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# *Public Hearing*

before

## THE SENATE ENVIRONMENT AND ENERGY COMMITTEE

### Senate Concurrent Resolution No. 2

*“Amends Constitution to dedicate \$200 million, or 2.4 percent, whichever is less, annually from FY2015 to FY2044 of sales and use tax revenue for preservation of open space, including flood prone areas and lands that protect water supplies, farmland, and historic properties”*

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**LOCATION:** Committee Room 10  
State House Annex  
Trenton, New Jersey

**DATE:** January 27, 2014  
10:00 a.m.

#### **MEMBERS OF COMMITTEE PRESENT:**

Senator Bob Smith, Chair  
Senator Linda R. Greenstein, Vice Chair  
Senator Jim Whelan  
Senator Christopher “Kip” Bateman  
Senator Samuel D. Thompson



#### **ALSO PRESENT:**

Judith L. Horowitz  
*Office of Legislative Services*  
*Committee Aide*

Kevil Duhon  
*Senate Majority*  
*Committee Aide*

Brian Alpert  
*Senate Republican*  
*Committee Aide*

***Hearing Recorded and Transcribed by***  
The Office of Legislative Services, Public Information Office,  
Hearing Unit, State House Annex, PO 068, Trenton, New Jersey

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**SENATE CONCURRENT  
RESOLUTION No. 2**

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**STATE OF NEW JERSEY**

**216th LEGISLATURE**

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INTRODUCED JANUARY 16, 2014

**Sponsored by:**

**Senator BOB SMITH**

**District 17 (Middlesex and Somerset)**

**Senator CHRISTOPHER "KIP" BATEMAN**

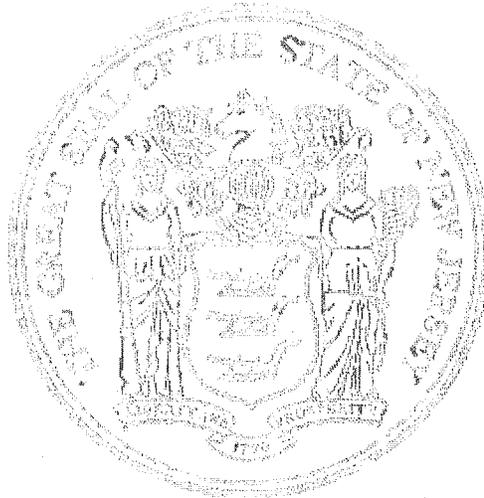
**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**SYNOPSIS**

Amends Constitution to dedicate \$200 million, or 2.4 percent, whichever is less, annually from FY2015 to FY2044 of sales and use tax revenue for preservation of open space, including flood prone areas and lands that protect water supplies, farmland, and historic properties.

**CURRENT VERSION OF TEXT**

As introduced.



1 A CONCURRENT RESOLUTION proposing to amend Article VIII,  
2 Section II of the New Jersey Constitution by adding a new  
3 paragraph.

4  
5 **BE IT RESOLVED** by the Senate of the State of New Jersey (the  
6 General Assembly concurring):

7  
8 1. The following proposed amendment to the Constitution of  
9 the State of New Jersey is agreed to:

10  
11 PROPOSED AMENDMENT

12  
13 Amend Article VIII, Section II, by adding a new paragraph 9 to  
14 read as follows:

15 9. (a) Commencing July 1, 2014, there shall be annually  
16 credited in each State fiscal year, until June 30, 2044, to a special  
17 account in the General Fund an amount equal to 2.4 percent or the  
18 sum of \$200,000,000, whichever is less in each fiscal year, from the  
19 State revenue annually collected from the State tax imposed under  
20 the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.),  
21 as amended and supplemented, or from any other State law of  
22 similar effect. The dedication and use of those moneys credited  
23 pursuant to this subparagraph from the State revenue annually  
24 collected from the State tax imposed under the "Sales and Use Tax  
25 Act," as amended and supplemented, or from any other State law of  
26 similar effect, shall be subject and subordinate to (1) all  
27 appropriations of revenues from taxes made by laws enacted prior  
28 to the effective date of this paragraph in accordance with Article  
29 VIII, Section II, paragraph 3 of the State Constitution in order to  
30 provide the ways and means to pay the principal and interest on  
31 bonds of the State presently outstanding or authorized to be issued  
32 under those laws, (2) any other use of those revenues enacted into  
33 law prior to the effective date of this paragraph, or (3) the credit of  
34 State revenue annually collected from the State tax imposed under  
35 the "Sales and Use Tax Act," as amended and supplemented, or  
36 from any other State law of similar effect, as required by Article  
37 VIII, Section II, paragraph 7 of the State Constitution.

38 The amount credited each State fiscal year pursuant to this  
39 subparagraph shall be dedicated and shall be appropriated from time  
40 to time by the Legislature only to provide funding, including loans  
41 or grants, for: the preservation, including acquisition, development,  
42 and stewardship, of lands for recreation and conservation purposes,  
43 including lands that protect water supplies and lands that have  
44 incurred flood or storm damage or are likely to do so, or that may  
45 buffer or protect other properties from flood or storm damage; the  
46 preservation and stewardship of farmland for agricultural or  
47 horticultural use and production; historic preservation; and  
48 administrative costs associated with each of those efforts.

1 (b) All moneys derived from repayments of any loan issued  
2 from the amounts dedicated pursuant to subparagraph (a) of this  
3 paragraph, and all income derived from the investment of moneys  
4 in the special account established pursuant to this paragraph, shall  
5 be credited to that special account, and shall be dedicated and shall  
6 be appropriated from time to time by the Legislature only for the  
7 purposes authorized pursuant to subparagraph (a) of this paragraph.  
8 Notwithstanding any provision of this paragraph to the contrary, the  
9 dedication of moneys derived from loan repayments and  
10 investments shall not expire.

11 (c) It shall not be competent for the Legislature, under any  
12 pretense whatever, to borrow, appropriate, or use the amounts  
13 credited to the special account established pursuant to this  
14 paragraph, or any portion thereof, for (1) any purpose or in any  
15 manner other than as enumerated in this paragraph, or (2) making  
16 payments relating to any bonds, notes, or other obligations.  
17

18 2. When this proposed amendment to the Constitution is finally  
19 agreed to pursuant to Article IX, paragraph 1 of the Constitution, it  
20 shall be submitted to the people at the next general election  
21 occurring more than three months after the final agreement and  
22 shall be published at least once in at least one newspaper of each  
23 county designated by the President of the Senate, the Speaker of the  
24 General Assembly and the Secretary of State, not less than three  
25 months prior to the general election.  
26

27 3. This proposed amendment to the Constitution shall be  
28 submitted to the people at that election in the following manner and  
29 form:

30 There shall be printed on each official ballot to be used at the  
31 general election, the following:

32 a. In every municipality in which voting machines are not used,  
33 a legend which shall immediately precede the question as follows:

34 If you favor the proposition printed below make a cross (X), plus  
35 (+), or check (✓) in the square opposite the word "Yes." If you are  
36 opposed thereto make a cross (X), plus (+) or check (✓) in the  
37 square opposite the word "No."

38 b. In every municipality the following question:

1

	<p>YES</p>	<p>CONSTITUTIONAL AMENDMENT DEDICATING STATE FUNDS FOR OPEN SPACE, FARMLAND, AND HISTORIC PRESERVATION</p> <p>Do you approve amending the Constitution to dedicate \$200 million or 2.4% of State sales tax revenue, whichever is less, each year for the next 30 years for the preservation of open space, farmland, and historic properties? Open space includes lands that protect water supplies and lands that are prone to flooding.</p>
	<p>NO</p>	<p>INTERPRETIVE STATEMENT</p> <p>This constitutional amendment would provide a stable source of funding for the next 30 years for Green Acres and "Blue Acres" projects, and for the preservation of farmland and historic properties. The amendment would dedicate \$200 million or 2.4%, whichever is less in a given year, of State sales tax revenue each year for the next 30 years for these purposes.</p> <p>The Green Acres program acquires land that protects water supplies and preserves open space, including parks, fish and wildlife habitat, and flood prone or affected areas. It also funds park improvements and facilities.</p> <p>"Blue Acres" refers to properties that have been damaged by storms or storm-related flooding, that appear likely to incur such damage, or that may buffer or protect other lands from such damage. Structures on properties purchased from willing sellers are demolished, the debris is removed, and the land is preserved as open space.</p>

