

ASSEMBLY, No. 5189

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED DECEMBER 21, 2020

Sponsored by:

Assemblyman ADAM J. TALIAFERRO

District 3 (Cumberland, Gloucester and Salem)

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

SYNOPSIS

Establishes farmland preservation inheritance tax deduction program within Department of Agriculture.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/13/2021)

1 **AN ACT** establishing a farmland preservation inheritance tax
2 deduction program within the Department of Agriculture,
3 supplementing Title 4 of the Revised Statutes and amending
4 R.S.54:34-5 and R.S.54:35-10.

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

8
9 1. (New section) There is established a farmland preservation
10 inheritance tax deduction program within the Department of
11 Agriculture, which shall be implemented and administered by the
12 State Agriculture Development Committee.

13 The purpose of the program shall be to provide the committee
14 with a means to preserve land suitable for agricultural production
15 and the State's agricultural heritage for future generations of
16 residents when land, or other assets that convey ownership interests
17 in land, suitable for agricultural production is transferred by will or
18 the intestate laws of this State or by deed, grant, bargain, sale, or
19 gift made in contemplation of death.

20 To effectuate those purposes, the committee shall:

21 identify, evaluate, and certify transferees, distributees, and
22 beneficiaries, and groups of transferees, distributees, and
23 beneficiaries, that have received land, or other assets that convey
24 ownership interests in land, suitable for agricultural production by
25 will or the intestate laws of this State or by deed, grant, bargain,
26 sale, or gift made in contemplation of death;

27 enter into agreements and award tax deductions to certified
28 transferees, distributees, and beneficiaries, and certified groups of
29 transferees, distributees, and beneficiaries, that may be used to
30 reduce or eliminate the transfer inheritance tax due and payable in
31 connection with the transfer of the land, or other assets that convey
32 ownership interests in the land, in exchange for enrolling the land
33 suitable for agricultural production in a farmland preservation
34 program and establishing a succession plan for the transfer of the
35 ownership and managerial control of the land to the next succeeding
36 generation;

37 conduct an annual review of agreements entered into with
38 certified transferees, distributees, and beneficiaries and certified
39 groups of transferees, distributees, and beneficiaries; and

40 make and publish an annual report regarding implementation and
41 administration of the program.

42
43 2. (New section) The State Agriculture Development
44 Committee shall establish an application process and prescribe the
45 form and manner through which a transferee, distributee, or

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 beneficiary, or a group of transferees, distributees, or beneficiaries,
2 entitled to land, or other assets that convey ownership interests in
3 land, suitable for agricultural production that was transferred by
4 will or the intestate laws of this State or by deed, grant, bargain,
5 sale, or gift made in contemplation of death may file an application
6 for certification.

7 The application shall, at a minimum, require the transferee,
8 distributee, or beneficiary, or the group of transferees, distributees,
9 or beneficiaries, to:

10 provide the name and address of each transferee, distributee, or
11 beneficiary who is entitled to the land, or entitled to other assets
12 that convey ownership interests in the land, suitable for agricultural
13 production;

14 identify each transferee's, distributee's, or beneficiary's share of
15 the land suitable for agricultural production, or the nature and
16 extent of each transferee's, distributee's, or beneficiary's interest in
17 other assets that convey ownership interests in the land suitable for
18 agricultural production;

19 identify the location of the land suitable for agricultural
20 production, detailing any improvements and additions, including
21 but not limited to any dwellings, barns, farm markets, or other
22 structures or facilities used directly and primarily for agricultural
23 purposes, located on or contiguous to the land suitable for
24 agricultural production;

25 describe the purposes to which the land suitable for agricultural
26 production, together with any improvements and additions,
27 including but not limited to any dwellings, barns, farm markets, or
28 other structures or facilities used directly and primarily for
29 agricultural purposes, located on or contiguous to the land suitable
30 for agricultural production, had been devoted prior to the transfer
31 and will be devoted following the transfer;

32 indicate if the land suitable for agricultural production qualifies,
33 or is eligible to qualify, for differential property tax assessment
34 pursuant to the "Farmland Assessment Act of 1964," P.L.1964,
35 c.48 (C.54:4-23.1 et seq.);

