term is defined pursuant  
10 to subsection c. of section 1 of P.L.2001, c.405 (C.13:8C-40.1).  
11 (cf: P.L.2004, c.2, s.28)

12

13 45. Section 29 of P.L.1983, c.32 (C.4:1C-36) is amended to read  
14 as follows:

15 29. Nothing herein contained shall be construed to prohibit the  
16 creation of a municipally approved program or other farmland  
17 preservation program, the purchase of development easements, or the  
18 extension of any other benefit herein provided on land, and to owners  
19 thereof, in the Pinelands area, as defined pursuant to section 3 of P.L.  
20 1979, c.111 (C.13:18A-3), or in the Highlands Region, as defined in  
21 section 3 of P.L. , c. (C. ) (now before the Legislature as this  
22 bill) .

23 (cf: P.L.1983, c.32, s.29)

24

25 46. Section 4 of P.L.1993, c.339 (C.4:1C-52) is amended to read  
26 as follows:

27 4. The board shall have the following powers:

28 a. To purchase, or to provide matching funds for the purchase of  
29 80% of, the value of development potential and to otherwise facilitate  
30 development transfers, from the owner of record of the property from  
31 which the development potential is to be transferred or from any  
32 person, or entity, public or private, holding the interest in development  
33 potential that is subject to development transfer; provided that, in the  
34 case of providing matching funds for the purchase of 80% of the value  
35 of development potential, the remaining 20% of that value is  
36 contributed by the affected municipality or county, or both, after  
37 public notice thereof in the New Jersey Register and in one newspaper  
38 of general circulation in the area affected by the purchase. The  
39 remaining 20% of the value of the development potential to be  
40 contributed by the affected municipality or county, or both, to match  
41 funds provided by the board, may be obtained by purchase from, or  
42 donation by, the owner of record of the property from which the  
43 development potential is to be transferred or from any person, or  
44 entity, public or private, holding the interest in development potential  
45 that is subject to development transfer. The value of development  
46 potential may be determined by either appraisal, municipal averaging

- 1 based upon appraisal data, or by a formula supported by appraisal  
2 data. The board may also engage in development transfer by sale,  
3 exchange, or other method of conveyance, provided that in doing so,  
4 the board shall not substantially impair the private sale, exchange or  
5 other method of conveyance of development potential. The board may  
6 not, nor shall anything in this act be construed as permitting the board  
7 to, engage in development transfer from one municipality to another,  
8 which transfer is not in accordance with the ordinances of both  
9 municipalities;
- 10 b. To adopt and, from time to time, amend or repeal suitable  
11 bylaws for the management of its affairs;
- 12 c. To adopt and use an official seal and alter that seal at its  
13 pleasure;
- 14 d. To apply for, receive, and accept, from any federal, State, or  
15 other public or private source, grants or loans for, or in aid of, the  
16 board's authorized purposes;
- 17 e. To enter into any agreement or contract, execute any legal  
18 document, and perform any act or thing necessary, convenient, or  
19 desirable for the purposes of the board or to carry out any power  
20 expressly given in this act;
- 21 f. To adopt, pursuant to the "Administrative Procedure Act,"  
22 P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary  
23 to implement the provisions of this act;
- 24 g. To call to its assistance and avail itself of the services of the  
25 employees of any State, county, or municipal department, board,  
26 commission, or agency as may be required and made available for  
27 these purposes;
- 28 h. To retain such staff as may be necessary in the career service  
29 and to appoint an executive director thereof. The executive director  
30 shall serve as a member of the senior executive or unclassified service  
31 and may be appointed without regard to the provisions of Title 11A of  
32 the New Jersey Statutes;
- 33 i. To review and analyze innovative techniques that may be  
34 employed to maximize the total acreage reserved through the use of  
35 perpetual easements;
- 36 j. To provide, through the State TDR Bank, a financial guarantee  
37 with respect to any loan to be extended to any person that is secured  
38 using development potential as collateral for the loan. Financial  
39 guarantees provided under this act shall be in accordance with  
40 procedures, terms and conditions, and requirements, including rights  
41 and obligations of the parties in the event of default on any loan  
42 secured in whole or in part using development potential as collateral,  
43 to be established by rule or regulation adopted by the board pursuant  
44 to the "Administrative Procedure Act";
- 45 k. To enter into agreement with the State Agriculture Development  
46 Committee for the purpose of acquiring development potential through

1 the acquisition of development easements on farmland so that the  
2 board may utilize the existing processes, procedures, and capabilities  
3 of the State Agriculture Development Committee as necessary and  
4 appropriate to accomplish the goals and objectives of the board as  
5 provided for pursuant to this act;

6 l. To enter into agreements with other State agencies or entities  
7 providing services and programs authorized by law so that the board  
8 may utilize the existing processes, procedures, and capabilities of those  
9 other agencies or entities as necessary and appropriate to accomplish  
10 the goals and objectives of the board as provided for pursuant to this  
11 act;

12 m. To provide planning assistance grants to municipalities for up  
13 to 50% of the cost of preparing, for development potential transfer  
14 purposes, a utility service plan element or a development transfer plan  
15 element of a master plan pursuant to section 19 of P.L.1975, c.291  
16 (C.40:55D-28), a real estate market analysis required pursuant to  
17 section 12 of P.L.2004, c.2 (C.40:55D-148), and a capital  
18 improvement program pursuant to section 20 of P.L.1975, c.291  
19 (C.40:55D-29) and incurred by a municipality, or \$40,000, whichever  
20 is less, which grants shall be made utilizing moneys deposited into the  
21 bank pursuant to section 8 of P.L.1993, c.339, as amended by section  
22 31 of P.L.2004, c.2;

23 n. To provide funding in the form of grants or loans for the  
24 purchase of development potential to development transfer banks  
25 established by a municipality or county pursuant to P.L.1989, c.86  
26 (C.40:55D-113 et seq.) or section 22 of P.L.2004, c.2  
27 (C.40:55D-158); [and]

28 o. To serve as a development transfer bank designated by the  
29 governing body of a municipality or county pursuant to section 22 of  
30 P.L.2004, c.2 (C.40:55D-158) ;

31 p. To provide funding to (1) any development transfer bank that  
32 may be established by the Highlands Water Protection and Planning  
33 Council pursuant to section 13 of P.L. , c. (C. ) (now before the  
34 Legislature as this bill), for the purchase of development potential by  
35 the Highlands development transfer bank, and (2) the council to  
36 provide planning assistance grants to municipalities in the Highlands  
37 Region that are participating in a transfer of development rights  
38 program implemented by the council pursuant to section 13 of P.L. ,  
39 c. (C. ) (now before the Legislature as this bill) in such amounts as  
40 the council deems appropriate to the municipalities notwithstanding  
41 any provision of subsection m. of this section or of section 8 of  
42 P.L.1993, c.339, as amended by section 31 of P.L.2004, c.2, to the  
43 contrary; and

44 q. To serve as a development transfer bank for the Highlands  
45 Region if requested to do so by the Highlands Water Protection and  
46 Planning Council pursuant to section 13 of P.L. , c. (C. ) (now

1 before the Legislature as this bill) .

2 (cf: P.L.2004, c.2, s.30)

3

4 47. Section 11 of P.L.1983, c.560 (C.13:1B-15.143) is amended  
5 to read as follows:

6 11. Subject to the provisions of Title [11 of the Revised] 11A of  
7 the New Jersey Statutes, and within the limits of funds appropriated  
8 or otherwise made available, the commissioner may appoint any officer  
9 or employee to the department necessary to carry out the provisions  
10 of [this act] P.L.1983, c.560 (C.13:1B-15.133 et seq.) , fix and  
11 determine their qualifications, which may include a knowledge of and  
12 familiarity with the pinelands area or the Highlands Region and the  
13 residents thereof.

14 (cf: P.L.1983, c.560, s.11)

15

16 48. Section 1 of P.L.1997, c.64 (C.13:1B-15.159) is amended to  
17 read as follows:

18 1. The Department of Environmental Protection, in cooperation  
19 with the Division of Travel and Tourism in the [Department of] New  
20 Jersey Commerce and Economic [Development] Growth Commission,  
21 [and] in consultation with the Pinelands Commission as it affects the  
22 pinelands area designated pursuant to section 10 of P.L.1979, c.111  
23 (C.13:18A-11), and in consultation with the Highlands Water  
24 Protection and Planning Council as it affects the Highlands Region  
25 designated pursuant to section 7 of P.L. , c. (C. ) (now before  
26 the Legislature as this bill), shall establish a natural resources  
27 inventory, using the Geographic Information System, for the purpose  
28 of encouraging ecologically based tourism and recreation in New  
29 Jersey. This inventory shall contain information on New Jersey's  
30 natural, historic, and recreational resources, and shall include, to the  
31 greatest extent possible, but need not be limited to, federal, State,  
32 county and local parks, wildlife management areas, hatcheries, natural  
33 areas, historic sites, State forests, recreational areas, ecological and  
34 biological study sites, reservoirs, marinas, boat launches,  
35 campgrounds, waterfront access points, winter sports recreation areas,  
36 and national wildlife refuges.

37 (cf: P.L.1997, c.64, s.1)

38

39 49. Section 1 of P.L.1995, c.306 (C.13:1D-58) is amended to read  
40 as follows:

41 1. a. The provisions of P.L.1993, c.38 (C.13:1D-51 et seq.) shall  
42 not apply in the case of conveyances by the State or the department  
43 involving an exchange of lands within the pinelands area, as defined in  
44 section 10 of P.L.1979, c.111 (C.13:18A-11), or within the  
45 Hackensack Meadowlands District, as defined in section 4 of  
46 P.L.1968, c.404 (C.13:17-4), or within the Highlands Region as

1 defined in section 3 of P.L. , c. (C. ) (now before the Legislature  
2 as this bill), to the federal government or any agency or entity thereof,  
3 another State agency or entity, or a local unit, provided the lands to be  
4 conveyed are used for recreation or conservation purposes, shall  
5 continue to be used for recreation or conservation purposes and it has  
6 been determined pursuant to subsection c. of this section that the  
7 proposed recreation and conservation purposes for the lands do not  
8 significantly alter the ecological and environmental value of the lands  
9 being exchanged.

10 b. Prior to any conveyance of lands that is exempted from the  
11 provisions of P.L.1993, c.38 (C.13:1D-51 et seq.) pursuant to  
12 subsection a. of this section, the Department of Environmental  
13 Protection shall conduct at least one public hearing on the proposed  
14 conveyance in the municipality in which the lands proposed to be  
15 conveyed are located. The local unit proposing the recreation or  
16 conservation use of the lands being exchanged shall present its  
17 proposal for the use of the lands being exchanged at the public  
18 hearing, including a description of the proposed recreation or  
19 conservation use of the lands and any proposed alterations to the lands  
20 for the recreation or conservation purposes.

21 c. As a condition of any conveyance of lands that is exempted from  
22 the provisions of P.L.1993, c.38 (C.13:1D-51 et seq.) pursuant to  
23 subsection a. of this section, and prior to any public hearing required  
24 pursuant to subsection b. of this section, the Pinelands Commission,  
25 [or] the [Hackensack] New Jersey Meadowlands [Development]  
26 Commission, or the Highlands Water Protection and Planning Council,  
27 as appropriate, after consultation with the local units in which the  
28 lands to be conveyed are located, shall determine that the proposed  
29 recreation or conservation purpose does not significantly alter the  
30 ecological and environmental value of the lands being exchanged. The  
31 appropriate commission or council shall determine that the proposed  
32 recreation or conservation purpose does not significantly alter the  
33 ecological and environmental value of the lands being exchanged, if:

34 (1) the appropriate commission or council determines that any  
35 proposed recreation or conservation use of the lands being exchanged  
36 is consistent with the law, rules and regulations governing the  
37 protection and development of the pinelands area or pinelands  
38 preservation area, as appropriate and as defined in section 10 of  
39 P.L.1979, c.111 (C.13:18A-11), [or] the Hackensack Meadowlands  
40 District, as defined in section 4 of P.L.1968, c.404 (C.13:17-4), or the  
41 Highlands Region, as defined in section 3 of P.L. , c. (C. ) (now  
42 before the Legislature as this bill), and the requirements of the law,  
43 rules or regulations have been met to the satisfaction of the  
44 appropriate commission or council; and

45 (2) a portion of the lands would be maintained in an undeveloped  
46 or pre-conveyance state and no wetlands would be negatively affected

1 in violation of State or federal law, or any rules or regulations adopted  
2 pursuant thereto.

3 The determinations required pursuant to this subsection shall be  
4 made available to the public at the time of the public hearing required  
5 pursuant to subsection b. of this section.

6 d. For the purposes of this section, "local unit" means a  
7 municipality, county, or other political subdivision of the State, or any  
8 agency thereof authorized to administer, protect, develop and maintain  
9 lands for recreation and conservation purposes.

10 (cf: P.L.1995, c.306, s.1)

11

12 50. Section 18 of P.L.1985, c.432 (C.13:1M-18) is amended to  
13 read as follows:

14 18. a. Nothing in this act shall be construed to supersede or  
15 prohibit the adoption, by the governing body of any [county or]  
16 municipality or county, of any ordinance or resolution regulating or  
17 prohibiting the exploration beyond the reconnaissance phase, drilling  
18 for and the extraction of oil and natural gas or uranium. As used in  
19 this section, "reconnaissance" means:

20 (1) A geologic and mineral resource appraisal of a region by  
21 searching and analyzing published literature, aerial photography, and  
22 geologic maps;

23 (2) Use of geophysical, geochemical, and remote sensing  
24 techniques that do not involve road building, land clearing or the  
25 introduction of chemicals to a land or water area;

26 (3) Surface geologic, topographic or other mapping and property  
27 surveying; or

28 (4) Sample collections which do not involve excavation or drilling  
29 equipment or the introduction of chemicals to land or water area.

30 b. A municipality or county shall submit a copy of any ordinance  
31 or regulation specifically pertaining to activities regulated by this act,  
32 or a rule or regulation promulgated pursuant to this act, to the  
33 department.

34 c. The department shall, within 90 days of submittal, approve or  
35 disapprove any ordinance or regulation submitted pursuant to  
36 subsection b. of this section. An ordinance or regulation shall be  
37 disapproved only if the department finds it unreasonable and provides  
38 in writing its reasons for the finding. The failure of the department to  
39 act within 90 days of submittal shall constitute approval.

40 d. Nothing in this section shall be construed to limit the authority  
41 of a municipality or county or board of health to enact ordinances or  
42 regulations of general applicability to all industrial or commercial  
43 activities, including, but not limited to, ordinances and regulations  
44 limiting noise, light, and odor.

45 e. The department shall not approve any ordinance or regulation  
46 submitted pursuant to subsection b. of this section which governs

1 activities within the Pinelands area designated in the "Pinelands  
2 Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), unless the  
3 Pinelands Commission has approved the ordinance or regulation. The  
4 department shall not disapprove an ordinance or regulation, or portion  
5 thereof, which has been certified by the Pinelands Commission as  
6 consistent with the requirements of the Comprehensive Management  
7 Plan as required by the "Pinelands Protection Act."

8 f. The department shall not approve any ordinance or regulation  
9 submitted pursuant to subsection b. of this section which governs  
10 activities within the Highlands preservation area designated in the  
11 "Highlands Water Protection and Planning Act," P.L. , c. (C. )  
12 (now before the Legislature as this bill), unless the Highlands Water  
13 Protection and Planning Council has approved the ordinance or  
14 regulation. The department shall not disapprove an ordinance or  
15 regulation, or portion thereof, which has been certified by the  
16 Highlands Water Protection and Planning Council as consistent with  
17 the requirements of the Highlands regional master plan as required by  
18 the "Highlands Water Protection and Planning Act."

