

# ASSEMBLY, No. 4206

# STATE OF NEW JERSEY

## 216th LEGISLATURE

INTRODUCED FEBRUARY 23, 2015

**Sponsored by:**

**Assemblywoman L. GRACE SPENCER**

**District 29 (Essex)**

**Assemblywoman ELIANA PINTOR MARIN**

**District 29 (Essex)**

**Assemblyman RONALD S. DANCER**

**District 12 (Burlington, Middlesex, Monmouth and Ocean)**

**SYNOPSIS**

Implements 2014 constitutional dedication of CBT revenues for open space, farmland, and historic preservation purposes.

**CURRENT VERSION OF TEXT**

As introduced.

**AN ACT** concerning open space, farmland, and historic preservation, supplementing Title 13 of the Revised Statutes, and amending P.L.1999, c.152.

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

1. (New section) Sections 1 through 14 of this act shall be known, and may be cited, as the “Preserve New Jersey Act.”

2. (New section) The Legislature finds and declares that:

a. Enhancing the quality of life of the citizens of New Jersey is a paramount policy of the State, and the acquisition, preservation, and stewardship of open space, farmland, and historic properties in New Jersey protect and enhance the character and beauty of the State and provide its citizens with greater opportunities for recreation, relaxation, and education;

b. The lands and resources now dedicated to these purposes will not be adequate to meet the needs of an expanding population in years to come, and the open space and farmland that is available and appropriate for these purposes will gradually disappear as the costs of preserving them correspondingly increase;

- c. The Delaware River, the Passaic River, and the Raritan River, and their respective tributaries, and many other areas throughout the State have been subject to serious flooding over the years, causing on some occasions loss of life and significant property damage;
- d. Beginning on October 28, 2012, the post-tropical storm commonly referred to as “Hurricane Sandy” struck New Jersey, producing unprecedented severe weather conditions, including enormous storm surges, devastating wind, and widespread flooding, crippling entire communities across New Jersey, and inflicting incalculable harm to the economy of the State;
- e. The acquisition of properties damaged by Hurricane Sandy and of other damaged and flood-prone properties throughout the State is in the best interests of the State to prevent future losses of life and property;
- f. “Blue Acres” is the term used to refer to the acquisition, for recreation and conservation purposes, of lands that have been damaged by, or may be prone to incurring damage caused by, storms or storm-related flooding, or that may buffer or protect other lands from such damage;
- g. Under the Blue Acres Program, structures on acquired property are demolished, the debris is removed, and the property is preserved for recreation and conservation purposes;
- h. Agriculture plays an integral role in the prosperity and well-being of the State as well as providing a fresh and abundant supply of food for its citizens;
- i. Much of the farmland in the State faces an imminent threat of permanent conversion to non-farm uses, and retention and development of an economically viable agricultural industry is of high public priority;
- j. There is an urgent need to preserve the State's historic heritage to enable present and future generations to experience, understand, and enjoy the landmarks of New Jersey's role in the birth and development of this nation;
- k. The restoration and preservation of properties of historic character and importance in the State are central to meeting this need, and a significant number of these historic properties are located in urban centers, where their restoration and preservation will advance urban revitalization efforts of the State and local governments;
- l. There is growing public recognition that the quality of life, economic prosperity, and environmental quality in New Jersey are served by the protection and timely preservation of open space and farmland and better management of the lands, resources, historic properties, and recreational facilities that are already under public ownership or protection;
- m. The protection and preservation of New Jersey's water resources, including the quality and quantity of the State's limited water supply, are essential to the quality of life and the economic health of the citizens of the State;
- n. The preservation of the existing diversity of animal and plant species is essential to sustaining both the environment and the economy of the Garden State, and the conservation of adequate habitat for endangered, threatened, and other rare species is necessary to preserve this biodiversity;
- o. As recognized by the voters of the State when they, on November 4, 2014, approved an amendment to the State Constitution to dedicate a portion of corporation business tax revenues specifically for the purposes of open space, farmland, and historic preservation, there is a need to continue the State programs previously funded by the “Green Acres, Water Supply and Floodplain Protection, and Farmland and Historic Preservation Bond Act of 2009” (P.L.2009, c.117), the “Green Acres, Farmland, Blue Acres, and Historic Preservation Bond Act of 2007” (P.L.2007, c.119), Article VIII, Section II, paragraph 7 of the State Constitution, the “Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act of 1995” (P.L.1995, c.204), and the nine previous similar bond acts enacted in 1961, 1971, 1974, 1978, 1981, 1983, 1987, 1989, and 1992, and various implementing laws; and

p. It is therefore in the public interest to preserve and protect as much land for recreation and conservation purposes, including lands that protect water supplies and flood-prone lands, and for farmland preservation purposes, and as many historic properties, as possible within the means provided by Article VIII, Section II, paragraph 6 of the State Constitution.

3. (New section) As used in sections 1 through 14 of this act:

“Acquisition” or “acquire” means the same as that term is defined in section 3 of P.L.1999, c.152 (C.13:8C-3).

