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COMMITTEE

AMENDMENTS

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**SENATE, No. 1/ ASSEMBLY, No. 2635**

(Sponsored By Senators SMITH and MARTIN and Assemblyman McKEON)

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REPLACE SECTION 2 TO READ:

2. (New section) The Legislature finds and declares that the national Highlands Region is an area that extends from northwestern Connecticut across the lower Hudson River Valley and northern New Jersey into east central Pennsylvania; that the national Highlands <sup>1</sup>**[region] Region**<sup>1</sup> has been recognized as a landscape of special significance by the United States Forest Service; that the New Jersey portion of the national Highlands Region is nearly 800,000 acres, or about 1,250 miles, covering portions of <sup>1</sup>**[90] 88**<sup>1</sup> municipalities in seven counties; <sup>1</sup>**and**<sup>1</sup> that the New Jersey Highlands Region is designated as a Special Resource Area in the State Development and Redevelopment Plan.

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The Legislature further finds and declares that the New Jersey Highlands is an essential source of drinking water, providing clean and plentiful drinking water for one-half of the State's population, including communities beyond the New Jersey Highlands, from only 13 percent of the State's land area; that the New Jersey Highlands contains other exceptional natural resources such as clean air, contiguous forest lands, wetlands, pristine watersheds, and <sup>1</sup>**[wildlife and plant species habitats] habitat for fauna and flora**<sup>1</sup>, includes many sites of historic significance, and provides abundant recreational opportunities for the citizens of the State.

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The Legislature further finds and declares that the New Jersey Highlands provides a desirable quality of life and place where people live and work; that it is important to ensure the economic viability of communities throughout the New Jersey Highlands; that residential, commercial, and industrial development <sup>1</sup>**[and]** <sup>1</sup> redevelopment<sup>1</sup>, <sup>1</sup> and economic growth in certain appropriate areas of the New Jersey Highlands <sup>1</sup>**[is] are**<sup>1</sup> also in the best interests of all the citizens of the State, providing <sup>1</sup>**[enumerable] innumerable**<sup>1</sup> social, cultural, and economic benefits and opportunities.

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The Legislature further finds and declares that there are approximately 110,000 acres of agricultural lands in active production in the New Jersey Highlands; that these lands are important resources of the State that should be preserved; and that the agricultural industry

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in the region is a vital component of the economy <sup>1</sup>[and] <sup>1</sup>welfare <sup>1</sup>,  
and cultural landscape<sup>1</sup> of the <sup>1</sup>Garden<sup>1</sup> State.

The Legislature further finds and declares that, since 1984, 65,000 acres, or over 100 square miles, of the New Jersey Highlands <sup>1</sup>[have] has<sup>1</sup> been lost to development; that sprawl and the pace of development in the region has dramatically increased, with the rate of loss of forested lands and wetlands more than doubling since 1995; that the New Jersey Highlands, because of its proximity to rapidly expanding suburban areas, is at serious risk of being fragmented and consumed by unplanned development; and that the existing land use and environmental regulation system cannot protect the water and natural resources of the New Jersey Highlands against the environmental impacts of sprawl development.

The Legislature further finds and declares that the protection of the New Jersey Highlands, because of its vital link to the future of the State's drinking water supplies and other key natural resources, is an issue of State level importance that cannot be left to the uncoordinated land use decisions of <sup>1</sup>[90] 88<sup>1</sup> municipalities, seven counties, and a myriad of private landowners; that the State should take action to delineate within the New Jersey Highlands a preservation area of exceptional natural resource value that includes watershed protection and other environmentally sensitive lands where stringent protection policies <sup>1</sup>[would] should<sup>1</sup> be implemented; that a regional approach to land use planning in the preservation area should be established to replace the existing uncoordinated system; that such a new regional approach to land use planning should be complemented by increased standards more protective of the environment established by the Department of Environmental Protection for development in the preservation area of the New Jersey Highlands; that the new regional planning approach and the more stringent environmental regulatory standards should be accompanied, as a matter of wise public policy and fairness to property owners, by a strong and significant commitment by the State to fund the acquisition of exceptional natural resource value lands; and that in the light of the various pressures now arrayed against the New Jersey Highlands, these new approaches should be implemented as soon as possible.

<sup>1</sup>The Legislature further finds and declares that in the New Jersey Highlands there is a mountain ridge running southwest from Hamburg Mountain in Sussex County that separates the eastern and the western New Jersey Highlands; that much of the State's drinking water supplies originate in the eastern New Jersey Highlands; and that planning for the region and the environmental standards and regulations to protect those water supplies should be developed with regard to the differences in the topography of the Highlands Region and how the topography affects the quality of the water supplies.<sup>1</sup>

The Legislature therefore determines, in the light of these findings set forth hereinabove, and with the intention of transforming them into

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action, that it is in the public interest of all the citizens of the State of New Jersey to enact legislation setting forth a comprehensive approach to the protection of the water and other natural resources of the New Jersey Highlands; that this comprehensive approach should consist of the identification of a preservation area of the New Jersey Highlands that would be subjected to stringent water and natural resource protection <sup>1</sup>standards, policies<sup>1</sup>, planning, and regulation; that this comprehensive approach should also consist of the establishment of a Highlands Water Protection and Planning Council charged with the preparation of a regional master plan for the preservation area in the New Jersey Highlands as well as for the region in general; that this comprehensive approach should also include the adoption by the Department of Environmental Protection of stringent standards governing major development in the Highlands preservation area; that <sup>1</sup><sub>2</sub> because of the imminent peril that the ongoing rush of development poses for the New Jersey Highlands, immediate, interim standards should be imposed on the date of enactment of this act on major development in the preservation area of the New Jersey Highlands, followed subsequently by adoption by the department of appropriate rules and regulations; that it is appropriate to encourage in certain areas of the New Jersey Highlands, consistent with the State Development and Redevelopment Plan and smart growth strategies and principles, appropriate patterns of compatible residential, commercial, and industrial development, redevelopment, and economic growth, in or adjacent to areas already utilized for such purposes, and to discourage piecemeal, scattered, and inappropriate development, in order to accommodate local and regional growth and economic development in an orderly way while protecting the Highlands environment from the individual and cumulative adverse impacts thereof; that the maintenance of agricultural production and a positive agricultural business climate should be encouraged to the maximum extent possible wherever appropriate in the New Jersey Highlands; and that all such aforementioned measures should be guided, in heart, mind, and spirit, by an abiding and generously given commitment to protecting the incomparable water resources and natural beauty of the New Jersey Highlands so as to preserve them intact, in trust, forever for the pleasure, enjoyment, and use of future generations while also providing every conceivable opportunity for appropriate economic growth and development to advance the quality of life of the residents of the region and the entire State.

REPLACE SECTION 3 TO READ:

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

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

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for any use, development<sup>1</sup> or construction;

<sup>1</sup>"Construction materials facility" means any facility or land upon which the activities of production of ready mix concrete, asphalt, or class B recycling occurs;<sup>1</sup>

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

"Department" means the Department of Environmental Protection;

<sup>1</sup>"Development" means the same as that term is defined in section 3.1 of P.L.1975, c.291 (C.40:55D-4);<sup>1</sup>

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

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

"Environmental land use or water permit" means a permit, approval, or other authorization issued by the Department of Environmental Protection pursuant to the "Freshwater Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-1 et seq.), the "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.), the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), "The Realty Improvement Sewerage and Facilities Act (1954)," P.L.1954, c.199 (C.58:11-23 et seq.), the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), or the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.)<sup>1</sup>]; or an approval for an individual subsurface sewage disposal system from a delegated local health agency pursuant to the "County Environmental Health Act," P.L.1977, c.443 (C.26:3A2-21 et al.)<sup>1</sup>;

"Highlands open waters" means all springs, streams, wetlands, and <sup>1</sup>natural<sup>1</sup> bodies of surface water<sup>1</sup> ], whether natural or artificial, ] located wholly or partially within the boundaries of the Highlands Region; and all artificial bodies of surface water that are used for a public water supply or public recreation, that are publicly owned, or that are one acre or more in area, and<sup>1</sup> located wholly or partially within the boundaries of the Highlands Region;

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

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

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

"Major <sup>1</sup>Highlands<sup>1</sup> development" means <sup>1</sup>except as otherwise provided pursuant to section 29 of this act, (1)<sup>1</sup> any non-residential

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development<sup>1</sup>], whether or not it also qualifies as a development as defined in the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.); any residential development, whether or not it also qualifies as a development as defined in the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.), that provides for the ultimate disturbance of one acre or more of land or an increase in impervious surface of one-quarter acre or more; or any residential development, whether or not it also qualifies as a development as defined in the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.),] in the preservation area; (2) any residential development in the preservation area<sup>1</sup> that requires an environmental land use or water permit<sup>1</sup> [issued by the Department of Environmental Protection but which does not result] or that results<sup>1</sup> in the ultimate disturbance of one acre or more of land or an increase in impervious surface by one-quarter acre or more; <sup>1</sup>(3) any activity in the preservation area that is not a development but results in the ultimate disturbance of one-quarter acre or more of forested area or that results in an increase in impervious surface by one-quarter acre or more on a lot; or (4) any capital or other project of a State entity or local government unit in the preservation area that requires an environmental land use or water permit or that results in the ultimate disturbance of one acre or more of land or an increase in impervious surface by one-quarter acre or more;

"Mine" means any mine, whether on the surface or underground, and any mining plant, material, equipment, or explosives on the surface or underground, above or below the water table, which may contribute to the mining or handling of ore or other metalliferous or non-metalliferous products. The term "mine" shall also include a quarry, sand pit, gravel pit, clay pit, or shale pit, including any excavation, pit, bank, or open cut working for the extraction of stone, rock, gravel, sand, clay, or any other mineral used in mining operations;

"Mine site" means the land upon which a mine, including an active, inactive, or abandoned mine, is located or to be located, for which the Commissioner of Labor has granted, or will grant, a certificate of registration pursuant to section 4 of P.L. 1954, c.197 (C.34:6-98.4) and the boundary of which includes all contiguous parcels of property under common ownership or management, whether located in one or more municipalities, as such parcels are reflected by lot and block numbers or metes and bounds, including any mining plant, material, or equipment<sup>1</sup>;

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

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

<sup>1</sup>"Public utility" means the same as that term is defined in R.S.48:2-13;<sup>1</sup>

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"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);

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

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

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

"Waters of the Highlands" means all springs, streams, and <sup>1</sup>natural<sup>1</sup> bodies of surface or ground water <sup>1</sup>[, whether natural or artificial,] located wholly or partially within the boundaries of the Highlands Region; and all artificial bodies of surface water that are used for a public water supply or public recreation, that are publicly owned, or that are one acre or more in area, and<sup>1</sup> located wholly or partially within the boundaries of the Highlands Region.

REPLACE SECTION 5 TO READ:

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

(1) Eight residents of the counties of Bergen, Hunterdon, Morris, Passaic, Somerset, Sussex, or Warren, appointed by the Governor, with the advice and consent of the Senate, (a) <sup>1</sup>no more than four of whom shall be of the same political party, (b)<sup>1</sup> of whom five shall be municipal officials <sup>1</sup>residing in the Highlands Region and<sup>1</sup> holding elective office at the time of appointment and three shall be county officials holding elective office at the time of appointment, and <sup>1</sup>[(b)] (c)<sup>1</sup> among whom shall be <sup>1</sup>(i)<sup>1</sup> at least one resident from each of the counties of Bergen, Hunterdon, Morris, Passaic, Somerset, Sussex, and Warren <sup>1</sup>, and (ii) two residents from the county that has the largest population residing in the Highlands Region, of whom no more than one shall be of the same political party<sup>1</sup>; and

(2) Seven residents of the State, <sup>1</sup>of whom five shall be<sup>1</sup> appointed by the Governor, with the advice and consent of the Senate <sup>1</sup>, one shall be appointed by the Governor upon the recommendation of the President of the Senate, and one shall be appointed by the Governor upon the recommendation of the Speaker of the General Assembly. The members appointed pursuant to this paragraph shall have, to the maximum extent practicable, expertise, knowledge, or experience in water quality protection, natural resources protection, environmental protection, agriculture, land use, or economic development, and at least four of them shall be property owners, business owners, or farmers in the Highlands Region or residents or nonresidents of the Highlands Region who benefit from or consume water from the Highlands Region<sup>1</sup>.

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

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

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

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

e. The members of the council shall serve without compensation, but the council may, within the limits <sup>1</sup>**[or] of**<sup>1</sup> funds appropriated or otherwise made available for such purposes, reimburse its members for necessary expenses incurred in the discharge of their official duties.

f. The powers of the council shall be vested in the members thereof in office. A majority of the total authorized membership of the council shall constitute a quorum except that no action may be taken by the council except upon the affirmative vote of a majority of the <sup>1</sup>**[quorum]** members in attendance at a meeting at which the quorum is achieved<sup>1</sup>. No alternate or designee of any council member shall exercise any power to vote on any matter pending before the council.

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

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

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

j. A true copy of the minutes of every meeting of the council shall be prepared and forthwith delivered to the Governor. No action taken at a meeting by the council shall have force or effect until 10 days, exclusive of Saturdays, Sundays, and public holidays, after a copy of the minutes shall have been so delivered; provided, however, that no

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action taken with respect to the adoption of the regional master plan, or any portion or revision thereof, shall have force or effect until 30 days, exclusive of Saturdays, Sundays, and public holidays, after a copy of the minutes shall have been so delivered. If, in the 10-day period, or 30-day period, as the case may be, the Governor returns the copy of the minutes with a veto of any action taken by the council at the meeting, the action shall be null and void and of no force and effect.

REPLACE SECTION 6 TO READ:

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

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

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

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

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

e. To appoint, retain and employ, without regard to the provisions of Title 11A of the New Jersey Statutes but within the limits of funds appropriated or otherwise made available for those purposes, such officers, employees, <sup>1</sup>attorneys, <sup>1</sup>agents, and experts as it may require, and to determine the qualifications, terms of office, duties, services, and compensation therefor;

f. To apply for, receive, and accept, from any federal, State, or other public or private source, grants or loans for, or in aid of, the council's authorized purposes <sup>1</sup>[,] <sup>1</sup>or <sup>1</sup>[the] <sup>1</sup>in the carrying out of the council's powers, duties, and responsibilities;

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

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

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

j. To appoint advisory boards, commissions, councils, or panels to assist in its activities, including but not limited to a municipal advisory council consisting of mayors, municipal council members, or other representatives of municipalities located in the Highlands Region;

k. To authorize, if deemed useful, the establishment by appropriate persons or organizations of a nonprofit organization or organizations exempt from taxation pursuant to section 501 (c)(3) of the federal Internal Revenue Code of 1986, 26 U.S.C.s.501 (c)(3), for the

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purposes of assisting the council in furthering the purposes of this act and the regional master plan;

l. To solicit and consider public input and comment on the council's activities, the regional master plan, and other issues and matters of importance in the Highlands Region by periodically holding public hearings or conferences and providing other opportunities for such input and comment by interested parties;

m. To conduct examinations and investigations, to hear testimony, taken under oath at public or private hearings, on any material matter, and to require attendance of witnesses and the production of books and papers;

n. To prepare and transmit to the Commissioner of Environmental Protection such recommendations for water quality and water supply standards for surface and ground waters in the Highlands Region, or in tributaries and watersheds thereof, and for other environmental protection standards pertaining to the lands and natural resources of the Highlands Region, as the council deems appropriate;

o. To identify and designate in the regional master plan special areas in the preservation area within which development shall not occur in order to protect water resources and environmentally sensitive lands while recognizing the need to provide just compensation to the owners of those lands when appropriate, whether through acquisition, transfer of development rights programs, or other means or strategies;

p. To identify any lands in which the public acquisition of a fee simple or lesser interest therein is necessary or desirable in order to ensure the preservation thereof, or to provide sites for public recreation, as well as any lands the beneficial use of which are so adversely affected by the restrictions imposed pursuant to this act as to require a guarantee of just compensation therefor, and to transmit a list of those lands to the Commissioner of Environmental Protection, affected local government units, and appropriate federal agencies;

q. To develop model land use ordinances and other development regulations, for consideration and possible adoption by municipalities in the planning area, that would help protect the environment, including, but not limited to, ordinances and other development regulations pertaining to steep slopes, forest cover, wellhead and water supply protection, impervious surface, and clustering; and to provide guidance and technical assistance in connection therewith to those municipalities;

r. To identify and designate, and accept petitions from municipalities to designate, special critical environmental areas in high resource value lands in the planning area, and develop voluntary standards and guidelines for protection of such special areas for possible implementation by those municipalities;

s. To comment upon any application for development before a local government unit, on the adoption of any master plan, development regulation, or other regulation by a local government unit, or on the enforcement by a local government unit of any development regulation

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or other regulation, which power shall be in addition to any other review, oversight, or intervention powers of the council prescribed by this act;

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

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

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

<sup>1</sup>[v.] w.<sup>1</sup> To prepare, adopt, amend, or repeal, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as may be necessary in order to exercise its powers and perform its duties and responsibilities under the provisions of this act.