36 indicate if the land suitable for agricultural production is, or has
37 been, enrolled in a municipally approved program or other farmland
38 preservation program established by sections 14 and 13 of
39 P.L.1983, c.32 (C.4:1C-21 and 4:1C-20), respectively; and

40 estimate the fair market value of the land, or other assets that
41 convey ownership interests in the land, suitable for agricultural
42 production, together with any improvements and additions,
43 including but not limited to any dwellings, barns, farm markets, or
44 other structures or facilities used directly and primarily for
45 agricultural purposes, located on or contiguous to the land suitable
46 for agricultural production.

47 The application shall be filed by a transferee, distributee, or
48 beneficiary, or by a group of transferees, distributees, or

1 beneficiaries, on or after the date the transfer inheritance tax is due
2 and payable in connection with the transfer of the land, or the
3 transfer of the other assets that convey ownership interests in the
4 land, suitable for agricultural production, but before the first day of
5 the thirteenth month beginning thereafter.

6
7 3. (New section) The State Agriculture Development
8 Committee shall establish an evaluation process and prescribe the
9 form and manner through which a review of each complete
10 application for certification filed by a transferee, distributee, or
11 beneficiary, or by a group of transferees, distributees, or
12 beneficiaries, will be conducted.

13 The review shall, at a minimum, require the committee to
14 determine:

15 the extent to which the committee's certification of a transferee,
16 distributee, or beneficiary, or a group of transferees, distributees, or
17 beneficiaries, will further the committee's efforts to preserve land
18 suitable for agricultural production;

19 the extent to which the committee's certification of a transferee,
20 distributee, or beneficiary, or a group of transferees, distributees, or
21 beneficiaries, will further the committee's efforts to preserve the
22 State's agricultural heritage for future generations of residents; and

23 the fair market value of the land, or other assets that convey
24 ownership interests in the land, suitable for agricultural production,
25 together with any improvements and additions, including but not
26 limited to any dwellings, barns, farm markets, or other structures or
27 facilities used directly and primarily for agricultural purposes,
28 located on or contiguous to the land suitable for agricultural
29 production that was transferred by will or the intestate laws of this
30 State or by deed, grant, bargain, sale, or gift made in contemplation
31 of death.

32 The review of each complete application shall be conducted by
33 the committee on or after the date the application is filed, but before
34 the first day of the fourth month beginning thereafter.

35
36 4. (New section) The State Agriculture Development
37 Committee shall establish a certification process and prescribe the
38 form and manner through which a determination as to the
39 certification of each transferee, distributee, or beneficiary, or each
40 group of transferees, distributees, or beneficiaries, that filed a
41 complete application for certification will be made by the
42 committee.

43 The determination as to the certification of each transferee,
44 distributee, or beneficiary, or each group of transferees,
45 distributees, or beneficiaries, shall, at a minimum, be based on the
46 committee's finding that:

1 the certification of the transferee, distributee, or beneficiary, or
2 the group of transferees, distributees, or beneficiaries, will result in
3 the preservation of land suitable for agricultural production;

4 the certification of the transferee, distributee, or beneficiary, or
5 the group of transferees, distributees, or beneficiaries, will result in
6 the preservation of the State's agricultural heritage for future
7 generations of residents; and the certification of the transferee,
8 distributee, or beneficiary, or the group of transferees, distributees,
9 or beneficiaries, will not result in the awarding of a tax deduction
10 that exceeds the \$5,000,000 limit on the value of deductions
11 awarded by the committee to any one certified transferee,
12 distributee, or beneficiary, or to any one certified group of
13 transferees, distributees, and beneficiaries, in accordance with
14 section 7 of P.L. , c. (C.) (pending before the Legislature
15 as this bill), and will not result in the awarding of a tax deduction
16 that exceeds the \$10,000,000 limit on the aggregate value of all
17 deductions awarded by the committee to all certified transferees,
18 distributees, and beneficiaries, and to all certified groups of
19 transferees, distributees, and beneficiaries, in a calendar year, in
20 accordance with section 8 of P.L. , c. (C.) (pending before
21 the Legislature as this bill).