19 (cf: P.L.1985, c.432, s.18)

20

21 51. Section 25 of P.L.1999, c.152 (C.13:8C-25) is amended to  
22 read as follows:

23 25. Within one year after the date of enactment of this act, and  
24 biennially thereafter until and including 2008, the Garden State  
25 Preservation Trust, after consultation with the Department of  
26 Environmental Protection, the State Agriculture Development  
27 Committee, the New Jersey Historic Trust, the Pinelands Commission,  
28 the Highlands Water Protection and Planning Council, and the Office  
29 of State Planning in the Department of Community Affairs, shall  
30 prepare and submit to the Governor and the Legislature a written  
31 report, which shall:

32 a. Describe the progress being made on achieving the goals and  
33 objectives of Article VIII, Section II, paragraph 7 of the State  
34 Constitution and this act with respect to the acquisition and  
35 development of lands for recreation and conservation purposes, the  
36 preservation of farmland, and the preservation of historic properties,  
37 and provide recommendations with respect to any legislative,  
38 administrative, or local action that may be required to ensure that  
39 those goals and objectives may be met in the future;

40 b. Tabulate, both for the reporting period and cumulatively, the  
41 total acreage for the entire State, and the acreage in each county and  
42 municipality, of lands acquired for recreation and conservation  
43 purposes and of farmland preserved for farmland preservation  
44 purposes that have been applied toward meeting the goals and  
45 objectives of Article VIII, Section II, paragraph 7 of the State  
46 Constitution and this act with respect to the acquisition of lands for

- 1 recreation and conservation purposes and the preservation of farmland;
- 2 c. Tabulate, both for the reporting period and cumulatively, the  
3 total acreage for the entire State, and the acreage in each county and  
4 municipality, of any donations of land that have been applied toward  
5 meeting the goals and objectives of Article VIII, Section II, paragraph  
6 7 of the State Constitution and this act with respect to the acquisition  
7 of lands for recreation and conservation purposes and the preservation  
8 of farmland;
- 9 d. List, both for the reporting period and cumulatively, and by  
10 project name, project sponsor, and location by county and  
11 municipality, all historic preservation projects funded with  
12 constitutionally dedicated moneys in whole or in part;
- 13 e. Indicate those areas of the State where, as designated by the  
14 Department of Environmental Protection in the Open Space Master  
15 Plan prepared pursuant to section 5 of P.L.2002, c.76 (C.13:8C-25.1),  
16 the acquisition and development of lands by the State for recreation  
17 and conservation purposes is planned or is most likely to occur, and  
18 those areas of the State where there is a need to protect water  
19 resources, including the identification of lands where protection is  
20 needed to assure adequate quality and quantity of drinking water  
21 supplies in times of drought, indicate those areas of the State where  
22 the allocation of constitutionally dedicated moneys for farmland  
23 preservation purposes is planned or is most likely to occur, and  
24 provide a proposed schedule and expenditure plan for those  
25 acquisitions, developments, and allocations, for the next reporting  
26 period, which shall include an explanation of how those acquisitions,  
27 developments, and allocations will be distributed throughout all  
28 geographic regions of the State to the maximum extent practicable and  
29 feasible;
- 30 f. List any surplus real property owned by the State or an  
31 independent authority of the State that may be utilizable for recreation  
32 and conservation purposes or farmland preservation purposes, and  
33 indicate what action has been or must be taken to effect a conveyance  
34 of those lands to the department, the committee, local government  
35 units, qualifying tax exempt nonprofit organizations, or other entities  
36 or persons so that the lands may be preserved and used for those  
37 purposes;
- 38 g. List, for the reporting period, all projects for which applications  
39 for funding under the Green Acres, farmland preservation, and historic  
40 preservation programs were received but not funded with  
41 constitutionally dedicated moneys during the reporting period, and the  
42 reason or reasons why those projects were not funded;
- 43 h. Provide, for the reporting period, a comparison of the amount  
44 of constitutionally dedicated moneys annually appropriated for local  
45 government unit projects for recreation and conservation purposes in  
46 municipalities eligible to receive State aid pursuant to P.L.1978, c.14

1 (C.52:27D-178 et seq.) to the average amount of Green Acres bond  
2 act moneys annually appropriated for such projects in the years 1984  
3 through 1998; and

4 i. Tabulate, both for the reporting period and cumulatively, the  
5 total acreage for the entire State, and the acreage in each county and  
6 municipality, of lands acquired for recreation and conservation  
7 purposes that protect water resources and that protect flood-prone  
8 areas.

9 (cf: P.L.2002, c.76, s.3)

10

11 52. Section 5 of P.L.2002, c.76 (C.13:8C-25.1) is amended to read  
12 as follows:

13 5. a. Within one year after the date of enactment of P.L.2002, c.76  
14 (C.13:8C-25.1 et al.), and annually thereafter, the Department of  
15 Environmental Protection, in consultation with the Office of State  
16 Planning in the Department of Community Affairs [and], the Pinelands  
17 Commission, and the Highlands Water Protection and Planning  
18 Council, shall prepare and submit to the Governor and the Legislature  
19 an Open Space Master Plan, which shall indicate those areas of the  
20 State where the acquisition and development of lands by the State for  
21 recreation and conservation purposes is planned or is most likely to  
22 occur, and those areas of the State where there is a need to protect  
23 water resources, including the identification of lands where protection  
24 is needed to assure adequate quality and quantity of drinking water  
25 supplies in times of drought, and which shall provide a proposed  
26 schedule and expenditure plan for those acquisitions and developments  
27 for the next reporting period, which shall include an explanation of  
28 how those acquisitions and developments will be distributed  
29 throughout all geographic regions of the State to the maximum extent  
30 practicable and feasible.

31 b. The department shall provide any information the Garden State  
32 Preservation Trust deems necessary in preparing its biennial report  
33 pursuant to section 25 of P.L.1999, c.152 (C.13:8C-25).

34 (cf: P.L.2002, c.76, s.5)

35

36 53. Section 26 of P.L.1999, c.152 (C.13:8C-26) is amended to  
37 read as follows:

38 26. a. Moneys appropriated from the Garden State Green Acres  
39 Preservation Trust Fund to the Department of Environmental  
40 Protection shall be used by the department to:

41 (1) Pay the cost of acquisition and development of lands by the  
42 State for recreation and conservation purposes;

43 (2) Provide grants and loans to assist local government units to pay  
44 the cost of acquisition and development of lands for recreation and  
45 conservation purposes; and

46 (3) Provide grants to assist qualifying tax exempt nonprofit

1 organizations to pay the cost of acquisition and development of lands  
2 for recreation and conservation purposes.

3 b. The expenditure and allocation of constitutionally dedicated  
4 moneys for recreation and conservation purposes shall reflect the  
5 geographic diversity of the State to the maximum extent practicable  
6 and feasible.

7 c. (1) Notwithstanding the provisions of section 5 of P.L.1985,  
8 c.310 (C.13:18A-34) or this act, or any rule or regulation adopted  
9 pursuant thereto, to the contrary, the value of a pinelands development  
10 credit, allocated to a parcel pursuant to P.L.1979, c.111 (C.13:18A-1  
11 et seq.) and the pinelands comprehensive management plan adopted  
12 pursuant thereto, shall be made utilizing a value to be determined by  
13 either appraisal, regional averaging based upon appraisal data, or a  
14 formula supported by appraisal data. The appraisal and appraisal data  
15 shall consider as appropriate: land values in the pinelands regional  
16 growth areas; land values in counties, municipalities, and other areas  
17 reasonably contiguous to, but outside of, the pinelands area; and other  
18 relevant factors as may be necessary to maintain the environmental,  
19 ecological, and agricultural qualities of the pinelands area.

20 (2) No pinelands development credit allocated to a parcel of land  
21 pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.) and the pinelands  
22 comprehensive management plan adopted pursuant thereto that is  
23 acquired or obtained in connection with the acquisition of the parcel  
24 for recreation and conservation purposes by the State, a local  
25 government unit, or a qualifying tax exempt nonprofit organization  
26 using constitutionally dedicated moneys in whole or in part may be  
27 conveyed in any manner. All such pinelands development credits shall  
28 be retired permanently.

29 d. (1) (a) For State fiscal years 2000 through 2004 only, when the  
30 department, a local government unit, or a qualifying tax exempt  
31 nonprofit organization seeks to acquire lands for recreation and  
32 conservation purposes using constitutionally dedicated moneys in  
33 whole or in part or Green Acres bond act moneys in whole or in part,  
34 it shall conduct or cause to be conducted an appraisal or appraisals of  
35 the value of the lands that shall be made using the land use zoning of  
36 the lands **[(I)]** (i) in effect at the time of proposed acquisition, and (ii)  
37 in effect on November 3, 1998 as if that land use zoning is still in  
38 effect at the time of proposed acquisition. The higher of those two  
39 values shall be utilized by the department, a local government unit, or  
40 a qualifying tax exempt nonprofit organization as the basis for  
41 negotiation with the landowner with respect to the acquisition price  
42 for the lands. The landowner shall be provided with both values  
43 determined pursuant to this subparagraph.

44 A landowner may waive any of the requirements of this paragraph  
45 and may agree to sell the lands for less than the values determined  
46 pursuant to this paragraph.

1 (b) After the date of enactment of P.L.2001, c.315 and through  
2 June 30, 2004, in determining the two values required pursuant to  
3 subparagraph (a) of this paragraph, the appraisal shall be made using  
4 not only the land use zoning but also the Department of Environmental  
5 Protection wastewater, water quality and watershed management rules  
6 and regulations and associated requirements and standards applicable  
7 to the lands subject to the appraisal [(I)] (i) in effect at the time of  
8 proposed acquisition, and (ii) in effect on November 3, 1998 as if  
9 those rules and regulations and associated requirements and standards  
10 are still in effect at the time of proposed acquisition.

11 (2) The requirements of this subsection shall be in addition to any  
12 other requirements of law, rule, or regulation not inconsistent  
13 therewith.

14 (3) This subsection shall not:

15 (a) apply if the land use zoning of the lands at the time of proposed  
16 acquisition, and the Department of Environmental Protection  
17 wastewater, water quality and watershed management rules and  
18 regulations and associated requirements and standards applicable to  
19 the lands at the time of proposed acquisition, have not changed since  
20 November 3, 1998;

21 (b) apply in the case of lands to be acquired with federal moneys  
22 in whole or in part;

23 (c) apply in the case of lands to be acquired in accordance with  
24 subsection c. of this section;

25 (d) apply to projects funded using constitutionally dedicated  
26 moneys appropriated pursuant to the annual appropriations act for  
27 State fiscal year 2000 (P.L.1999, c.138); or

28 (e) alter any requirements to disclose information to a landowner  
29 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361  
30 (C.20:3-1 et seq.).

31 e. Moneys appropriated from the fund may be used to match  
32 grants, contributions, donations, or reimbursements from federal aid  
33 programs or from other public or private sources established for the  
34 same or similar purposes as the fund.

35 f. Moneys appropriated from the fund shall not be used by local  
36 government units or qualifying tax exempt nonprofit organizations to  
37 acquire lands that are already permanently preserved for recreation and  
38 conservation purposes, as determined by the department.

39 g. Whenever lands are donated to the State by a public utility, as  
40 defined pursuant to Title 48 of the Revised Statutes, for recreation and  
41 conservation purposes, the commissioner may make and keep the lands  
42 accessible to the public, unless the commissioner determines that  
43 public accessibility would be detrimental to the lands or any natural  
44 resources associated therewith.

45 h. Whenever the State acquires land for recreation and  
46 conservation purposes, the agency in the Department of Environmental

1 Protection responsible for administering the land shall, within six  
2 months after the date of acquisition, inspect the land for the presence  
3 of any buildings or structures thereon which are or may be historic  
4 properties and, within 60 days after completion of the inspection,  
5 provide to the New Jersey Historic Preservation Office in the  
6 department (1) a written notice of its findings, and (2) for any  
7 buildings or structures which are or may be historic properties  
8 discovered on the land, a request for determination of potential  
9 eligibility for inclusion of the historic building or structure in the New  
10 Jersey Register of Historic Places. Whenever such a building or  
11 structure is discovered, a copy of the written notice provided to the  
12 New Jersey Historic Preservation Office shall also be sent to the New  
13 Jersey Historic Trust and to the county historical commission or  
14 advisory committee, the county historical society, the local historic  
15 preservation commission or advisory committee, and the local  
16 historical society if any of those entities exist in the county or  
17 municipality wherein the land is located.

18 i. (1) Commencing July 1, 2004 and until five years after the date  
19 of enactment of P.L.2001, c.315, when the department, a local  
20 government unit, or a qualifying tax exempt nonprofit organization  
21 seeks to acquire lands for recreation and conservation purposes using  
22 constitutionally dedicated moneys in whole or in part or Green Acres  
23 bond act moneys in whole or in part, it shall conduct or cause to be  
24 conducted an appraisal or appraisals of the value of the lands that shall  
25 be made using the Department of Environmental Protection  
26 wastewater, water quality and watershed management rules and  
27 regulations and associated requirements and standards applicable to  
28 the lands subject to the appraisal (a) in effect at the time of proposed  
29 acquisition, and (b) in effect on November 3, 1998 as if those rules and  
30 regulations and associated requirements and standards are still in effect  
31 at the time of proposed acquisition. The higher of those two values  
32 shall be utilized by the department, a local government unit, or a  
33 qualifying tax exempt nonprofit organization as the basis for  
34 negotiation with the landowner with respect to the acquisition price  
35 for the lands. The landowner shall be provided with both values  
36 determined pursuant to this paragraph. A landowner may waive any  
37 of the requirements of this paragraph and may agree to sell the lands  
38 for less than the values determined pursuant to this paragraph.

39 (2) The requirements of this subsection shall be in addition to any  
40 other requirements of law, rule, or regulation not inconsistent  
41 therewith.

42 (3) This subsection shall not:

43 (a) apply if the Department of Environmental Protection  
44 wastewater, water quality and watershed management rules and  
45 regulations and associated requirements and standards applicable to  
46 the lands at the time of proposed acquisition have not changed since

1 November 3, 1998;

2 (b) apply in the case of lands to be acquired with federal moneys  
3 in whole or in part;

4 (c) apply in the case of lands to be acquired in accordance with  
5 subsection c. of this section; or

6 (d) alter any requirements to disclose information to a landowner  
7 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361  
8 (C.20:3-1 et seq.).

9 j. (1) Commencing on the date of enactment of P.L. , c. (C. )  
10 (now before the Legislature as this bill) or July 1, 2004, whichever is  
11 later, and through June 30, 2009, when the department, a local  
12 government unit, or a qualifying tax exempt nonprofit organization  
13 seeks to acquire lands for recreation and conservation purposes using  
14 constitutionally dedicated moneys in whole or in part or Green Acres  
15 bond act moneys in whole or in part, it shall conduct or cause to be  
16 conducted an appraisal or appraisals of the value of the lands that shall  
17 be made using (a) the land use zoning of the lands, and any State  
18 environmental laws or Department of Environmental Protection rules  
19 and regulations that may affect the value of the lands, subject to the  
20 appraisal and in effect at the time of proposed acquisition, and (b) the  
21 land use zoning of the lands, and any State environmental laws or  
22 Department of Environmental Protection rules and regulations that  
23 may affect the value of the lands, subject to the appraisal and in effect  
24 on January 1, 2004. The higher of those two values shall be utilized  
25 by the department, a local government unit, or a qualifying tax exempt  
26 nonprofit organization as the basis for negotiation with the landowner  
27 with respect to the acquisition price for the lands. The landowner shall  
28 be provided with both values determined pursuant to this paragraph.

29 A landowner may waive any of the requirements of this paragraph  
30 and may agree to sell the lands for less than the values determined  
31 pursuant to this paragraph.

32 The provisions of this paragraph shall be applicable only to lands  
33 the owner of which at the time of proposed acquisition is the same  
34 person who owned the lands on the date of enactment of P.L. , c.  
35 (C. ) (now before the Legislature as this bill) and who has owned the  
36 lands continuously since that enactment date, or is an immediate family  
37 member of that person.

38 (2) A landowner whose lands are subject to the provisions of  
39 paragraph (1) of this subsection shall choose to have the lands  
40 appraised in accordance with this subsection or in accordance with the  
41 provisions of either subsection d. or subsection i. of this section to the  
42 extent that the subsection is applicable and has not expired.

43 (3) The requirements of this subsection shall be in addition to any  
44 other requirements of law, rule, or regulation not inconsistent  
45 therewith.

46 (4) This subsection shall not:

1       (a) apply in the case of lands to be acquired with federal moneys  
2 in whole or in part;

3       (b) apply in the case of lands to be acquired in accordance with  
4 subsection c. of this section; or

5       (c) alter any requirements to disclose information to a landowner  
6 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361  
7 (C.20:3-1 et seq.).

8       (5) For the purposes of this subsection, "immediate family  
9 member" means a spouse, child, parent, sibling, aunt, uncle, niece,  
10 nephew, first cousin, grandparent, grandchild, father-in-law,  
11 mother-in-law, son-in-law, daughter-in-law, stepparent, stepchild,  
12 stepbrother, stepsister, half brother, or half sister, whether the  
13 individual is related by blood, marriage, or adoption.

14       [j.] k. The department shall adopt guidelines for the evaluation  
15 and priority ranking process which shall be used in making decisions  
16 concerning the acquisition of lands by the State for recreation and  
17 conservation purposes using moneys from the Garden State Green  
18 Acres Preservation Trust Fund and from any other source. The  
19 guidelines shall be designed to provide, to the maximum extent  
20 practicable and feasible, that such moneys are spent equitably among  
21 the geographic areas of the State. The guidelines, and any subsequent  
22 revisions thereto, shall be published in the New Jersey Register. The  
23 adoption of the guidelines or of the revisions thereto, shall not be  
24 subject to the requirements of the "Administrative Procedure Act,"  
25 P.L.1968, c.410 (C.52:14B-1 et seq.).

26       [k.] l. In making decisions concerning the acquisition of lands by  
27 the State for recreation and conservation purposes using moneys from  
28 the Garden State Green Acres Preservation Trust Fund, in the  
29 evaluation and priority ranking process the department shall accord  
30 three times the weight to acquisitions of lands that would protect  
31 water resources, and two times the weight to acquisitions of lands that  
32 would protect flood-prone areas, as those criteria are compared to the  
33 other criteria in the priority ranking process.

34       [l.] m. The department, pursuant to the "Administrative  
35 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt  
36 rules and regulations that establish standards and requirements  
37 regulating any activity on lands acquired by the State for recreation  
38 and conservation purposes using constitutionally dedicated moneys to  
39 assure that the activity on those lands does not diminish the protection  
40 of surface water or groundwater resources.