REPLACE SECTION 7 TO READ:

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

(1) in Bergen County: Mahwah <sup>1</sup>[,]<sup>1</sup> and Oakland;

(2) in Hunterdon County: Alexandria, Bethlehem, Bloomsbury, Califon, Clinton Town, Clinton Township, Glen Gardner, Hampton, High Bridge, Holland, Lebanon Boro, Lebanon Township, Milford, Tewksbury, and Union;

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

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

(5) in Somerset County: <sup>1</sup>Bedminster,<sup>1</sup> Bernards, Bernardsville, Far Hills, and Peapack-Gladstone;

(6) in Sussex County: <sup>1</sup>[Andover Boro, Andover Township,]<sup>1</sup> Byram, Franklin, Green, Hamburg, Hardyston, Hopatcong, <sup>1</sup>[Lafayette,]<sup>1</sup> Ogdensburg, Sparta, Stanhope, and Vernon; and

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

b. <sup>1</sup>(1)<sup>1</sup> The preservation area shall consist of <sup>1</sup>all<sup>1</sup> that area <sup>1</sup>within the boundaries<sup>1</sup> described <sup>1</sup>[by the Highlands Task Force, established by Executive Order No. 70 of 2003, and based upon natural resource data assembled by the United States Forest Service, Rutgers, The State University, and the New Jersey Water Supply Authority, which is to be translated, allowing for reasonable variations, by the Highlands Task Force with the assistance of Rutgers, The State University, the Department of Environmental Protection, and other appropriate entities, to appropriate and nearest practicable, on-the-ground, and easily identified reference points, such as, but not limited to, road descriptions, survey lines, and municipal boundaries, by May 1, 2004 or as soon thereafter as may be possible. This narrative description of the preservation area shall be enacted into law.] herein:

Mahwah - Oakland

Beginning at the New Jersey and New York border and the intersection of State Highway 17/Interstate 287 in northern Mahwah; thence southerly on Interstate 287 to its intersection with Ramapo Valley Road (U.S. Highway 202); thence southwesterly on Ramapo Valley Road (U.S. Highway 202) to its intersection with Darlington Avenue; thence southerly on Darlington Avenue to its intersection with Interstate 287; thence southerly on Interstate 287 to its intersection with the Mahwah and Oakland corporate boundary; thence northwesterly along the Mahwah and Oakland corporate boundary to its intersection with the Ramapo River; thence south on the east bank of the Ramapo River to its intersection with Interstate 287; thence westerly on Interstate 287 to its intersection with West Oakland Avenue; thence southerly and westerly on West Oakland Avenue to its intersection with Doty Road; thence southerly on Doty Road to its intersection with Ramapo Valley Road (U.S. Highway 202); thence westerly and southerly on Ramapo Valley Road (U.S. Highway 202) to its intersection with Long Hill Road (County Road 931); thence southerly on Long Hill Road (County Road 931) to its intersection with the Oakland and Franklin Lakes corporate boundary; thence southerly on the Oakland and Franklin Lakes corporate boundary to its intersection with the Oakland Borough corporate boundary; thence northwesterly along the Oakland Borough corporate boundary to the Wanaque Borough corporate boundary; thence westerly and southerly along the Wanaque and Pompton Lakes Borough corporate boundary to its intersection with Ringwood Avenue (Alternate 511); thence northerly on Ringwood Avenue (Alternate 511) to its intersection with

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Interstate 287; thence northerly on Interstate 287 to its intersection with the Pompton (Wanaque River); thence northerly along the western bank of the Pompton (Wanaque) River to its intersection in Wanaque Boro with the abandoned railroad right of way east of Ringwood Avenue; thence northerly on the abandoned railroad right of way to its intersection with Belmont Avenue; thence easterly on Belmont Avenue to its intersection with Mullen Avenue; thence southerly and easterly on Mullen Avenue to its intersection with Belmont Avenue thence easterly to; Meadow Brook thence northerly on the eastern bank of Meadow Brook to its intersection with Meadow Brook Avenue in Wanaque Borough; thence easterly on Meadow Brook Avenue to its intersection with Crescent Road; thence northerly on Crescent Road to its intersection with Tremont Terrace; thence northerly on Tremont Terrace to its intersection with Wilson Drive; thence northerly on Wilson Drive to its intersection with Conklintown Road; thence westerly on Conklintown Road to its intersection with Ringwood Avenue (Alternate 511); thence southerly on Ringwood Avenue (Alternate 511) to its intersection with the Wanaque Reservoir public lands; thence southerly and westerly on the Wanaque Reservoir public lands boundary to its intersection with Posts Brook; thence southerly on the eastern bank of Posts Brook to its intersection with Doty Road; thence easterly on Doty Road to its intersection with Bloomingdale Boro and Wanaque Boro Corporate boundary; thence southerly on Bloomingdale Boro and Wanaque Boro Corporate boundary to its intersection with Union Avenue County Road 511);

#### Bloomingdale

thence westerly on Union Avenue (County Road 511) to its intersection with Bloomingdale Boro Designated Center boundary to its intersection with Glenwild Avenue (County Road 700); thence northerly on Glenwild Avenue (County Road 700) to its intersection with the Ridge Road right of way; thence southerly on the Ridge Road right of way, a paper street, to Ridge Road continuing southerly to its intersection with Star Lake Road; thence northerly on Star Lake Road to its intersection with Old Ridge Road; thence westerly on Old Ridge to its intersection with Vreeland Avenue; thence southerly on Vreeland Avenue to its intersection with Patterson Hamburg Turnpike thence westerly on Patterson Hamburg Turnpike to its intersection with Macopin Road (County Road 693); thence northerly and westerly on Macopin Road (County Road 693) to its intersection with the Bloomingdale and West Milford corporate boundary;

#### Butler/Riverdale-Kinnelon

thence southerly on the Bloomingdale and West Milford corporate boundary to its intersection with the West Milford Township and

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Butler Borough, thence southerly along this corporate boundary to its intersection with the Kinnelon and Butler and Morris County Corporate boundary; thence westerly, southerly and easterly on the Kinnelon and Butler Corporate boundary to its intersection with State Highway 23; thence easterly on State Highway 23 to its intersection with Kinnelon and Riverdale Corporate boundary; thence southerly and easterly on the Riverdale and Pequannock Township corporate boundary to its intersection with Interstate 287; thence southerly on Interstate 287 to its intersection with Old Lane Road Extension;

Montville

thence westerly, northerly and westerly on Old Lane Road Extension to the intersection of Virginia Drive; thence southerly on Virginia Drive to its intersection with MacLeay Drive; thence southwesterly on MacLeay Drive to its intersection with West Lake Drive; thence southwesterly on West Lake Drive to Taylortown Road; thence northerly and westerly on Taylortown Road to its intersection with Boonton Avenue and Rockaway Valley Road;

Boonton Township

thence westerly on Rockaway Valley Road to its intersection with Powerville Road (County Road 618); thence northerly on Powerville Road (County Road 618) to its intersection with Kincaid Road; thence easterly on Kincaid Road to its intersection with the Boonton Township and Montville corporate boundary; thence northerly, along the corporate boundary to the intersection with the Boonton Township and Kinnelon Borough corporate boundary thence westerly on the corporate boundary to the intersection with the Boonton Township and Rockaway Township corporate boundary, thence and southerly on the Boonton Township corporate boundary to its intersection with Split Rock Road;

Rockaway Township

thence northerly on Split Rock Road to its intersection with Lyonsville Road thence southerly and westerly on Lyonsville Road and its continuation as Meriden-Lyonsville Road to its intersection with Green Pond Road (County Road 513); thence northerly on Green Pond Road (County Road 513) to its intersection with the Wildcat Ridge Wildlife Management Area; thence westerly on the Wildcat Ridge Wildlife Management Area boundary to its intersection with Hibernia Brook; thence westerly on the southern bank of Hibernia Brook to its intersection with Valley View Drive; thence westerly on Valley View Drive to its intersection with Erie Avenue; thence northerly on Erie Avenue to its intersection with Comanche Avenue; thence southerly on Comanche Avenue to its intersection with West Lake Shore Drive;

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thence westerly on West Lake Shore Drive to its intersection with Jackson Avenue; thence westerly on Jackson Avenue to its intersection with Miami Trail; thence westerly and southerly on Miami Trail to its intersection with Cayuga Avenue; thence southerly on Cayuga Avenue to its intersection with South Brookside Avenue; thence easterly on South Brookside Avenue to its intersection with Montauk Avenue; thence southerly on Montauk Avenue to its intersection with Old Middletown Road; thence southwesterly on Old Middletown Road to its intersection with Ridge Road; thence westerly on Ridge Road to its intersection with Cathy's Place; thence southerly on Cathy's Place to its intersection with Mt. Hope Road (County Road 666); thence northerly on Mt. Hope Road (County Road 666) to its intersection with the Mt. Hope Park public land boundary; thence southerly and westerly on the Mt. Hope Park public land boundary to its intersection with the Picatinny Arsenal boundary; thence southerly and westerly on the Picatinny Arsenal boundary to its intersection with State Highway 15; thence northerly on State Highway 15 to its intersection with Parker Road;

Picatinny Arsenal

thence northerly on Parker Road to its intersection with Bott Road; thence northerly on Bott Road to its intersection with Whitmore Avenue; thence northerly and westerly on Whitmore Avenue to its intersection with Reilly Road; thence southerly on Reilly Road to its intersection with 10th Street; thence westerly on 10th Street to its intersection with Phipps Road; thence northerly, westerly and southerly on Phipps Road to the intersection with State Highway 15; thence northerly on State Highway 15 to its intersection with the Rockaway and Jefferson Township corporate boundary;

Jefferson/Roxbury-Mt. Arlington

thence southwesterly on the Rockaway and Jefferson Township corporate boundary south of Interstate 80 to its intersection with the Conrail/NJ Transit right of way; thence westerly on Conrail/NJ Transit right of way to its intersection with the Roxbury and Mt. Arlington corporate boundary; thence northerly on the Roxbury and Mt. Arlington corporate boundary to the point where it intersects with the boundary of the Mount Arlington Village Center as designated by the State Planning Commission; thence northerly along the boundary of the Mount Arlington Village Center as designated by the State Planning Commission and thence westerly along the boundary to the point where it intersects Howard Boulevard (County Road 615); thence northerly on Howard Boulevard, continuing northerly as it becomes Espanong Road, to its intersection with Edison Road (County Road 615); thence easterly westerly on Edison Road (County Road 615) to its intersection with State Highway 15; thence northerly on the

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eastern edge of the State Highway 15 right of way north of Lake Winona to its intersection with the electrical utility right of way; thence southerly and westerly on the utility right of way to its intersection with State Highway 181; thence southerly on State Highway 181 to its intersection with Prospect Point Road;

Hopatcong- Stanhope

thence southerly on Prospect Point Road to its intersection with Northwood Road (County Road 609); thence southwesterly on Northwood Road, to the Sussex County boundary; thence northerly along the Hopatcong Borough and Jefferson Township corporate boundary to the boundary of the Hopatcong Center designated by the State Planning Commission; thence northerly, westerly, and southerly along said designated center boundary to its intersection with Maxim Drive in Hopatcong Borough; thence southwesterly on Maxim Drive to the intersection of Old Stanhope Road (Sussex County Route 605); thence southerly on Old Stanhope Road (Sussex County Route 605) to the intersection of the Conrail right of way; thence southerly along the Conrail right of way to its intersection with the Byram and Stanhope corporate boundary; thence westerly and southerly along the Byram and Stanhope corporate boundary;

Byram

thence westerly on the Stanhope and Byram corporate boundary to its intersection with the utility transmission right of way; thence southerly and westerly on the electrical utility transmission right of way to its intersection with State Highway 206; thence southerly on State Highway 206 to its intersection with the Musconetcong River; thence northwesterly on the northern bank of the Musconetcong River to its intersection with Allamuchy State Park; thence westerly and southerly on the Allamuchy State Park boundary to its intersection with Interstate 80;

Mt. Olive- Roxbury Township

thence southeasterly on Interstate 80 to its intersection with Waterloo Road; thence easterly and southerly on Waterloo Road to its intersection with lands of the Morris County Utilities Authority Allamuchy State; thence easterly and southerly and westerly on the Morris County Utilities Authority property boundary to its intersection with Lozier Road; thence easterly on Lozier Road to its intersection with Waterloo Road; thence southerly on Waterloo Road to its intersection with 4th Street; thence westerly and southerly on 4th Street to its intersection with Hopkins Drive; thence southerly on Hopkins Drive to its intersection with Netcong Road (County Road 649); thence southerly and westerly on Netcong Road (County Road

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649) to its intersection with Sand Shore Road (County Road 649); thence southerly on Sand Shore Road (County Road 649) to its intersection with U.S. Highway 46; thence northerly and easterly on U.S. Highway 46 to its intersection with Gold Mine Road; thence easterly on Gold Mine Road to its intersection with State Highway 206; thence northerly on State Highway 206 to its intersection with Mountain Road; thence southerly and easterly on Mountain Road to its intersection with Mooney Road; thence northerly on Mooney Road to its intersection with U.S. Highway 46; thence easterly and southerly on U.S. Highway 46 to its intersection with Main Street and the Morris Canal Park boundary; thence southerly on the Morris Canal Park boundary to its intersection with Mountain Road; thence northeasterly on Mountain Road to its intersection with Emmans Road; thence southerly and westerly on Emmans Road to its intersection with the Conrail right of way south of Drake's Brook; thence southerly and westerly on Conrail right of way to its intersection with State Highway 206; thence southerly on State Highway 206 to its intersection with the Mt. Olive and Chester Township corporate boundary; thence northerly and westerly on the Chester Township corporate boundary to its intersection with the Roxbury Township corporate boundary, continuing northerly and westerly on the township corporate boundaries to the intersection of the boundary of the lands of the Morris County Utilities Authority Black River Wildlife Management Area; thence northerly and easterly on the boundary of the lands of the Morris County Utilities Authority to its intersection with easterly on Righter Road;

Randolph Township-Chester Township

thence easterly on Righter Road to its intersection with Park Avenue; thence southerly on Park Avenue to its intersection with the Randolph Township and Chester Township corporate boundary; thence southeasterly on the Chester Township corporate boundary to its intersection with North Road (County Road 513); thence southerly and westerly on North Road (County Road 513) to its intersection with the Chester Township and Chester Borough corporate boundary; thence northerly; thence westerly, southerly and easterly around the Chester Borough corporate boundary to its intersection with Main Street (County Road 510); thence southerly on County Route 510 to its intersection with Chester Township and Mendham Township corporate boundary; thence southerly on the Chester Township corporate boundary to its intersection with the Chester Township and Peapack-Gladstone and Somerset County corporate boundary;

Peapack-Gladstone

thence southwesterly on the Chester Township and Peapack-Gladstone and Somerset County corporate boundary to its intersection with the

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Bedminster Township corporate boundary; thence southerly on the Bedminster Township corporate boundary to its intersection with Pottersville Road (County Road 512);

Bedminster Township

thence westerly on Pottersville Road (County Road 512) to its intersection with Black River Road;

Tewksbury-Washington Township-Chester Township

thence northerly and westerly on Black River Road to its intersection with the corporate boundaries of Bedminster and Tewksbury Townships; thence northerly along the corporate boundaries to their intersection with the corporate boundary of Washington Township thence westerly along the corporate boundaries of Washington and Tewksbury Townships to the point where it intersects Black River Road; thence northerly and westerly on Black River Road to the intersection of Hacklebarney Road; thence north on Hacklebarney Road to the intersection of Old Farmers Road; thence northerly and westerly on Old Farmers Road to the intersection of Flintlock Drive; thence easterly and northerly on Flintlock Drive to the intersection of Parker Road; thence westerly on Parker Road to the intersection of Old Farmers Road; thence northerly on Old Farmers Road to the intersection of East Mill Road; thence crossing East Mill Road to the north and following the boundary of Block 28, lot 17.01 in Washington Township northerly and westerly to the South Branch of the Raritan River; thence west along the north bank of the South Branch of the Raritan River to Spring Brook, thence following Spring Brook west across Lot 47 and the straight projection of the rear lot line of Lot 48 and following the rear of the property lines of 48, 49, 47.01, 51, 52.01, 52.02 to the northerly-most corner of Lot 52.02 in Block 24, thence across Schooley's Mountain Road easterly across the common property line of Lots 17, 19.01, 18 in Block 33 to the northerly most corner of Lot 19 in Block 33 across Lots 19 and Lot 59 to the northwesterly-most corner of Lot, 58.01, thence following the common property boundary line of Lots 58.01 and 60 in Block 33 thence extending straight across the abandoned railroad right-of-way (including the Columbia Gas line), thence extending a distance of 440 ' following the common property between Lots 58 and 61, then extending southeasterly to cross West Mill Road after Lots along the common property boundary line approximately 260' crossing Lots 58.02 and 62 in Block 33, thence extending southeasterly along common property of Lots 47, 46.01, 44, 46.02, adjoining Lot 46, thence extending northeast along the southerly lot line of Lots 2.01, 1.01 50 & 46 in Block 34, thence south along Fairmount Road after corner of where Lot 2.01 in Block 34 and Fairmont Road adjoin, thence northwest from intersection of Fairmont Road to intersection

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of Parker Road and Fairmont Road to the intersection of Black River Road and Parker Road, thence east along Black River Road to Pickle Road; thence south on Pickle Road to the intersection of Hunterdon County Route 512; thence southerly on West Fairmount Road (County Road 512) to its intersection with Hollow Brook Road; thence westerly on Hollow Brook Road to its intersection with Homestead Road; thence southerly on Homestead Road to its intersection with High Street (County Road 517) and Hill and Dale Road; thence westerly on Hill and Dale Road to its intersection with Rockaway Road; thence westerly on Rockaway Road to its intersection with Meadow Road; thence southerly on Meadow Road to its intersection with Bissell Road; thence westerly on Bissell Road to its intersection with Welsh Road; thence southerly and westerly on Welsh Road to its intersection with the Tewksbury and Clinton Township's corporate boundaries; thence westerly on the Tewksbury and Clinton Township's corporate boundaries to its intersection with Cokesbury Road (County Road 639); thence northerly and westerly on Cokesbury Road (County Road 639) to its intersection with Cokesbury-Califon Road; thence northerly on Cokesbury-Califon Road to its intersection with the Lebanon Township and Clinton Township corporate boundary; thence westerly on the Lebanon Township and Clinton Township corporate boundary to its intersection with Mt. Grove Road;