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STATEMENT

This constitutional amendment would dedicate \$200 million or 2.4 percent, whichever is less in a given year, of State sales and use tax revenue annually for the next 30 years, from Fiscal Year 2015 through Fiscal Year 2044, to finance the State's programs for open space preservation, farmland preservation, and historic preservation. The specific allocation for each of these purposes

1 would be established by law. The amendment also allows for the  
2 dedicated monies to be used for stewardship activities and  
3 administrative costs associated with the programs.

4 The constitutional amendment also recognizes a special funding  
5 category under open space preservation, referred to as the "Blue  
6 Acres" program, for the acquisition, for recreation and conservation  
7 purposes, of lands that have incurred flood or storm damage or are  
8 likely to do so, or that may buffer or protect other properties from  
9 flood or storm damage. Properties are purchased from willing  
10 sellers only. The Blue Acres program is administered by the  
11 Department of Environmental Protection's Green Acres Program.

12 This proposed amendment to the State Constitution would  
13 provide a dedicated, stable source of funding to continue the State's  
14 current programs for open space, including flood prone lands,  
15 farmland, and historic preservation implemented pursuant to Article  
16 VIII, Section II, paragraph 7 of the State Constitution, the "Garden  
17 State Preservation Trust Act," P.L.1999, c.152 (C.13:8C-1 et seq.),  
18 and various bond acts passed by the voters of this State over the last  
19 50 years.



SENATE ENVIRONMENT AND ENERGY COMMITTEE

STATEMENT TO

SENATE CONCURRENT RESOLUTION No. 2

**STATE OF NEW JERSEY**

DATED: JANUARY 27, 2014

The Senate Environment and Energy Committee favorably reports Senate Concurrent Resolution No. 2.

This constitutional amendment would dedicate \$200 million or 2.4 percent, whichever is less in a given year, of State sales and use tax revenue annually for the next 30 years, from Fiscal Year 2015 through Fiscal Year 2044, to finance the State's programs for open space preservation, farmland preservation, and historic preservation. The specific allocation for each of these purposes would be established by law. The amendment also allows for the dedicated monies to be used for stewardship activities and administrative costs associated with the programs.

The constitutional amendment also recognizes a special funding category under open space preservation, referred to as the "Blue Acres" program, for the acquisition, for recreation and conservation purposes, of lands that have incurred flood or storm damage or are likely to do so, or that may buffer or protect other properties from flood or storm damage. Properties are purchased from willing sellers only. The Blue Acres program is administered by the Department of Environmental Protection's Green Acres Program.

This proposed amendment to the State Constitution would provide a dedicated, stable source of funding to continue the State's current programs for open space, including flood prone lands, farmland, and historic preservation implemented pursuant to Article VIII, Section II, paragraph 7 of the State Constitution, the "Garden State Preservation Trust Act," P.L.1999, c.152 (C.13:8C-1 et seq.), and various bond acts passed by the voters of this State over the last 50 years.