22 The determination as to the certification of each transferee,
23 distributee, or beneficiary, or each group of transferees,
24 distributees, or beneficiaries, shall be made by the committee on or
25 after the date the review of each complete application is conducted,
26 but before the first day of the fourth month beginning thereafter.

27 The committee shall provide written notification to each
28 transferee, distributee, or beneficiary, or to each group of
29 transferees, distributees, or beneficiaries, that filed a complete
30 application stating the grounds for the committee's determination to
31 certify, or to not certify, the transferee, distributee, or beneficiary,
32 or the group of transferees, distributees, or beneficiaries, within five
33 days after the date the determination is made.

34
35 5. (New section) The State Agriculture Development
36 Committee shall enter into an agreement with each transferee,
37 distributee, or beneficiary, and each group of transferees,
38 distributees, or beneficiaries, that is certified by the committee.

39 The agreement shall, at a minimum, require the certified
40 transferee, distributee, or beneficiary, or the certified group of
41 transferees, distributees, or beneficiaries, to:

42 enroll the land suitable for agricultural production in a
43 municipally approved program or other farmland preservation
44 program established by sections 14 and 13 of
45 P.L.1983, c.32 (C.4:1C-21 and 4:1C-20), respectively, that requires
46 the certified transferee, distributee, or beneficiary, or the certified
47 group of transferees, distributees, or beneficiaries, to retain the land
48 in agricultural production for a minimum period of eight years

1 commencing on or after the first day of the first month beginning
2 after the date the agreement is entered into;

3 establish by will or by contract or agreement a succession plan
4 that provides for the transfer of the ownership and managerial
5 control of the land suitable for agricultural production to the next
6 succeeding generation on or before the first day of the thirteenth
7 month beginning after the date the agreement is entered into; and

8 pay any penalty required to be paid to the Director of the
9 Division of Taxation in the Department of the Treasury in
10 accordance with section 13 or 15 of P.L. , c. (C.) (pending
11 before the Legislature as this bill).

12 The committee shall enter into an agreement with each certified
13 transferee, distributee, and beneficiary, and each certified group of
14 transferees, distributees, and beneficiaries, on or after the date each
15 transferee, distributee, or beneficiary, or each group of transferees,
16 distributees, or beneficiaries, is certified, but before the first day of
17 the fourth month beginning thereafter.

18

19 6. (New section) The State Agriculture Development
20 Committee shall award a tax deduction to each certified transferee,
21 distributee, and beneficiary, and each certified group of transferees,
22 distributees, and beneficiaries, that has entered into an agreement
23 with the committee.

24 The amount of the tax deduction shall be equal to the fair market
25 value of the land, or other assets that convey ownership interests in
26 the land, suitable for agricultural production, together with any
27 improvements and additions, including but not limited to any
28 dwellings, barns, farm markets, or other structures or facilities used
29 directly and primarily for agricultural purposes, that are located on
30 or contiguous to the land suitable for agricultural production that
31 was transferred by will or the intestate laws of this State or by deed,
32 grant, bargain, sale, or gift made in contemplation of death.

33 The tax deduction may be used by an executor, administrator,
34 trustee, grantee, donee, or vendee personally liable for the payment
35 of the transfer inheritance tax on behalf of the certified transferee,
36 distributee, or beneficiary, or the certified group of transferees,
37 distributees, or beneficiaries, to determine, pursuant to R.S.54:33-1
38 et seq., the tax due and payable in connection with the transfer of
39 the land, or the transfer of the other assets the convey ownership
40 interest in the land, suitable for agricultural production, together
41 with any improvements and additions, including but not limited to
42 any dwellings, barns, farm markets, or other structures or facilities
43 used directly and primarily for agricultural purposes, located on or
44 contiguous to the land suitable for agricultural production by will or
45 the intestate laws of this State or by deed, grant, bargain, sale, or
46 gift made in contemplation of death.