#### Clinton Township

thence southerly on Mt. Grove Road to its intersection with Beaver Brook Ravine public land boundary; thence southerly, westerly and northerly on the Beaver Brook Ravine public land boundary to its intersection with Highbridge-Cokesbury Road (County Road 639); thence westerly on Highbridge-Cokesbury Road (County Road 639) to its intersection with Stone Mill Road; thence north on Stone Mill Road to the Clinton and Lebanon Township corporate boundary; thence westerly on the Clinton Township corporate boundary to its intersection with the High Bridge Lebanon Township corporate boundary; thence west and southerly along the corporate boundary to the intersection with Cregar Road; thence westerly on Cregar Road to its intersection with State Highway 31; thence southerly on State Highway 31 -to its intersection with the Spruce Run Reservoir boundary; thence southerly and westerly on the Spruce Run Reservoir boundary to its intersection with Rupell Road; thence westerly on Rupell Road to its intersection with the Clinton Fish and Wildlife Management Area; thence westerly on the Clinton Fish and Wildlife Management Area boundary to its intersection with Charlestown Road (County Road 635);

#### Union Township

thence southerly on Charlestown Road (County Road 635) to its

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intersection with South Frontage Road in Union Township; thence westerly on South Frontage Road to the intersection of Baptist Church Road; thence south on Baptist Church Road to the Norfolk Southern Lehigh Valley railroad right of way; thence easterly along the northern boundary of the Norfolk Southern Lehigh Valley railroad right of way to Mechlin Corner Road; thence north on Mechlin Corner Road to the intersection of Perryville Road; thence easterly and southerly on Perryville Road to its intersection with Race Street; thence easterly on Race Street to its intersection with [ the Franklin and Union Township corporate boundary; ]thence southerly on the Franklin and Union Township corporate boundary to Pittstown Clinton Road (County Road 513) to its intersection with Cook's Cross Road; thence westerly on Cook's Cross Road to its intersection with Bloomsbury Road (County Road 579); thence northerly and westerly on Bloomsbury Road (County Road 579) to its intersection with Little York-Pattenburg Road (County Road 614);

Alexandria Township-Bloomsbury-Holland Township

thence westerly and southerly on Little York-Pattenburg Road (County Road 614) to its intersection with Little York-Mt. Pleasant Road (County Road 631) and Ellis Road; thence westerly and northerly on Ellis Road to its intersection with Hawkes Schoolhouse Road; thence southerly on Hawkes Schoolhouse Road to its intersection with Milford-Warren Glen Road (County Road 519); thence westerly on Milford-Warren Glen Road (County Road 519) to its intersection with Dennis Road; thence westerly and northerly on Dennis Road to its intersection with Milford-Warren Glen Road (County Road 519); thence northerly on Milford-Warren Glen Road (County Road 519) to its intersection with Warren Glen-Bloomsbury Road (County Road 639); thence northerly and easterly on Warren Glen-Bloomsbury Road (County Road 639) to its intersection with State Highway 173 in Greenwich Township; thence easterly on State Highway 173 to its intersection with Church Street (County Road 579); thence easterly on Church Street (County Road 579) to its intersection with the Musconetcong River; thence northerly and easterly on the northern bank of the Musconetcong River to its intersection with the eastern most boundary of the Musconetcong Valley Acquisition public lands in Bethlehem Township; thence easterly and southerly on the Musconetcong Valley Acquisition public land boundary to its intersection with the Conrail right of way; thence easterly on the Conrail right of way to its intersection with D. Hull Private Road; thence southerly on the D. Hull Private Road to its intersection with State Highway 173; thence east to the intersection of West Portal-Asbury Road (County Road 643); thence easterly and northerly on West Portal-Asbury Road (County Road 643) to its intersection with the Hunterdon County Jugtown Mountain Reserve public land boundary; thence easterly northerly then easterly along the

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northernmost boundary of the Jugtown Mountain Reserve public land boundary to its intersection with

Bethlehem Township - Franklin Township - Hampton - Washington Township

Mine Road; thence northerly and easterly on Mine Road to its intersection with Ludlow Station Road; thence northerly on Ludlow Station Road to its intersection with West Portal-Asbury Road (County Road 643); thence northerly on West Portal-Asbury Road (County Road 643) to its intersection with Maple Avenue in Warren County; thence northerly and easterly on Maple Avenue to its intersection with Shurts Road; thence southerly on Shurts Road, becoming Valley Road in Hunterdon County, continuing on Valley Road to its intersection with Main Street in ; thence northerly on Main Street to its intersection with State Highway 31; thence northerly on State Highway 31 to its intersection with the Musconetcong River;

Hackettstown

thence northerly and easterly on the northern bank of the Musconetcong River to its intersection with Newburgh Road; thence east on Newburgh Road to the intersection of Morris County Route 517 Schooley's Mountain Road; thence northerly on Morris County Route 517 Schooley's Mountain Road to the bridge crossing Mine Brook in Washington Township; thence northeasterly along the northwestern bank of Mine Brook to US Highway 46; thence northerly and easterly along US Highway 46 to the intersection with the Washington and Mount Olive Township corporate boundary; thence westerly and southerly along said corporate boundary to the Musconetcong River; thence northerly along the southern bank of the Musconetcong River to the Stephens State Park boundary; thence northerly, westerly, northerly, westerly along the Stephens State Park boundary to a point opposite the lands of Stephens State Park on the western and northern bank of the Musconetcong; thence across the Musconetcong River to the boundary of the lands of Stephens State Park ; thence along the southern boundary of Stephens State Park to the intersection of Willow Grove Road Warren County Route 604; thence north along the lands of Stephens State Park and Warren County Route 604 to a point opposite the lands of Stephens State Park on the west side of Willow Grove Road; thence crossing Willow Grove Road to the boundary of the lands of Stephens State Park; thence westerly along said State Park boundary lands to the intersection with the Conrail right of way; thence southerly on Conrail right of way to its intersection with Bilby Road;

Independence Township-Mansfield Township

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thence northerly and westerly on Bilby Road to its intersection with Old Bilby Road; thence northerly and westerly on Old Bilby Road to its intersection with High Street (County Road 517); thence southerly on High Street (County Road 517) to its intersection with Old Allamuchy Road; thence southerly and westerly on Old Allamuchy Road to its intersection with the Independence Township and Hackettstown corporate boundary; thence westerly and southerly on the Hackettstown corporate boundary to its intersection with the Hackettstown and Mansfield Township corporate boundary; thence southerly and easterly on the Hackettstown and Mansfield Township corporate boundary to its intersection with the Conrail railroad right of way at Rockport Road; thence southerly and westerly on the Conrail railroad right of way

Washington Borough & Township

into Washington Township to the boundary of the Washington Town Center designated by the State Planning Commission; thence generally northerly and westerly along the designated center boundary to the corporate boundary of Washington and Franklin Townships; thence southeast along said corporate boundary to State Highway 57; thence southwesterly along State Highway Route 57 to its intersection with Uniontown Road (County Road 519) in Lopatcong Township; thence northerly on Uniontown Road (County Road 519) to the intersection of Upper Belvidere Road Warren County Route 519; thence continuing northerly on Warren County Route 519 which becomes Belvidere Phillipsburg Road

Harmony Township-White Township

to its intersection with South Bridgeville Road (County Road 519); thence easterly and northerly on South Bridgeville Road (County Road 519) to its intersection with Brass Castle Road (County Road 623); thence easterly and southerly on Brass Castle Road (County Road 623) to its intersection with Hazen-Oxford Road (County Road 624) thence easterly and southerly on Hazen-Oxford Road (County Road 624)

Oxford Township

to its intersection with Belvidere Road (County Road 624); thence easterly and southerly on Belvidere Road (County Road 624) to its intersection with the boundary of the Oxford Village Center as designated by the State Planning Commission; thence generally southerly and easterly along said designated Oxford Village Center boundary to its intersection with the lands of the Pequest Wildlife Management Area; thence due north along the designated Oxford Village Center boundary to Oxford Road (County Road 625) and the Pequest Wildlife Management Area boundary; thence westerly along

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Oxford Road to the corner of the Pequest Wildlife Management Area boundary; thence northerly on the Pequest Wildlife Management Area boundary across Pequest Road and continuing southwesterly thence northwesterly along the Pequest Wildlife Management Area boundary to its intersection with the Oxford and White Township corporate boundary; thence westerly on the Oxford and White Township corporate boundary to its intersection with State Highway 31; thence northerly on State Highway 31 to its intersection with U.S. 46;

White Township-Hope Township

thence easterly on U.S. 46 to its intersection with Free Union Road; thence northerly on Free Union Road to its intersection with Beechwood Road; thence westerly on Beechwood Road to its intersection with Tamarack Road; thence northerly on Tamarack Road to its intersection with the White Township and Liberty Township corporate boundary; thence northerly and westerly on the White Township and Liberty Township corporate boundary to its intersection with Mountain Lake Road (County Road 617); thence southerly and westerly on Mountain Lake Road to its intersection with North Bridgeville Road (County Road 519); thence northerly on North Bridgeville Road (County Road 519) to its intersection with the White Township and Hope Township corporate boundary; thence easterly and southerly on the White Township and Hope Township corporate boundary to its intersection with the Hope Township and Liberty Township corporate boundary; thence northerly and easterly on the Hope Township and Liberty Township corporate boundary to its intersection with Lake Just-It Road; thence westerly and northerly on Lake Just-It Road to its intersection with Bridgeville-Hope Road (County Road 519) and Jenny Jump State Forest; thence northerly and easterly along Bridgeville-Hope Road (County Road 519) following the Jenny Jump State Forest boundary across Great Meadows Hope Road Warren County Route 611; continuing northeasterly along the Jenny Jump State Forest boundary to its intersection with the southern boundary of the Interstate 80 right of way in Frelinghuysen Township;

Allamuchy Township-Independence Township

thence easterly along the southern boundary of the Interstate 80 right of way to its intersection with the Conrail right of way in Allamuchy Township; thence southerly and westerly on the Conrail right of way to its intersection with the southeastern corner of Block 29 , lot 29 in Independence Township; thence northwesterly along the southwest boundary of Block 29 , lot 29 in Independence Township to the Pequest River; thence northerly on the western bank of the Pequest River to its intersection with the southern corner of Block 29, lot 44 in Independence Township; thence northwesterly along the southwestern boundary of Block 29, lot 44 in Independence Township to Shades of

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Death Road; thence southerly and westerly on Shades of Death Road to its intersection with Hope Road (County Road 611); thence southerly and easterly on Hope Road (County Road 611) to its intersection with U.S. 46; thence northerly and easterly on U.S. 46 to its intersection with Old Cemetery Road; thence southerly and easterly on Old Cemetery Road across the Conrail right of way to its intersection with Cemetery Road; thence southerly and easterly on Cemetery Road to its intersection with Barkers Mill Road; thence southerly and easterly on Barkers Mill Road to its intersection with Johnson Road; thence easterly and northerly on Johnson Road to its intersection with U.S. 46 and Ketchum Road; thence northerly and easterly on Ketchum Road to its intersection with Petersburg Road (County Road 614) and Ridge Road; thence northerly and easterly on Ridge Road to its intersection with County Road 517;

Green Township-Byram Township

thence northerly on County Road 517 to its intersection with Stuyvestant Road and Allamuchy State Park boundary; thence northerly along the Allamuchy State Park boundary into Green Township; thence southeasterly and northeasterly along the Allamuchy State Park boundary to its intersection with the Green Township and Byram Township corporate boundary; thence continuing northerly and easterly on the Byram Township and Andover Borough corporate boundary; thence continuing northerly and easterly along the Byram Township and Andover Township corporate boundary to its intersection with the Sparta Township corporate boundary;

Sparta Township

thence easterly on the Sparta Township corporate boundary to its intersection with Tomahawk Trail; thence easterly and northerly on Tomahawk Trail to its intersection with Green Road; thence northerly on Green Road to its intersection with Sawmill Road; thence easterly and northerly on Sawmill Road to its intersection with State Highway 181; thence northerly on State Highway 181 to its intersection with Blue Heron Road; thence easterly on Blue Heron Road to its intersection with State Highway 15; thence northerly along the western boundary of the State Highway 15 right of way to the boundary of the Sparta Town Center as designated by the State Planning Commission; thence easterly and northerly and westerly along the boundary of the Sparta Town Center as designated by the State Planning Commission to the western boundary of the State Highway 15 right of way; thence northerly along the western boundary of the State Highway 15 right of way to its intersection with Houses Corner Road; thence easterly and northerly on Houses Corner Road to its intersection with West Mountain Road; thence southerly on West Mountain Road to its intersection with Sparta-Munsons Road; thence southeasterly across

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Sparta-Munsons Road to the Conrail right of way:

Ogdensburg-Franklin/Hardyston

thence northerly and easterly along the north western boundary of the Conrail Right of way to its intersection with the Ogdensburg and Sparta corporate boundary; thence northeasterly to the southeastern end of Heater's Pond and proceeding northerly along the western edge of Heater's Pond to the intersection of Edison Road; thence westerly on Edison Road to the intersection with the New York Susquehanna and Western Railroad right of way; thence northerly along the the easterly edge of the New York Susquehanna and Western Railroad right of way to the Ogdensburg and Hardyston corporate boundary; thence westerly on the Ogdensburg and Hardyston corporate boundary to its intersection with the Franklin Borough corporate boundary; thence easterly and northerly on the Franklin Borough and Hardyston Township corporate boundary to its intersection with Henderson Road (Hamburg Turnpike); thence southerly and easterly on Henderson Road (Hamburg Turnpike) to the intersection of Mountain Road in Hardyston Township; thence northerly on Mountain Road to its intersection with Rudetown Road (County Road 517); thence easterly and northerly on Rudetown Road (County Road 517) to the Black Creek in Vernon township;

Vernon Township

thence easterly along Black Creek to its intersection with the boundary of Block 280, lot 22 in Vernon Township; thence easterly along said boundary to the western boundary of Block 280, lot 23; thence following the boundary of Block 280, lot 23 south to the boundary of Block 177, lot 49; thence easterly and northerly along the boundary of Block 177, lot 49 to the boundary of Block 190, lot 18.06; thence easterly along the boundary of Block 190, lot 18.06 to the boundary of Block 190, lot 18.05; thence southeasterly and thence northeasterly along the boundary Block 190, lot 18.05 to the boundary of Block 190, lot 18.01; thence northeasterly along the boundary of Block 190, lot 18.01 to the boundary of Block 190, lot 18.S01; thence southeasterly along the boundary of Block 190, lot 18.S01 to the boundary of Block 190, lot 20; thence southwesterly and easterly along the boundary of Block 190, lot 20 to the boundary of Block 240, lot 1; thence easterly along the boundary of Block 240, lot 1 to County Road 515; thence northerly along County Road 515 to the intersection of Breakneck Road and County Road 515; thence easterly and southerly on Breakneck Road to the intersection of the boundary of the Vernon Town Center as designated by the State Planning Commission; thence following along the boundary of the Vernon Town Center as designated by the State Planning Commission generally northeasterly to the intersection with Vernon-McAfee Road (State Highway 94);

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thence easterly and northerly on Vernon-McAfee Road (State Highway 94) to its intersection with Maple Grange Road; thence northerly and westerly on Maple Grange Road to its intersection with Pochuck Creek and Wawayanda State Park/Appalachian Trail public land; thence northerly and westerly along the western and southern Wawayanda State Park/Appalachian Trail public land boundary to its intersection with the western terminus of Thistle Avenue (Walnut Hill Drive); thence easterly and southerly on Thistle Avenue (Walnut Hill Drive) to its intersection with Phlox Terrace; thence southerly on Phlox Terrace to its intersection with Cedar Terrace; thence southerly on Cedar Terrace to its intersection with Clover Lane; thence easterly on Clover Lane to its intersection with Zinnia Drive; thence southerly and westerly on the eastern and southern bank of the tributary of Black Creek to its intersection with Lounsberry Hollow Road; thence northerly on Lounsberry Hollow Road to its intersection with Dorchester Road; thence westerly and southerly on Dorchester Road to its intersection with Rolling Hills Road; thence southerly on Rolling Hills Road to its intersection with a tributary of Black Creek to its intersection with Pochuck Mountain public land boundary; thence southerly and northerly on the Pochuck Mountain public land boundary to its intersection with a tributary of Black Creek; thence northerly on the western bank of the tributary of Black Creek to its intersection with Lake Glenwood; thence along the west shore of Lake Glenwood to Pochuck Creek; thence northerly and westerly on Lake Shore Drive to its intersection with Glenwood-Martin Station Road (County Road 565); thence southerly and westerly on Glenwood-Martin Station Road (County Road 565) to its intersection with Babtown Road; thence northerly on Babtown Road to its intersection with Maple Avenue; thence northerly on with Maple Avenue to its intersection with Spring Lane; thence northerly on Spring Lane to its intersection with Lakeside Drive; thence northerly on Lakeside Drive to its intersection with Glen Road; thence westerly on Glen Road to its intersection with Lake Walkill Road; thence northerly on Walkill Road to its intersection with the New York State corporate boundary; thence easterly and southerly to its intersection with State Highway 17/Interstate Highway 287 in northern Mahwah, at a point of origin.