BOB SMITH  
*Chairman*

LINDA R. GREENSTEIN  
*Vice-Chairwoman*

JIM WHELAN  
CHRISTOPHER "KIP" BATEMAN  
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**New Jersey State Legislature**  
**SENATE ENVIRONMENT**  
**AND ENERGY COMMITTEE**  
STATE HOUSE ANNEX  
PO BOX 068  
TRENTON NJ 08625-0068

**PUBLIC HEARING NOTICE**

&

**COMMITTEE NOTICE**

**TO: MEMBERS OF THE SENATE ENVIRONMENT AND ENERGY COMMITTEE**

**FROM: SENATOR BOB SMITH, CHAIRMAN**

**SUBJECT: COMMITTEE MEETING - JANUARY 27, 2014**

*The public may address comments and questions to Judith L. Horowitz or Michael R. Molimock, Committee Aides, or make bill status and scheduling inquiries to Valarie Jackson, Secretary, at (609)847-3855, fax (609)292-0561, or e-mail: OLSAideSEN@njleg.org. Written and electronic comments, questions and testimony submitted to the committee by the public, as well as recordings and transcripts, if any, of oral testimony, are government records and will be available to the public upon request.*

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**The Senate Environment and Energy Committee will meet on Monday, January 27, 2014 at 10:00 AM in Committee Room 10, 3rd Floor, State House Annex, Trenton, New Jersey.**

The following bills will be considered:

S-575 Smith, B	Concerns combined sewer overflows; exempts improvements thereto from 2% property tax cap; requires certain permit holders address such overflows in capital improvement plans; and appropriates \$5 million.
S-942 Smith, B/Bateman	Revises required experience for home improvement and home elevation contractors.
S-943 Sarlo/Smith, B	The "Adopt a Stormwater Management Basin Act."
S-944 Smith, B/Codey	Authorizes those municipalities and a rural electric cooperative that currently provide electric service at retail to establish a municipal shared services energy authority.

(OVER)

SCR-2  
Smith, B/Bateman

Amends Constitution to dedicate \$200 million, or 2.4 percent, whichever is less, annually from FY2015 to FY2044 of sales and use tax revenue for preservation of open space, including flood prone areas and lands that protect water supplies, farmland, and historic properties.

**The Senate Environment and Energy Committee will hold a public hearing immediately following the committee meeting.**

The public hearing will be held in accordance with Rule 24:3 of the New Jersey Senate on the following Senate Concurrent Resolution:

SCR-2  
Smith, B/Bateman

Amends Constitution to dedicate \$200 million, or 2.4 percent, whichever is less, annually from FY2015 to FY2044 of sales and use tax revenue for preservation of open space, including flood prone areas and lands that protect water supplies, farmland, and historic properties.

Issued 1/17/14

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For changes in schedule due to snow or other emergencies, call 800-792-8630 (toll-free in NJ) or 609-292-4840.

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**SENATOR BOB SMITH (Chair):** Let me first deal with all the “no need to testify” slips: Joe Simonetta, Public Strategies Impact, representing the America Institute of Architects and Preservation New Jersey, in favor, no need to testify; the Advocates for New Jersey History, in favor, no need to testify; Kelly Mooij, New Jersey Audubon, in favor, no need to testify; Allen Weston, New Jersey Association of Counties, in favor, no need to testify; Erica Van Auken, New Jersey Highlands Coalition, in favor, no need to testify; William Eames, there is not an organization mentioned, but opposed, no need to testify; Ciro Scalera, from the Laborers Union, opposed, no need to testify. And those are all the slips where there is no need to testify.

Now the hearing on the SCR will commence. Why don't we start with--

**SENATOR BATEMAN:** We may have to take a roll call.

**SENATOR SMITH:** Yes, thank you for keeping us out of trouble one more time, Senator Bateman. (laughter)

**MS. HOROWITZ (Committee Aide):** A roll call on the hearing on SCR-2; Senator Smith.

**SENATOR SMITH:** Present.

**MS. HOROWITZ:** Senator Greenstein was here, but she is away from her desk.

Senator Whelan.

**SENATOR WHELAN:** Here.

**MS. HOROWITZ:** Senator Bateman.

**SENATOR BATEMAN:** Here.

**MS. HOROWITZ:** Senator Thompson.

SENATOR THOMPSON: Here.

SENATOR SMITH: Okay, we have a Committee quorum and we're moving ahead with the hearing.