47 If the transfer inheritance tax is paid prior to the date the tax
48 deduction is awarded, the deduction may be used by an executor,

1 administrator, trustee, grantee, donee, or vendee personally liable
2 for the payment of the transfer inheritance tax on behalf of the
3 certified transferee, distributee, or beneficiary, or the certified
4 group of transferees, distributees, or beneficiaries, to redetermine,
5 pursuant to R.S.54:33-1 et seq., the tax due and payable in
6 connection with the transfer of the land, or the transfer of the other
7 assets the convey ownership interest in the land, suitable for
8 agricultural production, together with any improvements and
9 additions, including but not limited to any dwellings, barns, farm
10 markets, or other structures or facilities used directly and primarily
11 for agricultural purposes, located on or contiguous to the land
12 suitable for agricultural production by will or the intestate laws of
13 this State or by deed, grant, bargain, sale, or gift made in
14 contemplation of death.

15 The committee shall award a tax deduction to each certified
16 transferee, distributee, and beneficiary, and each certified group of
17 transferees, distributees, and beneficiaries, that has entered into an
18 agreement with the committee on or after the date the agreement is
19 entered into, but before the first day of the second month beginning
20 thereafter.

21 The committee shall provide written notification to the Director
22 of the Division of Taxation in the Department of the Treasury
23 informing the director of the date, and the amount, of each tax
24 deduction awarded, and the name and address of each certified
25 transferee, distributee, and beneficiary, and each transferee,
26 distributee, and beneficiary who is part of a certified group of
27 transferees, distributes, and beneficiaries, within five days after the
28 date the deduction is awarded.

29

30 7. (New section) Notwithstanding the provisions of section 6 of
31 P.L. , c. (C.) (pending before the Legislature as this bill) to
32 the contrary, the amount of any tax deduction awarded by the State
33 Agricultural Development Committee to a certified transferee,
34 distributee, or beneficiary, or to a certified group of transferees,
35 distributees, or beneficiaries, shall not exceed \$5,000,000.

36

37 8. (New section) Notwithstanding the provisions of section 6 of
38 P.L. , c. (C.) (pending before the Legislature as this bill) to
39 the contrary, the aggregate amount of tax deductions awarded by
40 the State Agriculture Development Committee to all certified
41 transferees, distributees, and beneficiaries, and to all certified
42 groups of transferees, distributees, and beneficiaries, in a calendar
43 year shall not exceed \$10,000,000.

44

45 9. (New section) The State Agriculture Development
46 Committee shall conduct an annual review of agreements entered
47 into with certified transferees, distributees, and beneficiaries, and
48 certified groups of transferees, distributes, or beneficiaries, on or

1 before April 1 of each year immediately following a year in which
2 an agreement entered into by the committee is effective.

3 The review shall, at a minimum, require the committee to
4 determine:

5 if, during the preceding calendar year, a certified transferee,
6 distributee, or beneficiary, or a certified group of transferees,
7 distributees, or beneficiaries, that has entered into an agreement
8 with the committee withdrew the land suitable for agricultural
9 production from the municipally approved program or other
10 farmland preservation program established by sections 14 and 13 of
11 P.L.1983, c.32 (C.4:1C-21 and 4:1C-20), respectively, prior to
12 completion of the minimum eight-year period established by the
13 agreement; and

14 if, during the preceding calendar year, a certified transferee,
15 distributee, or beneficiary, or a certified group of transferees,
16 distributees, or beneficiaries, that has entered into an agreement
17 with the committee failed to establish a succession plan providing
18 for the transfer of the ownership and managerial control of the land
19 suitable for agricultural production to the next succeeding
20 generation on or before the first day of the thirteenth month
21 beginning after the date the agreement is entered into.

22 The committee shall provide written notification to the Director
23 of the Division of Taxation in the Department of the Treasury
24 informing the director of any certified transferee, distributee, or
25 beneficiary, or any certified group of transferees, distributees, or
26 beneficiaries, that has withdrawn land suitable for agricultural
27 production prior to completion of the minimum eight-year period
28 established by the agreement or has failed to establish a succession
29 plan on or before the first day of the thirteenth month beginning
30 after the date the agreement is entered into, within five days after
31 the date the review is conducted.