“Blue Acres cost” means the expenses incurred in connection with: all things deemed necessary or useful and convenient for the acquisition by the State or a qualifying tax exempt nonprofit organization, for recreation and conservation purposes, of lands that have been damaged by, or may be prone to incurring damage caused by, storms or storm-related flooding, or that may buffer or protect other lands from such damage; the execution of any agreements or franchises deemed by the Department of Environmental Protection to be necessary or useful and convenient in connection with any Blue Acres project authorized by this act; the procurement or provision of appraisal, archaeological, architectural, conservation, design, engineering, financial, geological, historic research, hydrological, inspection, legal, planning, relocation, surveying, or other professional advice, estimates, reports, services, or studies; the purchase of title insurance; the undertaking of feasibility studies; the demolition of structures, the removal of debris, and the restoration of lands to a natural state or to a state useful for recreation and conservation purposes; the establishment of a reserve fund or funds for working capital, operating, maintenance, or replacement expenses as the Director of the Division of Budget and Accounting in the Department of the Treasury may determine; and reimbursement to any fund of the State of moneys that may have been transferred or advanced therefrom to any fund established by this act, or any moneys that may have been expended therefrom for, or in connection with, this act.

“Blue Acres project” means any project of the State or a qualifying tax exempt nonprofit organization to acquire, for recreation and conservation purposes, lands that have been damaged by, or may be prone to incurring damage caused by, storms or storm-related flooding, or that may buffer or protect other lands from such damage, and which is funded with moneys made available pursuant to subsection b. of section 5 of this act.

“Commissioner” means the Commissioner of Environmental Protection.

“Committee” means the State Agriculture Development Committee established pursuant to section 4 of P.L.1983, c.31 (C.4:1C-4).

“Constitutionally dedicated CBT moneys” means any moneys made available pursuant to Article VIII, Section II, paragraph 6 of the State Constitution deposited in the funds established pursuant to sections 6, 7, 8, and 9 of this act, and appropriated by law, for recreation and conservation, farmland preservation, or historic preservation purposes set forth in Article VIII, Section II, paragraph 6 of the State Constitution or this act.

“Convey” or “conveyance” means the same as that term is defined in section 3 of P.L.1999, c.152 (C.13:8C-3).

“Cost” means the expenses incurred in connection with: all things deemed necessary or useful and convenient for the acquisition or development of lands for recreation and conservation purposes, the acquisition of development easements or fee simple titles to farmland, or the preservation of historic properties, as the case may be; the execution of any agreements or franchises deemed by the Department of Environmental Protection, State Agriculture Development Committee, or New Jersey Historic Trust, as the case may be, to be necessary or useful and convenient in connection with any project funded in whole or in part using constitutionally dedicated CBT moneys; the procurement or provision of appraisal, archaeological, architectural, conservation, design, engineering, financial,

geological, historic research, hydrological, inspection, legal, planning, relocation, surveying, or other professional advice, estimates, reports, services, or studies; the purchase of title insurance; the undertaking of feasibility studies; the establishment of a reserve fund or funds for working capital, operating, maintenance, or replacement expenses, as the Director of the Division of Budget and Accounting in the Department of the Treasury may determine; and reimbursement to any fund of the State of moneys that may have been transferred or advanced therefrom to any fund established by this act, or any moneys that may have been expended therefrom for, or in connection with, this act.

“Department” means the Department of Environmental Protection.

“Development” or “develop” means, except as used in the definitions of “acquisition” and “development easement” in this section, any stewardship activity, or any improvement made to a land or water area designed to expand and enhance its utilization for recreation and conservation purposes, and shall include the construction, renovation, or repair of any such improvement, but shall not mean shore protection or beach nourishment or replenishment activities.

“Development easement” means the same as that term is defined in section 3 of P.L.1999, c.152 (C.13:8C-3).

“Emergency intervention” means an immediate assessment or capital improvement necessary to protect or stabilize the structural integrity of a historic property.

“Farmland” means the same as that term is defined in section 3 of P.L.1999, c.152 (C.13:8C-3).

“Farmland preservation,” “farmland preservation purposes,” or “preservation of farmland” means the same as those terms are defined in section 3 of P.L.1999, c.152 (C.13:8C-3).

“Garden State Preservation Trust” or “trust” means the Garden State Preservation Trust established pursuant to section 4 of P.L.1999, c.152 (C.13:8C-4).

“Green Acres bond act” means: P.L.1961, c.46; P.L.1971, c.165; P.L.1974, c.102; P.L.1978, c.118; P.L.1983, c.354; P.L.1987, c.265; P.L.1989, c.183; P.L.1992, c.88; P.L.1995, c.204; P.L.2007, c.119; P.L.2009, c.117; and any State general obligation bond act that may be approved after the date of enactment of this act for the purpose of providing funding for the acquisition or development of lands for recreation and conservation purposes or for farmland preservation purposes.

“Historic preservation,” “historic preservation purposes,” or “preservation of historic properties” means the same as those terms are defined in section 3 of P.L.1999, c.152 (C.13:8C-3) and shall also include emergency intervention and the acquisition of a historic preservation easement.

“Historic preservation easement” means an interest in land, less than fee simple title thereto, that is purchased from a private or governmental property owner to permanently protect a historic property, and that is granted by the property owner to the New Jersey Historic Trust, a local government unit, or a qualifying tax exempt nonprofit organization.

“Historic property” means the same as that term is defined in section 3 of P.L.1999, c.152 (C.13:8C-3).

“Land” or “lands” means the same as that term is defined in section 3 of P.L.1999, c.152 (C.13:8C-3).

