

# ASSEMBLY, No. 985

## STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Assemblyman HERB CONAWAY, JR.**

**District 7 (Burlington)**

**Assemblyman KEVIN J. ROONEY**

**District 40 (Bergen, Essex, Morris and Passaic)**

**SYNOPSIS**

Prohibits certain actions relative to endangered and threatened plant species; directs DEP commissioner to take certain actions to protect endangered and threatened plant species.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning endangered and threatened plant species,  
2 supplementing Title 13 of the Revised Statutes, and amending  
3 P.L.1988, c.127 and P.L.1989, c.56.  
4

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

7  
8 1. (New section) Sections 1 through 9 of P.L. , c. (C. )  
9 (pending before the Legislature as this bill) shall be known and may  
10 be cited as the “New Jersey Endangered and Threatened Plant  
11 Protection Act.”  
12

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

14 a. endangered and threatened plant species and native  
15 ecological communities are entitled to protection as a matter of  
16 general State concern;

17 b. New Jersey’s endangered and threatened plant species and  
18 ecological communities have immense medicinal, historical,  
19 ecological, educational, recreational, scientific, and aesthetic value;

20 c. many plants and ecological communities native to New  
21 Jersey are in jeopardy due to the activities of man, the  
22 overabundance of species such as white-tailed deer, and the ever-  
23 present threat of invasive species;

24 d. the federal “Endangered Species Act of 1973,” Pub.L.93-205  
25 (16 U.S.C. s.1533 et al.) provides for the protection of wild plants  
26 and animals threatened with extinction, and the State has enacted  
27 similar legislation for wildlife in the form of the “Endangered and  
28 Nongame Species Conservation Act” P.L.1973, c.309 (C.23:2A-  
29 1 et seq.); and

30 e. the State has a responsibility to protect and conserve its  
31 endangered and threatened plants, and sensitive ecological  
32 communities for the present generation and generations yet to come.  
33

34 3. (New section) As used in sections 1 through 9 of  
35 P.L. , c. (C. ) (pending before the Legislature as this bill):

36 “Commissioner” means the Commissioner of Environmental  
37 Protection.

38 “Department” means the Department of Environmental  
39 Protection.

40 “Endangered and threatened plant species” means any species  
41 listed on the State list of endangered or threatened plant species  
42 developed and maintained by Division of Parks and Forestry in the  
43 Department of Environmental Protection pursuant to the  
44 “Endangered Plant Species List Act,” P.L.1989, c.56 (C.13:1B-  
45 15.151 et seq.).

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

Matter underlined thus is new matter.

1 4. (New section) a. Except as otherwise provided in  
2 P.L. , c. (C. ) (pending before the Legislature as this bill) or  
3 any rules or regulations adopted pursuant thereto, no person shall:

4 (1) transport, export, or import an endangered or threatened  
5 plant species in the State unless the endangered or threatened plant  
6 species;

7 (a) enters the State from another state, or from outside of the  
8 United States;

9 (b) is destined for a point outside the State; and

10 (c) is transported in accordance with the terms of a permit  
11 issued under the laws or regulations of the federal government or  
12 another state;

13 (2) willfully damage or destroy an endangered or threatened  
14 plant species on State-owned property;

15 (3) remove, cut, dig up, destroy, or otherwise intentionally  
16 damage an endangered or threatened plant species if the person  
17 knows, or should have known, that the species is an endangered or  
18 threatened plant species;

19 (4) damage or destroy an endangered or threatened plant species  
20 during the course of a criminal trespass;

21 (5) sell or offer to sell an endangered or threatened plant  
22 species; or

23 (6) violate any rule or regulation pertaining to endangered or  
24 threatened plant species adopted by the commissioner pursuant to  
25 P.L. , c. (C. ) (pending before the Legislature as this bill).