32

33 10. (New section) The State Agriculture Development
34 Committee shall make an annual report regarding the
35 implementation and administration of the program on or before July
36 1 of each year immediately following a year in which an agreement
37 entered into by the committee is effective.

38 The report shall include a statement from the committee
39 detailing:

40 the name and address of each certified transferee, distributee, and
41 beneficiary, and each transferee, distributee, and beneficiary who is
42 part of a certified group of transferees, distributes, or beneficiaries,
43 that has entered into an agreement with the committee during the
44 preceding calendar year;

45 the date, and the amount, of each tax deduction awarded to a
46 certified transferee, distributee, and beneficiary, or to a certified
47 group of transferees, distributees, or beneficiaries, during the
48 preceding calendar year;

1 the aggregate amount of all tax deductions awarded to all
2 certified transferees, distributees, and beneficiaries, and all certified
3 groups of transferees, distributees, and beneficiaries, under the
4 program;

5 the cost incurred by the committee to implement and administer
6 the program during the preceding calendar year; and the legislative
7 proposals, if any, made by the committee to improve the
8 implementation and administration of the program during the
9 preceding calendar year.

10 The committee shall publish the annual report online through a
11 link prominently displayed on the homepage of the Department of
12 Agriculture's Internet website, and transmit a copy of the report to
13 the Legislature, in accordance with section 2 of P.L.1991, c.164
14 (C.52:14-19.1), within five days after the date the report is made.

15

16 11. R.S.54:34-5 is amended to read as follows:

17 54:34-5. Taxes imposed by chapters 33 to 36 of this title
18 (s. 54:33-1 et seq.) shall be computed upon the clear market value
19 of the property transferred.

20 In determining the clear market value of the property the
21 following deductions and no others shall be allowed:

22 Debts of decedent; exception. a. Debts of the decedent owing at
23 the date of death, except that debts of a resident decedent owing for
24 or secured by property outside this state shall not be allowed unless:

25 (1) The property for which the debt is owing or for which it is
26 secured is subject to the tax imposed by said chapters 33 to 36; or,

27 (2) The foreign debt exceeds the value of the property securing
28 it or for which it was contracted, when the excess may be deducted;

29 Funeral and last illness expenses. b. A reasonable sum for
30 funeral expenses and last illness.

31 Administration expenses; fees of executors and attorneys. c. The
32 ordinary expenses of administration, including the ordinary fees
33 allowed executors and administrators and the ordinary fees of their
34 attorneys.

35 Proportion of state, county and local taxes. d. Such proportion of
36 the state, county and municipal taxes upon the property for the
37 current fiscal year as the elapsed portion of the said year bears to
38 the full calendar year.

39 Transfer taxes of other states or United States. e. Transfer taxes
40 paid or payable to other states or territories or the District of
41 Columbia or foreign countries on any property the transfer of which
42 is taxable hereunder, but the amount due or paid the government of
43 the United States as a federal estate tax shall not be considered as
44 an expense of administration and shall not be allowed as a
45 deduction.

46 Tax deduction for farmland preservation. f. The amount of any
47 tax deduction awarded by the State Agriculture Development
48 Committee under the farmland preservation inheritance tax

1 deduction program established by P.L. , c. (C.) (pending
2 before the Legislature as this bill).

3 (cf: R.S.54:34-5)

4

5 12. R.S.54:35-10 is amended to read as follows:

6 54:35-10. When any amount of a tax assessed pursuant to
7 chapters 33 to 36 of this Title (section 54:33-1 et seq.) shall have
8 been paid erroneously to the Director of the Division of Taxation or
9 paid to the Director of the Division of Taxation prior to the
10 awarding of a tax deduction by the State Agriculture Development
11 Committee under the farmland preservation inheritance tax
12 deduction program established by P.L. , c. (C.) (pending
13 before the Legislature as this bill) that is used to redetermine a tax
14 liability, the Director of the Division of Budget and Accounting
15 may, on satisfactory proof of such erroneous payment to the
16 Director of the Division of Taxation and duly certified by him to the
17 Director of the Division of Budget and Accounting, draw his
18 warrant on the State Treasurer, in favor of the executor,
19 administrator, person or persons who have paid the tax in error, or
20 who may be lawfully entitled to receive the same, for the amount of
21 the tax so paid in error, but all applications for repayment of such
22 tax shall be made within 3 years from the date of such payment,
23 from the date the tax deduction is awarded, or from the date of the
24 final determination of a court of competent jurisdiction which
25 establishes the fact that the decedent had no legal or equitable
26 interest in the property on which the tax was assessed and
27 erroneously paid, whichever is later; provided, however, no refund
28 shall be made where such final determination occurs more than 20
29 years after the date of death of the decedent.

30 (cf: P.L.1956, c.54, s.1)

31

32 13. (New section) A certified transferee, distributee, or
33 beneficiary, or a certified group of transferees, distributees, or
34 beneficiaries, that is awarded a tax deduction by the State
35 Agriculture Development Committee, but withdraws the land
36 suitable for agricultural production from the municipally approved
37 program or other farmland preservation program established by
38 sections 14 and 13 of P.L.1983, c.32 (C.4:1C-21 and 4:1C-20),
39 respectively, prior to completion of the minimum eight-year period
40 established by the agreement shall be required to pay to the Director
41 of the Division of Taxation in the Department of the Treasury a
42 penalty in an amount equal to the difference between the transfer
43 inheritance tax that would have been due and payable without the
44 benefit of the deduction and the transfer inheritance tax paid with
45 the benefit of the deduction.

46 The director shall assess the amount of any penalty required to
47 be paid, give notice of the assessment to the certified transferee,
48 distributee, or beneficiary, or the certified group of transferees,

1 distributees, or beneficiaries, and make demand upon the certified
2 transferee, distributee, or beneficiary, or the certified group of
3 transferees, distributees, or beneficiaries, for payment of the
4 assessment to be made in full within 30 days of the date notice and
5 demand is given by the director.

6 If payment of an assessment is not made in full within 30 days of
7 the date notice and demand is given by the director, interest shall
8 accrue and be due to the director on the unpaid amount at the rate of
9 three percentage points above the prime rate assessed for each
10 month or fraction thereof, compounded annually at the end of each
11 year, from the date notice and demand was given until the date the
12 assessment, and any interest that has accrued on the assessment, is
13 fully paid.

14 The assessment, and any interest on the assessment, that is due to
15 the director shall be a deficiency with respect to the payment of a
16 State tax: the director shall have all rights, powers, and duties
17 authorized by the State Uniform Tax Procedure Law, R.S.54:48-1 et
18 seq., to ensure payment, collection, or recovery of a deficiency and
19 the certified transferee, distributee, or beneficiary, or the certified
20 group of transferees, distributees, or beneficiaries, required to pay
21 the deficiency shall be afforded all protections, rights, and remedies
22 allowed by R.S.54:48-1 et seq., to challenge, protest, or appeal the
23 deficiency or any determination or decision made in connection
24 with the deficiency.

25
26 14. (New section) Notwithstanding the provisions of section 13
27 of P.L. , c. (C.) (pending before the Legislature as this bill)
28 to the contrary, the Director of the Division of Taxation in the
29 Department of the Treasury may waive the requirement to pay the
30 amount of any penalty required to be paid to the director, if the
31 director determines that the withdrawal of the land from a
32 municipally approved program or other farmland preservation
33 program established by sections 14 and 13 of
34 P.L.1983, c.32 (C.4:1C-21 and 4:1C-20), respectively, prior to
35 completion of the minimum eight-year period established by the
36 agreement was due to the death or incapacitating illness of, or other
37 serious hardship or bankruptcy involving, the certified transferee,
38 distributee, or beneficiary, or a transferee, distributee, or
39 beneficiary who is part of a certified group of transferees,
40 distributees, or beneficiaries.