41       Any rules and regulations adopted pursuant to this subsection shall  
42 not apply to activities on lands acquired prior to the adoption of the  
43 rules and regulations.

44       n. (1) The department, within three months after the date of the  
45 first meeting of the Highland Water Protection and Planning Council  
46 established pursuant to section 4 of P.L. , c. (C. ) (now before

1 the Legislature as this bill), shall consult with and solicit  
2 recommendations from the council concerning land preservation  
3 strategies and acquisition plans in the Highlands Region as defined in  
4 section 3 of P.L. , c. (C. ) (now before the Legislature as this  
5 bill).

6 The council's recommendations shall also address strategies and  
7 plans concerning establishment by the department of a methodology  
8 for prioritizing the acquisition of land in the Highlands preservation  
9 area, as defined in section 3 of P.L. , c. (C. ) (now before the  
10 Legislature as this bill), for recreation and conservation purposes using  
11 moneys from the Garden State Green Acres Preservation Trust Fund,  
12 especially with respect to (a) any land that has declined substantially  
13 in value due to the implementation of the "Highlands Water Protection  
14 and Planning Act," P.L. , c. (C. ) (now before the Legislature as  
15 this bill), and (b) any major Highlands development, as defined in  
16 section 3 of P.L. , c. (C. ) (now before the Legislature as this  
17 bill), that would have qualified for an exemption pursuant to paragraph  
18 (3) of subsection a. of section 30 of P.L. , c. (C. ) (now before  
19 the Legislature as this bill) but for the lack of a necessary State permit  
20 as specified in subparagraphs (b) or (c), as appropriate, of paragraph  
21 (3) of subsection a. of section 30 of P.L. , c. (C. ) (now before  
22 the Legislature as this bill), and for which an application for such a  
23 permit had been submitted to the Department of Environmental  
24 Protection and deemed by the department to be complete for review  
25 on or before March 29, 2004. The recommendations may also include  
26 a listing of specific parcels in the Highlands preservation area that the  
27 council is aware of that meet the criteria of subparagraphs (a) or (b)  
28 of this paragraph and for that reason should be considered by the  
29 department as a priority for acquisition, but any such list shall remain  
30 confidential notwithstanding any provision of P.L.1963, c.73  
31 (C.47:1A-1 et seq.) or any other law to the contrary.

32 (2) In making decisions concerning applications for funding  
33 submitted by municipalities in the Highlands planning area, as defined  
34 in section 3 of P.L. , c. (C. ) (now before the Legislature as this  
35 bill), to acquire or develop lands for recreation and conservation  
36 purposes using moneys from the Garden State Green Acres  
37 Preservation Trust Fund, in the evaluation and priority ranking process  
38 the department shall accord a higher weight to any application  
39 submitted by a municipality in the Highlands planning area that has  
40 amended its development regulations in accordance with section 13 of  
41 P.L. , c. (C. ) (now before the Legislature as this bill) to  
42 establish one or more receiving zones for the transfer of development  
43 potential from the Highlands preservation area, as defined in section  
44 3 of P.L. , c. (C. ) (now before the Legislature as this bill), than  
45 that which is accorded to comparable applications submitted by other  
46 municipalities in the Highlands planning area that have not made such

1 amendments to their development regulations.

2 o. Notwithstanding any provision of P.L.1999, c.152 (C.13:8C-1  
3 et seq.) to the contrary, for State fiscal years 2005 through 2009, the  
4 sum spent by the department in each of those fiscal years for the  
5 acquisition of lands by the State for recreation and conservation  
6 purposes using moneys from the Garden State Green Acres  
7 Preservation Trust Fund in each county of the State shall be not less,  
8 and may be greater if additional sums become available, than the  
9 average annual sum spent by the department therefor in each such  
10 county, respectively, for State fiscal years 2002 through 2004,  
11 provided there is sufficient and appropriate lands within the county to  
12 be so acquired by the State for such purposes.

13 (cf: P.L.2002, c.76, s.4)

14

15 54. Section 38 of P.L.1999, c.152 (C.13:8C-38) is amended to  
16 read as follows:

17 38. a. All acquisitions or grants made pursuant to section 37 of  
18 [this act] P.L.1999, c.152 (C.13:8C-37) shall be made with respect to  
19 farmland devoted to farmland preservation under programs established  
20 by law.

21 b. The expenditure and allocation of constitutionally dedicated  
22 moneys for farmland preservation purposes shall reflect the geographic  
23 diversity of the State to the maximum extent practicable and feasible.

24 c. The committee shall implement the provisions of section 37 of  
25 [this act] P.L.1999, c.152 (C.13:8C-37) in accordance with the  
26 procedures and criteria established pursuant to the "Agriculture  
27 Retention and Development Act," P.L.1983, c.32 (C.4:1C-11 et seq.)  
28 except as provided otherwise by this act.

29 d. The committee shall adopt the same or a substantially similar  
30 method for determining, for the purposes of this act, the committee's  
31 share of the cost of a development easement on farmland to be  
32 acquired by a local government as that which is being used by the  
33 committee on the date of enactment of this act for prior farmland  
34 preservation funding programs.

35 e. Notwithstanding the provisions of section 24 of P.L.1983, c.32  
36 (C.4:1C-31) or this act, or any rule or regulation adopted pursuant  
37 thereto, to the contrary, whenever the value of a development  
38 easement on farmland to be acquired using constitutionally dedicated  
39 moneys in whole or in part is determined based upon the value of any  
40 pinelands development credits allocated to the parcel pursuant to  
41 P.L.1979, c.111 (C.13:18A-1 et seq.) and the pinelands comprehensive  
42 management plan adopted pursuant thereto, the committee shall  
43 determine the value of the development easement by:

44 (1) conducting a sufficient number of fair market value appraisals  
45 as it deems appropriate to determine the value for farmland  
46 preservation purposes of the pinelands development credits;

1 (2) considering development easement values in counties,  
2 municipalities, and other areas (a) reasonably contiguous to, but  
3 outside of, the pinelands area, which in the sole opinion of the  
4 committee constitute reasonable development easement values in the  
5 pinelands area for the purposes of this subsection, and (b) in the  
6 pinelands area where pinelands development credits are or may be  
7 utilized, which in the sole opinion of the committee constitute  
8 reasonable development easement values in the pinelands area for the  
9 purposes of this subsection;

10 (3) considering land values in the pinelands regional growth areas;

11 (4) considering the importance of preserving agricultural lands in  
12 the pinelands area; and

13 (5) considering such other relevant factors as may be necessary to  
14 increase participation in the farmland preservation program by owners  
15 of agricultural lands located in the pinelands area.

16 f. No pinelands development credit that is acquired or obtained in  
17 connection with the acquisition of a development easement on  
18 farmland or fee simple title to farmland by the State, a local  
19 government unit, or a qualifying tax exempt nonprofit organization  
20 using constitutionally dedicated moneys in whole or in part may be  
21 conveyed in any manner. All such pinelands development credits shall  
22 be retired permanently.

23 g. (1) (a) For State fiscal years 2000 through 2004 only, when the  
24 committee, a local government unit, or a qualifying tax exempt  
25 nonprofit organization seeks to acquire a development easement on  
26 farmland or the fee simple title to farmland for farmland preservation  
27 purposes using constitutionally dedicated moneys in whole or in part,  
28 it shall conduct or cause to be conducted an appraisal or appraisals of  
29 the value of the lands that shall be made using the land use zoning of  
30 the lands [(I)] (i) in effect at the time of proposed acquisition, and (ii)  
31 in effect on November 3, 1998 as if that land use zoning is still in  
32 effect at the time of proposed acquisition. The higher of those two  
33 values shall be utilized by the committee, a local government unit, or  
34 a qualifying tax exempt nonprofit organization as the basis for  
35 negotiation with the landowner with respect to the acquisition price  
36 for the lands. The landowner shall be provided with both values  
37 determined pursuant to this subparagraph.

38 A landowner may waive any of the requirements of this paragraph  
39 and may agree to sell the lands for less than the values determined  
40 pursuant to this paragraph.

41 (b) After the date of enactment of P.L.2001, c.315 and through  
42 June 30, 2004, in determining the two values required pursuant to  
43 subparagraph (a) of this paragraph, the appraisal shall be made using  
44 not only the land use zoning but also the Department of Environmental  
45 Protection wastewater, water quality and watershed management rules  
46 and regulations and associated requirements and standards applicable

1 to the lands subject to the appraisal [(I)] (i) in effect at the time of  
2 proposed acquisition, and (ii) in effect on November 3, 1998 as if  
3 those rules and regulations and associated requirements and standards  
4 are still in effect at the time of proposed acquisition.

5 (2) The requirements of this subsection shall be in addition to any  
6 other requirements of law, rule, or regulation not inconsistent  
7 therewith.

8 (3) This subsection shall not:

9 (a) apply if the land use zoning of the lands at the time of proposed  
10 acquisition, and the Department of Environmental Protection  
11 wastewater, water quality and watershed management rules and  
12 regulations and associated requirements and standards applicable to  
13 the lands at the time of proposed acquisition, have not changed since  
14 November 3, 1998;

15 (b) apply in the case of lands to be acquired with federal moneys  
16 in whole or in part;

17 (c) apply in the case of lands to be acquired in accordance with  
18 subsection e. of this section;

19 (d) apply to projects funded using constitutionally dedicated  
20 moneys appropriated pursuant to the annual appropriations act for  
21 State fiscal year 2000 (P.L.1999, c.138); or

22 (e) alter any requirements to disclose information to a landowner  
23 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361  
24 (C.20:3-1 et seq.).

25 h. Any farmland for which a development easement or fee simple  
26 title has been acquired pursuant to section 37 of [this act] P.L.1999,  
27 c.152 (C.13:8C-37) shall be entitled to the benefits conferred by the  
28 "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1 et al.) and the  
29 "Agriculture Retention and Development Act," P.L.1983, c.32  
30 (C.4:1C-11 et al.).

31 i. (1) Commencing July 1, 2004 and until five years after the date  
32 of enactment of P.L.2001, c.315, when the committee, a local  
33 government unit, or a qualifying tax exempt nonprofit organization  
34 seeks to acquire a development easement on farmland or the fee simple  
35 title to farmland for farmland preservation purposes using  
36 constitutionally dedicated moneys in whole or in part, it shall conduct  
37 or cause to be conducted an appraisal or appraisals of the value of the  
38 lands that shall be made using the Department of Environmental  
39 Protection wastewater, water quality and watershed management rules  
40 and regulations and associated requirements and standards applicable  
41 to the lands subject to the appraisal (a) in effect at the time of  
42 proposed acquisition, and (b) in effect on November 3, 1998 as if  
43 those rules and regulations and associated requirements and standards  
44 are still in effect at the time of proposed acquisition. The higher of  
45 those two values shall be utilized by the committee, a local  
46 government unit, or a qualifying tax exempt nonprofit organization as

1 the basis for negotiation with the landowner with respect to the  
2 acquisition price for the lands. The landowner shall be provided with  
3 both values determined pursuant to this paragraph. A landowner may  
4 waive any of the requirements of this paragraph and may agree to sell  
5 the lands for less than the values determined pursuant to this  
6 paragraph.

7 (2) The requirements of this subsection shall be in addition to any  
8 other requirements of law, rule, or regulation not inconsistent  
9 therewith.

10 (3) This subsection shall not:

11 (a) apply if the Department of Environmental Protection  
12 wastewater, water quality and watershed management rules and  
13 regulations and associated requirements and standards applicable to  
14 the lands at the time of proposed acquisition have not changed since  
15 November 3, 1998;

16 (b) apply in the case of lands to be acquired with federal moneys  
17 in whole or in part;

18 (c) apply in the case of lands to be acquired in accordance with  
19 subsection e. of this section; or

20 (d) alter any requirements to disclose information to a landowner  
21 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361  
22 (C.20:3-1 et seq.).

23 j. (1) Commencing on the date of enactment of P.L. \_\_\_\_\_, c. \_\_\_\_\_  
24 (C. \_\_\_\_\_) (now before the Legislature as this bill) or July 1, 2004,  
25 whichever is later, and through June 30, 2009, when the committee,  
26 a local government unit, or a qualifying tax exempt nonprofit  
27 organization seeks to acquire a development easement on farmland or  
28 the fee simple title to farmland for farmland preservation purposes  
29 using constitutionally dedicated moneys in whole or in part, it shall  
30 conduct or cause to be conducted an appraisal or appraisals of the  
31 value of the lands that shall be made using (a) the land use zoning of  
32 the lands, and any State environmental laws or Department of  
33 Environmental Protection rules and regulations that may affect the  
34 value of the lands, subject to the appraisal and in effect at the time of  
35 proposed acquisition, and (b) the land use zoning of the lands, and any  
36 State environmental laws or Department of Environmental Protection  
37 rules and regulations that may affect the value of the lands, subject to  
38 the appraisal and in effect on January 1, 2004. The higher of those  
39 two values shall be utilized by the committee, a local government unit,  
40 or a qualifying tax exempt nonprofit organization as the basis for  
41 negotiation with the landowner with respect to the acquisition price  
42 for the lands. The landowner shall be provided with both values  
43 determined pursuant to this paragraph.

44 A landowner may waive any of the requirements of this paragraph  
45 and may agree to sell the lands for less than the values determined  
46 pursuant to this paragraph.

1     The provisions of this paragraph shall be applicable only to lands  
2 the owner of which at the time of proposed acquisition is the same  
3 person who owned the lands on the date of enactment of P.L. , c.  
4 (C. ) (now before the Legislature as this bill) and who has owned the  
5 lands continuously since that enactment date, is an immediate family  
6 member of that person, or is a farmer as defined by the committee.

7     (2) A landowner whose lands are subject to the provisions of  
8 paragraph (1) of this subsection shall choose to have the lands  
9 appraised in accordance with this subsection or in accordance with the  
10 provisions of either subsection g. or subsection i. of this section to the  
11 extent that the subsection is applicable and has not expired.

12     (3) The requirements of this subsection shall be in addition to any  
13 other requirements of law, rule, or regulation not inconsistent  
14 therewith.

15     (4) This subsection shall not:

16     (a) apply in the case of lands to be acquired with federal moneys  
17 in whole or in part;

18     (b) apply in the case of lands to be acquired in accordance with  
19 subsection e. of this section; or

20     (c) alter any requirements to disclose information to a landowner  
21 pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361  
22 (C.20:3-1 et seq.).

23     (5) For the purposes of this subsection, "immediate family  
24 member" means a spouse, child, parent, sibling, aunt, uncle, niece,  
25 nephew, first cousin, grandparent, grandchild, father-in-law,  
26 mother-in-law, son-in-law, daughter-in-law, stepparent, stepchild,  
27 stepbrother, stepsister, half brother, or half sister, whether the  
28 individual is related by blood, marriage, or adoption.

29     [j.] k. The committee and the Department of Environmental  
30 Protection, pursuant to the "Administrative Procedure Act," P.L.1968,  
31 c.410 (C.52:14B-1 et seq.), shall jointly adopt rules and regulations  
32 that establish standards and requirements regulating any improvement  
33 on lands acquired by the State for farmland preservation purposes  
34 using constitutionally dedicated moneys to assure that any  
35 improvement does not diminish the protection of surface water or  
36 groundwater resources.

37     Any rules and regulations adopted pursuant to this subsection shall  
38 not apply to improvements on lands acquired prior to the adoption of  
39 the rules and regulations.

40     l. (1) The committee, within three months after the date of the first  
41 meeting of the Highland Water Protection and Planning Council  
42 established pursuant to section 4 of P.L. , c. (C. ) (now before  
43 the Legislature as this bill), shall consult with and solicit  
44 recommendations from the council concerning farmland preservation  
45 strategies and acquisition plans in the Highlands Region as defined in  
46 section 3 of P.L. , c. (C. ) (now before the Legislature as this

1 bill).

2 The council's recommendations shall also address strategies and  
3 plans concerning establishment by the committee of a methodology for  
4 prioritizing the acquisition of development easements and fee simple  
5 titles to farmland in the Highlands preservation area, as defined in  
6 section 3 of P.L. , c. (C. ) (now before the Legislature as this  
7 bill), for farmland preservation purposes using moneys from the  
8 Garden State Farmland Preservation Trust Fund, especially with  
9 respect to farmland that has declined substantially in value due to the  
10 implementation of the "Highlands Water Protection and Planning Act,"  
11 P.L. , c. (C. ) (now before the Legislature as this bill). The  
12 recommendations may also include a listing of specific parcels in the  
13 Highlands preservation area that the council is aware of that have  
14 experienced a substantial decline in value and for that reason should  
15 be considered by the committee as a priority for acquisition, but any  
16 such list shall remain confidential notwithstanding any provision of  
17 P.L.1963, c.73 (C.47:1A-1 et seq.) or any other law to the contrary.