SENATOR BATEMAN: Let the record show--

SENATOR SMITH: And Senator Greenstein is present, too. Another catch. (laughter)

All right, our first witness will be Barbara Sachau, opposed.

Ms. Sachau.

**BARBARA SACHAU:** Sachau (indicating pronunciation).

I'm opposed to this bill because of the economic situation in New Jersey. One out of six New Jersey citizens is on food stamps. And I think that this spending needs to be cut.

I think there needs to be downsizing on the amount that you are allocating to this so that there is reflection by the Legislature of the economic conditions in New Jersey. Those economic conditions have been exacerbated by high costs of heating and cooling because of the climate we have now, so that there is reason to give a little break to New Jersey taxpayers.

I also find that putting it in the Constitution is not a good idea. Things are changing. You are making decisions here for your children and your grandchildren. And to fix it like that is not a good idea. I think that we need to have flexibility in government. We have changing priorities, and I think that putting it in the Constitution is not a good idea.

Preserving this open space that we do have is a real issue for me because we have been -- the taxpayers have been paying for a long time at this rate to save open space. We have saved a lot of open space.

Meanwhile, the open space we have been saving is being mauled and manipulated. There are endless places in New Jersey where there is logging going on in the open space we have saved. The land should be kept natural; it should not be used as a lumber yard for logging interests. I can tell you specifically there is logging going on in two sites in Sparta Mountain -- in Weldon Brook, in Double Trouble -- and they are planning-- The DEP is planning more logging in southern New Jersey. I don't have the specific number on how many sites they're planning right now, but they recently said at a New Jersey Division of Fish and Game meeting that they were planning more logging at several sites in New Jersey.

Now, to ask the taxpayers to save that land, and then have it mauled for logging is absolutely wrong. It is a scam on people. You should not do that.

And the 30-year time period is also an issue here. To set something aside for that long a period of time is not a good idea. And to me it seems like this bill-- And it started out as a logging bill. It started out, originally, as a logging bill. And what will happen if you save more land is that the plans right now are to log it. And the reason for logging -- it doesn't make any sense. The National Fish and Wildlife Service says that the bird that is having problems in New Jersey is the woodcock. And meanwhile we have Audubon telling New Jersey DEP that we should log for the golden warbler. Now, we have a lot of those birds here -- other species of warblers here. So that the reason for the logging makes no sense -- it makes no sense.

And I really think we need to cut it down a little bit in chronology, and we need to make it for a shorter period of time.

Those are my main concerns with this type of bill.

SENATOR SMITH: Thank you for your comments.

MS. SACHAU: Thank you.

SENATOR SMITH: Ed Potosnak, New Jersey League of Conservation Voters, in favor.

**E D P O T O S N A K:** Good morning, Mr. Chairman. Thank you, members of the Committee. Senator Thompson, welcome. It's great to be here.

I am Ed Potosnak with the League of Conservation Voters of New Jersey. I represent Independent, Democratic, and Republican conservation voters, and we support this bill. Thank you for reporting it out of Committee.

As you know, open space is critical to New Jersey's future as the most densely populated state. And I just want to be very brief and say thank you. It's important we get this done quickly, because we're out of money.

Thank you.

SENATOR SMITH: Shakespeare would be proud. (laughter)  
Brevity is the soul of wit.

John Tomicki, League of American Families, in opposition.

**J O H N T O M I C K I:** Good morning. My name is John Tomicki, Executive Director of the League of American Families. We represent about 100,000 households. And I don't know whether I have wit or what.

Since this is the public hearing part -- and I apologize for coming late, but I was a little bit delayed in traffic so I wasn't here -- but this is the public hearing part?

SENATOR SMITH: Yes, it is.

MR. TOMICKI: Has 20 days expired from the time that this has been laid on the table?

SENATOR SMITH: That's not the way it works.