26 b. The commissioner may authorize, under conditions as may  
27 be prescribed by rule or regulation adopted pursuant to the  
28 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-  
29 1 et seq.), the possession, transport, import, export, sale or offer for  
30 sale, or shipment of an endangered or threatened plant species for:  
31 scientific, zoological, or educational purposes; propagation in  
32 captivity of an endangered or threatened plant species; or for other  
33 special purposes consistent with P.L. , c. (C. ) (pending before  
34 the Legislature as this bill).

35 c. Nothing in P.L. , c. (C. ) (pending before the  
36 Legislature as this bill), or any rule or regulation adopted pursuant  
37 thereto, shall interfere with typical and existing agricultural or  
38 aquacultural operations.

39  
40 5. (New section) a. The commissioner shall establish,  
41 pursuant to the “Administrative Procedure Act,” P.L.1968, c.410  
42 (C.52:14B-1 et seq.), any programs, including acquisition of land or  
43 aquatic habitats, as are deemed necessary for the conservation and  
44 management of endangered and threatened plant species.

45 b. In carrying out a program established pursuant to subsection  
46 a. of this section, the commissioner may enter into agreements with  
47 federal agencies, political subdivisions of the State, or private

1 persons, including for the administration of any area utilized for  
2 management of endangered and threatened plant species.

3 c. The commissioner may cooperate with and receive money  
4 from the federal government, a county or municipal government, or  
5 private sources for the purposes of P.L. , c. (C. ) (pending  
6 before the Legislature as this bill). All monies received pursuant to  
7 this subsection shall be deposited into the fund created pursuant to  
8 section 6 of P.L.1989, c.56 (C.13:1B-15.156), and shall be used for  
9 the purposes of conserving endangered and threatened plant species.

10 d. The department shall adopt, pursuant to the “Administrative  
11 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), rules and  
12 regulations necessary for the implementation and administration of  
13 this section.

14

15 6. (New section) a. (1) The commissioner shall establish a  
16 committee of experts to be known as the “Endangered and  
17 Threatened Plant Species Advisory Committee” for the purposes of  
18 advising and assisting the commissioner in implementing sections 1  
19 through 9 of P.L. , c. (C. ) (pending before the Legislature as  
20 this bill).

21 (2) The “Endangered and Threatened Plant Species Advisory  
22 Committee” shall be comprised of nine members appointed by the  
23 commissioner with expertise, knowledge, or experience in  
24 endangered and threatened species protection or the native plants of  
25 New Jersey as follows:

26 (a) three members of the State’s academic community;

27 (b) three members from environmental organizations; and

28 (c) three members of the public at large, who may also be  
29 affiliated with the academic community or an environmental  
30 organization.

31 (3) All appointments to the “Endangered and Threatened Plant  
32 Species Advisory Committee” shall be made by the commissioner  
33 no later than 90 days after the effective date of P.L. , c. (C. )  
34 (pending before the Legislature as this bill). Each member shall  
35 serve for a term of four years and may be reappointed thereafter.  
36 Vacancies shall be filled in the same manner as the original  
37 appointments. The members of the committee shall serve without  
38 compensation, but shall be eligible for reimbursement for necessary  
39 and reasonable expenses incurred in the performance of their  
40 official duties within the limits of funds appropriated or otherwise  
41 made available to the committee for its purposes.

42 b. The commissioner, in conjunction with the “Endangered and  
43 Threatened Plant Species Advisory Committee” established  
44 pursuant to subsection a. of this section, shall develop conservation  
45 plans for the survival and, where appropriate, eventual delisting of  
46 endangered and threatened plant species. The commissioner, in  
47 developing and implementing a conservation plan shall, to the  
48 maximum extent practicable:

- 1 (1) give priority to those endangered and threatened plant  
2 species, without regard to taxonomic classification, that are most  
3 likely to benefit from a conservation plan; and
- 4 (2) incorporate into each plan:
- 5 (a) a description of such site-specific management actions as  
6 may be necessary to achieve the plan's goal for the conservation  
7 and survival of the species;
- 8 (b) objective, measurable criteria which, when met, would result  
9 in the stabilization and conservation of species population; and
- 10 (c) estimates of the time required and the cost to carry out those  
11 measures needed to achieve the plan's goal and to achieve  
12 intermediate steps toward that goal.
- 13 c. The commissioner shall evaluate and incorporate existing  
14 State law, rules, regulations, and policies, and any existing federal  
15 plan or information, when prioritizing and creating a conservation  
16 plan.
- 17 d. The commissioner, when developing and implementing a  
18 conservation plan, may procure the services of appropriate public  
19 and private agencies and institutions, and other qualified persons.
- 20 e. The commissioner shall, prior to final approval of a new or  
21 revised conservation plan, provide public notice and an opportunity  
22 for public review and comment on the plan. The commissioner  
23 shall consider all information presented during the public comment  
24 period prior to approval of the plan.
- 25 f. The commissioner shall adopt, pursuant to the  
26 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-  
27 1 et seq.), rules and regulations that create a priority system for:
- 28 (1) identifying species that shall receive review for a  
29 conservation plan under subsection b. of this section; and
- 30 (2) determining the allocation of resources between  
31 conservation plans.
- 32
- 33 7. (New section) All State agencies, consistent with their  
34 authority and responsibilities, shall assist and cooperate with the  
35 commissioner to implement P.L. , c. (C. ) (pending before the  
36 Legislature as this bill). Any action funded or carried out by a State  
37 agency shall not jeopardize the continued existence or conservation  
38 of any endangered or threatened plant species.
- 39
- 40 8. (New section) No person shall obstruct, hinder, delay, or  
41 interfere with, by force or otherwise, the performance by the  
42 department or its personnel of any duty under the provisions of  
43 P.L. , c. (C. ) (pending before the Legislature as this bill), or  
44 refuse to permit such personnel to perform their duties by refusing  
45 them, upon proper identification or presentation of a written order  
46 of the department, entrance to any premises at reasonable hours.

1 9. (New section) a. Whenever, on the basis of available  
2 information, the commissioner finds that a person is in violation of  
3 the provisions of P.L. , c. (C. ) (pending before the Legislature  
4 as this bill), or any rule or regulation adopted, or permit or order  
5 issued pursuant thereto, the commissioner may:

6 (1) issue an order in accordance with subsection b. of this  
7 section requiring the person to comply;

8 (2) bring a civil action in accordance with subsection c. of this  
9 section;

10 (3) levy a civil administrative penalty in accordance with  
11 subsection d. of this section;

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

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

16 The exercise of any of the remedies provided in this section shall  
17 not preclude recourse to any other remedy so provided.

18 b. Whenever, on the basis of available information, the  
19 commissioner finds that a person is in violation of any provision of  
20 P.L. , c. (C. ) (pending before the Legislature as this bill), or  
21 any rule or regulation adopted, or permit or order issued pursuant  
22 thereto, the commissioner may issue an order: (1) specifying the  
23 provision P.L. , c. (C. ) (pending before the Legislature as this  
24 bill), or the rule or regulation, or order or permit issued pursuant  
25 thereto, of which the person is in violation; (2) citing the action that  
26 constituted the violation; (3) requiring compliance with the  
27 provision of P.L. , c. (C. ) (pending before the Legislature as  
28 this bill) or the rule, regulation, order or permit issued pursuant  
29 thereto, of which the person is in violation; (4) requiring the  
30 restoration to address any adverse effects resulting from the  
31 violation; and (5) giving notice to the person of a right to a hearing  
32 on the matters contained in the order.