(2) Except as otherwise provided in paragraph (1) of this subsection, any geographical feature, including a road, railroad, utility right-of-way, river, or stream, used in paragraph (1) of this subsection for the boundary description of the preservation area shall be considered to lie totally within the preservation area.<sup>1</sup>

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

REPLACE SECTION 8 TO READ:

8. (New section) The council shall, within 18 months after the date

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of its first meeting, and after holding at least five public hearings in various locations in the Highlands Region and at least one public hearing in Trenton, prepare and adopt a regional master plan for the Highlands Region. The Highlands regional master plan shall be periodically revised and updated at least once every <sup>1</sup>~~five~~ six<sup>1</sup> years, after public hearings.

REPLACE SECTION 9 TO READ:

9. (New section) a. During the preparation of the regional master plan or any revision thereof, the council shall consult with the Department of Environmental Protection, the Department of Community Affairs, the State Planning Commission, the Department of Agriculture, the State Agriculture <sup>1</sup>~~and~~<sup>1</sup> Development Committee, <sup>1</sup>~~the Department of Transportation,~~ and appropriate officials of local <sup>1</sup>~~governments~~ government units<sup>1</sup> and State, regional, and federal <sup>1</sup>~~departments,~~ agencies <sup>1</sup>~~and other governmental entities~~<sup>1</sup> with jurisdiction over lands, waters, and natural resources within the Highlands Region, with interested professional, scientific, and citizen organizations, and with any advisory groups that may be established by the council. <sup>1</sup>~~The council shall also consult with the Department of Transportation in preparing the transportation component of the regional master plan.~~<sup>1</sup> The council shall review all relevant federal, State, and private studies of the Highlands Region, the State Development and Redevelopment Plan, municipal, county, and regional plans, applicable federal and State laws and rules and regulations, and other pertinent information on the Highlands Region.

b. Prior to adoption of, and in preparing, the regional master plan, the council may, in conjunction with municipalities in the preservation area, identify areas in which redevelopment shall be encouraged in order to promote the economic well-being of the municipality, provided that the redevelopment conforms <sup>1</sup>~~to~~ with<sup>1</sup> the goals of the preservation area and this act <sup>1</sup>~~with the standards prescribed pursuant to section 30 of this act,~~<sup>1</sup> and with the rules and regulations adopted by the Department of Environmental Protection pursuant to sections <sup>1</sup>~~32~~<sup>1</sup> 31<sup>1</sup> and <sup>1</sup>~~33~~<sup>1</sup> 32<sup>1</sup> of this act.

c. Upon adoption of the regional master plan or any revision thereof, copies thereof shall be transmitted to the Governor <sup>1</sup>~~and to~~<sup>1</sup> the Legislature<sup>1</sup>, and the governing body of every municipality and county located in the Highlands Region<sup>1</sup>.

REPLACE SECTION 10 TO READ:

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

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

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

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

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

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

(5) <sup>1</sup>preserve recreational hunting and fishing opportunities on publicly owned land;

(6)<sup>1</sup> promote compatible agricultural, horticultural, recreational, and cultural uses and opportunities within the framework of protecting the Highlands environment; and

<sup>1</sup>~~[(6)]~~ (7)<sup>1</sup> prohibit or limit to the maximum extent possible construction or development which is incompatible with preservation of this unique area.

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

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

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

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

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

(5) promote the continuation and expansion of agricultural, horticultural, recreational, and cultural uses and opportunities; <sup>1</sup>~~[and]~~<sup>1</sup>

(6) <sup>1</sup>preserve recreational hunting and fishing opportunities on publicly owned land;

(7)<sup>1</sup> encourage, consistent with the State Development and Redevelopment Plan and smart growth strategies and principles, appropriate patterns of compatible residential, commercial, and industrial development, redevelopment, and economic growth, in or adjacent to areas already utilized for such purposes, and discourage piecemeal, scattered, and inappropriate development, in order to accommodate local and regional growth and economic development in an orderly way while protecting the Highlands environment from the individual and cumulative adverse impacts thereof <sup>1</sup>; and

(8) promote a sound, balanced transportation system that is consistent with smart growth strategies and principles and which preserves mobility in the Highlands Region <sup>1</sup>.

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REPLACE SECTION 11 TO READ:

11. (New section) <sup>1</sup>a.<sup>1</sup> The regional master plan shall include, but need not necessarily be limited to:

<sup>1</sup>[a.] (1)<sup>1</sup> A resource assessment which:

<sup>1</sup>[(1)] (a)<sup>1</sup> determines the amount and type of human development and activity which the ecosystem of the Highlands Region can sustain while still maintaining the overall ecological values thereof, with special reference to surface and ground water quality and supply; endangered and threatened animals, plants, and biotic communities; ecological factors relating to the protection and enhancement of agricultural production or activity; air quality; and other appropriate considerations affecting the ecological integrity of the Highlands Region;

<sup>1</sup>[(2)] (b)<sup>1</sup> includes an assessment of scenic, aesthetic, cultural, historic, open space, <sup>1</sup>[farm land] farmland<sup>1</sup>, and outdoor recreation resources of the region, together with a determination of overall policies required to maintain and enhance such resources; and

<sup>1</sup>[(3)] (c)<sup>1</sup> includes an assessment of opportunities for appropriate <sup>1</sup>[economic growth,]<sup>1</sup> development, <sup>1</sup>[and]<sup>1</sup> redevelopment <sup>1</sup>, and economic growth<sup>1</sup>, which shall include consideration of public investment priorities, infrastructure investments, economic development, revitalization, housing, transportation, energy resources, waste management, recycling, brownfields, and design such as mixed-use, compact design, and transit villages <sup>1</sup>].<sup>1</sup>

<sup>1</sup>[b.] (2)<sup>1</sup> A financial component, together with a cash flow timetable which:

<sup>1</sup>[(1)] (a)<sup>1</sup> details the cost of implementing the regional master plan, including, but not limited to, <sup>1</sup>property tax stabilization measures<sup>1</sup>, payments in lieu-of-taxes, acquisition, within five years and within 10 years after the date of enactment of this act, of fee simple or other interests in lands for preservation or recreation and conservation purposes, compensation guarantees, general administrative costs, and any anticipated extraordinary or continuing costs; and

<sup>1</sup>[(2)] (b)<sup>1</sup> details the sources of revenue for covering such costs, including, but not limited to, grants, donations, and loans from local, State, and federal departments <sup>1</sup>[and]<sup>1</sup> agencies, <sup>1</sup>and other governmental entities<sup>1</sup>, and from the private sector <sup>1</sup>].<sup>1</sup>

<sup>1</sup>[c.] (3)<sup>1</sup> A component to provide for the maximum feasible local government and public input into the council's operations, which shall include a framework for developing policies for the planning area in conjunction with those local government units <sup>1</sup>[with jurisdiction over those lands] in the planning area<sup>1</sup> who choose to conform to the regional master plan <sup>1</sup>].<sup>1</sup>

<sup>1</sup>[d.] (4)<sup>1</sup> A coordination and consistency component which details the ways in which local, State, and federal programs and policies may best be coordinated to promote the goals, purposes, policies, and provisions of the regional master plan, and which details how land,

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water, and structures managed by governmental or nongovernmental entities in the public interest within the Highlands Region may be integrated into the regional master plan <sup>1</sup>and;

(5) A transportation component that provides a plan for transportation system preservation and which recognizes smart growth strategies and principles.<sup>1</sup> .

<sup>1</sup>b. The resource assessment prepared pursuant to paragraph (1) of subsection a. of this section shall be used only for advisory purposes in the planning area and shall have no binding or regulatory effect therein.<sup>1</sup>

REPLACE SECTION 12 TO READ:

12. (New section) In addition to the contents of the regional master plan described in section 11 of this act, the plan shall also include, with respect to the preservation area, a land use capability map and a comprehensive statement of policies for planning and managing the development and use of land in the preservation area, which shall be based upon, comply with, and implement the environmental standards <sup>1</sup>[set forth in section 31 of this act and as]<sup>1</sup> adopted by the Department of Environmental Protection pursuant to sections <sup>1</sup>[32 through 33] 31 and 32<sup>1</sup> of this act <sup>1</sup>, and the resource assessment prepared pursuant to paragraph (1) of subsection a. of section 11 of this act<sup>1</sup> .

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

a. a preservation zone element that identifies zones within the preservation area where development shall not occur in order to protect water resources and environmentally sensitive lands <sup>1</sup>[that] and which<sup>1</sup> shall be permanently preserved through <sup>1</sup>use of<sup>1</sup> a variety of tools, including <sup>1</sup>but not limited to land<sup>1</sup> acquisition and <sup>1</sup>the<sup>1</sup> transfer of development rights; and

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

REPLACE SECTION 13 TO READ:

13. (New section) a. The council shall develop and implement a <sup>1</sup>voluntary<sup>1</sup> transfer of development rights program for the Highlands Region consistent with <sup>1</sup>the "State Transfer of Development Rights Act," P.L.2004, c.2 (C. \_\_\_\_\_) or<sup>1</sup> any <sup>1</sup>applicable<sup>1</sup> transfer of

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development rights program created otherwise by law.

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

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

<sup>1</sup>~~[(c)]~~ <sup>1</sup>~~(3)~~ The bank shall operate in accordance with provisions of general law authorizing the creation of development transfer banks by municipalities and counties.

REPLACE SECTION 14 TO READ:

14. (New section) a. Within <sup>1</sup>~~six months~~ nine to 15 months<sup>1</sup> after the date of adoption of the regional master plan or any revision thereof, <sup>1</sup>according to a schedule to be established by the council.<sup>1</sup> each municipality located wholly or partially in the preservation area shall submit to the council such revisions of the municipal master plan and development regulations, as applicable to the development and use of land in the preservation area, as may be necessary in order to conform them with the goals, requirements, and provisions of the regional master plan. After receiving and reviewing the revisions, the council shall approve, reject, or approve with conditions the revised plan and development regulations, as it deems appropriate, after public hearing, within 60 days after the date of submission thereof.

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

b. Within <sup>1</sup>~~six months~~ nine to 15 months<sup>1</sup> after the date of adoption of the regional master plan or any revision thereof, <sup>1</sup>according to a schedule to be established by the council.<sup>1</sup> each county located wholly or partially in the preservation area shall submit to the council such revisions of the county master plan and associated regulations, as applicable to the development and use of land in the preservation area, as may be necessary in order to conform them with the goals, requirements, and provisions of the regional master plan. After receiving and reviewing the revisions, the council shall approve, reject, or approve with conditions those revised plans and associated regulations, as it deems appropriate, after public hearing, within 60 days after the date of submission thereof.

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

c. <sup>1</sup>[Any approval of an application for development, or use of land, in the preservation area granted by any local government unit in violation of the regional master plan or an approved revised municipal or county master plan, development regulations, or other regulations pursuant to this act shall be null and void and of no force and effect at law or equity.] The council may revoke a conformance approval granted pursuant to this section or section 15 of this act, after conducting a hearing, if the council finds that the local government unit has taken action inconsistent with the regional master plan.<sup>1</sup>

d. In the event that any municipality or county fails to adopt or enforce an approved revised master plan, development regulations, or other regulations, as the case may be, including any condition thereto imposed by the council, as required pursuant to subsections a. or b. of this section, the council shall adopt and enforce such rules and regulations as may be necessary to implement the minimum standards contained in the regional master plan as applicable to any municipality or county within the preservation area. If any municipality or county fails to adopt or enforce an approved revised master plan, development regulations, or other regulations, as the case may be, including any condition thereto imposed by the council, as required pursuant to subsections a. or b. of this section, the council shall have all local enforcement authority provided pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) <sup>1</sup>[and] <sup>1</sup>R.S.40:27-1 et seq., <sup>1</sup>and this act,<sup>1</sup> as well as the authority to issue stop construction orders, as may be necessary to implement the provisions of this act, any rules and regulations adopted pursuant thereto, and the requirements and provisions of the regional master plan.

e. A municipality or county may adopt revisions to its master plan, development regulations, or other regulations for the purposes of this section that are stricter <sup>1</sup>, as determined by the council,<sup>1</sup> than the minimum necessary to obtain approval of conformance with the regional master plan.

<sup>1</sup>f. The requirements of this section shall not apply to any municipality or county located wholly within the planning area. Any municipality or county located partially within the preservation area and partially within the planning area shall be required to comply with the provisions of this section and the regional master plan only with respect to that portion of the municipality or county lying within the preservation area. Voluntary conformance with the regional master plan as it may apply to those portions of a municipality or county lying within the planning area shall be permitted as provided pursuant to

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section 15 of this act.<sup>1</sup>

REPLACE SECTION 15 TO READ:

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

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

After receiving and reviewing those revisions, the council shall approve, reject, or approve with conditions the revised plan and development regulations, as it deems appropriate, after public hearing, within 60 days after the date of submission thereof.

<sup>1</sup>[b.] (2)<sup>1</sup> Upon rejecting or conditionally approving any such revised plan or development regulations, the council shall identify such changes therein that it deems necessary for council approval thereof, and the municipality may adopt and enforce the plan or development regulations as so changed in order for them to be deemed approved in conformance with the regional master plan.

<sup>1</sup>[c.] (3)<sup>1</sup> Any municipality approved by the council to be in conformance with the regional master plan pursuant to this <sup>1</sup>[section] subsection<sup>1</sup> shall be entitled to any financial or other assistance or incentives received by a municipality from the State as a benefit or result of obtaining council approval pursuant to section 14 of this act.

<sup>1</sup>(4)<sup>1</sup> Upon the commencement of each reexamination by the municipality of its master plan and development regulations as required pursuant to section 76 of P.L.1975, c.291 (C.40:55D-89) which have been previously approved by the council to be in conformance with the regional master plan pursuant to this subsection<sup>1</sup>, the municipality shall so notify the council and, thereafter, submit to the council the draft revision of its master plan and development regulations for review, by the council, of conformance with the regional master plan. If, after conducting the reexamination, the municipality does not resubmit to the council its master plan and development regulations as they pertain to the planning area and obtain reapproval thereof from the council in accordance with this <sup>1</sup>[section] subsection<sup>1</sup>, or if the council finds the reexamined master plan not to be in conformance with the regional master plan, the council may require the municipality to reimburse the council or the State, as appropriate, in whole or in part for any financial or other assistance or incentives received by the municipality from the State as a benefit or result of obtaining council approval pursuant to this <sup>1</sup>[section] subsection<sup>1</sup>.

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<sup>1</sup>[e.] (5)<sup>1</sup> A municipality may adopt revisions to its master plan or development regulations for the purposes of this <sup>1</sup>[section] subsection<sup>1</sup> that are stricter <sup>1</sup>as determined by the council<sup>1</sup> than the minimum necessary to obtain approval of conformance with the regional master plan.

<sup>1</sup>[f.] b. (1)<sup>1</sup> Each county with lands in the planning area may, by ordinance or resolution, as appropriate, petition the council of its intention to revise its master plan and associated regulations, as applicable to the development and use of land in the planning area, to conform with the goals, requirements, and provisions of the regional master plan.

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

After receiving and reviewing those revisions, the council shall approve, reject, or approve with conditions the revised plan and associated regulations, as it deems appropriate, after public hearing, within 60 days after the date of submission thereof.

<sup>1</sup>[g.] (2) Upon rejecting or conditionally approving any such revised plan or associated regulations, the council shall identify such changes therein that it deems necessary for council approval thereof, and the county may adopt and enforce the plan or associated regulations as so changed in order for them to be deemed approved in conformance with the regional master plan.

<sup>1</sup>[h.] (3) Any county approved by the council to be in conformance with the regional master plan pursuant to this <sup>1</sup>[section] subsection<sup>1</sup> shall be entitled to any financial or other assistance or incentives received by a county from the State as a benefit or result of obtaining council approval pursuant to section 14 of this act.

OMIT SECTION 16 IN ITS ENTIRETY

REPLACE SECTION 17 TO READ:

<sup>1</sup>[17.] 16.<sup>1</sup> (New section) a. The council may <sup>1</sup>[prepare and distribute suggested guidelines for the location and construction of capital projects by State entities or local government units within the Highlands Region] provide comments and recommendations on any capital or other project proposed to be undertaken by any State entity or local government unit in the Highlands Region<sup>1</sup> .

b. Within the preservation area, any capital or other project of a State entity or local government unit that involves the ultimate disturbance of two acres or more of land or an increase in impervious surface by one acre or more shall be submitted to the council for review <sup>1</sup>except that no such submission shall be required for routine maintenance and operations, rehabilitation, preservation, reconstruction, or repair of transportation or infrastructure systems by a State entity or local government unit, provided that the activity is

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consistent with the goals and purposes of this act and does not result in the construction of any new through-capacity travel lanes<sup>1</sup>. The council shall establish procedures for conducting such reviews and shall have the power to approve, approve with conditions, or disapprove the project. No such project shall proceed without the approval of the council; provided that, in the case of a project of a State entity, if the council disapproves the project, the head of the appropriate principal department of State government with primary responsibility for the project may override the council's disapproval upon making a written finding, which shall be submitted to the council and the Governor, that the project is necessary for public health, safety, or welfare and including with that finding a factual basis and explanation in support thereof. In the case of a project of an independent State authority or commission or a bi-state entity, any such finding shall be made by the Governor or such other State governmental official as the Governor may designate for that purpose.