18 (2) In prioritizing applications for funding submitted by local  
19 government units in the Highlands planning area, as defined in section  
20 3 of P.L. , c. (C. ) (now before the Legislature as this bill), to  
21 acquire development easements on farmland in the Highlands planning  
22 area using moneys from the Garden State Farmland Preservation Trust  
23 Fund, the committee shall accord a higher weight to any application  
24 submitted by a local government unit to preserve farmland in a  
25 municipality in the Highlands planning area that has amended its  
26 development regulations in accordance with section 13 of P.L. ,  
27 c. (C. ) (now before the Legislature as this bill) to establish one  
28 or more receiving zones for the transfer of development potential from  
29 the Highlands preservation area, as defined in section 3 of P.L. ,  
30 c. (C. ) (now before the Legislature as this bill), than that which  
31 is accorded to comparable applications submitted by other local  
32 government units to preserve farmland in municipalities in the  
33 Highlands planning area that have not made such amendments to their  
34 development regulations.

35 m. Notwithstanding any provision of P.L.1999, c.152 (C.13:8C-1  
36 et seq.) to the contrary, for State fiscal years 2005 through 2009, the  
37 sum spent by the committee in each of those fiscal years for the  
38 acquisition by the committee of development easements and fee simple  
39 titles to farmland for farmland preservation purposes using moneys  
40 from the Garden State Farmland Preservation Trust Fund in each  
41 county of the State shall be not less, and may be greater if additional  
42 sums become available, than the average annual sum spent by the  
43 department therefor in each such county, respectively, for State fiscal  
44 years 2002 through 2004, provided there is sufficient and appropriate  
45 farmland within the county to be so acquired by the committee for  
46 such purposes.

1 (cf: P.L.2002, c.76, s.6)

2 55. Section 13 of P.L.1974, c.118 (C.13:13A-13) is amended to  
3 read as follows:

4 13. a. The commission shall prepare, or cause to be prepared, and,  
5 after a public hearing, or public hearings, and pursuant to the  
6 provisions provided for in subsection 13 b. of this act, adopt a master  
7 plan or portion thereof for the physical development of the park, which  
8 plan may include proposals for various stages in the future  
9 development of the park, or amend the master plan. The master plan  
10 shall include a report presenting the objectives, assumptions, standards  
11 and principles which are embodied in the various interlocking portions  
12 of the master plan. The master plan shall be a composite of the one or  
13 more written proposals recommending the physical development and  
14 expansion of the park either in its entirety or a portion thereof which  
15 the commission shall prepare after meetings with the governing bodies  
16 of the affected municipalities and counties, and any agencies and  
17 instrumentalities thereof.

18 b. In preparing the master plan or any portion thereof or  
19 amendment thereto the commission shall give due consideration to:  
20 (1) the function of the canal as a major water supply facility in the  
21 State; (2) the necessity to provide recreational activities to the citizens  
22 of this State, including but not limited to, facilities, design capacities,  
23 and relationship to other available recreational areas; (3) existing  
24 historical sites and potential restorations or compatible development;  
25 (4) the range of uses and potential uses of the canal in the urban  
26 environments of the older, intensively developed communities through  
27 which it passes; and (5) designated wilderness areas to be kept as  
28 undeveloped, limited-access areas restricted to canoeing and hiking.  
29 In preparing the master plan or any portion thereof or amendment  
30 thereto the commission shall consider existing patterns of development  
31 and any relevant master plan or other plan of development, and shall  
32 insure widespread citizen involvement and participation in the planning  
33 process.

34 c. The commission shall act in support of local suggestions or  
35 desires to complement the park master plan. Consultation, planning,  
36 and technical expertise will be made available to local planning bodies  
37 that wish to implement land-use policy to enhance the park area. The  
38 commission shall act on or refer complaints by citizens' groups or  
39 private residents who discover hazardous situations, pollution, or  
40 evidence of noncompliance with use regulations.

41 d. The commission shall review and approve, reject or modify, any  
42 State project planned or State permits issued in the park, and submit  
43 its decision to the Governor.

44 e. The commission shall consult with the Highlands Water  
45 Protection and Planning Council, established pursuant to section 4 of  
46 P.L. , c. (C. ) (now before the Legislature as this bill), on any

1 provision of the park master plan that may impact upon or otherwise  
2 affect the Highlands Region or the Highlands regional master plan, as  
3 defined in section 3 of P.L. , c. (C. ) (now before the Legislature  
4 as this bill), and any such provision shall be consistent with the  
5 Highlands regional master plan adopted by the council pursuant to that  
6 act.

7 (cf: P.L.1974, c.118, s.13)

8

9 56. Section 14 of P.L.1974, c.118 (C.13:13A-14) is amended to  
10 read as follows:

11 14. a. The commission shall determine, after a public hearing, or  
12 public hearings held in Hunterdon, Somerset, Mercer, and Middlesex  
13 counties respectively, the extent and limits of the region to be  
14 designated the review zone. Any subsequent modification of [said]  
15 the review zone shall be made by the commission only after public  
16 hearings in the county or counties in which [such] the modification is  
17 to be made. All public hearings required pursuant to this section shall  
18 be held only after giving prior notice thereof by public advertisement  
19 once each week for [2] two consecutive weeks in such newspaper or  
20 newspapers selected by the chairman of the commission as will best  
21 give notice thereof. The last publication of such notice shall be not  
22 less than 10 days prior to the date set for the hearing.

23 b. The commission shall approve all State actions within the review  
24 zone that impact on the park, and insure that these actions conform as  
25 nearly as possible to the commission's master plan and relevant local  
26 plans or initiatives. The State actions which the commission shall  
27 review will include the operations of the Division of Water Resources  
28 concerning water supply and quality; the Division of Parks and  
29 Forestry in developing recreation facilities; and the activities of any  
30 other State department or agency that might affect the park.

31 c. The commission shall review and approve, reject, or modify any  
32 project within the review zone. The initial application for a proposed  
33 project within the zone shall be submitted by the applicant to the  
34 appropriate municipal reviewing agency. If approved by the agency,  
35 the application shall be sent to the commission for review. The  
36 commission shall review each proposed project in terms of its  
37 conformity with, or divergence from, the objectives of the  
38 commission's master plan and shall: (1) advise the appropriate  
39 municipal reviewing agency that the project can proceed as proposed;  
40 (2) reject the application and so advise the appropriate municipal  
41 reviewing agency and the governing body of the municipality; or (3)  
42 require modifications or additional safeguards on the part of the  
43 applicant, and return the application to the appropriate municipal  
44 reviewing agency, which shall be responsible for insuring that these  
45 conditions are satisfied before issuing a permit. If no action is taken  
46 by the commission within a period of 45 days from the date of

1 submission of the application to the commission by the municipal  
2 reviewing agency, this shall constitute an approval by the commission.  
3 The commission's decision shall be final and binding on the  
4 municipality, and the commission may, in the case of any violation or  
5 threat of a violation of a commission's decision by a municipality, or  
6 by the appropriate municipal reviewing agency, as the case may be,  
7 institute civil action (1) for injunctive relief; (2) to set aside and  
8 invalidate a decision made by a municipality in violation of this  
9 subsection; or (3) to restrain, correct or abate such violation. As used  
10 herein: (1) "project" means any structure, land use change, or public  
11 improvements for which a permit from, or determination by, the  
12 municipality is required, which shall include, but not be limited to,  
13 building permits, zoning variances, and excavation permits; and (2)  
14 "agency" means any body or instrumentality of the municipality  
15 responsible for the issuance of permits or the approval of projects, as  
16 herein defined, which shall include, but not be limited to, governing  
17 bodies, planning and zoning boards, building inspectors, managers and  
18 municipal engineers.

19 d. To the extent that any action the commission takes pursuant to  
20 this section may impact upon or otherwise affect the Highlands Region  
21 or the Highlands regional master plan, as defined in section 3 of  
22 P.L. , c. (C. ) (now before the Legislature as this bill), the  
23 commission shall consult with the Highlands Water Protection and  
24 Planning Council, established pursuant to section 4 of P.L. , c.  
25 (C. ) (now before the Legislature as this bill), and any such action  
26 taken shall be consistent with Highland regional master plan adopted  
27 by the council pursuant to that act.

28 (cf: P.L.1974, c.118, s.14)

29

30 57. Section 2 of P.L.1997, c.144 (C.27:5-9.1) is amended to read  
31 as follows:

32 2. Any billboard or outdoor advertising sign licensed and permitted  
33 pursuant to the "Roadside Sign Control and Outdoor Advertising  
34 Act," P.L.1991, c.413 (C.27:5-5 et seq.), and proposed to be erected  
35 on or above any State right-of-way or any real property of the  
36 department shall be subject to local government zoning ordinances,  
37 applicable local government building permit requirements, and in the  
38 pinelands area, shall be subject to the provisions of the comprehensive  
39 management plan prepared and adopted by the Pinelands Commission  
40 pursuant to section 7 of P.L.1979, c.111 (C.13:18A-8), and in the  
41 Highlands Region, shall be subject to the provisions of the "Highland  
42 Water Protection and Planning Act," P.L. , c. (C. ) (now before  
43 the Legislature as this bill), any rules and regulations adopted pursuant  
44 thereto, and the Highlands regional master plan adopted by the  
45 Highlands Water Protection and Planning Council pursuant to section  
46 8 of that act .

1 (cf: P.L.1997, c.144, s.2)

2 58. R.S.32:14-5 is amended to read as follows:

3 32:14-5. a. Palisades Interstate Park Commission shall, from time  
4 to time, select and locate such lands lying between the top or steep  
5 edge of the Palisades or the crest of the slope in places where the steep  
6 Palisade rocks are absent and the high-water line of the Hudson river,  
7 from the New York State line on the north, to a line beginning at the  
8 intersection of the southern line of the old Fort Lee dock or landing  
9 with the high-water line of the Hudson river and running thence in a  
10 westerly direction and at right angles to said high-water line of the  
11 Hudson river to the east side of the river road running from Edgewater  
12 to Fort Lee, in Bergen county, on the south, and such lands or rights  
13 in lands belonging to persons other than the State, as may lie between  
14 the exterior bulkhead line established in the Hudson river and the  
15 high-water line of the Hudson river, as may, in the opinion of the  
16 Palisades Interstate Park Commission, be proper and necessary to be  
17 reserved for the purpose of establishing a park and thereby preserving  
18 the scenic beauty of the Palisades.

19 b. The Palisades Interstate Park Commission, in cooperation with  
20 the North Jersey District Water Supply Commission and in  
21 consultation with the New Jersey Department of Environmental  
22 Protection and the Highlands Water Protection and Planning Council,  
23 may, from time to time, select and locate such lands lying within the  
24 Highlands or Skylands areas of Bergen, Hunterdon, Morris, Passaic,  
25 Somerset and Warren counties in the State of New Jersey, including  
26 lands in those areas lying within the North Jersey Water Supply  
27 District, as may, in the opinion of the Palisades Interstate Park  
28 Commission and the North Jersey District Water Supply Commission,  
29 in consultation with the department and the Highlands Water  
30 Protection and Planning Council, be proper and necessary to be  
31 reserved for establishing a park:

32 (1) to preserve the scenic beauty of those areas;

33 (2) for the purposes of recreation and conservation, which shall  
34 include hunting and fishing, or historic preservation; or

35 (3) for the purposes of watershed conservation or protecting,  
36 maintaining, or enhancing the quality and quantity of water supplies.

37 c. Except as authorized for the purposes specified by R.S.32:15-1  
38 et seq. and R.S.32:16-1 et seq. with regard to the location,  
39 construction, maintenance, and operation of the Henry Hudson Drive  
40 and the Palisades Interstate Parkway in Bergen county, the Palisades  
41 Interstate Park Commission shall not acquire by condemnation any  
42 lands described in subsections a. and b. of this section. Any such lands  
43 shall be acquired by the Palisades Interstate Park Commission only  
44 through a sale by a willing seller.

45 (cf: P.L.1995, c.274, s.2)

46

1 59. Section 5 of P.L.1999, c.402 (C.32:20A-5) is amended to read  
2 as follows:

3 5. a. The duties of the commission shall be to:

4 [a.] (1) assess present and projected development, land use, and  
5 land management practices and patterns, and identify actual and  
6 potential environmental threats and problems, around Greenwood  
7 Lake and within its watershed, and determine the effects of those  
8 practices and patterns, threats, and problems upon the natural, scenic,  
9 and recreational resources of Greenwood Lake and its watershed;

10 [b.] (2) develop recommended regulations, procedures, policies,  
11 planning strategies, and model ordinances and resolutions pertaining  
12 to the protection, preservation, maintenance, management, and  
13 enhancement of Greenwood Lake and its watershed, which would be  
14 implemented as appropriate on a voluntary basis by those entities with  
15 representatives on the commission;

16 [c.] (3) coordinate environmental clean up, maintenance, and  
17 protection efforts undertaken, for the benefit of Greenwood Lake and  
18 its watershed, by those entities with representatives on the  
19 commission;

20 [d.] (4) coordinate with the New Jersey Department of  
21 Environmental Protection's watershed management program for the  
22 area that includes Greenwood Lake;

23 [e.] (5) recommend appropriate state legislation and administrative  
24 action pertaining to the protection, preservation, maintenance,  
25 management, and enhancement of Greenwood Lake and its watershed;

26 [f.] (6) advocate, and where appropriate, act as a coordinating,  
27 distributing, or recipient agency for, federal, state, or private funding  
28 of environmental cleanup, maintenance, and protection projects for  
29 Greenwood Lake and its watershed, which projects may include the  
30 work of the commission; and

31 [g.] (7) take such other action as may be appropriate or necessary  
32 to further the purpose of this act.

33 b. The commission shall consult with the Highlands Water  
34 Protection and Planning Council, established pursuant to section 4 of  
35 P.L. , c. (C. ) (now before the Legislature as this bill), in carrying  
36 out its duties as prescribed pursuant to subsection a. of this section.  
37 Any action taken by the commission that may impact upon or  
38 otherwise affect the Highlands preservation area, as defined in section  
39 3 of P.L. , c. (C. ) (now before the Legislature as this bill), shall  
40 be consistent with the Highlands regional master plan adopted by the  
41 council pursuant to section 8 of that act.

42 (cf: P.L.1999, c.402, s.5)

43

44 60. Section 19 of P.L.1975, c.291 (C.40:55D-28) is amended to  
45 read as follows:

46 19. Preparation; contents; modification.

1 a. The planning board may prepare and, after public hearing, adopt  
2 or amend a master plan or component parts thereof, to guide the use  
3 of lands within the municipality in a manner which protects public  
4 health and safety and promotes the general welfare.

5 b. The master plan shall generally comprise a report or statement  
6 and land use and development proposals, with maps, diagrams and  
7 text, presenting, at least the following elements (1) and (2) and, where  
8 appropriate, the following elements (3) through (14):

9 (1) A statement of objectives, principles, assumptions, policies and  
10 standards upon which the constituent proposals for the physical,  
11 economic and social development of the municipality are based;

12 (2) A land use plan element (a) taking into account and stating its  
13 relationship to the statement provided for in paragraph (1) hereof, and  
14 other master plan elements provided for in paragraphs (3) through (14)  
15 hereof and natural conditions, including, but not necessarily limited to,  
16 topography, soil conditions, water supply, drainage, flood plain areas,  
17 marshes, and woodlands; (b) showing the existing and proposed  
18 location, extent and intensity of development of land to be used in the  
19 future for varying types of residential, commercial, industrial,  
20 agricultural, recreational, educational and other public and private  
21 purposes or combination of purposes; and stating the relationship  
22 thereof to the existing and any proposed zone plan and zoning  
23 ordinance; and (c) showing the existing and proposed location of any  
24 airports and the boundaries of any airport safety zones delineated  
25 pursuant to the "Air Safety and Zoning Act of 1983," P.L.1983, c.260  
26 (C.6:1-80 et seq.); and (d) including a statement of the standards of  
27 population density and development intensity recommended for the  
28 municipality;

29 (3) A housing plan element pursuant to section 10 of P.L.1985,  
30 c.222 (C.52:27D-310), including, but not limited to, residential  
31 standards and proposals for the construction and improvement of  
32 housing;

33 (4) A circulation plan element showing the location and types of  
34 facilities for all modes of transportation required for the efficient  
35 movement of people and goods into, about, and through the  
36 municipality, taking into account the functional highway classification  
37 system of the Federal Highway Administration and the types,  
38 locations, conditions and availability of existing and proposed  
39 transportation facilities, including air, water, road and rail;

40 (5) A utility service plan element analyzing the need for and  
41 showing the future general location of water supply and distribution  
42 facilities, drainage and flood control facilities, sewerage and waste  
43 treatment, solid waste disposal and provision for other related utilities,  
44 and including any storm water management plan required pursuant to  
45 the provisions of P.L.1981, c.32 (C.40:55D-93 et seq.). If a  
46 municipality prepares a utility service plan element as a condition for

1 adopting a development transfer ordinance pursuant to subsection c.  
2 of section 4 of P.L.2004, c.2 (C.40:55D-140), the plan element shall  
3 address the provision of utilities in the receiving zone as provided  
4 thereunder;

5 (6) A community facilities plan element showing the existing and  
6 proposed location and type of educational or cultural facilities, historic  
7 sites, libraries, hospitals, firehouses, police stations and other related  
8 facilities, including their relation to the surrounding areas;

9 (7) A recreation plan element showing a comprehensive system of  
10 areas and public sites for recreation;

11 (8) A conservation plan element providing for the preservation,  
12 conservation, and utilization of natural resources, including, to the  
13 extent appropriate, energy, open space, water supply, forests, soil,  
14 marshes, wetlands, harbors, rivers and other waters, fisheries,  
15 endangered or threatened species wildlife and other resources, and  
16 which systemically analyzes the impact of each other component and  
17 element of the master plan on the present and future preservation,  
18 conservation and utilization of those resources;

19 (9) An economic plan element considering all aspects of economic  
20 development and sustained economic vitality, including (a) a  
21 comparison of the types of employment expected to be provided by the  
22 economic development to be promoted with the characteristics of the  
23 labor pool resident in the municipality and nearby areas and (b) an  
24 analysis of the stability and diversity of the economic development to  
25 be promoted;

26 (10) A historic preservation plan element: (a) indicating the  
27 location and significance of historic sites and historic districts; (b)  
28 identifying the standards used to assess worthiness for historic site or  
29 district identification; and (c) analyzing the impact of each component  
30 and element of the master plan on the preservation of historic sites and  
31 districts;

32 (11) Appendices or separate reports containing the technical  
33 foundation for the master plan and its constituent elements;

34 (12) A recycling plan element which incorporates the State  
35 Recycling Plan goals, including provisions for the collection,  
36 disposition and recycling of recyclable materials designated in the  
37 municipal recycling ordinance, and for the collection, disposition and  
38 recycling of recyclable materials within any development proposal for  
39 the construction of 50 or more units of single-family residential  
40 housing or 25 or more units of multi-family residential housing and any  
41 commercial or industrial development proposal for the utilization of  
42 1,000 square feet or more of land;

43 (13) A farmland preservation plan element, which shall include: an  
44 inventory of farm properties and a map illustrating significant areas of  
45 agricultural land; a statement showing that municipal ordinances  
46 support and promote agriculture as a business; and a plan for

1 preserving as much farmland as possible in the short term by  
2 leveraging monies made available by P.L.1999, c.152 (C.13:8C-1 et  
3 al.) through a variety of mechanisms including, but not limited to,  
4 utilizing option agreements, installment purchases, and encouraging  
5 donations of permanent development easements; and

6 (14) A development transfer plan element which sets forth the  
7 public purposes, the locations of sending and receiving zones and the  
8 technical details of a development transfer program based on the  
9 provisions of section 5 of P.L.2004, c.2 (C.40:55D-141).