“Local government unit” means the same as that term is defined in section 3 of P.L.1999, c.152 (C.13:8C-3).

“New Jersey Historic Trust” means the entity established pursuant to section 4 of P.L.1967, c.124 (C.13:1B-15.111).

“Permitted investments” means the same as that term is defined in section 3 of P.L.1999, c.152 (C.13:8C-3).

“Preserve New Jersey Blue Acres Fund” means the Preserve New Jersey Blue Acres Fund established pursuant to section 7 of this act.

“Preserve New Jersey Farmland Preservation Fund” means the Preserve New Jersey Farmland Preservation Fund established pursuant to section 8 of this act.

“Preserve New Jersey Green Acres Fund” means the Preserve New Jersey Green Acres Fund established pursuant to section 6 of this act.

“Preserve New Jersey Historic Preservation Fund” means the Preserve New Jersey Historic Preservation Fund established pursuant to section 9 of this act.

“Preserve New Jersey Fund Account” means the Preserve New Jersey Fund Account established pursuant to section 4 of this act.

“Project” means all things deemed necessary or useful and convenient in connection with the acquisition or development of lands for recreation and conservation purposes, the acquisition of development easements or fee simple titles to farmland, or the preservation of historic properties, as the case may be.

“Qualifying tax exempt nonprofit organization” means the same as that term is defined in section 3 of P.L.1999, c.152 (C.13:8C-3).

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

“Stewardship activity” means an activity, beyond routine operations and maintenance, undertaken by the State or a local government unit to repair, restore, or improve natural resources on lands acquired or developed for recreation and conservation purposes for the purpose of enhancing or protecting those lands for recreation and conservation purposes.

4. (New section) There is established in the General Fund a special account to be known as the “Preserve New Jersey Fund Account.”

a. The State Treasurer shall credit to this account:

(1) (a) in each State fiscal year commencing with State fiscal year 2016 through and including State fiscal year 2019 an amount equal to 71 percent of the four percent of the revenue annually derived from the tax imposed pursuant to the “Corporation Business Tax Act (1945),” P.L.1945, c.162 (C.54:10A-1 et seq.), as amended and supplemented, or any other State law of similar effect, dedicated to recreation and conservation, farmland preservation, and historic preservation purposes pursuant to subparagraph (a) of Article VIII, Section II, paragraph 6 of the State Constitution; and

(b) in each State fiscal year commencing in State fiscal year 2020 and annually thereafter, an amount equal to 78 percent of the six percent of the revenue annually derived from the tax imposed pursuant to the “Corporation Business Tax Act (1945),” P.L.1945, c.162 (C.54:10A-1 et seq.), as amended and supplemented, or any other State law of similar effect, dedicated to recreation and conservation, farmland preservation, and historic preservation purposes pursuant to subparagraph (a) of Article VIII, Section II, paragraph 6 of the State Constitution; and

(2) in each State fiscal year, an amount equal to the amount dedicated pursuant to subparagraph (b) of Article VIII, Section II, paragraph 6 of the State Constitution.

b. In each State fiscal year, the amount credited to the Preserve New Jersey Fund Account shall be appropriated from time to time by the Legislature only for the applicable purposes set forth in Article VIII, Section II, paragraph 6 of the State Constitution and this act for:

(1) providing funding, including loans or grants, for the preservation, including acquisition, development, and stewardship, of lands for recreation and conservation purposes, including lands that protect water supplies and lands that have incurred flood or storm damage or are likely to do so, or that may buffer or protect other properties from flood or storm damage;

- (2) providing funding, including loans or grants, for the preservation of lands for farmland preservation purposes;
- (3) providing funding, including loans or grants, for historic preservation; and
- (4) paying administrative costs associated with (1) through (3) of this subsection.

c. Nothing in this act shall authorize any State entity to use constitutionally dedicated CBT moneys for the purpose of making any payments relating to any bonds, notes, or other obligations.

5. (New section) In each State fiscal year, commencing in State fiscal year 2016 and each fiscal year annually thereafter, of the amount credited by the State Treasurer to the Preserve New Jersey Fund Account pursuant to section 4 of this act:

a. 55 percent shall be deposited into the Preserve New Jersey Green Acres Fund established pursuant to section 6 of this act;

b. 6 percent shall be deposited into the Preserve New Jersey Blue Acres Fund established pursuant to section 7 of this act;

c. 36 percent shall be deposited into the Preserve New Jersey Farmland Preservation Fund established pursuant to section 8 of this act; and

d. 3 percent shall be deposited into the Preserve New Jersey Historic Preservation Fund established pursuant to section 9 of this act.

6. (New section) a. The State Treasurer shall establish a fund to be known as the "Preserve New Jersey Green Acres Fund" and shall deposit into the fund all moneys received pursuant to subsection a. of section 5 of this act and any other moneys appropriated by law for deposit into the fund.