MR. TOMICKI: I think in the Constitution, if I read it correctly -- unless I misread it early this morning -- it is possible -- it has to lay--

SENATOR SMITH: No, I think -- and I am subject to correction by the OLS staff -- that you can have the hearing any time after the bill has been laid on the desk. The bill has been laid on the desk in both the Assembly and Senate. You can't vote on it before 20 days have passed, but I think you can have the hearing immediately after the bill is laid on the desk. And I think that's what you're thinking, John.

MR. TOMICKI: Well, I was reading it a little closely. I think it has to lay on the desk 20 days before you can have the public hearing. But we'll debate that later.

SENATOR SMITH: Okay.

MR. TOMICKI: Okay. To be brief: I think it's good to try to save open space. How much do we have now? This is a public hearing, so you people can't ask; that's why I wish I was here for the actual discussion of the bill itself. Because I think we're well over 10 or 15 percent of lands that are now owned by the State of New Jersey. That could be one thing. Number two: You're sequestering, for 30 years, \$6 billion. That's what you're doing. You're sequestering \$6 billion. In the economic conditions that we're looking at, and the budget, I think decisions like this should be made budget by budget, not tying up some future legislation because,

should some other emergency arise in the future where you'll have to fund some expenditure, you're going to have to increase taxes correspondingly. We all know. Those of us who have been around a long time, there's a deep, black hole in the pension plan; it's unfunded mandates. You'll have to deal with that -- it's been something that all of you -- some have been dealt with, and some have been kicked down the road. So I think this is not something that should be put before the voters at this time. I think it's not the right process to use. If you want to deal with open space you deal with it within the budget, year by year, so the public can look at it. Or, if you're going to bond something -- which we have rules in the Constitution about how you bond and when you bond -- those are good things. I think this is not a good process.

SENATOR SMITH: John, a question for you. Why do you believe the voters of New Jersey shouldn't make the decision what the spending priorities should be?

MR. TOMICKI: Oh, I would like the voters-- As you and I have had discussions, I support initiative and referendum, which is the indirect method. I think many times there are issues that come before the legislature that would be better placed -- as I would have the definition of marriage. But this is now a situation where we had a vote you put before the public on minimum wage. We did not engage in that particular debate. But on this one -- it's on this one, on this issue -- putting up and sequestering \$6 billion, spreading it out over 30 years is not a wise procedure to do. I don't want to call it irresponsible because--

SENATOR SMITH: But are you saying the voters aren't smart enough to figure this out? Shouldn't they be given the opportunity to decide how their money is spent?

MR. TOMICKI: I would love to engage in that discussion, Senator, about a number of other issues that I think-- I think we should put the issue of whether or not we should have charter schools, expanding charter schools -- putting it before the voters to have -- allowing for "let the money follow the child." So as to this issue, do I think the voters-- Now, what if the voters decide to vote it down?

SENATOR SMITH: Yes, but don't you see some inconsistency in your logic? If you're saying voters should have the decision on some issues that are important to some New Jerseyans -- that they shouldn't have the opportunity to make that decision on this issue?

MR. TOMICKI: Well, to take that out to a *reductio ad absurdum*, then why don't we put every bill that you people vote on -- instead of you voting on it, why don't you put every bill up to a vote of the people? That's where the logic would go. We're saying as to this issue, at this time, in light of what-- We're sitting with unfunded mandates. I see no inconsistency when you're coming forward. As we remain silent on the issue, even though economically we had certain concerns relative to raising the minimum wage, we said, "Fine. Let the public take a look at that." This one, we are really suggesting it is inopportune; I don't think it's a wise legislative proposal even though you have the right to support -- to put it up. I don't know whether you're going to get the super majority. I looked at the votes the last time -- there seemed to be some confusion. Everything was merged, it fell through the cracks, it didn't happen. But I think in the

groups that we're talking to around the state at this time, there is much more information and they would not, as I see it right now, be supportive of this proposal.

And I would ask the Senator -- with whom I have a great deal of respect; we've had good conversations over the years -- if it is voted down-- If you do get the necessary votes and when and if it is voted down, what will your reaction be? Would then your logic be, "Well, gee, maybe we should never put anything up again?" No. Some should be, some should not. This is an unwise move at this time.