10 c. The master plan and its plan elements may be divided into  
11 subplans and subplan elements projected according to periods of time  
12 or staging sequences.

13 d. The master plan shall include a specific policy statement  
14 indicating the relationship of the proposed development of the  
15 municipality, as developed in the master plan to (1) the master plans  
16 of contiguous municipalities, (2) the master plan of the county in  
17 which the municipality is located, (3) the State Development and  
18 Redevelopment Plan adopted pursuant to the "State Planning Act,"  
19 sections 1 through 12 of P.L.1985, c.398 (C.52:18A-196 et seq.) and  
20 (4) the district solid waste management plan required pursuant to the  
21 provisions of the "Solid Waste Management Act," P.L.1970, c.39  
22 (C.13:1E-1 et seq.) of the county in which the municipality is located.

23 In the case of a municipality situated within the Highlands Region,  
24 as defined in section 3 of P.L. , c. (C. ) (now before the  
25 Legislature as this bill), the master plan shall include a specific policy  
26 statement indicating the relationship of the proposed development of  
27 the municipality, as developed in the master plan, to the Highlands  
28 regional master plan adopted pursuant to section 8 of P.L. , c.  
29 (C. ) (now before the Legislature as this bill).

30 (cf: P.L.2004, c.2, s.37)

31

32 61. Section 4 of P.L.1968, c.49 (C.46:15-8) is amended to read as  
33 follows:

34 4. The proceeds of the fees collected by the county recording  
35 officer, as authorized by P.L.1968, c.49 (C.46:15-5 et seq.), shall be  
36 accounted for and remitted to the county treasurer. An amount equal  
37 to 28.6% of the proceeds from the first \$1.75 for each \$500.00 of  
38 consideration or fractional part thereof recited in the deed collected  
39 pursuant to section 3 of P.L.1968, c.49 (C.46:15-7) shall be retained  
40 by the county treasurer for the use of the county and the balance shall  
41 be paid to the State Treasurer for the use of the State; provided  
42 however, that on and after the tenth day following a certification by  
43 the Director of the Division of Budget and Accounting in the  
44 Department of the Treasury pursuant to subsection b. of section 2 of  
45 P.L.1992, c.148 (C.46:15-10.2), 100.0% of the proceeds from the first  
46 \$0.50 for each \$500.00 of consideration or fractional part thereof

1 recited in the deed so collected shall be retained by the county  
2 treasurer for the use of the county and no amount shall be paid to the  
3 State Treasurer for the use of the State. Payments shall be made to  
4 the State Treasurer on the tenth day of each month following the  
5 month of collection.

6 a. (1) Amounts, not in excess of \$25,000,000, paid during the  
7 State fiscal year to the State Treasurer from the payment of fees  
8 collected by the county recording officer other than the additional fee  
9 of \$0.75 for each \$500.00 of consideration or fractional part thereof  
10 recited in the deed in excess of \$150,000.00 collected pursuant to  
11 section 3 of P.L.1968, c.49 (C.46:15-7) shall be credited to the "Shore  
12 Protection Fund" created pursuant to section 1 of P.L.1992, c.148  
13 (C.13:19-16.1), in the manner established under that section.

14 (2) In addition to the amounts credited to the "Shore Protection  
15 Fund" pursuant to paragraph (1) of this subsection, amounts equal to  
16 \$12,000,000 in each of the first 10 years after the date of enactment  
17 of the "Highlands Water Protection and Planning Act," P.L. , c.  
18 (C. ) (now before the Legislature as this bill) and to \$5,000,000 in  
19 each year thereafter, paid during the State fiscal year to the State  
20 Treasurer from the payment of fees collected by the county recording  
21 officer other than the additional fee of \$0.75 for each \$500.00 of  
22 consideration or fractional part thereof recited in the deed in excess of  
23 \$150,000.00 shall be credited to the "Highlands Protection Fund"  
24 created pursuant to section 21 of P.L. , c. (C. ) (now before the  
25 Legislature as this bill), in the manner established under that section.  
26 No monies shall be credited to the "Highlands Protection Fund"  
27 pursuant to this paragraph until and unless the full amount of  
28 \$25,000,000 has first been credited to the "Shore Protection Fund"  
29 pursuant to paragraph (1) of this subsection.

30 b. All amounts paid to the State Treasurer in payment of the  
31 additional fee of \$0.75 for each \$500.00 of consideration or fractional  
32 part thereof recited in the deed in excess of \$150,000.00 collected  
33 pursuant to section 3 of P.L.1968, c.49 (C.46:15-7) shall be credited  
34 to the Neighborhood Preservation Nonlapsing Revolving Fund  
35 established pursuant to P.L.1985, c.222 (C.52:27D-301 et al.), in the  
36 manner established under section 20 thereof (C.52:27D-320).  
37 (cf: P.L.2003, c.113, s.3)

38  
39 62. Section 2 of P.L.1992, c.148 (C.46:15-10.2) is amended to  
40 read as follows:

41 2. a. The annual appropriations act for each State fiscal year shall,  
42 without other conditions, limitations or restrictions on the following:  
43 (1) credit amounts paid to the State Treasurer, if any, in payment  
44 of fees collected pursuant to section 3 of P.L.1968, c.49 (C.46:15-7),  
45 to the "Shore Protection Fund" created pursuant to section 1 of  
46 P.L.1992, c.148 (C.13:19-16.1), [and] the Neighborhood

1 Preservation Nonlapsing Revolving Fund established pursuant to  
2 section 20 of P.L.1985, c.222 (C.52:27D-320), and the "Highlands  
3 Protection Fund" created pursuant to section 21 of P.L. , c. (C. )  
4 (now before the Legislature as this bill), pursuant to the requirements  
5 of section 4 of P.L.1968, c.49 (C.46:15-8);

6 (2) appropriate the balance of the "Shore Protection Fund" created  
7 pursuant to section 1 of P.L.1992, c.148 (C.13:19-16.1), for the  
8 purposes of that fund; [and]

9 (3) appropriate the balance of the Neighborhood Preservation  
10 Nonlapsing Revolving Fund established pursuant to section 20 of  
11 P.L.1985, c.222 (C.52:27D-320), for the purposes of that fund; and

12 (4) appropriate the balance of the "Highlands Protection Fund"  
13 created pursuant to section 21 of P.L. , c. (C. ) (now before the  
14 Legislature as this bill), for the purposes of that fund.

15 b. If the requirements of subsection a. of this section are not met  
16 on the effective date of an annual appropriations act for the State fiscal  
17 year, or if an amendment or supplement to an annual appropriations  
18 act for the State fiscal year should violate any of the requirements of  
19 subsection a. of this section, the Director of the Division of Budget  
20 and Accounting in the Department of the Treasury shall, not later than  
21 five days after the enactment of the annual appropriations act, or an  
22 amendment or supplement thereto, that violates any of the  
23 requirements of subsection a. of this section, certify to the Director of  
24 the Division of Taxation that the requirements of subsection a. of this  
25 section have not been met.

26 (cf: P.L.1992, c.148, s.2)

27

28 63. Section 1 of P.L.1985, c.398 (C.52:18A-196) is amended to  
29 read as follows:

30 1. The Legislature finds and declares that:

31 a. New Jersey, the nation's most densely populated State, requires  
32 sound and integrated Statewide planning and the coordination of  
33 Statewide planning with local and regional planning in order to  
34 conserve its natural resources, revitalize its urban centers, protect the  
35 quality of its environment, and provide needed housing and adequate  
36 public services at a reasonable cost while promoting beneficial  
37 economic growth, development and renewal;

38 b. Significant economies, efficiencies and savings in the  
39 development process would be realized by private sector enterprise  
40 and by public sector development agencies if the several levels of  
41 government would cooperate in the preparation of and adherence to  
42 sound and integrated plans;

43 c. It is of urgent importance that the State Development Guide  
44 Plan be replaced by a State Development and Redevelopment Plan  
45 designed for use as a tool for assessing suitable locations for  
46 infrastructure, housing, economic growth and conservation;

1 d. It is in the public interest to encourage development,  
2 redevelopment and economic growth in locations that are well situated  
3 with respect to present or anticipated public services and facilities,  
4 giving appropriate priority to the redevelopment, repair, rehabilitation  
5 or replacement of existing facilities and to discourage development  
6 where it may impair or destroy natural resources or environmental  
7 qualities that are vital to the health and well-being of the present and  
8 future citizens of this State;

9 e. A cooperative planning process that involves the full  
10 participation of State, regional, county and local governments as well  
11 as other public and private sector interests will enhance prudent and  
12 rational development, redevelopment and conservation policies and the  
13 formulation of sound and consistent regional plans and planning  
14 criteria;

15 f. Since the overwhelming majority of New Jersey land use  
16 planning and development review occurs at the local level, it is  
17 important to provide local governments in this State with the technical  
18 resources and guidance necessary to assist them in developing land use  
19 plans and procedures which are based on sound planning information  
20 and practice, and to facilitate the development of local plans which are  
21 consistent with State and regional plans and programs;

22 g. An increasing concentration of the poor and minorities in older  
23 urban areas jeopardizes the future well-being of this State, and a sound  
24 and comprehensive planning process will facilitate the provision of  
25 equal social and economic opportunity so that all of New Jersey's  
26 citizens can benefit from growth, development and redevelopment;

27 h. An adequate response to judicial mandates respecting housing  
28 for low- and moderate-income persons requires sound planning to  
29 prevent sprawl and to promote suitable use of land; and

30 i. These purposes can be best achieved through the establishment  
31 of a State planning commission consisting of representatives from the  
32 executive and legislative branches of State government, local  
33 government, the general public and the planning community.

34 (cf: P.L.1985, c.398, s.1)

35  
36 64. Section 4 of P.L.1985, c.398 (C.52:18A-199) is amended to  
37 read as follows:

38 4. The commission shall:

39 a. Prepare and adopt within 36 months after the enactment of [this  
40 act] P.L.1985, c.398 (C.52:18A-196 et al.) , and revise and readopt  
41 at least every three years thereafter, the State Development and  
42 Redevelopment Plan, which shall provide a coordinated, integrated and  
43 comprehensive plan for the growth, development, renewal and  
44 conservation of the State and its regions and which shall identify areas  
45 for growth, agriculture, open space conservation and other appropriate  
46 designations;

1       b. Prepare and adopt as part of the plan a long-term Infrastructure  
2 Needs Assessment, which shall provide information on present and  
3 prospective conditions, needs and costs with regard to State, county  
4 and municipal capital facilities, including water, sewerage,  
5 transportation, solid waste, drainage, flood protection, shore  
6 protection and related capital facilities;

7       c. Develop and promote procedures to facilitate cooperation and  
8 coordination among State agencies, regional entities, and local  
9 governments with regard to the development of plans, programs and  
10 policies which affect land use, environmental, capital and economic  
11 development issues;

12       d. Provide technical assistance to local governments and regional  
13 entities in order to encourage the use of the most effective and  
14 efficient planning and development review data, tools and procedures;

15       e. Periodically review State, regional, and local government  
16 planning procedures and relationships and recommend to the Governor  
17 and the Legislature administrative or legislative action to promote a  
18 more efficient and effective planning process;

19       f. Review any bill introduced in either house of the Legislature  
20 which appropriates funds for a capital project and may study the  
21 necessity, desirability and relative priority of the appropriation by  
22 reference to the State Development and Redevelopment Plan, and may  
23 make recommendations to the Legislature and to the Governor  
24 concerning the bill; and

25       g. Take all actions necessary and proper to carry out the provisions  
26 of [this act] P.L.1985, c.398 (C.52:18A-196 et al.).

27 (cf: P.L.1987, c.308, s.1)

28

29       65. Section 5 of P.L.1985, c.398 (C.52:18A-200) is amended to  
30 read as follows:

31       5. The State Development and Redevelopment Plan shall be  
32 designed to represent a balance of development and conservation  
33 objectives best suited to meet the needs of the State. The plan shall:

34       a. Protect the natural resources and qualities of the State,  
35 including, but not limited to, agricultural development areas, fresh and  
36 saltwater wetlands, flood plains, stream corridors, aquifer recharge  
37 areas, steep slopes, areas of unique flora and fauna, and areas with  
38 scenic, historic, cultural and recreational values;

39       b. Promote development and redevelopment in a manner consistent  
40 with sound planning and where infrastructure can be provided at  
41 private expense or with reasonable expenditures of public funds. This  
42 should not be construed to give preferential treatment to new  
43 construction;

44       c. Consider input from State, regional, county and municipal  
45 entities concerning their land use, environmental, capital and economic  
46 development plans, including to the extent practicable any State and

1 regional plans concerning natural resources or infrastructure elements;  
2 d. Identify areas for growth, limited growth, agriculture, open  
3 space conservation and other appropriate designations that the  
4 commission may deem necessary;  
5 e. Incorporate a reference guide of technical planning standards  
6 and guidelines used in the preparation of the plan; and  
7 f. Coordinate planning activities and establish Statewide planning  
8 objectives in the following areas: land use, housing, economic  
9 development, transportation, natural resource conservation,  
10 agriculture and farmland retention, recreation, urban and suburban  
11 redevelopment, historic preservation, public facilities and services, and  
12 intergovernmental coordination.  
13 (cf: P.L.1985, c.398, s.5)

14  
15 66. Section 6 of P.L.1985, c.398 (C.52:18A-201) is amended to  
16 read as follows:

17 6. a. There is established in the Department of the Treasury the  
18 Office of State Planning. The director of the office shall be appointed  
19 by and serve at the pleasure of the Governor. The director shall  
20 supervise and direct the activities of the office and shall serve as the  
21 secretary and principal executive officer of the State Planning  
22 Commission.

23 b. The Office of State Planning shall assist the commission in the  
24 performance of its duties and shall:

25 (1) Publish an annual report on the status of the State Development  
26 and Redevelopment Plan which shall describe the progress towards  
27 achieving the goals of the plan, the degree of consistency achieved  
28 among municipal, county, regional, and State plans, the capital needs  
29 of the State, and progress towards providing housing where such need  
30 is indicated;

31 (2) Provide planning service to other agencies or instrumentalities  
32 of State government, review the plans prepared by them, and  
33 coordinate planning to avoid or mitigate conflicts between plans;

34 (3) Provide advice and assistance to regional, county and local  
35 planning units;

36 (4) Review and comment on the plans of interstate agencies where  
37 the plans affect this State;

38 (5) Compile quantitative current estimates and Statewide forecasts  
39 for population, employment, housing and land needs for development  
40 and redevelopment; and

41 (6) Prepare and submit to the State Planning Commission, as an aid  
42 in the preparation of the State Development and Redevelopment Plan,  
43 alternate growth and development strategies which are likely to  
44 produce favorable economic, environmental and social results.