Moneys in the fund shall be invested in permitted investments or shall be held in interest-bearing accounts in those depositories as the State Treasurer may select, and may be invested and reinvested in permitted investments or as other trust funds in the custody of the State Treasurer in the manner provided by law. All interest or other income or earnings derived from the investment or reinvestment of moneys in the fund shall be credited to the fund. Moneys derived from the payment of principal and interest on the loans to local government units authorized by this act shall also be held in the fund.

b. Of the amount deposited each State fiscal year into the Preserve New Jersey Green Acres Fund pursuant to subsection a. of section 5 of this act:

(1) 41 percent shall be allocated for the purposes of paying the cost of acquisition and development of lands by the State for recreation and conservation purposes;

(2) 51 percent shall be allocated for the purposes of providing grants and loans to assist local government units to pay the cost of acquisition and development of lands for recreation and conservation purposes; and

(3) 8 percent shall be allocated for the purposes of providing grants to assist qualifying tax exempt nonprofit organizations to pay the cost of acquisition and development of lands for recreation and conservation purposes, as provided pursuant to this act.

c. Any repayments of the principal and interest on loans issued to local government units for the acquisition or development of lands for recreation and conservation purposes using constitutionally dedicated CBT moneys shall be deposited into the Preserve New Jersey Green Acres Fund, and shall be specifically dedicated for the issuance of additional loans in the same manner as provided in subsection b. of section 27 of P.L.1999, c.152 (C.13:8C-27).

d. (1) The moneys in the fund are specifically dedicated and shall be used for the same purposes and according to the same criteria and provisions as those set forth in section 26 of P.L.1999, c.152 (C.13:8C-26), and as provided pursuant to this act.

(2) Grants and loans issued to local government units and grants issued to qualifying tax exempt nonprofit organizations using constitutionally dedicated CBT moneys for the acquisition and development of lands for recreation and conservation purposes shall be subject to the same provisions as those prescribed in section 27 of P.L.1999, c.152 (C.13:8C-27).

e. Of the moneys deposited into the fund each year, no more than five percent shall be allocated by the department on an annual basis for stewardship activities. Any stewardship activity funded with moneys pursuant to this act shall be conducted pursuant to a plan approved by the department.

f. Moneys in the fund shall not be expended except in accordance with appropriations from the fund made by law. Any act appropriating moneys from the Preserve New Jersey Green Acres Fund shall identify any particular project or projects to be funded by the moneys, and any expenditure for a project for which the location is not identified by municipality and county in the appropriation shall require the approval of the Joint Budget Oversight Committee, or its successor, except as permitted otherwise in accordance with the same exceptions as those specified in paragraph (2) of subsection a. of section 23 of P.L.1999, c.152 (C.13:8C-23).

g. Unexpended moneys due to project withdrawals, cancellations, or cost savings shall be returned to the fund.

h. Of the amount authorized pursuant to this section, not more than five percent shall be utilized for organizational, administrative and other work and services, including salaries, equipment and materials necessary to administer the applicable provisions of this act.

i. To the end that municipalities may not suffer a loss of taxes by reason of the acquisition and ownership by the State of lands in fee simple for recreation and conservation purposes, or the acquisition and ownership by qualifying tax exempt nonprofit organizations of lands in fee simple for recreation and conservation purposes that become certified as exempt from property taxes pursuant to P.L.1974, c.167 (C.54:4-3.63 et seq.) or similar laws, the State shall make payments annually in the same manner as payments are made pursuant to section 29 of P.L.1999, c.152 (C.13:8C-29).

j. The State shall not use the power of eminent domain in any manner for the acquisition of lands by the State for recreation and conservation purposes using constitutionally dedicated CBT moneys in whole or in part unless a concurrent resolution approving that use is approved by both Houses of the Legislature; except that, without the need for such a concurrent resolution, the State may use the power of eminent domain to the extent necessary to establish a value for lands to be acquired from a willing seller by the State for recreation and conservation purposes using constitutionally dedicated CBT moneys in whole or in part.

7. (New section) a. The State Treasurer shall establish a fund to be known as the "Preserve New Jersey Blue Acres Fund" and shall deposit into the fund all moneys received pursuant to subsection b. of section 5 of this act and any other moneys appropriated by law for deposit into the fund.

Moneys in the fund shall be invested in permitted investments or shall be held in interest-bearing accounts in those depositories as the State Treasurer may select, and may be invested and reinvested in permitted investments or as other trust funds in the custody of the State Treasurer in the manner provided by law. All interest or other income or earnings derived from the investment or reinvestment of moneys in the fund shall be credited to the fund.

b. The moneys in the Preserve New Jersey Blue Acres Fund are specifically dedicated and shall be applied for the purposes of providing moneys to:

(1) meet the Blue Acres costs to the State for the acquisition of lands for a Blue Acres project; or

(2) provide grants, pursuant to the provisions of subsection c. of this section, to assist a qualifying tax exempt nonprofit organization in meeting the Blue Acres costs for the acquisition of lands for a Blue Acres project.

c. (1) A grant by the State for lands to be acquired by a qualifying tax exempt nonprofit organization for a Blue Acres project may include up to 50% of the Blue Acres cost of acquisition of the lands by the qualifying tax exempt nonprofit organization.

(2) A qualifying tax exempt nonprofit organization shall not use as its matching share of the Blue Acres cost of acquisition of lands for a Blue Acres project any constitutionally dedicated moneys, as defined pursuant to section 3 of P.L.1999, c.152 (C.13:8C-3), or any grant moneys obtained from a Green Acres bond act.