<sup>1</sup>The council shall review any submission pursuant to this subsection within 30 days after receipt. If the council fails to act within the 30-day period, or within such other time period as may be mutually agreed upon by the parties, the project shall be deemed approved.<sup>1</sup>

c. Within the planning area, any capital or other project of a State entity or local government unit that provides for the ultimate disturbance of two acres or more of land or an increase in impervious surface by one acre or more shall be submitted to the council for a nonbinding review and comment <sup>1</sup>, except that no such submission shall be required for routine maintenance and operations, rehabilitation, preservation, reconstruction, or repair of transportation or infrastructure systems by a State entity or local government unit, provided that the activity is consistent with the goals and purposes of this act and does not result in the construction of any new through-capacity travel lanes<sup>1</sup>. The council shall establish procedures for conducting such reviews <sup>1</sup>within 30 days after receipt or within such other time period as may be mutually agreed upon by the parties<sup>1</sup>. The failure of the council to act <sup>1</sup>[expeditiously] within the 30-day or other agreed upon time period<sup>1</sup> on any such review pursuant to this subsection shall not be cause for delay of the project, and the project may proceed whether or not the council has conducted the review <sup>1</sup>authorized pursuant to this subsection<sup>1</sup>.

REPLACE SECTION 18 TO READ:

<sup>1</sup>[18.] 17.<sup>1</sup> (New section) a. <sup>1</sup>(1)<sup>1</sup> Subsequent to adoption of the regional master plan, the council may review, within 15 days after any final local government unit approval <sup>1</sup>, rejection, or approval with conditions<sup>1</sup> thereof, any application for development in the preservation area. Upon determining to exercise that authority, the council shall transmit, by certified mail, written notice thereof to the

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person who submitted the application <sup>1</sup>to the local government unit<sup>1</sup>. The council shall, after public hearing thereon, approve, reject, or approve with conditions any such application <sup>1</sup>or decision<sup>1</sup> within 60 days after transmitting the notice; provided, however, that an application shall not be rejected or conditionally approved unless the council determines that the development does not conform with the regional master plan, as applicable to the local government unit wherein the development is located, or that the development could result in substantial impairment of the resources of the Highlands Region. Such approval, rejection, or conditional approval shall be binding upon the person who submitted the application, shall supersede any local government unit <sup>1</sup>[approval of] decision on<sup>1</sup> any such development, and shall be subject only to judicial review as provided in section <sup>1</sup>[29] 27<sup>1</sup> of this act.

<sup>1</sup>(2) No cause of action may be filed in the Superior Court to contest a local government unit decision on an application for development in the preservation area if the council exercises its review authority pursuant to this section. Any such cause of action filed before the date that the council exercises its review authority pursuant to this section shall be dismissed by the court for lack of jurisdiction. Upon determination of the council to exercise its review authority pursuant to this section, judicial review of the decision of the local government unit and of the council pursuant to this section shall proceed as provided pursuant to section 27 of this act.<sup>1</sup>

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

c. Notwithstanding any provision of subsections a. or b. of this section to the contrary, for any municipality or county that has adopted an approved revised master plan, development regulations, or other regulations, as the case may be, including any condition thereto imposed by the council, the requirements of this section shall apply only to applications for development that provide for the ultimate disturbance of two acres or more of land or an increase in impervious surface by one acre or more. The council <sup>1</sup>however<sup>1</sup> may provide, pursuant to subsection d. of section 14 of this act, that the requirements of this section apply to any application for development within the preservation area in any municipality or county that fails to adopt or enforce an approved revised master plan, development regulations, or other regulations, as the case may be, including any condition thereto imposed by the council.

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

REPLACE SECTION 19 TO READ:

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<sup>1</sup>~~[19.] 18.~~<sup>1</sup> (New section) a. Any municipality in the Highlands Region whose municipal master plan and development regulations, and any county in the Highlands Region whose county master plan and associated regulations, have been approved by the council to be in conformance with the regional master plan in accordance with sections 14 or 15 of this act shall qualify for State aid, planning assistance, technical assistance, and other benefits and incentives that may be awarded or provided by the State to municipalities and counties which have received plan endorsement <sup>1</sup>by the State Planning Commission<sup>1</sup> pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et al.) or which otherwise practice or implement smart growth strategies and principles. Any such municipality or county shall also qualify for any State aid that may be provided for smart growth projects.

b. The council <sup>1</sup>~~[may]~~ shall<sup>1</sup> make available grants and other financial and technical assistance to municipalities and counties for any revision of their master plans, development regulations, or other regulations which is designed to bring those plans, development regulations, or other regulations into conformance with the regional master plan or for implementation of a transfer of development rights program pursuant to this act. <sup>1</sup>The grants and other financial assistance shall pay for the reasonable expenses therefor incurred by a municipality or county and shall be distributed according to such procedures and guidelines as may be established by the council.<sup>1</sup> The council <sup>1</sup>~~[may]~~ shall<sup>1</sup> make the grants and other financial assistance from any State, federal, or other funds that <sup>1</sup>~~[may]~~ shall<sup>1</sup> be appropriated or otherwise made available to it for that purpose.

OMIT SECTION 20 IN ITS ENTIRETY

INSERT NEW SECTION 19 TO READ:

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

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

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directly attributable to the implementation of the "Highlands Water Protection and Planning Act."

b. The "Highlands Municipal Property Tax Stabilization Fund" is established in the General Fund as a special nonlapsing fund for the purpose of providing State aid to qualified municipalities pursuant to this section. There shall be appropriated each State fiscal year from the General Fund, or from such other fund or source of revenue as may be established by law or otherwise, to the Highlands Municipal Property Tax Stabilization Fund such sums as shall be necessary to provide State aid to qualified municipalities pursuant to this section. Every qualified municipality shall be eligible for a distribution from the fund pursuant to the provisions of this section.

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

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

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

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

e. Upon receipt of the certification by the board, the State

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Treasurer shall certify to each qualified municipality, on or before February 15, its property tax stabilization amount. A copy of the certified amounts shall be forwarded to the Director of the Division of Local Government Services in the Department of Community Affairs.

f. (1) The State Treasurer, upon warrant of the Director of the Division of Budget and Accounting in the Department of the Treasury, shall pay to each qualified municipality its entitlement as State aid from the sums available in the "Highlands Municipal Property Tax Stabilization Fund" in two equal installments pursuant to a schedule prescribed by the Division of Local Government Services.

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

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

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

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

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

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

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

l. The State Treasurer may deduct from the State aid a municipality would otherwise receive pursuant to subsection f. of this section an amount equivalent to that portion of any sums received by a municipality pursuant to section 80 of P.L. , c. (C. ) (now before the Legislature as this bill), section 1 of P.L.1999, c.225 (C.59:29-8), or section 29 of P.L.1999, c.152 (C.13:8C-29) that the State Treasurer,

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in consultation with the Director of the Division of Local Government Services, determines to be duplicative of any State aid received pursuant to this section.

m. The Director of the Division of Taxation and the Director of the Division of Local Government Services 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 the provisions of this section.

n. As used in this section:

"Base year" means the calendar year 2003;

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

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

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

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

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

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

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

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

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REPLACE SECTION 21 TO READ:

<sup>1</sup>[21.] 20.<sup>1</sup> (New section) The <sup>1</sup>[Attorney General] council<sup>1</sup> shall provide legal representation to any requesting local government unit located in the Highlands Region in any cause of action filed against the local government unit and contesting an act or decision of the local government unit taken or made under authority granted pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.), R.S.40:27-1 et seq., the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), or this act, provided that:

a. the municipal master plan and development regulations, or, in the case of a county governmental entity, the county master plan and associated regulations, have been approved by the council to be in conformance with the regional master plan in accordance with sections 14 or 15 of this act; <sup>1</sup>[and]<sup>1</sup>

b. the council <sup>1</sup>[has certified in writing to the Attorney General] determines<sup>1</sup> that the act or decision of the local government unit which is the subject of the cause of action is consistent with the regional master plan <sup>1</sup>; and

c. the act or decision of the local government unit that is the subject of the cause of action involves an application for development that provides for the ultimate disturbance of two acres or more of land or an increase in impervious surface by one acre or more<sup>1</sup> .

RENUMBER SECTIONS 22 AND 23 AS SECTIONS 21 AND 22

REPLACE SECTION 24 TO READ:

<sup>1</sup>[24.] 23.<sup>1</sup> (New section) a. The Council on Affordable Housing shall take into consideration the regional master plan prior to making any determination regarding the prospective fair share of the housing need in any municipality in the Highlands Region under the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) .

b. Upon adoption by the Highlands Water Protection and Planning Council of the regional master plan, any municipality located wholly or partially in the preservation area, and any municipality in the <sup>1</sup>[Highlands]<sup>1</sup> planning area that is approved by the Highlands Water Protection and Planning Council to be in conformance with the regional master plan pursuant to section 15 of this act, may petition the Council on Affordable Housing to have its 1987 to 1999 fair share obligation adjusted in accordance with any applicable rules and regulations to reflect the change in circumstances in the municipality resulting from conformance with the regional master plan. In the event that the municipality has received substantive certification or is subject to a judgment of repose, that protection shall not be affected or compromised by the adjustment.

c. Any municipality requesting an adjustment pursuant to subsection b. of this section shall be eligible to apply for planning

assistance grants from the State for the purposes of that subsection.

REPLACE SECTION 25 TO READ:

<sup>1</sup>[25.] 24.<sup>1</sup> (New section) Within 90 days after the first meeting of the Highlands Water Protection and Planning Council, the Site Improvement Advisory Board established pursuant to section 3 of P.L.1993, c.32 (C.40:55D-40.3) and the Commissioner of Community Affairs shall consult with the council and the Commissioner of Environmental Protection concerning whether the site improvement standards for residential development adopted pursuant to P.L.1993, c.32 (C.40:55D-40.1 et seq.) are appropriate and sufficiently protective for the Highlands Region, especially for the preservation area; and if it is determined they are not, those standards shall be modified accordingly as soon as practicable <sup>1</sup>thereafter<sup>1</sup> to meet that objective.

OMIT SECTION 26 IN ITS ENTIRETY

RENUMBER SECTION 27 AS SECTION 25

REPLACE SECTION 28 TO READ:

<sup>1</sup>[28.] 26.<sup>1</sup> (New section) The council may institute an action or proceeding in Superior Court for injunctive relief for any violation of this act, or any rule or regulation adopted pursuant thereto, or, in the preservation area for any violation of, or nonconformance with, the regional master plan <sup>1</sup>[, and the court may proceed in the action in a summary manner] . The council may also institute an action or proceeding for injunctive relief for any violation of the regional master plan in the planning area as it relates to a municipality or county that has been approved to be in conformance with the regional master plan pursuant to section 15 of this act.<sup>1</sup> In any <sup>1</sup>action or <sup>1</sup> proceeding brought pursuant to this section, the court <sup>1</sup>may proceed in a summary manner and<sup>1</sup> may also grant temporary or interlocutory relief.

RENUMBER SECTION 29 AS SECTION 27

REPLACE SECTION 30 TO READ:

<sup>1</sup>[30.] 28.<sup>1</sup> (New section) On or before March 31 in each year the council shall make an annual report of its activities for the preceding calendar year to the Governor <sup>1</sup>[and] <sup>1</sup> the Legislature <sup>1</sup>, and the governing body and the chief executive officer of each municipality and county in the Highlands Region<sup>1</sup> . Each such report shall set forth a complete operating and financial statement covering its operations during the year.

INSERT NEW SECTION 29 TO READ:

<sup>1</sup>29. (New section) a. The following are exempt from the provisions of this act, the regional master plan, any rules or regulations

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adopted by the Department of Environmental Protection pursuant to this act, or any amendments to a master plan, development regulations, or other regulations adopted by a local government unit to specifically conform them with the regional master plan:

(1) the construction of a single family dwelling on a lot owned by the individual on the date of enactment of this act;

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

(3) the reconstruction of any building or structure for any reason, provided that the reconstruction does not expand the lawfully existing disturbed area, which comprises the structural footprint, impervious surfaces, and any lawn and landscaped area, on the site;

(4) any improvement to a single family dwelling, public or private school, place of worship owned by a nonprofit corporation, society, or association organized primarily for religious purposes, or hospital in existence on the date of enactment of this act, including but not limited to an addition, garage, shed, driveway, porch, deck, patio, swimming pool, or septic system;

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

(6) the routine maintenance and operations, rehabilitation, preservation, reconstruction, or repair of transportation or infrastructure systems, or public utility lines or systems, by a State entity, local government unit, or public utility, provided that the activity is consistent with the goals and purposes of this act and, in the case of transportation systems, does not result in the construction of any new through-capacity travel lanes;

(7) the construction of a public infrastructure project or capital project approved by public referendum prior to January 1, 2005; and

(8) mining or quarrying at a mine site, mine, or construction materials facility existing on the date of enactment of this act.

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

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

REPLACE SECTION 31 TO READ:

<sup>1</sup>[31.] 30.<sup>1</sup> (New section) a. Commencing on the date of enactment of this act and until the effective date of the rules and regulations adopted by the Department of Environmental Protection

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pursuant to sections <sup>1</sup>[32 and 33] 31 and 32<sup>1</sup> of this act, all major <sup>1</sup>Highlands<sup>1</sup> development in the preservation area shall require a Highlands Preservation Area approval from the department. The Highlands Preservation Area approval shall consist of the related aspects of other regulatory programs which may include, but need not be limited to, the "Freshwater Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-1 et seq.), "The Endangered and Nongame Species Conservation Act," P.L.1973, c.309 (C.23:2A-1 et seq.), the "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.), the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), "The Realty Improvement Sewerage and Facilities Act (1954)," P.L.1954, c.199 (C.58:11-23 et seq.), the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.), and any rules and regulations adopted pursuant thereto. For the purposes of this section, the provisions of P.L.1975, c. 232 (C.13:1D-29 et seq.) shall not apply to an application for a permit pursuant to the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.).

b. The Highlands Preservation Area approval shall also require:

(1) a prohibition on major <sup>1</sup>Highlands<sup>1</sup> development within 300 feet of any Highlands open waters, and a 300-foot buffer adjacent to all Highlands open waters <sup>1</sup>; provided, however, that this buffer shall not extend into the planning area for any Highlands open waters lying partially in the preservation area and partially in the planning area<sup>1</sup>. For the purposes of this paragraph, major <sup>1</sup>Highlands<sup>1</sup> development does not include linear development for infrastructure, utilities, and the rights-of-way therefor, provided that there is no other feasible alternative for the linear development outside of the buffer. Structures or land uses in the buffer existing on the date of enactment of this act may remain, provided that the area of disturbance shall not be increased. This paragraph shall not be construed to limit the authority of the department to establish buffers of any size or any other protections for category one waters designated by the department pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), or any other law, or any rule or regulation adopted pursuant thereto, for major <sup>1</sup>Highlands<sup>1</sup> development or for other development that does not qualify as major <sup>1</sup>Highlands<sup>1</sup> development;

(2) the quality of all Highlands open waters and <sup>1</sup>[the]<sup>1</sup> waters of the Highlands within the preservation area to be maintained, restored, or enhanced, <sup>1</sup>as required pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) or the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), or any rule or regulation adopted pursuant thereto,<sup>1</sup> and any new or expanded point source discharge, except discharges from water supply facilities, shall not degrade existing water quality. In the case of water supply

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facilities, all reasonable measures shall be taken to eliminate or minimize water quality impacts;

(3) notwithstanding the provisions of subsection a. of section 5 of P.L.1981, c.262 (C.58:1A-5), or any rule or regulation adopted pursuant thereto, to the contrary, any diversion of more than 50,000 gallons per day, and multiple diversions by the same or related entities for the same or related projects or developments of more than 50,000 gallons per day, of waters of the Highlands shall require a permit pursuant to the "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.), and any permit issued pursuant thereto shall be based on consideration of individual and cumulative impacts of multiple diversions, maintenance of stream base flows, minimization of depletive use, maintenance of existing water quality, and protection of ecological uses;

(4) a zero net fill requirement for flood hazard areas <sup>1</sup>delineated<sup>1</sup> pursuant to the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.);

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

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

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

(8) a prohibition on development that disturbs upland forested areas, in order to prevent soil erosion and sedimentation, protect water quality, prevent stormwater runoff, and protect threatened and endangered animal and plant species sites and designated habitats. Notwithstanding the provisions of this paragraph to the contrary, if a major <sup>1</sup>Highlands<sup>1</sup> development complies with all other applicable requirements for a Highlands Preservation Area <sup>1</sup>**[review]** approval<sup>1</sup> pursuant to this subsection and disturbance to an upland forested area is unavoidable, the department shall allow the disturbance to an upland forested area of no more than 20 feet directly adjacent to a structure and of no more than 10 feet on each side of a driveway as necessary to access a non-forested area of a site.

c. <sup>1</sup>**[**The Highlands Preservation Area approval required pursuant to this section shall include a limited review by the department of an application for a Highlands Preservation Area approval to a review for the purpose of locating a single family dwelling on the property based upon the least environmental impact to the natural resources located on the property when the application is for the construction of a single family dwelling on property owned by the individual on the date of

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enactment of this act, but only if the construction requires an environmental land use or water permit and does not result in the ultimate disturbance of one acre or more of land or an increase in impervious surface by one-quarter acre or more. This limited review shall not be construed to authorize the waiver of any other provision of law, or any rule or regulation adopted pursuant thereto.] The requirements and provisions of this section shall not apply in the planning area.<sup>1</sup>

REPLACE SECTION 32 TO READ:

<sup>1</sup>[32.] 31.<sup>1</sup> (New section) a. Within 270 days after the date of enactment of this act, and notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the Commissioner of Environmental Protection, after consultation with the Department of Agriculture, the Department of Community Affairs, <sup>1</sup>[and] <sup>1</sup>the State Planning Commission, <sup>1</sup>and the Department of Transportation,<sup>1</sup> shall, immediately upon filing proper notice with the Office of Administrative Law, adopt the rules and regulations prepared by the department pursuant to section <sup>1</sup>[33] 32<sup>1</sup> of this act and any other rules and regulations necessary to establish the Highlands permitting review program established pursuant to section <sup>1</sup>[34] 33<sup>1</sup> of this act.

b. The rules and regulations adopted pursuant to subsection a. of this section shall be in effect for a period not to exceed one year after the date of the filing. These rules and regulations shall thereafter be adopted, amended, or readopted by the commissioner in accordance with the requirements of the "Administrative Procedure Act," after consultation with the council, the Department of Agriculture, the Department of Community Affairs, <sup>1</sup>[and] <sup>1</sup>the State Planning Commission <sup>1</sup>, and the Department of Transportation<sup>1</sup>.

c. The rules and regulations adopted by the commissioner pursuant to subsection a. of this section and any requirement to obtain a Highlands permitting review pursuant this act shall not apply to any major development for which all State environmental land use or water permits and local permits, approvals, and other authorizations have been issued.