45 c. The director shall ensure that the responsibilities and duties of  
46 the commission are fulfilled, and shall represent the commission and

1 promote its activities before government agencies, public and private  
2 interest groups and the general public, and shall undertake or direct  
3 such other activities as the commission shall direct or as may be  
4 necessary to carry out the purposes of [this act] P.L.1985, c.398  
5 (C.52:18A-196 et al.).

6 d. With the consent of the commission, the director shall assign to  
7 the commission from the staff of the office at least two full-time  
8 planners, a full-time liaison to local and county governments and  
9 regional entities, and such other staff, clerical, stenographic and expert  
10 assistance as [he] the director shall deem necessary for the fulfillment  
11 of the commission's responsibilities and duties.

12 (cf: P.L.1985, c.398, s.6)

13

14 67. Section 7 of P.L.1985, c.398 (C.52:18A-202) is amended to  
15 read as follows:

16 7. a. In preparing, maintaining and revising the State Development  
17 and Redevelopment Plan, the commission shall solicit and give due  
18 consideration to the plans, comments and advice of each county and  
19 municipality, State agencies designated by the commission, the  
20 Highlands Water Protection and Planning Council established pursuant  
21 to section 4 of P.L. , c. (C. ) (now before the Legislature as this  
22 bill), and other local and regional entities. Prior to the adoption of  
23 each plan, the commission shall prepare and distribute a preliminary  
24 plan to each county planning board, municipal planning board and  
25 other requesting parties, including State agencies, the Highlands Water  
26 Protection and Planning Council, and metropolitan planning  
27 organizations. Not less than 45 nor more than 90 days thereafter, the  
28 commission shall conduct a joint public informational meeting with  
29 each county planning board in each county and with the Highlands  
30 Water Protection and Planning Council for the purpose of providing  
31 information on the plan, responding to inquiries concerning the plan,  
32 and receiving informal comments and recommendations from county  
33 and municipal planning boards, local public officials, the Highlands  
34 Water Protection and Planning Council, and other interested parties.

35 b. The commission shall negotiate plan cross-acceptance with each  
36 county planning board, which shall solicit and receive any findings,  
37 recommendations and objections concerning the plan from local  
38 planning bodies. Each county planning board shall negotiate plan  
39 cross-acceptance among the local planning bodies within the county,  
40 unless it shall notify the commission in writing within 45 days of the  
41 receipt of the preliminary plan that it waives this responsibility, in  
42 which case the commission shall designate an appropriate entity, or  
43 itself, to assume this responsibility. Each board or designated entity  
44 shall, within ten months of receipt of the preliminary plan, file with the  
45 commission a formal report of findings, recommendations and  
46 objections concerning the plan, including a description of the degree

1 of consistency and any remaining inconsistency between the  
2 preliminary plan and county and municipal plans. In any event, should  
3 any municipality's plan remain inconsistent with the State Development  
4 and Redevelopment Plan after the completion of the cross-acceptance  
5 process, the municipality may file its own report with the State  
6 Planning Commission, notwithstanding the fact that the [County  
7 Planning Board] county planning board has filed its report with the  
8 State Planning Commission. The term cross-acceptance means a  
9 process of comparison of planning policies among governmental levels  
10 with the purpose of attaining compatibility between local, county,  
11 regional, and State plans. The process is designed to result in a  
12 written statement specifying areas of agreement or disagreement and  
13 areas requiring modification by parties to the cross-acceptance.

14 c. Upon consideration of the formal reports of the county planning  
15 boards, the commission shall prepare and distribute a final plan to  
16 county and municipal planning boards, the Highlands Water Protection  
17 and Planning Council, and other interested parties. The commission  
18 shall conduct not less than six public hearings in different locations  
19 throughout the State for the purpose of receiving comments on the  
20 final plan. The commission shall give at least 30 days' public notice of  
21 each hearing in advertisements in at least two newspapers which  
22 circulate in the area served by the hearing and at least 30 days' notice  
23 to the governing body and planning board of each county and  
24 municipality in the area served by the hearing and to the Highlands  
25 Water Protection and Planning Council for any area in the Highlands  
26 Region served by the hearing.

27 d. Taking full account of the testimony presented at the public  
28 hearings, the commission shall make revisions in the plan as it deems  
29 necessary and appropriate and adopt the final plan by a majority vote  
30 of its authorized membership no later than 60 days after the final  
31 public hearing.

32 (cf: P.L.1998, c.109, s.1)

33

34 68. Section 2 of P.L.1989, c.332 (C.52:18A-202.2) is amended to  
35 read as follows:

36 2. a. The Office of State Planning in consultation with the Office  
37 of Economic Policy, shall utilize the following:

38 (1) Conduct portions of these studies using its own staff;

39 (2) Contract with other State agencies to conduct portions of these  
40 studies; and

41 (3) Contract with an independent firm or an institution of higher  
42 learning to conduct portions of these studies.

43 b. Any portion of the studies conducted by the Office of State  
44 Planning, or any other State agency, shall be subject to review by an  
45 independent firm or an institution of higher learning.

46 c. The Assessment Study and the oversight review shall be

1 submitted in the form of a written report to the State Planning  
2 Commission for distribution to the Governor, the Legislature,  
3 appropriate regional entities, and the governing bodies of each county  
4 and municipality in the State during the cross-acceptance process and  
5 prior to the adoption of the Final Plan.

6 d. A period extending from at least 45 days prior to the first of six  
7 public hearings, which are required under the State Planning Act,  
8 P.L.1985, c.398 (C.52:18A-196 et seq.), to 30 days following the last  
9 public hearing shall be provided for counties and municipalities to  
10 review and respond to the studies. Requests for revisions to the  
11 Interim Plan shall be considered by the State Planning Commission in  
12 the formulation of the Final Plan.

13 (cf: P.L.1989, c.332, s.2)

14

15 69. Section 8 of P.L.1985, c.398 (C.52:18A-203) is amended to  
16 read as follows:

17 8. a. The commission shall adopt rules and regulations to carry out  
18 its purposes, including procedures to facilitate the solicitation and  
19 receipt of comments in the preparation of the preliminary and final  
20 plan and to ensure a process for comparison of the plan with county  
21 and municipal master plans and regional plans, and procedures for  
22 coordinating the information collection, storage and retrieval activities  
23 of the various State agencies , and to establish a process for the  
24 endorsement of municipal, county, and regional plans that are  
25 consistent with the State Development and Redevelopment Plan.

26 b. Any municipality or county or portion thereof located in the  
27 Highlands preservation area as defined in section 3 of P.L. , c.  
28 (C. ) (now before the Legislature as this bill) shall be exempt from  
29 the plan endorsement process established in the rules and regulations  
30 adopted pursuant to subsection a. of this section. Upon the State  
31 Planning Commission endorsing the regional master plan adopted by  
32 the Highlands Water Protection and Planning Council pursuant to  
33 section 8 of P.L. , c. (C. ) (now before the Legislature as this  
34 bill), any municipal master plan and development regulations or county  
35 master plan and associated regulations that have been approved by the  
36 Highlands Water Protection and Planning Council pursuant to sections  
37 14 or 15 of P.L. , c. (C. ) (now before the Legislature as this  
38 bill) shall be deemed the equivalent of having those plans endorsed by  
39 the State Planning Commission.

40 (cf: P.L1985, c.398, s.8)

41

42 70. Section 9 of P.L.1985, c.398 (C.52:18A-204) is amended to  
43 read as follows:

44 9. The commission shall be entitled to call to its assistance any  
45 personnel of any State agency, regional entity, or county, municipality  
46 or political subdivision thereof as it may require in order to perform its

1 duties. The officers and personnel of any State agency, regional  
2 entity, or county, municipality or political subdivision thereof and any  
3 other person may serve at the request of the commission upon any  
4 advisory committee as the commission may create without forfeiture  
5 of office or employment and with no loss or diminution in the  
6 compensation, status, rights and privileges which they otherwise enjoy.  
7 (cf: P.L.1985, c.398, s.9)

8

9 71. Section 10 of P.L.1985, c.398 (C.52:18A-205) is amended to  
10 read as follows:

11 10. Each State agency, regional entity, or county, municipality or  
12 political subdivision thereof shall make available to the commission  
13 any studies, surveys, plans, data and other materials or information  
14 concerning the capital, land use, environmental, transportation,  
15 economic development and human services plans and programs of the  
16 agency, entity, county, municipality or political subdivision.

17 (cf: P.L.1985, c.398, s.10)

18

19 72. Section 11 of P.L.1985, c.398 (C.52:18A-206) is amended to  
20 read as follows:

21 11. a. The provisions of P.L.1985, c.398 (C.52:18A-196 et al.)  
22 shall not be construed to affect the plans and regulations of the  
23 Pinelands Commission pursuant to the "Pinelands Protection Act,"  
24 P.L. 1979, c.111 (C.13:18A-1 et seq.) [or], the [Hackensack] New  
25 Jersey Meadowlands [Development] Commission pursuant to the  
26 "Hackensack Meadowlands Reclamation and Development Act,"  
27 P.L.1968, c.404 (C.13:17-1 et seq.), or the Highlands Water  
28 Protection and Planning Council pursuant to the "Highlands Water  
29 Protection and Planning Act," P.L. , c. (C. ) (now before the  
30 Legislature as this bill) for that portion of the Highlands Region lying  
31 within the preservation area as defined in section 3 of P.L. , c.  
32 (C. ) (now before the Legislature as this bill) . The State Planning  
33 Commission shall rely on the adopted plans and regulations of these  
34 entities in developing the State Development and Redevelopment Plan.

35 b. The State Planning Commission may adopt, after the enactment  
36 date of P.L.1993, c.190 (C.13:19-5.1 et al.), the coastal planning  
37 policies of the rules and regulations adopted pursuant to P.L.1973,  
38 c.185 (C.13:19-1 et seq.), the coastal planning policies of the rules and  
39 regulations adopted pursuant to subsection b. of section 17 of  
40 P.L.1973, c.185 (C.13:19-17) and any coastal planning policies of  
41 rules and regulations adopted pursuant to P.L.1973, c.185 (C.13:19-1  
42 et seq.) thereafter as the State Development and Redevelopment Plan  
43 for the coastal area as defined in section 4 of P.L.1973, c.185  
44 (C.13:19-4).

45 (cf: P.L.1993, c.190, s.19)

46

1 73. Section 13 of P.L.1981, c.262 (C.58:1A-13) is amended to  
2 read as follows:

3 13. a. The department shall prepare and adopt the New Jersey  
4 Statewide Water Supply Plan, which plan shall be revised and updated  
5 at least once every five years.

6 b. The plan shall include, but need not be limited to, the following:

7 (1) An identification of existing Statewide and regional ground and  
8 surface water supply sources, both interstate and intrastate, and the  
9 current usage thereof;

10 (2) Projections of Statewide and regional water supply demands  
11 for the duration of the plan;

12 (3) Recommendations for improvements to existing State water  
13 supply facilities, the construction of additional State water supply  
14 facilities, and for the interconnection or consolidation of existing water  
15 supply systems;

16 (4) Recommendations for the diversion or use of fresh surface or  
17 ground waters and saline surface or ground waters for aquaculture  
18 purposes;

19 (5) Recommendations for legislative and administrative actions to  
20 provide for the maintenance and protection of watershed areas; and

21 (6) Identification of lands purchased by the State for water supply  
22 facilities that currently are not actively used for water supply purposes,  
23 including, but not limited to, the Six Mile Run Reservoir Site, with  
24 recommendations as to the future use of these lands for water supply  
25 purposes within or outside of the planning horizon for the plan.

26 c. Prior to adopting the plan, including any revisions and updates  
27 thereto, the department shall:

28 (1) Prepare and make available to all interested persons a copy of  
29 the proposed plan or proposed revisions and updates to the current  
30 plan;

31 (2) Conduct public meetings in the several geographic areas of the  
32 State on the proposed plan or proposed revisions and updates to the  
33 current plan; and

34 (3) Consider the comments made at these meetings, make any  
35 revisions to the proposed plan or proposed revisions and updates to  
36 the current plan as it deems necessary, and adopt the plan.

37 d. Prior to the adoption of any revision to the New Jersey  
38 Statewide Water Supply Plan pursuant to this section, the department  
39 shall consult with the Highlands Water Protection and Planning  
40 Council, established pursuant to section 4 of P.L. , c. (C. ) (now  
41 before the Legislature as this bill), concerning the possible effects and  
42 impact of the plan upon the Highlands regional master plan, adopted  
43 pursuant to section 8 of P.L. , c. (C. ) (now before the  
44 Legislature as this bill), and the water and other natural resources of  
45 the Highlands Region, as defined in section 3 of P.L. , c. (C. )  
46 (now before the Legislature as this bill).

1 (cf: P.L.2003, c.251, s.2)

2

3 74. Section 10 of P.L.1993, c.202 (C.58:1A-15.1) is amended to  
4 read as follows:

5 10. No action taken by the department pursuant to the provisions  
6 of P.L.1981, c.262 (C.58:1A-1 et al.) or P.L.1993, c.202  
7 (C.58:1A-7.3 et al.) shall be inconsistent with the provisions of the  
8 "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.)  
9 [or], the comprehensive management plan for the pinelands area  
10 adopted pursuant to section 7 of P.L.1979, c.111 (C.13:18A-8), the  
11 "Highlands Water Protection and Planning Act," P.L. , c. (C. )  
12 (now before the Legislature as this bill), or the Highlands regional  
13 master plan adopted pursuant to section 8 of P.L. , c. (C. ) (now  
14 before the Legislature as this bill).

15 (cf: P.L.1993, c.202, s.10)

16

17 75. Section 6 of P.L.1981, c.293 (C.58:1B-6) is amended to read  
18 as follows:

19 6. a. The authority is hereby empowered to design, initiate,  
20 acquire, construct, maintain, repair and operate projects or cause the  
21 same to be operated pursuant to a lease, sublease, or agreement with  
22 any person or governmental agency, and to issue bonds of the  
23 authority to finance these projects, payable from the revenues and  
24 other funds of the authority. All projects undertaken by the authority  
25 shall conform to the recommendations of the New Jersey Statewide  
26 Water Supply Plan.

27 b. The authority shall be subject to compliance with all State health  
28 and environmental protection statutes and regulations and any other  
29 statutes and regulations not inconsistent herewith. The authority may,  
30 upon the request of a governmental agency, enter into a contract to  
31 provide services for any project.

32 c. The authority shall consult with the Water Supply Advisory  
33 Council from time to time prior to final action on any project or  
34 undertaking authorized pursuant to this section.

35 d. The authority shall consult with the Highlands Water Protection  
36 and Planning Council, established pursuant to section 4 of P.L. ,  
37 c. (C. ) (now before the Legislature as this bill), from time to time  
38 prior to final action on any project or undertaking authorized pursuant  
39 to this section in the Highlands Region, as defined in section 3 of  
40 P.L. , c. (C. ) (now before the Legislature as this bill). The  
41 provisions of section 16 of P.L. , c. (C. ) (now before the  
42 Legislature as this bill) shall apply to the authority.

43 (cf: P.L.1981, c.293, s.6)

44

45 76. Section 7 of P.L.2000, c.175 (C.58:4B-7) is amended to read  
46 as follows:

1       7. The Lake Hopatcong Commission shall, in conjunction with  
2 each Lake Hopatcong municipality, develop a stormwater and  
3 nonpoint source pollution management plan for the region. The  
4 stormwater management and nonpoint source pollution plan shall be  
5 designed to reduce siltation and prevent pollution caused by  
6 stormwater runoff or nonpoint sources that would otherwise degrade  
7 the water quality of Lake Hopatcong and its tributaries, interfere with  
8 water-based recreation, or adversely affect aquatic life. The goals and  
9 purposes of the plan shall be to improve the quality of stormwater  
10 runoff entering Lake Hopatcong, identify cost effective measures to  
11 control stormwater runoff and nonpoint source pollution, and identify  
12 funding mechanisms for implementation of such measures. The  
13 commission shall consult with the Highlands Water Protection and  
14 Planning Council, established pursuant to section 4 of P.L. , c.  
15 (C. ) (now before the Legislature as this bill), in developing the  
16 stormwater and nonpoint source pollution management plan pursuant  
17 to this section. Any plan developed pursuant to this section that may  
18 impact upon or otherwise affect the Highlands preservation area, as  
19 defined in section 3 of P.L. , c. (C. ) (now before the Legislature  
20 as this bill), shall be consistent with the Highlands regional master plan  
21 adopted by the council pursuant to section 8 of that act.