(3) To qualify to receive a grant from the Preserve New Jersey Blue Acres Fund, the board of directors or governing body of the applying tax exempt nonprofit organization shall:

(a) demonstrate to the commissioner that the organization qualifies as a charitable conservancy for the purposes of P.L.1979, c.378 (C.13:8B-1 et seq.);

(b) demonstrate that the organization has the resources to match the grant requested;

(c) agree to make and keep the lands accessible to the public, unless the commissioner determines that public accessibility would be detrimental to the lands or any natural resources associated therewith;

(d) agree not to convey the lands except to the federal government, the State, a local government unit, or another qualifying tax exempt nonprofit organization, for recreation and conservation purposes; and

(e) agree to execute and donate to the State at no charge a conservation restriction pursuant to P.L.1979, c.378 (C.13:8B-1 et seq.) on the lands to be acquired with the grant.

d. The State shall not use the power of eminent domain in any manner to acquire lands utilizing monies in the fund; such lands shall be acquired only from willing sellers.

e. Moneys in the fund shall not be expended except in accordance with appropriations from the fund made by law. Any act appropriating moneys from the Preserve New Jersey Blue Acres Fund shall identify the particular project or projects to be funded by the moneys, and any expenditure for a project for which the location is not identified by municipality and county in the appropriation shall require the approval of the Joint Budget Oversight Committee, or its successor.

f. Unexpended moneys due to project withdrawals, cancellations, or cost savings shall be returned to the fund to be used for the purposes of the fund.

g. Of the amount authorized pursuant to this section, not more than five percent shall be utilized for organizational, administrative and other work and services, including salaries, equipment and materials necessary to administer the applicable provisions of this act.

8. (New section) a. The State Treasurer shall establish a fund to be known as the "Preserve New Jersey Farmland Preservation Fund" and shall deposit all moneys received pursuant to subsection c. of section 5 of this act and any other moneys appropriated by law for deposit into the fund.

Moneys in the fund shall be invested in permitted investments or shall be held in interest-bearing accounts in those depositories as the State Treasurer may select, and may be invested and reinvested in permitted investments or as other

trust funds in the custody of the State Treasurer in the manner provided by law. All interest or other income or earnings derived from the investment or reinvestment of moneys in the fund shall be credited to the fund.

b. The moneys in the fund are specifically dedicated and shall be used for the same purposes as those set forth in section 37 of P.L.1999, c.152 (C.13:8C-37).

c. Moneys in the fund shall not be expended except in accordance with appropriations from the fund made by law. Any act appropriating moneys from the Preserve New Jersey Farmland Preservation Fund shall identify any particular project or projects to be funded by the moneys, and any expenditure for a project for which the location is not identified by municipality and county in the appropriation shall require the approval of the Joint Budget Oversight Committee, or its successor, except as permitted otherwise in accordance with the same exceptions as those specified in paragraph (2) of subsection b. of section 23 of P.L.1999, c.152 (C.13:8C-23).

d. Unexpended moneys due to project withdrawals, cancellations, or cost savings shall be returned to the fund.

e. Of the amount authorized pursuant to this section, not more than five percent shall be utilized for organizational, administrative and other work and services, including salaries, equipment and materials necessary to administer the applicable provisions of this act.

9. (New section) a. The State Treasurer shall establish a fund to be known as the "Preserve New Jersey Historic Preservation Fund" and shall deposit all moneys received pursuant to subsection d. of section 5 of this act and any other moneys appropriated by law for deposit into the fund.

Moneys in the fund shall be invested in permitted investments or shall be held in interest-bearing accounts in those depositories as the State Treasurer may select, and may be invested and reinvested in permitted investments or as other trust funds in the custody of the State Treasurer in the manner provided by law. All interest or other income or earnings derived from the investment or reinvestment of moneys in the fund shall be credited to the fund.

b. The moneys in the fund are specifically dedicated and shall be used for the same purposes as those set forth in section 41 of P.L.1999, c.152 (C.13:8C-41), and for emergency intervention and the acquisition of historic preservation easements.

c. Moneys in the fund shall not be expended except in accordance with appropriations from the fund made by law. Any act appropriating moneys from the Preserve New Jersey Historic Preservation Fund shall identify any particular project or projects to be funded by the moneys, and any expenditure for a project for which the location is not identified by municipality and county in the appropriation shall require the approval of the Joint Budget Oversight Committee, or its successor.

d. Unexpended moneys due to project withdrawals, cancellations, or cost savings shall be returned to the fund.

e. Of the amount authorized pursuant to this section, not more than 5% shall be utilized for organizational, administrative and other work and services, including salaries, equipment and materials necessary to administer the applicable provisions of this act.

10. (New section) a. At least twice during each State fiscal year, the Department of Environmental Protection, the State Agriculture Development Committee, and the New Jersey Historic Trust shall each submit to the Garden State Preservation Trust a list of projects that are recommended to receive funding pursuant to this act, based upon the same respective priority systems, ranking criteria, and funding policies as those established pursuant to sections 23, 24, 26, 27, and 37 through 42 of P.L.1999, c.152 (C.13:8C-23, C.13:8C-24, C.13:8C-26, C.13:8C-27, and C.13:8C-37 through

C.13:8C-42), section 7 of P.L.2005, c.178 (C.13:8C-38.1), and sections 1 and 2 of P.L.2001, c.405 (C.13:8C-40.1 and C.13:8C-40.2), and any rules or regulations adopted pursuant to those laws.