<sup>1</sup>d. The requirements and provisions of sections 31 through 41 of this act shall not apply in the planning area.<sup>1</sup>

REPLACE SECTION 33 TO READ:

<sup>1</sup>[33.] 32.<sup>1</sup> (New section) The Department of Environmental Protection shall prepare rules and regulations establishing the environmental standards for the preservation area upon which the regional master plan adopted by the council and the Highlands permitting review program administered by the department pursuant to this act shall be based. These rules and regulations shall provide for at least the following:

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

b. measures to ensure that existing water quality shall be maintained, restored, or enhanced <sup>1</sup>, as required pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) or the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), or any rule or regulation adopted pursuant thereto, <sup>1</sup> in all Highlands open waters and waters of the Highlands, and <sup>1</sup>to<sup>1</sup> provide that any new or expanded point source discharge, except discharges from water supply facilities, shall not degrade existing water quality. In the case of water supply facilities, all reasonable measures shall be taken to eliminate or minimize water quality impacts;

c. notwithstanding the provisions of section 23 of P.L.1987, c.156 (C.13:9B-23), or any rule or regulation adopted pursuant thereto, to the contrary, the criteria for the type of activity or activities eligible for the use of a general permit for <sup>1</sup>any portion of<sup>1</sup> an activity located <sup>1</sup>[wholly or partially]<sup>1</sup> within a freshwater wetland or freshwater wetland transition area located <sup>1</sup>[wholly or partially]<sup>1</sup> in the preservation area, provided that these criteria are at least as protective as those provided in section 23 of P.L.1987, c.156 (C.13:9B-23);

d. notwithstanding the provisions of subsection a. of section 5 of P.L.1981, c.262 (C.58:1A-5), or any rule or regulation adopted pursuant thereto, to the contrary, a system for the regulation of any diversion of more than 50,000 gallons per day, and multiple diversions by the same or related entities for the same or related projects or developments of more than 50,000 gallons per day, of waters of the Highlands pursuant to the "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.), and any permit issued pursuant thereto shall be based on consideration of individual and cumulative impacts of multiple diversions, maintenance of stream base flows, minimization

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of depletive use, maintenance of existing water quality, and protection of ecological uses;

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

f. a zero net fill requirement for flood hazard areas <sup>1</sup>delineated<sup>1</sup> pursuant to the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.);

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

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

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

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

k. a prohibition on development that disturbs upland forested areas, in order to prevent soil erosion and sedimentation, protect water quality, prevent stormwater runoff, and protect threatened and endangered animal and plant species sites and designated habitats; and standards to protect upland forested areas that require all appropriate measures be taken to avoid impacts or disturbance to upland forested areas, and where avoidance is not possible that all appropriate

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measures have been taken to minimize and mitigate impacts to upland forested areas and to prevent soil erosion and sedimentation, protect water quality, prevent stormwater runoff, and protect threatened and endangered animal and plant species sites and designated habitats.

REPLACE SECTION 34 TO READ:

<sup>1</sup>[34.] 33.<sup>1</sup> (New section) a. The Department of Environmental Protection shall establish a Highlands permitting review program to provide for the coordinated review of any major <sup>1</sup>Highlands<sup>1</sup> development in the preservation area based upon the rules and regulations adopted by the department pursuant to sections <sup>1</sup>[32 and 33] 31 and 32<sup>1</sup> of this act. The Highlands permitting review program established pursuant to this section shall consolidate the related aspects of other regulatory programs which may include, but need not be limited to, the "Freshwater Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-1 et seq.), "The Endangered and Nongame Species Conservation Act," P.L.1973, c.309 (C.23:2A-1 et seq.), the "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.), the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), "The Realty Improvement Sewerage and Facilities Act (1954)," P.L.1954, c.199 (C.58:11-23 et seq.), the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.), and any rules and regulations adopted pursuant thereto, and the rules and regulations adopted pursuant to sections <sup>1</sup>[32 and 33] 31 and 32<sup>1</sup> of this act. For the purposes of this section, the provisions of P.L.1975, c.232 (C.13:1D-29 et seq.) shall not apply to an application for a permit pursuant to the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.).

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

(1) <sup>1</sup>[a provision limiting the review by the department of an application to a review for the purpose of locating a single family dwelling on the property based upon the least environmental impact to the natural resources located on the property when the application is for the construction of a single family dwelling on property owned by the individual on the date of enactment of this act, but only if the construction requires an environmental land use or water permit and does not result in the ultimate disturbance of one acre or more of land or an increase in impervious surface by one-quarter acre or more;

(2) (a) a provision that may allow for the waiver of any provision of a Highlands permitting review on a case-by-case basis to avoid undue hardship to an individual owner of residential property for one single family dwelling that includes the ultimate disturbance of one acre or more of land or an increase in impervious surface by one-quarter acre or more, provided that the property was owned by the

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individual on the date of enactment of this act;

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

(c) a provision that may allow for a waiver of any provision of a Highlands permitting review on a case-by-case basis for redevelopment in certain previously developed areas in the preservation area identified by the council pursuant to subsection b. of section 9 of this act; and

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

The grant of a waiver pursuant to [subparagraphs (a), (b), (c), or (d) of this paragraph] this subsection by the department shall be conditioned upon the department's determination that the major Highlands development meets the requirements prescribed for a finding as listed in subsection a. of section [35] 34 of this act to the maximum extent possible.

c. The [limited review provision of paragraph (1) of subsection b. of this section and the] waiver provisions of [paragraph (2) of] subsection b. of this section are limited to the provisions of the rules and regulations adopted pursuant to section [33] 32 of this act, and shall not limit the department's jurisdiction or authority pursuant to any other provision of law, or any rule or regulation adopted pursuant thereto, that is incorporated into the Highlands permitting review program.

d. The Highlands permitting review program established pursuant to this section may provide for the issuance of a general permit provided that the department adopts rules and regulations which identify the activities subject to general permit review and establish the criteria for the approval or disapproval of a general permit.

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

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

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review, and enforcement of applications for Highlands permitting reviews.

REPLACE SECTION 35 TO READ:

<sup>1</sup>[35.] 34.<sup>1</sup> (New section) a. The Commissioner of Environmental Protection shall review filed applications for Highlands permitting reviews, including any information presented at public hearings or during a comment period, or submitted during the application review period.

Except as otherwise provided by subsection b. of this section, a Highlands permitting review approval may be issued only upon a finding that the proposed major <sup>1</sup>Highlands<sup>1</sup> development:

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

(2) would cause minimal feasible interference with the natural functioning of animal, plant, and other natural resources at the site and within the surrounding area, and minimal feasible individual and cumulative adverse impacts to the environment both onsite and offsite of the major <sup>1</sup>Highlands<sup>1</sup> development;

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

(4) will <sup>1</sup>[not jeopardize the continued existence of species listed pursuant to] comply with<sup>1</sup> "The Endangered and Nongame Species Conservation Act," P.L.1973, c.309 (C.23:2A-1 et seq.) or the "Endangered Plant Species List Act," P.L.1989, c.56 (C.13:1B-15.151 et seq.) <sup>1</sup>[, or which appear on the federal endangered or threatened species list, and will not result in the likelihood of the destruction or adverse modification of habitat for any rare, threatened, or endangered species of animal or plant]<sup>1</sup> ;

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

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

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

b. A Highlands permitting review approval may be issued to a major <sup>1</sup>Highlands<sup>1</sup> development <sup>1</sup>[subject to a limited review pursuant to paragraph (1) of subsection b. of section 34 of this act or]<sup>1</sup> granted

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a waiver pursuant to the provisions of <sup>1</sup>[paragraph (2) of]<sup>1</sup> subsection b. of section <sup>1</sup>[34] 33<sup>1</sup> of this act notwithstanding the inability to make the finding required pursuant to subsection a. of this section.

REPLACE SECTION 36 TO READ:

<sup>1</sup>[36.] 35<sup>1</sup> (New section) a. Whenever the Commissioner of Environmental Protection finds that a person has violated any provision of section <sup>1</sup>[31] 30<sup>1</sup> of this act, a Highlands permitting review approval issued pursuant to section <sup>1</sup>[35] 34<sup>1</sup> of this act, or any rule or regulation adopted pursuant to sections <sup>1</sup>[32 and 33] 31 and 32<sup>1</sup> of this act, the commissioner may:

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

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

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

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

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

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

b. Whenever, on the basis of available information, the commissioner finds a person in violation of any provision of section <sup>1</sup>[31] 30<sup>1</sup> of this act, a Highlands permitting review approval issued pursuant to section <sup>1</sup>[35] 34<sup>1</sup> of this act, or any rule or regulation adopted pursuant to sections <sup>1</sup>[32 and 33] 31 and 32<sup>1</sup> of this act, the commissioner may issue an order: (1) specifying the provision or provisions of the <sup>1</sup>law,<sup>1</sup> rule, regulation, permit, approval, or authorization of which the person is in violation; (2) citing the action which constituted the violation; (3) requiring compliance with the provision or provisions violated; (4) requiring the restoration of the area which is the site of the violation; and (5) providing notice to the person of the right to a hearing on the matters contained in the order.

c. The commissioner is authorized to institute a civil action in Superior Court for appropriate relief from any violation of any provision of section <sup>1</sup>[31] 30<sup>1</sup> of this act, a Highlands permitting review approval issued pursuant to section <sup>1</sup>[35] 34<sup>1</sup> of this act, or any rule or regulation adopted pursuant to sections <sup>1</sup>[32 and 33] 31 and 32<sup>1</sup> of this act. Such relief may include, singly or in combination:

(1) A temporary or permanent injunction;

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

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

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

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

d. The commissioner is authorized to assess a civil administrative penalty of up to \$25,000 for each violation of any provision of section <sup>1</sup>[31] 30<sup>1</sup> of this act, a Highlands permitting review approval issued pursuant to section <sup>1</sup>[35] 34<sup>1</sup> of this act, or any rule or regulation adopted pursuant to sections <sup>1</sup>[32 and 33] 31 and 32<sup>1</sup> of this act, and each day during which each violation continues shall constitute an additional, separate, and distinct offense. Any amount assessed under this subsection shall fall within a range established by regulation by the commissioner for violations of similar type, seriousness, and duration. No assessment shall be levied pursuant to this section until after the party has been notified by certified mail or personal service. The notice shall: (1) identify the section of the <sup>1</sup>law,<sup>1</sup> rule, regulation, permit, approval, or authorization violated; (2) recite the facts alleged to constitute a violation; (3) state the amount of the civil penalties to be imposed; and (4) affirm the rights of the alleged violator to a hearing. The ordered party shall have 20 days from receipt of the notice within which to deliver to the commissioner a written request for a hearing. After the hearing and upon finding that a violation has occurred, the commissioner may issue a final order after assessing the amount of the fine specified in the notice. If no hearing is requested, the notice shall become a final order after the expiration of the 20-day period. Payment of the assessment is due when a final order is issued or the notice becomes a final order. The authority to levy an administrative penalty is in addition to all other enforcement provisions in this act and in any other applicable law, rule, or regulation, and the payment of any assessment shall not be deemed to affect the availability of any other enforcement provisions in connection with the violation for which the assessment is levied. Any civil administrative penalty assessed under this section may be compromised by the commissioner upon the posting of a performance bond by the violator, or upon such terms and conditions as the commissioner may establish by regulation.

e. A person who violates any provision of section <sup>1</sup>[31] 30<sup>1</sup> of this act, a Highlands permitting review approval issued pursuant to section <sup>1</sup>[35] 34<sup>1</sup> of this act, or any rule or regulation adopted pursuant to sections <sup>1</sup>[32 and 33] 31 and 32<sup>1</sup> of this act, an administrative order issued pursuant to subsection b. of this section, or a court order issued pursuant to subsection c. of this section, or who fails to pay a civil

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administrative penalty in full pursuant to subsection d. of this section, shall be subject, upon order of a court, to a civil penalty not to exceed \$10,000 per day of such violation, and each day during which the violation continues shall constitute an additional, separate, and distinct offense. Any civil penalty imposed pursuant to this subsection may be collected with costs in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court and the municipal court shall have jurisdiction to enforce the provisions of the "Penalty Enforcement Law of 1999" in connection with this act.

f. A person who purposely or negligently violates any provision of section <sup>1</sup>~~[31]~~ 30<sup>1</sup> of this act, a Highlands permitting review approval issued pursuant to section <sup>1</sup>~~[35]~~ 34<sup>1</sup> of this act, or any rule or regulation adopted pursuant to sections <sup>1</sup>~~[32 and 33]~~ 31 and 32<sup>1</sup> of this act, shall be guilty, upon conviction, of a crime of the fourth degree and, notwithstanding any provision of N.J.S.2C:43-3 to the contrary, shall be subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, in addition to any other applicable penalties and provisions under Title 2C of the New Jersey Statutes. A second or subsequent offense under this subsection shall subject the violator to a fine, notwithstanding any provision of N.J.S.2C:43-3 to the contrary, of not less than \$5,000 nor more than \$50,000 per day of violation, in addition to any other applicable penalties and provisions under Title 2C of the New Jersey Statutes. A person who knowingly makes a false statement, representation, or certification in any application, record, or other document filed or required to be maintained under this act shall be guilty, upon conviction, of a crime of the fourth degree and, notwithstanding any provision of N.J.S.2C:43-3 to the contrary, shall be subject to a fine of not more than \$10,000, in addition to any other applicable penalties and provisions under Title 2C of the New Jersey Statutes.

g. In addition to the penalties prescribed in this section, a notice of violation of any provision of section <sup>1</sup>~~[31]~~ 30<sup>1</sup> of this act, a Highlands permitting review approval issued pursuant to section <sup>1</sup>~~[35]~~ 34<sup>1</sup> of this act, or any rule or regulation adopted pursuant to sections <sup>1</sup>~~[32 and 33]~~ 31 and 32<sup>1</sup> of this act, shall be recorded on the deed of the property wherein the violation occurred, on order of the commissioner, by the clerk or register of deeds and mortgages of the county wherein the affected property is located and with the clerk of the Superior Court and shall remain attached thereto until such time as the violation has been remedied and the commissioner orders the notice of violation removed.

h. The department may require an applicant or permittee to provide any information the department requires to determine compliance with any provision of section <sup>1</sup>~~[31]~~ 30<sup>1</sup> of this act, a Highlands permitting review approval issued pursuant to section <sup>1</sup>~~[35]~~ 34<sup>1</sup> of this act, or any rule or regulation adopted pursuant to sections <sup>1</sup>~~[32 and 33]~~ 31 and

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32<sup>1</sup> of this act.

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

REPLACE SECTION 37 TO READ:

<sup>1</sup>[37.] 36<sup>1</sup> (New section) Notwithstanding the provisions P.L.1987, c.156 (C.13:9B-1 et seq.), or any rule or regulation adopted pursuant thereto, to the contrary, major <sup>1</sup>Highlands<sup>1</sup> development as defined in section 3 of P.L. , c. (C. ) (now before the Legislature as this bill) that includes a regulated activity as defined in section 3 of P.L.1987, c.156 (C.13:9B-3) in a freshwater wetland or freshwater wetland transition area located <sup>1</sup>[wholly or partially]<sup>1</sup> in the Highlands preservation area as defined in section 3 of P.L. , c. (C. ) (now before the Legislature as this bill) shall also be regulated pursuant to sections <sup>1</sup>[31 through 36] 30 through 35<sup>1</sup> of P.L. , c. (C. ) (now before the Legislature as this bill).

REPLACE SECTION 38 TO READ:

<sup>1</sup>[38.] 37<sup>1</sup> (New section) Notwithstanding the provisions of subsection a. of section 5 of P.L.1981, c.262 (C.58:1A-5), or any rule or regulation adopted pursuant thereto, to the contrary, the Department of Environmental Protection, pursuant to section <sup>1</sup>[33] 32<sup>1</sup> of P.L. , c. (C. ) (now before the Legislature as this bill), shall establish a permit system to provide for review of allocations or reallocations of waters of the Highlands, as defined in section 3 of P.L. , c. (C. ) (now before the Legislature as this bill), to provide for the issuance of permits for diversions either individually or cumulatively of more than 50,000 gallons per day of waters of the Highlands in the Highlands preservation area as defined in section 3 of P.L. , c. (C. ) (now before the Legislature as this bill).