33 c. The commissioner is hereby authorized and empowered to  
34 commence a civil action in Superior Court for appropriate relief  
35 from a violation of the provisions of P.L. , c. (C. ) (pending  
36 before the Legislature as this bill), or any rule or regulation  
37 adopted, or any permit or order issued pursuant thereto. This relief  
38 may include, singly or in combination:

39 (1) a temporary or permanent injunction;

40 (2) recovery of reasonable costs of any investigation, inspection,  
41 sampling, or monitoring survey that led to the discovery of the  
42 violation, and for the reasonable costs of preparing and bringing a  
43 civil action commenced under this subsection;

44 (3) recovery of reasonable costs incurred by the State in  
45 removing, correcting, or terminating the adverse effects resulting  
46 from any violation of P.L. , c. (C. ) (pending before the  
47 Legislature as this bill) for which a civil action has been  
48 commenced and brought under this subsection;

1 (4) recovery of compensatory damages for any loss or  
2 destruction of natural resources, including, but not limited to,  
3 wildlife, fish, aquatic life, habitat, plants, or historic or  
4 archeological resources, and for any other actual damages caused by  
5 any violation for which a civil action has been commenced and  
6 brought under this subsection. Assessments under this subsection  
7 shall be paid to the fund established pursuant to section 6 of  
8 P.L.1989, c.56 (C.13:1B-15.156), except that compensatory  
9 damages to privately held resources shall be paid by specific order  
10 of the court to any persons who have been aggrieved by the  
11 unauthorized activity;

12 (5) an order requiring that the violator restore the site of the  
13 violation to the maximum extent practicable and feasible or, in the  
14 event that restoration of the site of the violation is not practicable or  
15 feasible, provide for off-site restoration alternatives as approved by  
16 the department.

17 d. The commissioner is authorized to assess a civil  
18 administrative penalty of not more than \$25,000 for each violation  
19 of the provisions of P.L. , c. (C. ) (pending before the  
20 Legislature as this bill), and each day during which each violation  
21 continues shall constitute an additional, separate, and distinct  
22 offense. Any amount assessed under this subsection shall fall  
23 within a range established by regulation by the commissioner for  
24 violations of similar type, seriousness, duration, and conduct;  
25 provided, however, that prior to the adoption of the regulation, the  
26 commissioner may, on a case-by-case basis, assess civil  
27 administrative penalties up to a maximum of \$25,000 per day for  
28 each violation. In addition to any administrative penalty to be  
29 assessed under this subsection, and notwithstanding the \$25,000  
30 maximum penalty set forth above, the commissioner may assess any  
31 economic benefits from the violation gained by the violator. Prior  
32 to assessment of a penalty under this subsection, the property owner  
33 or person committing the violation shall be notified by certified  
34 mail or personal service that the penalty is being assessed. The  
35 notice shall include a reference to the section of the statute,  
36 regulation, or order or permit condition violated; recite the facts  
37 alleged to constitute a violation; state the basis for the amount of  
38 the civil penalties to be assessed; and affirm the rights of the  
39 alleged violator to a hearing. The ordered party shall have 35  
40 calendar days from receipt of the notice within which to deliver to  
41 the commissioner a written request for a hearing. After the hearing  
42 and upon finding that a violation has occurred, the commissioner  
43 may issue a final order after assessing the amount of the fine  
44 specified in the notice. If no hearing is requested, the notice shall  
45 become a final order after the expiration of the 35-day period.  
46 Payment of the assessment is due when a final order is issued or the  
47 notice becomes a final order. The authority to levy an  
48 administrative order is in addition to all other enforcement

1 provisions of P.L. , c. (C. ) (pending before the Legislature as  
2 this bill), and the payment of any assessment shall not be deemed to  
3 affect the availability of any other enforcement provisions in  
4 connection with the violation for which the assessment is levied.  
5 The department may compromise any civil administrative penalty  
6 assessed under this section in an amount and with conditions the  
7 department determines appropriate. A civil administrative penalty  
8 assessed, including a portion thereof required to be paid pursuant to  
9 a payment schedule approved by the department, which is not paid  
10 within 90 days of the date that payment of the penalty is due, shall  
11 be subject to an interest charge on the amount of the penalty, or  
12 portion thereof, which shall accrue as of the date payment is due. If  
13 the penalty is contested, no additional interest charge shall accrue  
14 on the amount of the penalty until after the date on which a final  
15 order is issued. Interest charges assessed and collectible pursuant to  
16 this subsection shall be based on the rate of interest on judgments  
17 provided in the New Jersey Rules of Court.