The Department of Environmental Protection shall also submit to the Garden State Preservation Trust at least twice during each State fiscal year a list of projects that are recommended to receive funding provided pursuant to section 7 of this act.

b. The Garden State Preservation Trust shall review each such list and may make such deletions, but not additions, of projects therefrom as it deems appropriate and in accordance with the same procedures as those established for such deletions pursuant to section 23 of P.L.1999, c.152 (C.13:8C-23), whereupon the Garden State Preservation Trust shall approve the list and submit to the Governor and to the President of the Senate and the Speaker of the General Assembly for introduction in the Legislature, proposed legislation appropriating moneys pursuant to this act for appropriation for the purposes set forth in this act.

11. (New section) Within one year after the date of enactment of this act, and biennially thereafter, the Garden State Preservation Trust, after consultation with Department of Environmental Protection, the State Agriculture Development Committee, and the New Jersey Historic Trust shall submit to the Governor and the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), a written report, which shall:

a. Describe the progress being made with respect to the acquisition and development of lands for recreation and conservation purposes, including lands that have incurred flood or storm damage or are likely to do so, or that may buffer or protect other properties from flood or storm damage, the preservation of farmland, and the preservation of historic properties, and provide recommendations with respect to any legislative, administrative, or local action that may be required to enable the Department of Environmental Protection, the State Agriculture Development Committee, and the New Jersey Historic Trust to meet their goals and objectives;

b. Tabulate, both for the reporting period and cumulatively, the total acreage for the entire State, and the acreage in each county and municipality, of lands acquired for recreation and conservation purposes, including lands that protect water supplies and lands that have incurred flood or storm damage or are likely to do so, or that may buffer or protect other properties from flood or storm damage, using (1) funding provided by this act, and (2) any other funding provided for such purposes;

c. Tabulate, both for the reporting period and cumulatively, the total acreage for the entire State, and the acreage in each county and municipality, of farmland preserved for farmland preservation purposes using (1) funding provided by this act, and (2) any other funding provided for such purposes;

d. Tabulate, both for the reporting period and cumulatively, the total acreage for the entire State, and the acreage in each county and municipality, of any donations of land for recreation and conservation purposes or farmland preservation purposes;

e. List, both for the reporting period and cumulatively, and by location by county and municipality, all stewardship activities funded pursuant to subsection e. of section 6 of this act and paragraph (2) of subsection b. of section 8 of this act;

f. List, both for the reporting period and cumulatively, and by project name, project sponsor, and location by county and municipality, all historic preservation projects, including emergency intervention and the acquisition of historic preservation easements, funded with constitutionally dedicated CBT moneys in whole or in part;

g. Indicate those areas of the State where, as designated by the Department of Environmental Protection in the

Open Space Master Plan prepared pursuant to section 5 of P.L.2002, c.76 (C.13:8C-25.1), the acquisition and development of lands by the State for recreation and conservation purposes, including lands that have incurred flood or storm damage or are likely to do so, or that may buffer or protect other properties from flood or storm damage, is planned or is most likely to occur, and those areas of the State where there is a need to protect water resources, including the identification of lands where protection is needed to assure adequate quality and quantity of drinking water supplies in times of drought, indicate those areas of the State where the allocation of constitutionally dedicated CBT moneys for farmland preservation purposes is planned or is most likely to occur, and provide a proposed schedule and expenditure plan for those acquisitions, developments, and allocations, for the next reporting period, which shall include an explanation of how those acquisitions, developments, and allocations will be distributed throughout all geographic regions of the State to the maximum extent practicable and feasible;

h. List any surplus real property owned by the State or an independent authority of the State that may be utilizable for recreation and conservation purposes or farmland preservation purposes, and indicate what action has been or must be taken to effect a conveyance of those lands to the department, the committee, local government units, qualifying tax exempt nonprofit organizations, or other entities or persons so that the lands may be preserved and used for those purposes;

i. List, for the reporting period, all projects for which applications for funding under the Green Acres, Blue Acres, farmland preservation, and historic preservation programs were received but not funded with constitutionally dedicated CBT moneys or other funds during the reporting period, and the reason or reasons why those projects were not funded;

j. Tabulate, both for the reporting period and cumulatively, the total acreage for the entire State, and the acreage in each county and municipality, of lands acquired for recreation and conservation purposes that protect water resources and that have incurred flood or storm damage or are likely to do so, or that may buffer or protect other properties from flood or storm damage; and

k. Describe any other information or statistics necessary to document the expenditure of funds pursuant to this act in conjunction with the expenditure of funds pursuant to P.L.1999, c.152 (C.13:8C-1 et al.) and any Green Acres bond act.

12. (New section) Lands acquired or developed by the State, a local government unit, or a qualifying tax exempt nonprofit organization for recreation and conservation purposes using constitutionally dedicated CBT moneys shall not be conveyed, disposed of, or diverted to a use for other than recreation and conservation purposes without complying with the provisions of sections 31 through 35 of P.L.1999, c.152 (C.13:8C-31 through C.13:8C-35), as appropriate, and any other applicable law.

13. (New section) A local government unit that receives a grant or loan for recreation and conservation purposes pursuant to this act shall satisfactorily operate and maintain the lands acquired or developed pursuant to the conditions of the agreement between the local government unit and the department when the grant or loan is made. In the event that the local government unit cannot or will not correct deficiencies in the operation and maintenance within a reasonable time period, the commissioner may require the repayment of all or a portion of the grant or loan amount received by the local government unit.