41
42 15. (New section) A certified transferee, distributee, or
43 beneficiary, or a certified group of transferees, distributees, or
44 beneficiaries, that is awarded a tax deduction by the State
45 Agriculture Development Committee, but fails to establish a
46 succession plan providing for the successful transfer of the
47 ownership and managerial control of the land suitable for
48 agricultural production to the next succeeding generation on or

1 before the first day of the thirteenth month beginning after the date
2 the agreement is entered into shall be required to pay to the Director
3 of the Division of Taxation in the Department of the Treasury a
4 penalty in an amount equal to the difference between the transfer
5 inheritance tax that would have been due and payable without the
6 benefit of the deduction and the transfer inheritance tax paid with
7 the benefit of the deduction.

8 The director shall assess the amount of any penalty required to
9 be paid, give notice of the assessment to the certified transferee,
10 distributee, or beneficiary, or the certified group of transferees,
11 distributees, or beneficiaries, and make demand upon the certified
12 transferee, distributee, or beneficiary, or the certified group of
13 transferees, distributees, or beneficiaries, for payment of the
14 assessment to be made in full within 30 days of the date notice and
15 demand is given by the director.

16 If payment of an assessment is not made in full within 30 days of
17 the date notice and demand is given by the director, interest shall
18 accrue and be due to the director on the unpaid amount at the rate of
19 three percentage points above the prime rate assessed for each
20 month or fraction thereof, compounded annually at the end of each
21 year, from the date notice and demand was given until the date the
22 assessment, and any interest that has accrued on the assessment, is
23 fully paid.

24 The assessment, and any interest on the assessment, that is due to
25 the director shall be a deficiency with respect to the payment of a
26 State tax: the director shall have all rights, powers, and duties
27 authorized by the State Uniform Tax Procedure Law, R.S.54:48-1 et
28 seq., to ensure payment, collection, or recovery of a deficiency and
29 the certified transferee, distributee, or beneficiary, or the certified
30 group of transferees, distributees, or beneficiaries, required to pay
31 the deficiency shall be afforded all protections, rights, and remedies
32 allowed by R.S.54:48-1 et seq., to challenge, protest, or appeal the
33 deficiency or any determination or decision made in connection
34 with the deficiency.

35
36 16. (New section) Notwithstanding the provisions of section 15
37 of P.L. , c. (C.) (pending before the Legislature as this bill)
38 to the contrary, the Director of the Division of Taxation in the
39 Department of the Treasury may waive the requirement to pay any
40 penalty required to be paid to the director, if the director determines
41 that the failure to establish a succession plan providing for the
42 transfer of the ownership and managerial control of the land
43 suitable for agricultural production to the next succeeding
44 generation on or before the first day of the thirteenth month
45 beginning after the date the agreement is entered into was due to the
46 death or incapacitating illness of, or other serious hardship or
47 bankruptcy involving, the certified transferee, distributee, or

beneficiary, or a transferee, distributee, or beneficiary who is part of a certified group of transferees, distributees, or beneficiaries.

17. (New section) Notwithstanding the provisions of the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the State Agriculture Development Committee, in consultation with the Director of the Division of Taxation in the Department of the Treasury, may adopt immediately upon filing with the Office of Administrative Law such rules and regulations as the committee and the director determine to be necessary to effectuate the purposes of P.L. , c. (C.) (pending before the Legislature as this bill), which rules and regulations shall be effective for a period not to exceed 360 days following the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) and may thereafter be amended, adopted, or readopted by the committee and the director in accordance with P.L.1968, c.410.

18. This act shall take effect immediately and apply to transfers from the estates of persons dying on or after January 1 next following the date of enactment.

STATEMENT

This bill establishes a farmland preservation inheritance tax deduction program within the Department of Agriculture, and provides for the program to be implemented and administered by the State Agriculture Development Committee.

The bill provides that the purpose of the program is to provide the committee with a means to preserve land suitable for agricultural production and the State’s agricultural heritage for future generations of residents when land, or other assets that convey ownership interests in land, suitable for agricultural production is transferred by will or the intestate laws of this State or by deed, grant, bargain, sale, or gift made in contemplation of death.