18 e. A person who violates any provision of P.L. , c. (C. )  
19 (pending before the Legislature as this bill), or any rule or  
20 regulation adopted, or permit or order issued pursuant thereto, or an  
21 order issued pursuant to subsection b. of this section, or a court  
22 order issued pursuant to subsection c. of this section, or who fails to  
23 pay in full a civil administrative penalty levied pursuant to  
24 subsection d. of this section, or who fails to make a payment  
25 pursuant to a penalty payment schedule entered into with the  
26 department, or who knowingly makes any false or misleading  
27 statement on any application, record, report, or other document  
28 required to be submitted to the department, shall be subject, upon  
29 order of a court, to a civil penalty not to exceed \$25,000 for each  
30 day during which the violation continues. Any civil penalty  
31 imposed pursuant to this subsection may be collected with costs in a  
32 summary proceeding pursuant to the "Penalty Enforcement Law of  
33 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). In addition to any  
34 penalties, costs, or interest charges, the court may assess against the  
35 violator the amount of economic benefit accruing to the violator  
36 from the violation. The Superior Court and municipal courts shall  
37 have jurisdiction to enforce the "Penalty Enforcement Law of  
38 1999."

39 f. A person who purposely, knowingly, or recklessly violates  
40 any provision of P.L. , c. (C. ) (pending before the Legislature  
41 as this bill), or any rule or regulation adopted, or permit or order  
42 issued pursuant thereto, shall be guilty, upon conviction, of a crime  
43 of the third degree and shall, notwithstanding the provisions of  
44 subsection b. of N.J.S.2C:43-3, be subject to a fine of not less than  
45 \$5,000 nor more than \$50,000 per day of violation, or to  
46 imprisonment, or both. A person who purposely, knowingly, or  
47 recklessly makes a false statement, representation, or certification  
48 in any application, record, or other document filed or required to be



1 maintained under any provision of P.L. , c. (C. ) (pending  
2 before the Legislature as this bill), or any rule or regulation  
3 adopted, or permit or order issued pursuant thereto; or who falsifies,  
4 tampers with, or purposely, knowingly, or recklessly renders  
5 inaccurate, any monitoring device or method required to be  
6 maintained pursuant to P.L. , c. (C. ) (pending before the  
7 Legislature as this bill), or any rule or regulation adopted, or permit  
8 or order issued pursuant thereto, shall be guilty, upon conviction, of  
9 a crime of the third degree and shall, notwithstanding the provisions  
10 of subsection b. of N.J.S.2C:43-3, be subject to a fine of not more  
11 than \$50,000 per day of violation, or to imprisonment, or both.

12 g. All penalties collected pursuant to this section shall be  
13 deposited in the fund established pursuant to section 6 of P.L.1989,  
14 c.56 (C.13:1B-15.156), and appropriated to the department for the  
15 authorized purposes of the fund.

16 h. An applicant or permittee, upon the request of the  
17 department, shall provide any information the department requires  
18 to determine compliance with any provision of P.L. , c. (C. )  
19 (pending before the Legislature as this bill), or of any rule or  
20 regulation adopted, or permit or order issued pursuant thereto.