REPLACE SECTION 39 TO READ:

<sup>1</sup>[39.] 38<sup>1</sup> (New section) Notwithstanding the provisions of the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) and the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), or any rule or regulation adopted pursuant thereto, to the contrary, the Department of Environmental Protection, pursuant to section <sup>1</sup>[33] 32<sup>1</sup> of P.L. , c. (C. ) (now before the Legislature as this bill), shall establish a septic system density standard at a level to prevent the degradation of water quality <sup>1</sup>[.]<sup>1</sup> or to require the restoration of water quality, <sup>1</sup>as required pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) or the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), or any rule or regulation adopted pursuant thereto,<sup>1</sup> and to protect

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ecological uses from individual, secondary, and cumulative impacts, in consideration of deep aquifer recharge available for dilution, which standard shall be applied to any major <sup>1</sup>Highlands<sup>1</sup> development as defined in section 3 of P.L. , c. (C. ) (now before the Legislature as this bill) located <sup>1</sup>[wholly or partially within] in<sup>1</sup> the Highlands preservation area as defined in section 3 of P.L. , c. (C. ) (now before the Legislature as this bill).

REPLACE SECTION 40 TO READ:

<sup>1</sup>[40.] 39.<sup>1</sup> (New section) Notwithstanding the provisions of the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), or any rule or regulation adopted pursuant thereto, to the contrary, the Department of Environmental Protection, pursuant to section <sup>1</sup>[33] 32<sup>1</sup> of P.L. , c. (C. ) (now before the Legislature as this bill), within the Highlands preservation area as defined in section 3 of P.L. , c. (C. ) (now before the Legislature as this bill), shall limit or prohibit the construction of new public water systems or the extension of existing public water systems <sup>1</sup>to serve development in the Highlands preservation area as defined in section 3 of P.L. , c. (C. ) (now before the Legislature as this bill)<sup>1</sup> , except in the case of a demonstrated need to protect public health and safety.

RENUMBER SECTION 41 AS SECTION 40

REPLACE SECTION 42 TO READ:

<sup>1</sup>[42.] 41.<sup>1</sup> (New section) Notwithstanding the provisions of the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.), or any rule or regulation adopted pursuant thereto, to the contrary, the Department of Environmental Protection, pursuant to section <sup>1</sup>[33] 32<sup>1</sup> of P.L. , c. (C. ) (now before the Legislature as this bill), shall establish a zero net fill requirement within any flood hazard area located <sup>1</sup>[wholly or partially within] in<sup>1</sup> the Highlands preservation area as defined in section 3 of P.L. , c. (C. ) (now before the Legislature as this bill).

RENUMBER SECTIONS 43 AND 44 AS SECTIONS 42 AND 43

REPLACE SECTION 45 TO READ:

<sup>1</sup>[45.] 44.<sup>1</sup> Section 4 of P.L.1993, c.339 (C.4:1C-52) is amended to read as follows:

4. The board shall have the following powers:

a. To purchase, or to provide matching funds for the purchase of 80% of, the value of development potential and to otherwise facilitate development transfers, from the owner of record of the property from which the development potential is to be transferred or from any person, or entity, public or private, holding the interest in development potential that is subject to development transfer; provided that, in the

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case of providing matching funds for the purchase of 80% of the value of development potential, the remaining 20% of that value is contributed by the affected municipality or county, or both, after public notice thereof in the New Jersey Register and in one newspaper of general circulation in the area affected by the purchase. The remaining 20% of the value of the development potential to be contributed by the affected municipality or county, or both, to match funds provided by the board, may be obtained by purchase from, or donation by, the owner of record of the property from which the development potential is to be transferred or from any person, or entity, public or private, holding the interest in development potential that is subject to development transfer. The value of development potential may be determined by either appraisal, municipal averaging based upon appraisal data, or by a formula supported by appraisal data. The board may also engage in development transfer by sale, exchange, or other method of conveyance, provided that in doing so, the board shall not substantially impair the private sale, exchange or other method of conveyance of development potential. The board may not, nor shall anything in this act be construed as permitting the board to, engage in development transfer from one municipality to another, which transfer is not in accordance with the ordinances of both municipalities;

b. To adopt and, from time to time, amend or repeal suitable bylaws for the management of its affairs;

c. To adopt and use an official seal and alter that seal at its pleasure;

d. To apply for, receive, and accept, from any federal, State, or other public or private source, grants or loans for, or in aid of, the board's authorized purposes;

e. To enter into any agreement or contract, execute any legal document, and perform any act or thing necessary, convenient, or desirable for the purposes of the board or to carry out any power expressly given in this act;

f. To adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to implement the provisions of this act;

g. To call to its assistance and avail itself of the services of the employees of any State, county, or municipal department, board, commission, or agency as may be required and made available for these purposes;

h. To retain such staff as may be necessary in the career service and to appoint an executive director thereof. The executive director shall serve as a member of the senior executive or unclassified service and may be appointed without regard to the provisions of Title 11A of the New Jersey Statutes;

i. To review and analyze innovative techniques that may be employed to maximize the total acreage reserved through the use of perpetual easements;

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j. To provide, through the State TDR Bank, a financial guarantee with respect to any loan to be extended to any person that is secured using development potential as collateral for the loan. Financial guarantees provided under this act shall be in accordance with procedures, terms and conditions, and requirements, including rights and obligations of the parties in the event of default on any loan secured in whole or in part using development potential as collateral, to be established by rule or regulation adopted by the board pursuant to the "Administrative Procedure Act";

k. To enter into agreement with the State Agriculture Development Committee for the purpose of acquiring development potential through the acquisition of development easements on farmland so that the board may utilize the existing processes, procedures, and capabilities of the State Agriculture Development Committee as necessary and appropriate to accomplish the goals and objectives of the board as provided for pursuant to this act;

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

m. To provide planning assistance grants to municipalities that have adopted viable development transfer ordinances, as determined by the board, for up to 50% of the cost of planning associated with such an ordinance and incurred by a municipality, or \$10,000, whichever is less, which grants shall be made utilizing moneys deposited into the bank pursuant to section 8 of **[this act]** P.L.1993, c.339;

n. To provide funding to <sup>1</sup>(1)<sup>1</sup> any development transfer bank that may be established by the Highlands Water Protection and Planning Council pursuant to section 13 of P.L. , c. (C. ) (now before the Legislature as this bill), for <sup>1</sup>**[(1)]<sup>1</sup>** the purchase of development potential by the Highlands development transfer bank, and (2) the council to provide planning assistance grants to municipalities in the Highlands Region that are participating in a transfer of development rights program implemented by the council pursuant to section 13 of P.L. , c. (C. ) (now before the Legislature as this bill) in such amounts as the council deems appropriate notwithstanding any provision of subsection m. of this section or of section 8 of P.L.1993, c.339 to the contrary; and

o. To serve as a development transfer bank for the Highlands Region if requested to do so by the Highlands Water Protection and Planning Council pursuant to section 13 of P.L. , c. (C. ) (now before the Legislature as this bill) .

(cf: P.L.1993, c.339, s.4)

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RENUMBER SECTIONS 46 THROUGH 51 AS SECTIONS 45  
THROUGH 50

REPLACE SECTION 52 TO READ:

<sup>1</sup>[52.] 51.<sup>1</sup> Section 26 of P.L.1999, c.152 (C.13:8C-26) is amended to read as follows:

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

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

(2) Provide 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) Provide grants to assist qualifying tax exempt nonprofit organizations to pay the cost of acquisition and development of lands for recreation and conservation purposes.

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

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

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

d. (1) (a) For State fiscal years 2000 through 2004 only, when the department, a local government unit, or a qualifying tax exempt nonprofit organization seeks to acquire lands for recreation and conservation purposes using constitutionally dedicated moneys in whole or in part or Green Acres bond act moneys in whole or in part,

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it shall conduct or cause to be conducted an appraisal or appraisals of the value of the lands that shall be made using the land use zoning of the lands (I) in effect at the time of proposed acquisition, and (ii) in effect on November 3, 1998 as if that land use zoning is still in effect at the time of proposed acquisition. The higher of those two values shall be utilized by the department, a local government unit, or a qualifying tax exempt nonprofit organization as the basis for negotiation with the landowner with respect to the acquisition price for the lands. The landowner shall be provided with both values determined pursuant to this subparagraph.

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

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

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

(3) This subsection shall not:

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

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

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

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

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

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

f. Moneys appropriated from the fund shall not be used by local

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government units or qualifying tax exempt nonprofit organizations to acquire lands that are already permanently preserved for recreation and conservation purposes, as determined by the department.

g. Whenever lands are donated to the State by a public utility, as defined pursuant to Title 48 of the Revised Statutes, for recreation and conservation purposes, the commissioner may 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.

h. Whenever the State acquires land for recreation and conservation purposes, the agency in the Department of Environmental Protection responsible for administering the land shall, within six months after the date of acquisition, inspect the land for the presence of any buildings or structures thereon which are or may be historic properties and, within 60 days after completion of the inspection, provide to the New Jersey Historic Preservation Office in the department (1) a written notice of its findings, and (2) for any buildings or structures which are or may be historic properties discovered on the land, a request for determination of potential eligibility for inclusion of the historic building or structure in the New Jersey Register of Historic Places. Whenever such a building or structure is discovered, a copy of the written notice provided to the New Jersey Historic Preservation Office shall also be sent to the New Jersey Historic Trust and to the county historical commission or advisory committee, the county historical society, the local historic preservation commission or advisory committee, and the local historical society if any of those entities exist in the county or municipality wherein the land is located.

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

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

(3) This subsection shall not:

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

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

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

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

j. (1) Commencing on the date of enactment of P.L. , c. (C. ) (now before the Legislature as this bill) and until five years after that date, when the department, a local government unit, or a qualifying tax exempt nonprofit organization seeks to acquire lands in the Highlands preservation area for recreation and conservation purposes using constitutionally dedicated moneys in whole or in part or Green Acres bond act moneys in whole or in part, it shall conduct or cause to be conducted an appraisal or appraisals of the value of the lands that shall be made using (a) the rules and regulations adopted by the Department of Environmental Protection pursuant to P.L. , c. (C. ) (now before the Legislature as this bill) and the provisions of section <sup>1</sup>[31] 30<sup>1</sup> of that act applicable to the lands subject to the appraisal and in effect at the time of proposed acquisition, and (b) the rules and regulations adopted by the Department of Environmental Protection pursuant to any environmental land use or water law applicable to the lands subject to the appraisal and in effect on the day before the date of enactment of P.L. , c. (C. ) (now before the Legislature as this bill). The higher of those two values shall be utilized by the department, a local government unit, or a qualifying tax exempt nonprofit organization as the basis for negotiation with the landowner with respect to the acquisition price for the lands. The landowner shall be provided with both values determined pursuant to this paragraph.

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

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

(2) A landowner whose lands are subject to the provisions of

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paragraph (1) of this subsection shall choose to have the lands appraised in accordance with this subsection or in accordance with the provisions of either subsection d. or subsection i. of this section to the extent that the subsection is applicable and has not expired.

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

(4) This subsection shall not:

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

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

(5) For the purposes of this subsection:

"Environmental land use or water law" means the "Freshwater Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-1 et seq.), the "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.), the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), "The Realty Improvement Sewerage and Facilities Act (1954)," P.L.1954, c.199 (C.58:11-23 et seq.), the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), or the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.);

"Highlands preservation area" means the preservation area in the Highlands Region as defined <sup>1</sup>[pursuant to] in <sup>1</sup>section <sup>1</sup>3<sup>1</sup> of P.L. , c. (C. ) (now before the Legislature as this bill); and

"Immediate family member" means spouse, child, <sup>1</sup>parent, <sup>1</sup>sibling, aunt, uncle, niece, nephew, first cousin, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half brother, or half sister, whether the individual is related by blood, marriage, or adoption.

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

[k.] l. In making decisions concerning the acquisition of lands by the State for recreation and conservation purposes using moneys from the Garden State Green Acres Preservation Trust Fund, in the evaluation and priority ranking process the department shall accord

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three times the weight to acquisitions of lands that would protect water resources, and two times the weight to acquisitions of lands that would protect flood-prone areas, as those criteria are compared to the other criteria in the priority ranking process.

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

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

<sup>1</sup>n. The department, within three months after the date of the first meeting of the Highland Water Protection and Planning Council established pursuant to section 4 of P.L. , c. (C. ) (now before the Legislature as this bill), shall consult with and solicit recommendations from the council concerning land preservation strategies and acquisition plans in the Highlands Region as defined in section 3 of P.L. , c. (C. ) (now before the Legislature as this bill).

The council's recommendations shall also address strategies and plans concerning establishment by the department of a methodology for prioritizing the acquisition of land in the Highlands preservation area, as defined in section 3 of P.L. , c. (C. ) (now before the Legislature as this bill), for recreation and conservation purposes using moneys from the Garden State Green Acres Preservation Trust Fund, especially with respect to any land that has declined substantially in value due to the implementation of P.L. , c. (C. ) (now before the Legislature as this bill). The recommendations may also include a listing of specific parcels in the Highlands preservation area that the council is aware of that have experienced a substantial decline in value and for that reason should be considered by the department as a priority for acquisition, but any such list shall remain confidential notwithstanding any provision of P.L.1963, c.73 (C.47:1A-1 et seq.) or any other law to the contrary.<sup>1</sup>

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

REPLACE SECTION 53 TO READ:

<sup>1</sup>[53.] 52.<sup>1</sup> Section 38 of P.L.1999, c.152 (C.13:8C-38) is amended to read as follows:

38. a. All acquisitions or grants made pursuant to section 37 of this act shall be made with respect to farmland devoted to farmland preservation under programs established by law.

b. The expenditure and allocation of constitutionally dedicated moneys for farmland preservation purposes shall reflect the geographic

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diversity of the State to the maximum extent practicable and feasible.

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

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

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

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

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

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

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

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

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

g. (1) (a) For State fiscal years 2000 through 2004 only, when the committee, a local government unit, or a qualifying tax exempt

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nonprofit organization seeks to acquire a development easement on farmland or the fee simple title to farmland for farmland preservation purposes using constitutionally dedicated moneys in whole or in part, it shall conduct or cause to be conducted an appraisal or appraisals of the value of the lands that shall be made using the land use zoning of the lands (I) in effect at the time of proposed acquisition, and (ii) in effect on November 3, 1998 as if that land use zoning is still in effect at the time of proposed acquisition. The higher of those two values shall be utilized by the committee, a local government unit, or a qualifying tax exempt nonprofit organization as the basis for negotiation with the landowner with respect to the acquisition price for the lands. The landowner shall be provided with both values determined pursuant to this subparagraph.

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

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

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

(3) This subsection shall not:

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

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

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

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

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

h. Any farmland for which a development easement or fee simple title has been acquired pursuant to section 37 of this act shall be

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entitled to the benefits conferred by the "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1 et al.) and the "Agriculture Retention and Development Act," P.L.1983, c.32 (C.4:1C-11 et al.).

i. (1) Commencing July 1, 2004 and until five years after the date of enactment of P.L.2001, c.315, when the committee, a local government unit, or a qualifying tax exempt nonprofit organization seeks to acquire a development easement on farmland or the fee simple title to farmland for farmland preservation purposes using constitutionally dedicated moneys in whole or in part, it shall conduct or cause to be conducted an appraisal or appraisals of the value of the lands that shall be made using the Department of Environmental Protection wastewater, water quality and watershed management rules and regulations and associated requirements and standards applicable to the lands subject to the appraisal (a) in effect at the time of proposed acquisition, and (b) in effect on November 3, 1998 as if those rules and regulations and associated requirements and standards are still in effect at the time of proposed acquisition. The higher of those two values shall be utilized by the committee, a local government unit, or a qualifying tax exempt nonprofit organization as the basis for negotiation with the landowner with respect to the acquisition price for the lands. The landowner shall be provided with both values determined pursuant to this paragraph. A landowner may waive any of the requirements of this paragraph and may agree to sell the lands for less than the values determined pursuant to this paragraph.

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

(3) This subsection shall not:

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

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

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

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

j. (1) Commencing on the date of enactment of P.L. , c. (C. ) (now before the Legislature as this bill) and until five years after that date, when the committee, a local government unit, or a qualifying tax exempt nonprofit organization seeks to acquire a development easement on farmland or the fee simple title to farmland for farmland preservation purposes in the Highlands preservation area using constitutionally dedicated moneys in whole or in part, it shall conduct or cause to be conducted an appraisal or appraisals of the value of the

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lands that shall be made using (a) the rules and regulations adopted by the Department of Environmental Protection pursuant to P.L. , c. (C. ) (now before the Legislature as this bill) and the provisions of section <sup>1</sup> [31] 30<sup>1</sup> of that act applicable to the lands subject to the appraisal and in effect at the time of proposed acquisition, and (b) the rules and regulations adopted by the Department of Environmental Protection pursuant to any environmental land use or water law applicable to the lands subject to the appraisal and in effect on the day before the date of enactment of P.L. , c. (C. ) (now before the Legislature as this bill). The higher of those two values shall be utilized by the committee, a local government unit, or a qualifying tax exempt nonprofit organization as the basis for negotiation with the landowner with respect to the acquisition price for the lands. The landowner shall be provided with both values determined pursuant to this paragraph.

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

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

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

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

(4) This subsection shall not:

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

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

(5) For the purposes of this subsection:

"Environmental land use or water law" means the "Freshwater Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-1 et seq.), the "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.), the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), "The Realty Improvement Sewerage and Facilities Act (1954)," P.L.1954, c.199 (C.58:11-23 et seq.), the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), or the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.);

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"Highlands preservation area" means the preservation area in the Highlands Region as defined <sup>1</sup>[pursuant to] in <sup>1</sup>section <sup>1</sup>3<sup>1</sup> of P.L. , c. (C. ) (now before the Legislature as this bill); and

"Immediate family member" means spouse, child, <sup>1</sup>parent, <sup>1</sup>sibling, aunt, uncle, niece, nephew, first cousin, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half brother, or half sister, whether the individual is related by blood, marriage, or adoption.