SENATOR SMITH: We appreciate your comments.

MR. TOMICKI: Well, I appreciate your questioning, and I appreciate your civility.

MR. TOMICKI: Absolutely.

Senator Thompson.

SENATOR THOMPSON: Mr. Tomicki, I agree with your basic sentiments there. I think the question is less a matter of whether the public would be the ones making the commitment or whether it's the Legislature. The problem I have here is that what this would do is commit \$200 million a year for 30 years -- or 0.24 percent of the sales tax. Well, when we say, "You don't really need to put the 0.24 percent in there as an option because, again, with the existing \$8 billion we bring in there, 0.24 percent is \$192 million." So I can't see any point in the future where it would ever drop under that quantity, even if you applied the percentage.

But we're seeking to commit money that doesn't exist. That is, there is not \$200 million sitting out there, unused, at the moment. This is essentially taking \$200 million that is currently being used in the budget.

Yes, sales tax will increase in the future, and is projected-- For example, next year if we have a 5.2 percent increase in revenues coming in, we also next year are facing an increase of roughly \$600 million for meeting our increasing pension obligations. We face an increase of \$616.5 million to meet our commitments for the continued phase-in of the business tax cut. We face another half-billion dollars to meet our Transportation Trust Fund needs. These are in addition to the revenue we got this year. So just to meet those commitments our overall revenue next year has to increase by 5.2 percent.

So to add in another \$200 million, our revenue has to increase even more -- and the same in the future. Thus, if we want to make a commitment of \$200 million a year, we need to make a commitment of revenues that are not coming in at the present time -- new funding or so on. We are, in essence, just taking this out of the existing budget for 30 years. Now, if you want to commit \$200 million for the next 30 years, come up with a new source of revenue for that \$200 million, not say-- Because you are just creating this hole in the budget, and you're either going to have to cut other programs by \$200 million to make up for it, or you're going to say, "Somebody else solve the problem where we're going to get the \$200 million." So it's not good arithmetic.

MR. TOMICKI: Senator, that's exactly the point we're trying to make -- the last one you made. There are other programs that are currently now necessary and needed that will have to be cut.

SENATOR THOMPSON: Yes, we're putting it as a priority over helping the needy, the homeless--

MR. TOMICKI: Whatever.

SENATOR THOMPSON: --education -- everything else.

SENATOR SMITH: By the way, just one other item to throw on the table. This is not a radical approach to anything. You do understand that we amended our State Constitution to say that any income tax revenues from New Jersey individuals has to be dedicated to property tax relief? Our citizens have set priorities many times before. And that, by the way, is huge in comparison to the six-tenths of a percent of the State budget that we're talking about here. So this is not an unusual procedure. We've given the citizens, on some occasions, the opportunity to decide how their money is spent, but now when you're talking about six-tenths of a percent suddenly this is a new procedure? We've done it many times in the past. We need to set our priorities.

But I appreciate your comments. And Sam, I appreciate yours as well.

MR. TOMICKI: Thank you, Senator.

SENATOR SMITH: Okay. Alison Mitchell, New Jersey Conservation Foundation.

**ALISON MITCHELL:** Thank you, Mr. Chairman and members of the Committee, for the opportunity to testify.

We come before you, as we have several other times, in strong support of this mechanism for funding our State's open space, farmland, and historic preservation initiatives. I'm Alison Mitchell; I'm the Policy Director of New Jersey Conservation Foundation and, as many of you know, we're a statewide, nonprofit land conservation group that has saved approximately 120,000 acres in our 53-year history.

We want to thank the sponsors again for putting forth this proposal. The bill is important for several reasons. It provides, as you know, a stable source of funding for preservation programs that are so critical to the success of our preservation programs. It obviously polls well as a funding mechanism, which I think is important to point out. So when voters have been asked already what sort of mechanism they would like to see used to preserve land and historic sites, they have indicated that this is their preference. It's had bipartisan support; it's pay-as-you-go, so we're not increasing our indebtedness. I think those are all really important points.