21

22 10. Section 2 of P.L.1988, c.127 (C.13:1B-15.147) is amended  
23 to read as follows:

24 2. There is established in the Division of Parks and Forestry,  
25 Department of Environmental Protection, a Natural Heritage  
26 Program. The purpose of the program is to :

27 a. identify the most critically important natural areas in the  
28 State, including those areas that are of critical importance to the  
29 species listed pursuant to the “Endangered and Threatened Plant  
30 Species List Act,” P.L.1989, c.56 (C.13:1B-15.151 et seq.), or “The  
31 Endangered and Nongame Species Conservation Act,” P.L.1973,  
32 c.309 (C.23:2A-1 et seq.), or any rule or regulation adopted  
33 pursuant thereto; and

34 b. provide detailed up-to-date information on [rare species]  
35 species of fauna or flora that are of special concern, rare,  
36 threatened, or endangered, and natural communities , including  
37 species location data and land-use and land-cover data regarding  
38 critical habitat, to planners, developers, and conservation agencies  
39 for use in resource management, environmental impact assessment,  
40 and both public and private land protection efforts.

41 (cf: P.L.1988, c.127, s.2)

42

43 11. Section 3 of P.L.1988, c.127 (C.13:1B-15.148) is amended  
44 to read as follows:

45 3. The functions of the program established pursuant to section  
46 2 of P.L.1988, c.127 (C.13:1B-15.147) shall include, but need not  
47 be limited to:

1 a. **【Maintaining】** maintaining and updating, through data  
2 collection and field work, a partially computerized data base which  
3 includes lists of species of fauna or flora that are of special concern,  
4 rare , threatened, 【and】 or endangered 【species】 , and natural  
5 communities ranked according to rarity, as well as information on  
6 the location, quality, protection status, and sources of information  
7 of individual occurrences of **【the above】** species that are of special  
8 concern, rare, threatened, or endangered, and natural communities;  
9 and

10 b. **【Providing】** providing information on species of fauna or  
11 flora that are of special concern, rare, threatened, or endangered,  
12 and natural community occurrences to other government agencies,  
13 consultants, and private landowners seeking to preserve natural  
14 diversity and advice on how best to protect these occurrences.  
15 (cf: P.L.1988, c.127, s.3)

16  
17 12. Section 1 of P.L.1989, c.56 (C.13:1B-15.151) is amended to  
18 read as follows:

19 1. This act shall be known and may be cited as the  
20 “Endangered and Threatened Plant Species List Act.”  
21 (cf: P.L.1989, c.56, s.1)

22  
23 13. Section 2 of P.L.1989, c.56 (13:1B-15.152) is amended to  
24 read as follows:

25 2. The Legislature finds and declares that plant species have  
26 medicinal, genetic, ecological, educational and aesthetic value to  
27 the citizens of New Jersey; that the perpetuation of many plant  
28 species native to New Jersey or the United States is in jeopardy; and  
29 that a definitive, officially recognized State list of endangered and  
30 threatened plant species is needed to eliminate the confusion  
31 resulting from various existing unofficial lists which are  
32 inconsistent and is a necessary precondition to more effectively and  
33 efficiently incorporate the preservation of our State's natural  
34 diversity into government planning functions.

35 (cf: P.L.1989, c.56, s.2)

36  
37 14. Section 3 of P.L.1989, c.56 (13:1B-15.153) is amended to  
38 read as follows:

39 3. As used in **【this act】** P.L.1989, c.56 (13:1B-15.151 et seq.) :  
40 “Commissioner” means the Commissioner of the Department of  
41 Environmental Protection**【;】** .

42 “Department” means the Department of Environmental  
43 Protection**【;】** .

44 “Endangered species” means any native plant species whose  
45 survival in the State or the nation is in jeopardy, including, but not  
46 limited to, plant species designated as listed, proposed, or under  
47 review by the federal government as endangered **【or threatened】**

1 throughout its range in the United States pursuant to the  
2 “Endangered Species Act of 1973,” Pub.L.93-205  
3 (16 U.S.C. s.1533), **[any additional species known or believed to be**  
4 **rare throughout its worldwide range,]** and any species having five  
5 or fewer extant populations within the State **【;】** .

6 “Plant” means any member of the Plant Kingdom, including all  
7 roots, stems, leaves, flowers, fruits, seeds, spores, gametophytes  
8 and other parts thereof **【;】** .

9 “Species” means any species, subspecies, or variety of plant.