14. (New section) a. The Department of Environmental Protection, the State Agriculture Development Committee, the New Jersey Historic Trust, and the Department of the Treasury shall each adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as may be necessary to implement and carry out the goals and objectives of Article VIII, Section II, paragraph 6 of the State Constitution and this act.

b. Notwithstanding the provisions of any law to the contrary, any rules and regulations of the Department of Environmental Protection, the State Agriculture Development Committee, the New Jersey Historic Trust, and the Department of the Treasury that have been adopted pursuant to the "Administrative Procedure Act" and are in effect as of the date of enactment of this act, that are not inconsistent with the provisions of this act, and that pertain to the Green Acres, Blue Acres, farmland preservation, and historic preservation programs continued pursuant to this act, shall continue in effect until amended or supplemented and readopted as necessary to reflect the provisions and requirements of Article VIII, Section II, paragraph 6 of the State Constitution and this act.

15. Section 24 of P.L.1999, c.152 (C.13:8C-24) is amended to read as follows:

24. a. (1) There is established in the Department of Environmental Protection the Office of Green Acres. The commissioner may appoint an administrator or director who shall supervise the office, and the department may employ such other personnel and staff as may be required to carry out the duties and responsibilities of the department and the office pursuant to [this act] P.L.1999, c.152 (C.13:8C-1 et al.) and P.L. , c. (C. ) (pending before the Legislature as this bill) , all without regard to the provisions of Title 11A, Civil Service, of the New Jersey Statutes. Persons appointed or employed as provided pursuant to this subsection shall be compensated in a manner similar to other employees in the Executive Branch, and their compensation shall be determined by the Civil Service Commission.

(2) The Green Acres Program in the Department of Environmental Protection, together with all of its functions, powers and duties, are continued and transferred to and constituted as the Office of Green Acres in the Department of Environmental Protection. Whenever, in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the Green Acres Program, the same shall mean and refer to the Office of Green Acres in the Department of Environmental Protection. This transfer shall be subject to the provisions of the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

b. The duties and responsibilities of the office shall be as follows:

(1) Administer all provisions of [this act] P.L.1999, c.152 (C.13:8C-1 et al.) and P.L. , c. (C. ) (pending before the Legislature as this bill) pertaining to funding the acquisition and development of lands for recreation and conservation purposes as authorized pursuant to Article VIII, Section II, paragraph 6 and paragraph 7 of the State Constitution;

(2) Continue to administer all grant and loan programs for the acquisition and development of lands for recreation and conservation purposes, including the Green Trust, established or funded for those purposes pursuant to: P.L.1961, c.45 (C.13:8A-1 et seq.); P.L.1971, c.419 (C.13:8A-19 et seq.); P.L.1975, c.155 (C.13:8A-35 et seq.); or any Green Acres bond act; and

(3) Adopt, with the approval of the commissioner and pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations:

(a) establishing application procedures for grants and loans for the acquisition and development of lands for recreation and conservation purposes, criteria and policies for the evaluation and priority ranking of projects for

eligibility to receive funding for recreation and conservation purposes using constitutionally dedicated moneys pursuant to P.L.1999, c.152 (C.13:8C-1 et al.) or constitutionally dedicated CBT moneys pursuant to P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (pending before the Legislature as this bill) , any conditions that may be placed on the award of a grant or loan for recreation and conservation purposes pursuant to [this act] P.L.1999, c.152 (C.13:8C-1 et al.) or P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (pending before the Legislature as this bill), and any restrictions that may be placed on the use of lands acquired or developed with a grant or loan for recreation and conservation purposes pursuant to [this act] P.L.1999, c.152 or P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (pending before the Legislature as this bill) . The criteria and policies established pursuant to this subparagraph for the evaluation and priority ranking of projects for eligibility to receive funding for recreation and conservation purposes using constitutionally dedicated moneys pursuant to P.L.1999, c.152 (C.13:8C-1 et al.) or constitutionally dedicated CBT moneys pursuant to P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (pending before the Legislature as this bill) may be based upon, but need not be limited to, such factors as: protection of the environment, natural resources, water resources, watersheds, aquifers, wetlands, floodplains and flood-prone areas, stream corridors, beaches and coastal resources, forests and grasslands, scenic views, biodiversity, habitat for wildlife, rare, threatened, or endangered species, and plants; degree of likelihood of development; promotion of greenways; provision for recreational access and use; protection of geologic, historic, archaeological, and cultural resources; relative cost; parcel size; and degree of public support; and

(b) addressing any other matters deemed necessary to implement and carry out the goals and objectives of Article VIII, Section II, paragraph 6 and paragraph 7 of the State Constitution and [this act] P.L.1999, c.152 (C.13:8C-1 et al.) and P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (pending before the Legislature as this bill) with respect to the acquisition and development of lands for recreation and conservation purposes , including the acquisition of lands for recreation and conservation purposes that have been damaged by, or may be prone to incurring damage caused by, storms or storm-related flooding, or that may buffer or protect other lands from such damage ; and

(4) Establishing criteria and policies for the evaluation and priority ranking of State projects to acquire and develop lands for recreation and conservation purposes using constitutionally dedicated moneys pursuant to P.L.1999, c.152 (C.13:8C-1 et al.) or constitutionally dedicated CBT moneys pursuant to P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (pending before the Legislature as this bill) , which criteria and policies may be based upon, but need not be limited to, such factors as: protection of the environment, natural resources, water resources, watersheds, aquifers, wetlands, floodplains and flood-prone areas, stream corridors, beaches and coastal resources, forests and grasslands, scenic views, biodiversity, habitat for wildlife, rare, threatened, or endangered species, and plants; degree of likelihood of development; promotion of greenways; provision for recreational access and use; protection of geologic, historic, archaeological, and cultural resources; relative cost; parcel size; and degree of public support.