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

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

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

<sup>1</sup>The council's recommendations shall also address strategies and plans concerning establishment by the committee of a methodology for prioritizing the acquisition of development easements and fee simple titles to farmland in the Highlands preservation area, as defined in section 3 of P.L. , c. (C. ) (now before the Legislature as this bill), for farmland preservation purposes using moneys from the Garden State Farmland Preservation Trust Fund, especially with respect to farmland that has declined substantially in value due to the implementation of P.L. , c. (C. ) (now before the Legislature as this bill). The recommendations may also include a listing of specific parcels in the Highlands preservation area that the council is aware of that have experienced a substantial decline in value and for that reason should be considered by the committee as a priority for acquisition, but any such list shall remain confidential notwithstanding any provision of P.L. 1963, c.73 (C.47:1A-1 et seq.) or any other law to the contrary.<sup>1</sup>  
(cf: P.L.2002, c.76, s.6)

RENUMBER SECTIONS 54 THROUGH 58 AS SECTIONS 53 THROUGH 57

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REPLACE SECTION 59 TO READ:

<sup>1</sup>[59.] 58.<sup>1</sup> Section 19 of P.L.1975, c.291 (C.40:55D-28) is amended to read as follows:

19. Preparation; contents; modification.

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

b. The master plan shall generally comprise a report or statement and land use and development proposals, with maps, diagrams and text, presenting, at least the following elements (1) and (2) and, where appropriate, the following elements (3) through (13):

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

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

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

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

(5) A utility service plan element analyzing the need for and showing the future general location of water supply and distribution facilities, drainage and flood control facilities, sewerage and waste treatment, solid waste disposal and provision for other related utilities, and including any storm water management plan required pursuant to

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the provisions of P.L.1981, c.32 (C.40:55D-93 et seq.);

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

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

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

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

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

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

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

(13) A farmland preservation plan element, which shall include: an inventory of farm properties and a map illustrating significant areas of agricultural land; a statement showing that municipal ordinances support and promote agriculture as a business; and a plan for preserving as much farmland as possible in the short term by leveraging monies made available by P.L.1999, c.152 (C.13:8C-1 et al.) through a variety of mechanisms including, but not limited to, utilizing option agreements, installment purchases, and encouraging donations of permanent development easements.

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

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

In the case of a municipality situated within the Highlands Region, as defined <sup>1</sup>[pursuant to] in <sup>1</sup>section 3 of P.L. , c. (C. ) (now before the Legislature as this bill), the master plan shall include a specific policy statement indicating the relationship of the proposed development of the municipality, as developed in the master plan, to the Highlands regional master plan adopted pursuant to section <sup>1</sup>[4] 8<sup>1</sup> of P.L. , c. (C. ) (now before the Legislature as this bill).  
(cf: P.L.1999, c.180, s.2)

REPLACE SECTION 60 TO READ:

<sup>1</sup>[60.] <sup>1</sup>59.<sup>1</sup> R.S.48:3-7 is amended to read as follow:

48:3-7. a. No public utility shall, without the approval of the board, sell, lease, mortgage or otherwise dispose of or encumber its property, franchises, privileges or rights, or any part thereof; or merge or consolidate its property, franchises, privileges or rights, or any part thereof, with that of any other public utility.

Where, by the proposed sale, lease or other disposition of all or a substantial portion of its property, any franchise or franchises, privileges or rights, or any part thereof or merger or consolidation thereof as set forth herein, it appears that the public utility or a wholly owned subsidiary thereof may be unable to fulfill its obligation to any employees thereof with respect to pension benefits previously enjoyed, whether vested or contingent, the board shall not grant its approval unless the public utility seeking the board's approval for such sale, lease or other disposition assumes such responsibility as will be sufficient to provide that all such obligations to employees will be satisfied as they become due.

Every sale, mortgage, lease, disposition, encumbrance, merger or consolidation made in violation of this section shall be void.

Nothing herein shall prevent the sale, lease or other disposition by any public utility of any of its property in the ordinary course of business, nor require the approval of the board to any grant, conveyance or release of any property or interest therein heretofore made or hereafter to be made by any public utility to the United States,

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State or any county or municipality or any agency, authority or subdivision thereof, for public use.

The approval of the board shall not be required to validate the title of the United States, State or any county or municipality or any agency, authority or subdivision thereof, to any lands or interest therein heretofore condemned or hereafter to be condemned by the United States, State or any county or municipality or any agency, authority or subdivision thereof for public use.

b. Notwithstanding any law, rule, regulation or order to the contrary, an autobus public utility regulated by and subject to the provisions of Title 48 of the Revised Statutes may, without the approval of the Department of Transportation, sell, lease, mortgage or otherwise dispose of or encumber its property, or any part thereof, except that approval of the Department of Transportation shall be required for the following:

(1) the sale of 60% or more of its property within a 12-month period;

(2) a merger or consolidation of its property, franchises, privileges or rights; or

(3) the sale of any of its franchises, privileges or rights.

Notice of the sale, purchase or lease of any autobus or other vehicle subject to regulation under Title 48 of the Revised Statutes shall be provided to the Department of Transportation as the department shall require.

c. Except as otherwise provided in subsection e. of this section, no solid waste collector as defined in section 3 of P.L.1970, c.40 (C.48:13A-3) shall, without the approval of the Department of Environmental Protection:

(1) sell, lease, mortgage or otherwise dispose of or encumber its property, including customer lists; or

(2) merge or consolidate its property, including customer lists, with that of any other person or business concern, whether or not that person or business concern is engaged in the business of solid waste collection or solid waste disposal pursuant to the provisions of P.L.1970 c.39 (C.13:1E-1 et seq.), P.L.1970, c.40 (C.48:13A-1 et seq.), P.L.1991, c.381 (C.48:13A-7.1 et al.) or any other act.

d. Any solid waste collector seeking approval for any transaction enumerated in subsection c. of this section shall file with the department, on forms and in a manner prescribed by the department, a notice of intent at least 30 days prior to the completion of the transaction.

(1) The department shall promptly review all notices filed pursuant to this subsection. The department may, within 30 days of receipt of a notice of intent, request that the solid waste collector submit additional information to assist in its review if it deems that such information is necessary. If no such request is made, the transaction shall be deemed to have been approved. In the event that additional information is requested, the department shall outline, in writing, why

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it deems such information necessary to make an informed decision on the impact of the transaction on effective competition.

(2) The department shall approve or deny a transaction within 60 days of receipt of all requested information. In the event that the department fails to take action on a transaction within the 60-day period specified herein, then the transaction shall be deemed to have been approved.

(3) The department shall approve a transaction unless it makes a determination pursuant to the provisions of section 19 of P.L.1991, c.381 (C.48:13A-7.19) that the proposed sale, lease, mortgage, disposition, encumbrance, merger or consolidation would result in a lack of effective competition.

The department shall prescribe and provide upon request all necessary forms for the implementation of the notification requirements of this subsection.

e. (1) Any solid waste collector may, without the approval of the department, purchase, finance or lease any equipment, including collection or haulage vehicles.

(2) Any solid waste collector may, without the approval of the department, sell or otherwise dispose of its collection or haulage vehicles; except that no solid waste collector shall, without the approval of the department in the manner provided in subsection d. of this section, sell or dispose of 33% or more of its collection or haulage vehicles within a 12-month period.

f. (1) The owner or operator of a privately-owned sanitary landfill facility may, without the approval of the Department of Environmental Protection, sell or otherwise dispose of its assets except that the prior approval of the department shall be required (a) to sell all assets associated with the sanitary landfill facility or a portion thereof sufficient to transfer the operation of the sanitary landfill facility to a new owner or operator; (b) to sell a controlling ownership interest in the sanitary landfill facility; or (c) to merge or consolidate its property with that of any other person or business concern, whether or not that person or business concern is engaged in the business of solid waste disposal pursuant to the provisions of P.L.1970, c.39 (C.13:1E-1 et seq.), P.L.1970, c.40 (C.48:13A-1 et seq.) or any other act.

(2) Any owner or operator seeking approval for any transaction enumerated in this subsection shall file with the department an application therefor, on forms and in a manner prescribed by the department. The department shall promptly review all applications filed pursuant to this subsection and shall serve requests for information regarding any transaction within 30 days following the filing of an application if the department deems that such information is necessary. The department shall approve or deny the transaction within 60 days of receipt of all requested information. In the event that the department fails to take action on a transaction within the 60-day period specified herein, then the transaction shall be deemed to have been approved.

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As used in this section, "business concern" means any corporation, association, firm, partnership, sole proprietorship, trust or other form of commercial organization; and "privately-owned sanitary landfill facility" means a commercial sanitary landfill facility which is owned and operated by a private person, corporation or other organization and includes all appurtenances and related improvements used at the site for the transfer, processing or disposal of solid waste.

g. No public water utility shall sell or otherwise convey any land it owns that is located in the Highlands Region, as defined in section 3 of P.L. , c. (C. ) (now before the Legislature as this bill), and is utilized for the purpose of protecting a public water supply, except as may be allowed by the Commissioner of Environmental Protection, with the concurrence of the board, only for the purposes authorized pursuant to section <sup>1</sup>[27] 25<sup>1</sup> of P.L. , c. (C. ) (now before the Legislature as this bill).

(cf: P.L.2003, c.169, s.17)

RENUMBER SECTIONS 61 THROUGH 70 AS SECTIONS 60 THROUGH 69

REPLACE SECTION 71 TO READ:

<sup>1</sup>[71.] 70.<sup>1</sup> Section 13 of P.L.1981, c.262 (C.58:1A-13) is amended to read as follows:

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

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

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

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

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

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

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

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

c. Prior to adopting the plan, including any revisions and updates

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thereto, the department shall:

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

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

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

d. Prior to the adoption of any revision to the New Jersey Statewide Water Supply Plan pursuant to this section, the department shall consult with the Highlands Water Protection and Planning Council<sup>1</sup>, established pursuant to section 4 of P.L. , c. (C. ) (now before the Legislature as this bill),<sup>1</sup> concerning the possible effects and impact of the plan upon the Highlands regional master plan<sup>1</sup>, adopted pursuant to section 8 of P.L. , c. (C. ) (now before the Legislature as this bill),<sup>1</sup> and the water and other natural resources of the Highlands Region<sup>1</sup>, as defined in section 3 of P.L. , c. (C. ) (now before the Legislature as this bill)<sup>1</sup>.

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

RENUMBER SECTION 72 AS SECTION 71

REPLACE SECTION 73 TO READ:

<sup>1</sup>[73.] 72.<sup>1</sup> Section 6 of P.L.1981, c.293 (C.58:1B-6) is amended to read as follows:

6. a. The authority is hereby empowered to design, initiate, acquire, construct, maintain, repair and operate projects or cause the same to be operated pursuant to a lease, sublease, or agreement with any person or governmental agency, and to issue bonds of the authority to finance these projects, payable from the revenues and other funds of the authority. All projects undertaken by the authority shall conform to the recommendations of the New Jersey Statewide Water Supply Plan.

b. The authority shall be subject to compliance with all State health and environmental protection statutes and regulations and any other statutes and regulations not inconsistent herewith. The authority may, upon the request of a governmental agency, enter into a contract to provide services for any project.

c. The authority shall consult with the Water Supply Advisory Council from time to time prior to final action on any project or undertaking authorized pursuant to this section.

d. The authority shall consult with the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L. , c. (C. ) (now before the Legislature as this bill), from time to time prior to final action on any project or undertaking authorized pursuant to this section in the Highlands Region, as defined in section 3 of

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P.L. , c. (C. ) (now before the Legislature as this bill). The provisions of section <sup>1</sup>[17] 16<sup>1</sup> of P.L. , c. (C. ) (now before the Legislature as this bill) shall apply to the authority.

(cf: P.L.1981, c.293, s.6)

RENUMBER SECTION 74 AS SECTION 73

REPLACE SECTION 75 TO READ:

<sup>1</sup>[75.] 74.<sup>1</sup> Section 9 of P.L.2000, c.175 (C.58:4B-9) is amended to read as follows:

9. Each municipality represented on the commission shall provide the commission notice of proposed amendments and revisions to municipal master plans, zoning and other ordinances governing land use and development, and applications for specific development projects, and request that the commission review and evaluate the proposed amendment, revision, or application to assess its potential impact upon Lake Hopatcong and its watershed and provide the commission's recommendations for appropriate action thereon. As part of the commission's review and evaluation, the commission shall consider the consistency of the amendment or revision with the Highlands regional master plan <sup>1</sup>, adopted pursuant to section 8 of P.L. , c. (C. ) (now before the Legislature as this bill),<sup>1</sup> if it may impact upon or otherwise affect the Highlands preservation area, as defined in section 3 of P.L. , c. (C. ) (now before the Legislature as this bill), and shall consult with the Highlands Water Protection and Planning Council, established pursuant to section <sup>1</sup>[4of] 4 of<sup>1</sup> P.L. , c. (C. ) (now before the Legislature as this bill), on any such matter.

(cf: P.L.2000, c.175, s.9)

REPLACE SECTION 76 TO READ:

<sup>1</sup>[76.] 75.<sup>1</sup> R.S.58:5-12 is amended to read as follows:

58:5-12. The district water supply commission shall thereupon proceed to formulate plans for obtaining a water supply or a new or additional water supply for **[such]** the municipality and any other municipalities that may desire water from such joint water supply, as provided for herein, and to estimate the cost thereof, the annual cost of operating the same, the probable share of the cost which each of the municipalities will be called upon to pay for its share of water supply and plant used in common with the other municipalities, and the cost of any distribution system, water supply or plant acquired or constructed for its individual use, and shall report **[said]** the plans to the municipalities, together with a form of contract, providing for the raising and payment of the necessary funds to meet the cost of acquisition and operation.

If the plans to be formulated pursuant to this section involve obtaining water from the Highlands Region, as defined in section 3 of

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P.L. , c. (C. ) (now before the Legislature as this bill), the district water supply commission shall consult with the Highlands Water Protection and Planning Council established pursuant to section 4 of P.L. , c. (C. ) (now before the Legislature as this bill) prior to moving forward with any such plans or entering into any such contracts. The provisions of section <sup>1</sup>[17] 16<sup>1</sup> of P.L. , c. (C. ) (now before the Legislature as this bill) shall apply to the district water supply commission.

(cf: R.S.58:5-12)

RENUMBER SECTIONS 77 THROUGH 79 AS SECTIONS 76 THROUGH 78

REPLACE SECTION 80 TO READ:

<sup>1</sup>[80.] <sup>1</sup>79.<sup>1</sup> Section 1 of P.L.1999, c.225 (C.58:29-8) is amended to read as follows:

1. <sup>1</sup>[a.]<sup>1</sup> There shall be appropriated each State fiscal year from the General Fund to each municipality within which any lands subject to the moratorium on the conveyance of watershed lands imposed pursuant to section 1 of P.L.1988, c.163, as amended by section 1 of P.L.1990, c.19, <sup>1</sup>[or subject to the prohibition on the sale or conveyance of certain public water supply lands prescribed pursuant to section <sup>1</sup>[27] 25<sup>1</sup> of P.L. , c. (C. ) (now before the Legislature as this bill).]<sup>1</sup> are located an amount of <sup>1</sup>[\$68.50] <sup>1</sup>[\$35] <sup>1</sup>\$40<sup>1</sup> per acre of such lands located within the municipality. Notwithstanding the provisions of this section to the contrary, the per acre amount of watershed moratorium <sup>1</sup>[or water supply protection]<sup>1</sup> offset aid prescribed by this section shall be adjusted annually in direct proportion to the increase or decrease in the Consumer Price Index for all urban consumers in the New York City area as reported by the United States Department of Labor. The adjustment shall become effective on July 1 of the year in which the adjustment is made.

<sup>1</sup>[b. Notwithstanding the provisions of subsection a. of this section to the contrary, payments shall no longer be made pursuant thereto on the basis of the location within a municipality of lands subject to the moratorium on the conveyance of watershed lands imposed pursuant to section 1 of P.L.1988, c.163, as amended by section 1 of P.L.1990, c.19, if (1) those sections are repealed by law, or (2) the watershed land conveyance moratorium imposed pursuant to those sections is terminated by a final, unappealed order of a court of competent jurisdiction, whichever is sooner.]<sup>1</sup>

(cf: P.L.1999, c.225, s.1)

OMIT SECTION 81 IN ITS ENTIRETY

INSERT NEW SECTION 80 TO READ:

<sup>1</sup>80. (New section) a. There shall be appropriated each State fiscal

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year from the General Fund, or from such other fund or source of revenue as may be established by law or otherwise, to each municipality within which any lands subject to the prohibition on the sale or conveyance of certain public water supply lands in the Highlands Region prescribed pursuant to section 25 of P.L. , c. (C. ) (now before the Legislature as this bill) are located an amount of \$40 per acre of such lands located within the municipality. Notwithstanding the provisions of this subsection to the contrary, the per acre amount of Highlands Region water supply protection offset aid prescribed by this subsection shall be adjusted annually in direct proportion to the increase or decrease in the Consumer Price Index for all urban consumers in the New York City area as reported by the United States Department of Labor. The adjustment shall become effective on July 1 of the year in which the adjustment is made.

b. Offset aid shall not be paid pursuant to subsection a. of this section for lands held by a district water supply commission that are subject to the prohibition on the sale or conveyance of certain public water supply lands in the Highlands Region pursuant to section 25 of P.L. , c. (C. ) (now before the Legislature as this bill) and for which property taxes are paid to the host municipality by the district water supply commission.

c. A municipality shall not receive offset aid pursuant to both subsection a. of this section and section 1 of P.L.1999, c.225 (C.58:29-8) for the same parcel of land.<sup>1</sup>

RENUMBER SECTION 82 AS SECTION 81

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