10 “Threatened species” means any native plant species which is  
11 likely to become an endangered species within the foreseeable  
12 future throughout all or a significant portion of its range, including,  
13 but not limited to, plant species designated as listed, proposed, or  
14 under review by the federal government as threatened throughout its  
15 range in the United States pursuant to the “Endangered Species Act  
16 of 1973,” Pub.L.93-205 (16 U.S.C. s.1533).

17 (cf: P.L.1989, c.56, s.3)

18

19 15. Section 4 of P.L.1989, c.56 (C.13:1B-15.154) is amended to  
20 read as follows:

21 4. a. Within one year of the effective date of [this act]  
22 P.L.1989, c.56 (13:1B-15.151 et seq.) , the Division of Parks and  
23 Forestry in the Department of Environmental Protection shall, on  
24 the basis of research and investigations and other available  
25 scientific data on plant species, and with the benefit of public  
26 comment, develop and adopt, pursuant to the “Administrative  
27 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), a list of plant  
28 species occurring in the State which are endangered, either by the  
29 destruction, drastic modification, or severe curtailment of their  
30 habitat; their over-collection for aesthetic, commercial, educational,  
31 recreational, or scientific purposes; the effect on them of disease,  
32 pollution, or predation; or any other factor or combination of  
33 factors, natural or man-made.

34 b. Within one year after the effective date of  
35 P.L. , c. (C. ) (pending before the Legislature as this bill), the  
36 Division of Parks and Forestry in the Department of Environmental  
37 Protection shall adopt, pursuant to the “Administrative Procedure  
38 Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), a list of threatened  
39 species in the State.

40 (cf: P.L.1989, c.56, s.4)

41

42 16. Section 5 of P.L.1989, c.56 (C.13:1B-15.155) is amended to  
43 read as follows:

44 5. Within the limits of funds appropriated or otherwise made  
45 available to the department for this purpose, the commissioner shall  
46 direct research and investigations relating to historical records,  
47 populations, distribution, critical habitat needs, limiting factors, and

1 other biological and ecological data that will aid in determining the  
2 eligibility of a plant species for inclusion on the endangered or  
3 threatened plant species list.

4 (cf: P.L.1989, c.56, s.5)

5

6 17. Section 6 of P.L.1989, c. 56 (C.13:1B-15.156) is amended to  
7 read as follows:

8 6. The commissioner may cooperate with, and accept moneys  
9 from, the federal government, or any county or municipal  
10 government, or from any other State or private source to carry out  
11 **【this act】** P.L.1989, c. 56 (C.13:1B-15.151 et seq.) and  
12 P.L. , c. (C. ) (pending before the Legislature as this bill.  
13 The commissioner **【may】** shall establish a separate fund **【from】** for  
14 these contributions for the support of endangered or threatened  
15 plant species.

16 (cf: P.L.1989, c.56, s.6)

17

18 18. Section 7 of P.L.1989, c.56 (C.13:1B-15.157) is amended to  
19 read as follows:

20 7. Within the limits of funds appropriated or otherwise made  
21 available to the department for this purpose, the commissioner shall  
22 develop and implement any educational or informational programs  
23 deemed necessary to inform the public as to the status and  
24 significance of endangered and threatened plant species in the State.

25 (cf: P.L.1989, c.56, s.7)

26

27 19. Section 8 of P.L.1989, c.56 (C.13:1B-15.158) is amended to  
28 read as follows:

29 8. The department shall, within 90 days of the effective date of  
30 **【this act】** P.L.1989, c.56 (13:1B-15.151 et seq.) and pursuant to the  
31 “Administrative Procedure Act,” propose rules and regulation  
32 governing the formulation, and any revision, of the endangered and  
33 threatened plant species list to be adopted pursuant to section 4 of  
34 **【this act】** P.L.1989, c.56 (13:1B-15.151 et seq.) .

35 (cf: P.L.1989, c.56, s.8)

36

37 20. This act shall take effect on the first day of the 12th month  
38 next following the date of enactment.