(cf: P.L.2008, c.29, s.114)

16. This act shall take effect immediately.

## STATEMENT

This bill, to be known as the Preserve New Jersey Act, would implement the constitutional dedication of Corporation Business Tax (CBT) revenues for open space, farmland, and historic preservation. Senate Concurrent Resolution No. 84 (SCS) of 2014, or “Ballot Question No. 2,” presented to, and approved by, the voters of the State on

November 4, 2014, amended the New Jersey Constitution to dedicate four percent of CBT revenues for open space, farmland, and historic preservation, water programs, public and private site remediation, and underground storage tank programs for fiscal years 2016 through 2019, and further increased the annual dedication for certain environmental programs from four percent to six percent commencing in fiscal year 2020 and thereafter.

Specifically with regard to open space, farmland, and historic preservation, for fiscal year 2016 through fiscal year 2019, of the four percent CBT dedication, the State Constitution dedicates annually 71 percent for: (1) providing funding, including loans or grants, for the preservation, including acquisition, development, and stewardship, of lands for recreation and conservation purposes, including lands that protect water supplies and lands that have incurred flood or storm damage or are likely to do so, or that may buffer or protect other properties from flood or storm damage (i.e., Green Acres and Blue Acres); (2) providing funding, including loans or grants, for the preservation of land for agricultural or horticultural use and production (i.e., farmland preservation); (3) providing funding, including loans or grants, for historic preservation; and (4) paying administrative costs associated with each of those efforts. Commencing July 1, 2019 (i.e., for fiscal year 2020 and thereafter), of the six percent of the CBT revenue to be dedicated annually for certain environmental programs, 78 percent would be dedicated for the above-listed four purposes. The Constitution also dedicates money received from leases and conveyances of State open space lands for the same four purposes.

These annually dedicated revenues would be allocated as follows:

- (1) 55 percent would be used for acquiring and developing lands for public recreation and conservation purposes, including lands that protect water supplies, under the Green Acres program;
- (2) 6 percent would be used for the Blue Acres program;
- (3) 36 percent would be used for farmland preservation purposes; and
- (4) 3 percent would be used for historic preservation purposes.

A maximum of five percent each year would be permitted to be used for administrative costs associated with implementing each of these four programs.

Of the 55 percent allocated each year for the Green Acres program: 41 percent would be used for State open space acquisition and development projects; 51 percent would be used for grants and loans to fund local government open space acquisition and development projects; and 8 percent would be used for grants to fund open space acquisition and development projects undertaken by qualifying tax exempt nonprofit organizations.

Of the monies used for the Green Acres program, no more than five percent would be allocated annually for stewardship activities. The bill defines “stewardship activity” to mean “an activity, beyond routine operations and maintenance, undertaken by the State or a local government unit to repair, restore, or improve natural resources on lands acquired or developed for recreation and conservation purposes for the purpose of enhancing or protecting those lands for recreation and conservation purposes.”

“Blue Acres” is the term used to refer to properties that have been damaged by storms or storm-related flooding, that appear likely to incur such damage, or that may buffer or protect other lands from such damage. Structures on a purchased property are demolished, the debris is removed, and the land is preserved as open space. Properties are purchased from willing sellers only. The Blue Acres Program is administered by the DEP’s Green Acres Program. Under the bill, funding under the Blue Acres Program would be available for (1) acquisition by the State of Blue Acres properties, or (2) State grants to assist qualifying tax exempt nonprofits in the acquisition of Blue Acres properties.

This bill continues the State’s existing open space, farmland, and historic preservation programs. It is based on the

provisions of the “Garden State Preservation Trust Act” (GSPTA), as well as the “Green Acres, Water Supply and Floodplain Protection, and Farmland and Historic Preservation Bond Act of 2009” (P.L.2009, c.117) and the “Green Acres, Farmland, Blue Acres, and Historic Preservation Bond Act of 2007” (P.L.2007, c.119) and, generally, defines relevant terms in the same manner as the GSPTA and continues the respective priority systems, ranking criteria, and funding policies set forth in the GSPTA, except as otherwise specified in the bill.

For the historic preservation program, the bill provides that historic preservation funds may also be used for emergency intervention and the acquisition of historic property easements. The bill defines “emergency intervention” to mean an immediate assessment or capital improvement necessary to protect or stabilize the structural integrity of a historic property.

The bill provides that the DEP, the State Agriculture Development Committee, and the New Jersey Historic Trust would each submit to the Garden State Preservation Trust projects recommended to receive funding under the bill. The Garden State Preservation Trust would then submit the lists of projects to the Legislature for funding in the form of appropriation bills.