22 (cf: P.L.2000, c.175, s.7)

23

24       77. Section 9 of P.L.2000, c.175 (C.58:4B-9) is amended to read  
25 as follows:

26       9. Each municipality represented on the commission shall provide  
27 the commission notice of proposed amendments and revisions to  
28 municipal master plans, zoning and other ordinances governing land  
29 use and development, and applications for specific development  
30 projects, and request that the commission review and evaluate the  
31 proposed amendment, revision, or application to assess its potential  
32 impact upon Lake Hopatcong and its watershed and provide the  
33 commission's recommendations for appropriate action thereon. As  
34 part of the commission's review and evaluation, the commission shall  
35 consider the consistency of the amendment or revision with the  
36 Highlands regional master plan, adopted pursuant to section 8 of  
37 P.L. , c. (C. ) (now before the Legislature as this bill), if it may  
38 impact upon or otherwise affect the Highlands preservation area, as  
39 defined in section 3 of P.L. , c. (C. ) (now before the Legislature  
40 as this bill), and shall consult with the Highlands Water Protection and  
41 Planning Council, established pursuant to section 4 of P.L. , c.  
42 (C. ) (now before the Legislature as this bill), on any such matter.  
43 (cf: P.L.2000, c.175, s.9)

44

45       78. R.S.58:5-12 is amended to read as follows:

46       58:5-12. The district water supply commission shall thereupon

1 proceed to formulate plans for obtaining a water supply or a new or  
2 additional water supply for [such] the municipality and any other  
3 municipalities that may desire water from such joint water supply, as  
4 provided for herein, and to estimate the cost thereof, the annual cost  
5 of operating the same, the probable share of the cost which each of  
6 the municipalities will be called upon to pay for its share of water  
7 supply and plant used in common with the other municipalities, and the  
8 cost of any distribution system, water supply or plant acquired or  
9 constructed for its individual use, and shall report [said] the plans to  
10 the municipalities, together with a form of contract, providing for the  
11 raising and payment of the necessary funds to meet the cost of  
12 acquisition and operation.

13 If the plans to be formulated pursuant to this section involve  
14 obtaining water from the Highlands Region, as defined in section 3 of  
15 P.L. , c. (C. ) (now before the Legislature as this bill), the  
16 district water supply commission shall consult with the Highlands  
17 Water Protection and Planning Council established pursuant to section  
18 4 of P.L. , c. (C. ) (now before the Legislature as this bill) prior  
19 to moving forward with any such plans or entering into any such  
20 contracts. The provisions of section 16 of P.L. , c. (C. ) (now  
21 before the Legislature as this bill) shall apply to the district water  
22 supply commission.

23 (cf: R.S.58:5-12)

24

25 79. Section 1 of P.L.1993, c.351 (C.58:10A-7.2) is amended to  
26 read as follows:

27 1. a. An application for a permit issued by the Department of  
28 Environmental Protection pursuant to P.L.1977, c.74 (C.58:10A-1 et  
29 seq.) for the discharge of groundwater to surface water involving a  
30 groundwater remedial action necessitated by a discharge from an  
31 underground storage tank containing petroleum products or a  
32 groundwater remedial action involving petroleum products, shall  
33 contain, in addition to a properly filled application form:

34 (1) such documentation or other information on the permit  
35 application as may be prescribed by the department on a checklist  
36 made available to a prospective applicant;

37 (2) if the discharge from the proposed groundwater remedial action  
38 is located within a wastewater service district or area of a local public  
39 entity, a certified statement that a request, dated at least 60 days prior  
40 to the filing of the permit application, had been made to the local  
41 public entity to discharge the groundwater into the wastewater  
42 collection or treatment facilities of that entity, and that no reply has  
43 been received from that entity, or a written statement by the local  
44 public entity, dated not more than 60 days prior to the filing of the  
45 permit application with the department, that the entity has approved  
46 or rejected a written request by the applicant to discharge the treated

1 groundwater into the wastewater collection or treatment facilities of  
2 that entity. Notwithstanding that a local public entity has approved  
3 the request to discharge groundwater into its facilities, the department  
4 may approve the applicant's permit to discharge the groundwater to  
5 surface water upon a finding that it is in the public interest;

6 (3) a certified statement that a copy of the completed application  
7 form along with a consent request, as prescribed in subsection b. of  
8 this section, have been filed with the clerk of the municipality in which  
9 the site of the proposed groundwater remedial action is located, and  
10 setting forth the date of the filing with the host municipality, which  
11 filing shall be made prior to, or concurrent with, the filing of the  
12 application with the department; [and]

13 (4) within the pinelands area, documentation from the Pinelands  
14 Commission that the application is consistent with the requirements of  
15 the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.)  
16 or any regulations promulgated pursuant thereto and section 502 of  
17 the "National Parks and Recreation Act of 1978" (Pub.L.95-625); and

18 (5) within the Highlands preservation area, documentation from the  
19 Highlands Water Protection and Planning Council that the application  
20 is consistent with the requirements of the "Highlands Water Protection  
21 and Planning Act," P.L. , c. (C. ) (now before the Legislature as  
22 this bill), and any rules and regulations and the Highlands regional  
23 master plan adopted pursuant thereto.

24 b. The department shall prescribe the form and content of a request  
25 for consent filed with a municipality pursuant to paragraph (3) of  
26 subsection a. of this section. The municipal consent request shall be  
27 limited to an identification of all municipal approvals with which the  
28 applicant is required to comply, the status of any applications filed  
29 therefor, and whether or not the municipality consents to the  
30 application and the specific reasons therefor. The request for consent  
31 form shall also advise that documentation and other information  
32 relating to the application have been filed and are available for review  
33 at the department. A municipality receiving a request for consent form  
34 shall have 30 days from the date of receipt of a copy of the application  
35 and request for consent form to file with the department the  
36 information requested, and its consent of, or objections to, the  
37 application. Municipal consent or objection to a groundwater remedial  
38 action shall be by resolution of the governing body of the municipality  
39 unless the governing body has, by resolution, delegated such authority  
40 to a qualified officer or entity thereof, in which case the endorsement  
41 shall be signed by the designated officer or official of the entity.  
42 Notwithstanding that a municipality objects to a permit application or  
43 fails to file a consent or objection to the permit application, the  
44 department may approve the applicant's permit application to  
45 discharge groundwater to surface water.

46 c. An application pursuant to subsection a. of this section shall be

1 deemed complete, for the purposes of departmental review, within 30  
2 days of the filing of the application with the department unless the  
3 department notifies the applicant, in writing, prior to expiration of the  
4 30 days that the application has failed to satisfy one or more of the  
5 items identified in subsection a. of this section. If an application is  
6 determined to be complete, the department shall review and take final  
7 action on the completed application within 60 days from  
8 commencement of the review, or, if the parties mutually agree to a  
9 30-day extension, within 90 days therefrom. The review period for a  
10 completed application shall commence immediately upon termination  
11 of the 30-day period, or upon determination by the department that the  
12 application is complete, whichever occurs first. If the department fails  
13 to take final action on a permit application for a general permit in the  
14 time frames set forth in this subsection, that general permit shall be  
15 deemed to have been approved by the department. The department  
16 shall review an application for a permit pursuant to subsection a. of  
17 this section and shall take action on that application pursuant to the  
18 time frames set forth in this subsection, notwithstanding that all of the  
19 municipal approvals have not been obtained, unless such approvals  
20 would materially affect the terms and conditions of the permit, except  
21 that in such instances the department may condition its approval of the  
22 application on the necessary municipal approvals being subject to the  
23 terms and conditions of the application.

24 d. The department may issue a general permit for the discharge of  
25 groundwater to surface water pursuant to a groundwater remedial  
26 action of discharged petroleum products as provided in subsection a.  
27 of this section.

28 e. (1) The department may not require a municipal consent of a  
29 treatment works application for a groundwater remedial action for  
30 which a permit application is submitted pursuant to subsection a. of  
31 this section.

32 (2) If a completed application for a treatment works approval for  
33 a groundwater remedial action is filed with the department at the same  
34 time as an application for a general permit therefor, the department  
35 shall concurrently review the two applications, except that the review  
36 of the application for the treatment works approval for a groundwater  
37 remedial action shall not be subject to the time frames set forth in  
38 subsection c. of this section.

39 f. The provisions of this section shall apply to applications filed on  
40 or after the effective date of this act, except that the Department of  
41 Environmental Protection may implement any of the provisions of this  
42 section prior to that date.

43 g. The department may, in accordance with the "Administrative  
44 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and  
45 regulations to implement the provisions of this act.

46 h. For purposes of this section:

1 "General permit" means a permit issued by the department for  
2 similar discharges.

3 "Groundwater remedial action" means the removal or abatement of  
4 one or more pollutants in a groundwater source.

5 "Local public entity" means a sewerage authority established  
6 pursuant to P.L.1946, c.138 (C.40:14A-1 et seq.), a municipal  
7 authority established pursuant to P.L.1957, c.183 (C.40:14B-1 et  
8 seq.), the Passaic Valley Sewerage Commissioners continued pursuant  
9 to R.S.58:14-2, a joint meeting established pursuant to R.S.40:63-68  
10 et seq. or a local unit authorized to operate a sewerage facility  
11 pursuant to N.J.S.40A:26A-1 et seq., or any predecessor act.

12 "Underground storage tank" shall have the same meaning as in  
13 section 2 of P.L.1986, c.102 (C.58:10A-22), except that as used  
14 herein underground storage tanks shall include:

15 (1) farm underground storage tanks of 1,100 gallons or less  
16 capacity used for storing motor fuel for noncommercial purposes;

17 (2) underground storage tanks used to store heating oil for on-site  
18 consumption in a nonresidential building with a capacity of 2,000  
19 gallons or less; and

20 (3) underground storage tanks used to store heating oil for on-site  
21 consumption in a residential building.

22 (cf: P.L.1993, c.351, s.1)

23

24 80. Section 24 of P.L.1993, c.139 (C.58:10B-2) is amended to  
25 read as follows:

26 24. a. The department shall, pursuant to the "Administrative  
27 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and  
28 regulations establishing criteria and minimum standards necessary for  
29 the submission, evaluation and approval of plans or results of  
30 preliminary assessments, site investigations, remedial investigations,  
31 and remedial action workplans and for the implementation thereof.  
32 The documents for the preliminary assessment, site investigation,  
33 remedial investigation, and remedial action workplan required to be  
34 submitted for a remediation, shall not be identical to the criteria and  
35 standards used for similar documents submitted pursuant to federal  
36 law, except as may be required by federal law. In establishing criteria  
37 and minimum standards for these terms the department shall strive to  
38 be result oriented, provide for flexibility, and to avoid duplicate or  
39 unnecessarily costly or time consuming conditions or standards.

40 b. The regulations adopted by the department pursuant to  
41 subsection a. of this section shall provide that a person performing a  
42 remediation may deviate from the strict adherence to the regulations,  
43 in a variance procedure or by another method prescribed by the  
44 department, if that person can demonstrate that the deviation and the  
45 resulting remediation would be as protective of human health, safety,  
46 and the environment, as appropriate, as the department's regulations

1 and that the health risk standards established in subsection d. of  
2 section 35 of P.L.1993, c.139 (C.58:10B-12) and any applicable  
3 environmental standards would be met. Factors to be considered in  
4 determining if the deviation should be allowed are whether the  
5 alternative method:

6 (1) has been either used successfully or approved by the  
7 department in writing or similar situations;

8 (2) reflects current technology as documented in peer-reviewed  
9 professional journals;

10 (3) can be expected to achieve the same or substantially the same  
11 results or objectives as the method which it is to replace; and

12 (4) furthers the attainment of the goals of the specific remedial  
13 phase for which it is used.

14 The department shall make available to the public, and shall  
15 periodically update, a list of alternative remediation methods used  
16 successfully or approved by the department as provided in paragraph  
17 (1) of this subsection.

18 c. To the extent practicable and in conformance with the standards  
19 for remediations as provided in section 35 of P.L.1993, c.139  
20 (C.58:10-12), the department shall adopt rules and regulations that  
21 allow for certain remedial actions to be undertaken in a manner  
22 prescribed by the department without having to obtain prior approval  
23 from or submit detailed documentation to the department. A person  
24 who performs a remedial action in the manner prescribed in the rules  
25 and regulations of the department, and who certifies this fact to the  
26 department, shall obtain a no further action letter from the department  
27 for that particular remedial action.

28 d. The department shall develop regulatory procedures that  
29 encourage the use of innovative technologies in the performance of  
30 remedial actions and other remediation activities.

31 e. Notwithstanding any other provisions of this section, all  
32 remediation standards and remedial actions that involve real property  
33 located in the pinelands area shall be consistent with the provisions of  
34 the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.),  
35 any rules and regulations adopted pursuant thereto, and with section  
36 502 of the "National Parks and Recreation Act of 1978," 16 U.S.C.  
37 s.471i.

38 f. Notwithstanding any other provisions of this section, all  
39 remediation standards and remedial actions that involve real property  
40 located in the Highlands preservation area shall be consistent with the  
41 provisions of the "Highlands Water Protection and Planning Act,"  
42 P.L. , c. (C. ) (now before the Legislature as this bill), and any  
43 rules and regulations and the Highlands regional master plan adopted  
44 pursuant thereto.

45 (cf: P.L.1997, c.278, s.10)

46

1       81. Section 35 of P.L.1993, c.139 (C.58:10B-12) is amended to  
2 read as follows:

3       35. a. The Department of Environmental Protection shall adopt  
4 minimum remediation standards for soil, groundwater, and surface  
5 water quality necessary for the remediation of contamination of real  
6 property. The remediation standards shall be developed to ensure that  
7 the potential for harm to public health and safety and to the  
8 environment is minimized to acceptable levels, taking into  
9 consideration the location, the surroundings, the intended use of the  
10 property, the potential exposure to the discharge, and the surrounding  
11 ambient conditions, whether naturally occurring or man-made.

12       Until the minimum remediation standards for the protection of  
13 public health and safety as described herein are adopted, the  
14 department shall apply public health and safety remediation standards  
15 for contamination at a site on a case-by-case basis based upon the  
16 considerations and criteria enumerated in this section.

17       The department shall not propose or adopt remediation standards  
18 protective of the environment pursuant to this section, except  
19 standards for groundwater or surface water, until recommendations  
20 are made by the Environment Advisory Task Force created pursuant  
21 to section 37 of P.L.1993, c.139. Until the Environment Advisory  
22 Task Force issues its recommendations and the department adopts  
23 remediation standards protective of the environment as required by  
24 this section, the department shall continue to determine the need for  
25 and the application of remediation standards protective of the  
26 environment on a case-by-case basis in accordance with the guidance  
27 and regulations of the United States Environmental Protection Agency  
28 pursuant to the "Comprehensive Environmental Response,  
29 Compensation and Liability Act of 1980," 42 U.S.C. s.9601 et seq.  
30 and other statutory authorities as applicable.

31       The department may not require any person to perform an  
32 ecological evaluation of any area of concern that consists of an  
33 underground storage tank storing heating oil for on-site consumption  
34 in a one to four family residential building.

35       b. In developing minimum remediation standards the department  
36 shall:

37       (1) base the standards on generally accepted and peer reviewed  
38 scientific evidence or methodologies;

39       (2) base the standards upon reasonable assumptions of exposure  
40 scenarios as to amounts of contaminants to which humans or other  
41 receptors will be exposed, when and where those exposures will occur,  
42 and the amount of that exposure;

43       (3) avoid the use of redundant conservative assumptions. The  
44 department shall avoid the use of redundant conservative assumptions  
45 by the use of parameters that provide an adequate margin of safety and  
46 which avoid the use of unrealistic conservative exposure parameters

1 and which guidelines make use of the guidance and regulations for  
2 exposure assessment developed by the United States Environmental  
3 Protection Agency pursuant to the "Comprehensive Environmental  
4 Response, Compensation, and Liability Act of 1980," 42 U.S.C.  
5 s.9601 et seq. and other statutory authorities as applicable;

6 (4) where feasible, establish the remediation standards as numeric  
7 or narrative standards setting forth acceptable levels or concentrations  
8 for particular contaminants; and

9 (5) consider and utilize, in the absence of other standards used or  
10 developed by the Department of Environmental Protection and the  
11 United States Environmental Protection Agency, the toxicity factors,  
12 slope factors for carcinogens and reference doses for non-carcinogens  
13 from the United States Environmental Protection Agency's Integrated  
14 Risk Information System (IRIS).

15 c. (1) The department shall develop residential and nonresidential  
16 soil remediation standards that are protective of public health and  
17 safety. For contaminants that are mobile and transportable to  
18 groundwater or surface water, the residential and nonresidential soil  
19 remediation standards shall be protective of groundwater and surface  
20 water. Residential soil remediation standards shall be set at levels or  
21 concentrations of contamination for real property based upon the use  
22 of that property for residential or similar uses and which will allow the  
23 unrestricted use of that property without the need of engineering  
24 devices or any institutional controls and without exceeding a health  
25 risk standard greater than that provided in subsection d. of this  
26 section. Nonresidential soil remediation standards shall be set at levels  
27 or concentrations of contaminants that recognize the lower likelihood  
28 of exposure to contamination on property that will not be used for  
29 residential or similar uses, which will allow for the unrestricted use of  
30 that property for nonresidential purposes, and that can be met without  
31 the need of engineering controls. Whenever real property is  
32 remediated to a nonresidential soil remediation standard, except as  
33 otherwise provided in paragraph (3) of subsection g. of this section,  
34 the department shall require, pursuant to section 36 of P.L.1993, c.139  
35 (C.58:10B-13), that the use of the property be restricted to  
36 nonresidential or other uses compatible with the extent of the  
37 contamination of the soil and that access to that site be restricted in a  
38 manner compatible with the allowable use of that property.

39 (2) The department may develop differential remediation standards  
40 for surface water or groundwater that take into account the current,  
41 planned, or potential use of that water in accordance with the "Clean  
42 Water Act" (33 U.S.C. s.1251 et seq.) and the "Water Pollution  
43 Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.).