39

40

41

#### STATEMENT

42

43 This bill, named the “New Jersey Endangered and Threatened  
44 Plant Protection Act,” would prohibit certain actions relative to  
45 endangered and threatened plant species, and would direct the  
46 Commissioner of Environmental Protection to establish programs  
47 for protection of endangered and threatened plant species.

1 The bill would define “endangered and threatened plant species”  
2 as any species on the respective lists developed by the Division of  
3 Parks and Forestry in the Department of Environmental Protection  
4 (DEP) pursuant to the “Endangered Plant Species List Act,”  
5 P.L.1989, c.56 (C.13:1B-15.151 et seq.). The bill would create a  
6 new category of protection under that act named “threatened plant  
7 species” which is defined as any native plant species which is likely  
8 to become an endangered species within the foreseeable future  
9 throughout all or a significant portion of its range, including, but  
10 not limited to, plant species designated as listed, proposed, or under  
11 review by the federal government as threatened throughout its range  
12 in the United States pursuant to the federal “Endangered Species  
13 Act of 1973.” Consequently, the bill would also rename the State  
14 law to be the “Endangered and Threatened Plant Species List Act.”

15 The bill would prohibit the following actions relative to  
16 endangered and threatened plant species, without a permit:  
17 transport, export, import; willfully damaging, or destroying a listed  
18 plant species on State property; removing, cutting, digging up,  
19 damaging or otherwise intentionally destroying a listed plant  
20 species if the person knows, or should have known, that the species  
21 is a listed plant species; damaging or destroying a listed plant  
22 species during the course of a criminal trespass; and selling or  
23 offering to sell a listed plant species. The bill includes exceptions  
24 for typical and existing agricultural and aquacultural operations,  
25 and allows the commissioner to allow exceptions for research,  
26 educational, and other purposes consistent with the bill.

27 The bill would require the commissioner to establish programs,  
28 including the acquisition of land or aquatic habitats, as are deemed  
29 necessary for the conservation and management of endangered and  
30 threatened plant species. The bill provides that the commissioner  
31 may receive money from the federal government, private sources,  
32 and others to be deposited into the fund created by the “Endangered  
33 Plant Species List Act,” to be used for the purposes of the bill.

34 The bill would also direct the commissioner to establish the  
35 “Endangered and Threatened Plant Species Advisory Committee”  
36 for advising and assisting the commissioner. The committee would  
37 be comprised of three members of the State’s academic community,  
38 three members from environmental organizations, and three  
39 members of the public at large, who may also be affiliated with the  
40 academic community or an environmental organization. The  
41 committee members would be appointed by the commissioner and  
42 be required to have expertise, knowledge, or experience in  
43 endangered and threatened species protection or the native plants of  
44 New Jersey.

45 The commissioner would also be required to develop  
46 conservation plans for the conservation and survival of endangered  
47 plant species in conjunction with the “Endangered and Threatened  
48 Plant Species Advisory Committee.” The bill would provide for

1 public comment on each conservation plan, and require the  
2 commissioner to create a system for the prioritization of the  
3 creation and implementation of conservation plans.

4 The bill provides substantially similar violation and enforcement  
5 provisions as used in the “Endangered and Nongame Species  
6 Conservation Act,” P.L.1973, c.309 (C.23:2A-1 et seq.). All  
7 moneys collected for a violation would be deposited into the fund  
8 created by the “Endangered Plant Species List Act.” The bill would  
9 also amend the “Endangered Plant Species List Act” to provide that  
10 monies in the fund created pursuant to that act may also be used to  
11 implement this bill. Additionally, the bill amends provisions of law  
12 to clarify the responsibilities of the Natural Heritage Program in  
13 developing and maintaining the list of endangered and threatened  
14 plant species, and plant species of concern. The Natural Heritage  
15 Program established by statute in 1988, requires the DEP to identify  
16 the most critically important natural areas in the State.