To effectuate those purposes, the bill authorizes the committee to:

identify, evaluate, and certify transferees, distributees, and beneficiaries, and groups of transferees, distributees, and beneficiaries, that have received land, or other assets that convey ownership interests in land, suitable for agricultural production by will or the intestate laws of this State or by deed, grant, bargain, sale, or gift made in contemplation of death;

enter into agreements and award tax deductions to certified transferees, distributees, and beneficiaries, and certified groups of transferees, distributees, and beneficiaries, that may be used to

1 reduce or eliminate the transfer inheritance due and payable in
2 connection with the transfer of the land, or other assets that convey
3 ownership interests in the land, in exchange for enrolling the land
4 suitable for agricultural production in a farmland preservation
5 program and establishing a succession plan for the transfer of the
6 ownership and managerial control of the land to the next succeeding
7 generation;

8 conduct an annual review of agreements entered into with
9 certified transferees, distributees, and beneficiaries and certified
10 groups of transferees, distributees, and beneficiaries; and

11 make and publish an annual report regarding implementation and
12 administration of the program.

13 The bill provides that the amount of the tax deduction awarded to
14 each certified transferee, distributee, and beneficiary, and each
15 certified group of transferees, distributees, and beneficiaries, is
16 equal to the fair market value of the land, or other assets that
17 convey ownership interests to the land, suitable for agricultural
18 production, together with any improvements and additions,
19 including but not limited to any dwellings, barns, farm markets, or
20 other structures or facilities used directly and primarily for
21 agricultural purposes, that are located on or contiguous to the land
22 suitable for agricultural production that was transferred by will or
23 the intestate laws of this State or by deed, grant, bargain, sale, or
24 gift made in contemplation of death. The bill specifies that the
25 deduction may be used to determine or redetermine the transfer
26 inheritance tax due and payable in connection with the transfer of
27 the land, or the transfer of the other assets the convey ownership
28 interest in the land, suitable for agricultural production.

29 The bill imposes certain caps on the value of tax deductions that
30 may be awarded. Under the bill, the amount of any tax deduction
31 awarded by the committee to a certified transferee, distributee, and
32 beneficiary, or to a certified group of transferees, distributees, and
33 beneficiaries, cannot exceed \$5 million, and the aggregate amount
34 of deductions awarded by the committee to all certified transferees,
35 distributees, and beneficiaries, and to all certified groups of
36 transferees, distributees, and beneficiaries, in a calendar year cannot
37 exceed \$10 million.

38 The bill imposes certain penalties on certified transferees,
39 distributees, and beneficiaries, and certified groups of transferees,
40 distributees, and beneficiaries, that withdraw land suitable for
41 agricultural production from the farmland preservation program
42 prior to completion of the minimum eight-year period or that fail to
43 establish a succession plan within the time permitted under the
44 agreement. The bill provides that the amount of the penalty is equal
45 to the difference between the transfer inheritance tax that would
46 have been due and payable without the benefit of the tax deduction
47 awarded by the committee and the transfer inheritance tax paid with

1 the benefit of the deduction, and authorizes the director to assess
2 and collect any penalties imposed.

3 The bill permits the director to waive penalties under certain
4 circumstances. Under the bill, the director may waive a penalty
5 required to be paid to the director, if the withdrawal of the land
6 from the farmland preservation program or failure to establish a
7 succession plan is due to the death or incapacitating illness of, or
8 other serious hardship or bankruptcy involving, the certified
9 transferee, distributee, or beneficiary, or a transferee, distributee, or
10 beneficiary who is part of a certified group of transferees,
11 distributees, or beneficiaries.

12 The bill authorizes the committee, in consultation with the
13 director, to adopt rules and regulations necessary to effectuate the
14 purposes of the bill, and allows for the immediate filing of those
15 rules and regulations with the Office of Administrative Law,
16 effective for a period not to exceed 360 days following the bill's
17 effective date.

18 The bill takes effect immediately upon enactment and applies to
19 transfers from the estates of persons dying on or after January 1
20 next following the date of enactment.