44 d. The department shall develop minimum remediation standards  
45 for soil, groundwater, and surface water intended to be protective of  
46 public health and safety taking into account the provisions of this

1 section. In developing these minimum health risk remediation  
2 standards the department shall identify the hazards posed by a  
3 contaminant to determine whether exposure to that contaminant can  
4 cause an increase in the incidence of an adverse health effect and  
5 whether the adverse health effect may occur in humans. The  
6 department shall set minimum soil remediation health risk standards  
7 for both residential and nonresidential uses that:

8 (1) for human carcinogens, as categorized by the United States  
9 Environmental Protection Agency, will result in an additional cancer  
10 risk of one in one million;

11 (2) for noncarcinogens, will limit the Hazard Index for any given  
12 effect to a value not exceeding one.

13 The health risk standards established in this subsection are for any  
14 particular contaminant and not for the cumulative effects of more than  
15 one contaminant at a site.

16 e. Remediation standards and other remediation requirements  
17 established pursuant to this section and regulations adopted pursuant  
18 thereto shall apply to remediation activities required pursuant to the  
19 "Spill Compensation and Control Act," P.L.1976, c.141  
20 (C.58:10-23.11 et seq.), the "Water Pollution Control Act," P.L.1977,  
21 c.74 (C.58:10A-1 et seq.), P.L.1986, c.102 (C.58:10A-21 et seq.), the  
22 "Industrial Site Recovery Act," P.L.1983, c.330 (C.13:1K-6 et al.), the  
23 "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.),  
24 the "Comprehensive Regulated Medical Waste Management Act,"  
25 P.L.1989, c.34 (C.13:1E-48.1 et seq.), the "Major Hazardous Waste  
26 Facilities Siting Act," P.L.1981, c.279 (C.13:1E-49 et seq.), the  
27 "Sanitary Landfill Facility Closure and Contingency Fund Act,"  
28 P.L.1981, c.306 (C.13:1E-100 et seq.), the "Regional Low-Level  
29 Radioactive Waste Disposal Facility Siting Act," P.L.1987, c.333  
30 (C.13:1E-177 et seq.), or any other law or regulation by which the  
31 State may compel a person to perform remediation activities on  
32 contaminated property. However, nothing in this subsection shall be  
33 construed to limit the authority of the department to establish  
34 discharge limits for pollutants or to prescribe penalties for violations  
35 of those limits pursuant to P.L.1977, c.74 (C.58:10A-1 et seq.), or to  
36 require the complete removal of nonhazardous solid waste pursuant to  
37 law.

38 f. (1) A person performing a remediation of contaminated real  
39 property, in lieu of using the established minimum soil remediation  
40 standard for either residential use or nonresidential use adopted by the  
41 department pursuant to subsection c. of this section, may submit to the  
42 department a request to use an alternative residential use or  
43 nonresidential use soil remediation standard. The use of an alternative  
44 soil remediation standard shall be based upon site specific factors  
45 which may include (1) physical site characteristics which may vary  
46 from those used by the department in the development of the soil

1 remediation standards adopted pursuant to this section; or (2) a site  
2 specific risk assessment. If a person performing a remediation  
3 requests to use an alternative soil remediation standard based upon a  
4 site specific risk assessment, that person shall demonstrate to the  
5 department that the requested deviation from the risk assessment  
6 protocol used by the department in the development of soil  
7 remediation standards pursuant to this section is consistent with the  
8 guidance and regulations for exposure assessment developed by the  
9 United States Environmental Protection Agency pursuant to the  
10 "Comprehensive Environmental Response, Compensation, and  
11 Liability Act of 1980," 42 U.S.C. 9601 et seq. and other statutory  
12 authorities as applicable. A site specific risk assessment may consider  
13 exposure scenarios and assumptions that take into account the form of  
14 the contaminant present, natural biodegradation, fate and transport of  
15 the contaminant, available toxicological data that are based upon  
16 generally accepted and peer reviewed scientific evidence or  
17 methodologies , and physical characteristics of the site, including, but  
18 not limited to, climatic conditions and topographic conditions.  
19 Nothing in this subsection shall be construed to authorize the use of  
20 an alternative soil remediation standard in those instances where an  
21 engineering control is the appropriate remedial action, as determined  
22 by the department, to prevent exposure to contamination.

23 Upon a determination by the department that the requested  
24 alternative remediation standard satisfies the department's regulations,  
25 is protective of public health and safety, as established in subsection  
26 d. of this section, and is protective of the environment pursuant to  
27 subsection a. of this section, the alternative residential use or  
28 nonresidential use soil remediation standard shall be approved by the  
29 department. The burden to demonstrate that the requested alternative  
30 remediation standard is protective rests with the person requesting the  
31 alternative standard and the department may require the submission of  
32 any documentation as the department determines to be necessary in  
33 order for the person to meet that burden.

34 (2) The department may, upon its own initiative, require an  
35 alternative remediation standard for a particular contaminant for a  
36 specific real property site, in lieu of using the established minimum  
37 residential use or nonresidential use soil remediation standard adopted  
38 by the department for a particular contaminant pursuant to this  
39 section. The department may require an alternative remediation  
40 standard pursuant to this paragraph upon a determination by the  
41 department, based on the weight of the scientific evidence, that due to  
42 specific physical site characteristics of the subject real property,  
43 including, but not limited to, its proximity to surface water, the use of  
44 the adopted residential use or nonresidential use soil remediation  
45 standards would not be protective , or would be unnecessarily  
46 overprotective, of public health or safety or of the environment, as

1 appropriate.

2 g. The development, selection, and implementation of any  
3 remediation standard or remedial action shall ensure that it is  
4 protective of public health, safety, and the environment, as applicable,  
5 as provided in this section. In determining the appropriate remediation  
6 standard or remedial action that shall occur at a site, the department  
7 and any person performing the remediation, shall base the decision on  
8 the following factors:

9 (1) Unrestricted use remedial actions, limited restricted use  
10 remedial actions and restricted use remedial actions shall be allowed  
11 except that unrestricted use remedial actions and limited restricted use  
12 remedial actions shall be preferred over restricted use remedial actions.  
13 The department, however, may not disapprove the use of a restricted  
14 use remedial action or a limited restricted use remedial action so long  
15 as the selected remedial action meets the health risk standard  
16 established in subsection d. of this section, and where, as applicable,  
17 is protective of the environment. The choice of the remedial action to  
18 be implemented shall be made by the person performing the  
19 remediation in accordance with regulations adopted by the department  
20 and that choice of the remedial action shall be approved by the  
21 department if all the criteria for remedial action selection enumerated  
22 in this section , as applicable, are met. The department may not  
23 require a person to compare or investigate any alternative remedial  
24 action as part of its review of the selected remedial action;

25 (2) Contamination may, upon the department's approval, be left  
26 onsite at levels or concentrations that exceed the minimum soil  
27 remediation standards for residential use if the implementation of  
28 institutional or engineering controls at that site will result in the  
29 protection of public health, safety and the environment at the health  
30 risk standard established in subsection d. of this section and if the  
31 requirements established in subsections a., b., c. and d. of section 36  
32 of P.L.1993, c.139 (C.58:10B-13) are met;

33 (3) Real property on which there is soil that has not been  
34 remediated to the residential soil remediation standards, or real  
35 property on which the soil, groundwater, or surface water has been  
36 remediated to meet the required health risk standard by the use of  
37 engineering or institutional controls, may be developed or used for  
38 residential purposes, or for any other similar purpose, if (a) all areas  
39 of that real property at which a person may come into contact with soil  
40 are remediated to meet the residential soil remediation standards and  
41 (b) it is clearly demonstrated that for all areas of the real property,  
42 other than those described in subparagraph (a) above, engineering and  
43 institutional controls can be implemented and maintained on the real  
44 property sufficient to meet the health risk standard as established in  
45 subsection d. of this section;

46 (4) Remediation shall not be required beyond the regional natural

1 background levels for any particular contaminant. The department  
2 shall develop regulations that set forth a process to identify  
3 background levels of contaminants for a particular region. For the  
4 purpose of this paragraph "regional natural background levels" means  
5 the concentration of a contaminant consistently present in the  
6 environment of the region of the site and which has not been  
7 influenced by localized human activities;

8 (5) Remediation shall not be required of the owner or operator of  
9 real property for contamination coming onto the site from another  
10 property owned and operated by another person, unless the owner or  
11 operator is the person who is liable for cleanup and removal costs  
12 pursuant to P.L.1976, c.141 (C.58:10-23.11 et seq.);

13 (6) Groundwater that is contaminated shall not be required to be  
14 remediated to a level or concentration for any particular contaminant  
15 lower than the level or concentration that is migrating onto the  
16 property from another property owned and operated by another  
17 person;

18 (7) The technical performance, effectiveness and reliability of the  
19 proposed remedial action in attaining and maintaining compliance with  
20 applicable remediation standards and required health risk standards  
21 shall be considered. In reviewing a proposed remedial action, the  
22 department shall also consider the ability of the owner or operator to  
23 implement the proposed remedial action within a reasonable time  
24 frame without jeopardizing public health, safety or the environment;

25 (8) The use of a remedial action for soil contamination that is  
26 determined by the department to be effective in its guidance document  
27 created pursuant to section 38 of P.L.1993, c.139 (C.58:10B-14), is  
28 presumed to be an appropriate remedial action if it is to be  
29 implemented on a site in the manner described by the department in the  
30 guidance document and applicable regulations and if all of the  
31 conditions for remedy selection provided for in this section are met.  
32 The burden to prove compliance with the criteria in the guidance  
33 document is with the person performing the remediation;

34 (9) (Deleted by amendment, P.L.1997, c.278).

35 The burden to demonstrate that a remedial action is protective of  
36 public health, safety and the environment, as applicable, and has been  
37 selected in conformance with the provisions of this subsection is with  
38 the person proposing the remedial action.

39 The department may require the person performing the remediation  
40 to supply the information required pursuant to this subsection as is  
41 necessary for the department to make a determination.

42 h. (1) The department shall adopt regulations which establish a  
43 procedure for a person to demonstrate that a particular parcel of land  
44 contains large quantities of historical fill material. Upon a  
45 determination by the department that large quantities of historic fill  
46 material exist on that parcel of land, there is a rebuttable presumption

1 that the department shall not require any person to remove or treat the  
2 fill material in order to comply with applicable health risk or  
3 environmental standards. In these areas the department shall establish  
4 by regulation the requirement for engineering or institutional controls  
5 that are designed to prevent exposure of these contaminants to  
6 humans, that allow for the continued use of the property, that are less  
7 costly than removal or treatment, which maintain the health risk  
8 standards as established in subsection d. of this section, and, as  
9 applicable, are protective of the environment. The department may  
10 rebut the presumption only upon a finding by the preponderance of the  
11 evidence that the use of engineering or institutional controls would not  
12 be effective in protecting public health, safety, and the environment.  
13 The department may not adopt any rule or regulation that has the  
14 effect of shifting the burden of rebutting the presumption. For the  
15 purposes of this paragraph "historic fill material" means generally large  
16 volumes of non-indigenous material, no matter what date they were  
17 emplaced on the site, used to raise the topographic elevation of a site,  
18 which were contaminated prior to emplacement and are in no way  
19 connected with the operations at the location of emplacement and  
20 which include, but are not limited to, construction debris, dredge  
21 spoils, incinerator residue, demolition debris, fly ash, and  
22 non-hazardous solid waste. Historic fill material shall not include any  
23 material which is substantially chromate chemical production waste or  
24 any other chemical production waste or waste from processing of  
25 metal or mineral ores, residues, slags or tailings.

26 (2) The department shall develop recommendations for remedial  
27 actions in large areas of historic industrial contamination. These  
28 recommendations shall be designed to meet the health risk standards  
29 established in subsection d. of this section, and to be protective of the  
30 environment and shall take into account the industrial history of these  
31 sites, the extent of the contamination that may exist, the costs of  
32 remedial actions, the economic impacts of these policies, and the  
33 anticipated uses of these properties. The department shall issue a  
34 report to the Senate Environment Committee and to the Assembly  
35 Agriculture and Waste Management Committee, or their successors,  
36 explaining these recommendations and making any recommendations  
37 for legislative or regulatory action.

38 (3) The department may not, as a condition of allowing the use of  
39 a nonresidential use soil remediation standard, or the use of  
40 institutional or engineering controls, require the owner of that real  
41 property, except as provided in section 36 of P.L.1993, c.139  
42 (C.58:10B-13), to restrict the use of that property through the filing  
43 of a deed easement, covenant, or condition.

44 i. The department may not require a remedial action workplan to  
45 be prepared or implemented or engineering or institutional controls to  
46 be imposed upon any real property unless sampling performed at that

1 real property demonstrates the existence of contamination above the  
2 applicable remediation standards.

3 j. Upon the approval by the department of a remedial action  
4 workplan, or similar plan that describes the extent of contamination at  
5 a site and the remedial action to be implemented to address that  
6 contamination, the department may not subsequently require a change  
7 to that workplan or similar plan in order to compel a different  
8 remediation standard due to the fact that the established remediation  
9 standards have changed; however, the department may compel a  
10 different remediation standard if the difference between the new  
11 remediation standard and the remediation standard approved in the  
12 workplan or other plan differs by an order of magnitude. The  
13 limitation to the department's authority to change a workplan or  
14 similar plan pursuant to this subsection shall only apply if the workplan  
15 or similar plan is being implemented in a reasonable timeframe, as may  
16 be indicated in the approved remedial action workplan or similar plan.

17 k. Notwithstanding any other provisions of this section, all  
18 remediation standards and remedial actions that involve real property  
19 located in the Pinelands area shall be consistent with the provisions of  
20 the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.),  
21 any rules and regulations promulgated pursuant thereto, and with  
22 section 502 of the "National Parks and Recreation Act of 1978," 16  
23 U.S.C. s.471i; and all remediation standards and remedial actions that  
24 involve real property located in the Highlands preservation area shall  
25 be consistent with the provisions of the "Highlands Water Protection  
26 and Planning Act," P.L. , c. (C. ) (now before the Legislature as  
27 this bill), and any rules and regulations and the Highland regional  
28 master plan adopted pursuant thereto.

29 l. Upon the adoption of a remediation standard for a particular  
30 contaminant in soil, groundwater, or surface water pursuant to this  
31 section, the department may amend that remediation standard only  
32 upon a finding that a new standard is necessary to maintain the health  
33 risk standards established in subsection d. of section 35 of P.L.1993,  
34 c.139 (C.58:10B-12) or to protect the environment, as applicable. The  
35 department may not amend a public health based soil remediation  
36 standard to a level that would result in a health risk standard more  
37 protective than that provided for in subsection d. of section 35 of  
38 P.L.1993, c.139 (C.58:10B-12).

39 m. Nothing in P.L.1993, c.139 shall be construed to restrict or in  
40 any way diminish the public participation which is otherwise provided  
41 under the provisions of the "Spill Compensation and Control Act,"  
42 P.L.1976, c.141 (C.58:10-23.11 et seq.).

43 n. Notwithstanding any provision of subsection a. of section 36 of  
44 P.L.1993, c.139 (C.58:10B-13) to the contrary, the department may  
45 not require a person intending to implement a remedial action at an  
46 underground storage tank facility storing heating oil for on-site

1 consumption at a one to four family residential dwelling to provide  
2 advance notice to a municipality prior to implementing that remedial  
3 action.

4 o. A person who has remediated a site pursuant to the provisions  
5 of this section, who was liable for the cleanup and removal costs of  
6 that discharge pursuant to the provisions of paragraph (1) of  
7 subsection c. of section 8 of P.L.1976, c.141 (C.58:10-23.11g), and  
8 who remains liable for the discharge on that site due to a possibility  
9 that a remediation standard may change, undiscovered contamination  
10 may be found, or because an engineering control was used to  
11 remediate the discharge, shall maintain with the department a current  
12 address at which that person may be contacted in the event additional  
13 remediation needs to be performed at the site. The requirement to  
14 maintain the current address shall be made part of the conditions of the  
15 no further action letter issued by the department.

16 (cf: P.L.1997, c.278, s.17)

17

18 82. Section 1 of P.L.1999, c.225 (C.58:29-8) is amended to read  
19 as follows:

20 1. There shall be appropriated each State fiscal year from the  
21 **[General Fund] "Highlands Protection Fund" created pursuant to**  
22 **section 19 of P.L. , c. (C. ) (now before the Legislature as this**  
23 **bill** to each municipality within which any lands subject to the  
24 moratorium on the conveyance of watershed lands imposed pursuant  
25 to section 1 of P.L.1988, c.163, as amended by section 1 of P.L.1990,  
26 c.19, are located an amount of **[\$68.50]\$47** per acre of such lands  
27 located within the municipality. Notwithstanding the provisions of this  
28 section to the contrary, the per acre amount of watershed moratorium  
29 offset aid prescribed by this section shall be adjusted annually in direct  
30 proportion to the increase or decrease in the Consumer Price Index for  
31 all urban consumers in the New York City area as reported by the  
32 United States Department of Labor. The adjustment shall become  
33 effective on July 1 of the year in which the adjustment is made.

34 (cf: P.L.1999, c.225, s.1)

35

36 83. This act shall take effect immediately.