I just want to add we at the Conservation Foundation, because we do transactions, have some very direct experience on working under stop-gap bond measures, like we've had recently, versus long-term initiatives like we had under Governor Whitman. And I will certainly say that it is much more efficient and productive to operate under a longer term, stable source of funding because of predictability. Transactions in land preservation typically take several years from the time you start talking with the land owner until the deal is completed. And it's impossible to assure land owners -- when you only have a year or two of funding -- that when you start talking with them that the money will be there at the end of the conversation. And so, as you can imagine, it makes it very difficult for land owners to make any kind of a decision; and for groups like ours to press forward and spend money on appraisals and the sort of things that we need to do, and the steps along the way, when we don't know what's going to happen at the end of the day.

And I think that's why, to my knowledge, all the organizations that actually do preservation work on the ground have come out in support

of the sales tax dedication as a stable, long-term source of funding -- because it makes it so much more efficient to operate.

In addition, there are 235 local open space trust funds at the county and municipal level in New Jersey. Historically, those funds have generated as much as \$300 million a year, and these local programs rely heavily on State funds to leverage their dollars. Historically, State dollars have been a large percentage of the overall funds for a project, and without the State money, local government can accomplish much less. And again, they're relying on predictability, too. They need to know that the State match is going to be there at the end of the day when they're talking with the landowner today about preserving a particular piece of property.

Finally, it takes tremendous resources to carry out a successful ballot initiative. And I think the land preservation community would love to be focused on doing the preservation work for a nice stretch of time rather than going back to the voters every year or two years and asking for funding again. Because to launch that campaign takes the same resources it does to launch a 30-year campaign, really. So it's not a very efficient way for us all to operate when the goal is to preserve more land.

I guess I just want to close in saying this funding has been part of what the State has already been paying for, for decades, right? Sometimes I feel like the conversation turns to, "Should we fund this or should we not fund it?" And "How can we add this on?" And really, we're not adding it on. We've been doing this for decades, and I think the question now is, "What's the best way to do that?" We've done it in a variety of ways: we've bonded, we've done the sales tax dedication -- which Governor Whitman championed. So I think I don't like to get lost in an

idea that, well, “This is an add-on and how do we fund it?” I mean, it’s one of the things the State has been funding as a priority and needs to figure, okay, how to do that the best way.

So that’s all I have for today. Thank you again for the opportunity to come and support this measure.

SENATOR SMITH: Thank you for your comments.

Daryn Iwicki, from the Americans for Prosperity, in opposition.

**DARYN IWICKI:** Thank you, Mr. Chairman, for the opportunity to come here today.

Quickly, I just wanted to cover a few quick things here. As I mentioned before, last time I came and spoke to you, there is a different method of going about in making sure that we have a long-term funding plan. That long-term plan is through private/public partnerships. There have been studies done out there that have been done here in the State of New Jersey. There was a task force that the Governor had set up with the DEP that showed if we were to take our State parks and enter them into there, we could have a net surplus of \$6 million to \$8 million. Now, \$6 million to \$8 million is a lot less than what we’re talking about today, but that is a good chunk of change to preserve some of our most cherished and historical sites here in the State of New Jersey. And I would challenge everybody to have an open mind on open space. Here is a good way of going about this particular issue in a long-term, fiscally responsible manner that we don’t have to bond, that we don’t have to borrow money, and that we don’t have to take money from other parts of the budget -- especially when we do have pensions that are going to be somewhere in the neighborhood of \$1 billion that we’re going to be paying into, right?

The State of New Jersey -- from what I understand -- from 2007 the State itself owns 15 percent land, outright. Now, according to the DEP Green Acres, from what I see -- and these are 2007 numbers, so this may be a little bit of a low-ball -- the State owns -- municipalities, etc., etc., our local governments -- over a million acres. You know what the square mileage is of a million acres? It is larger than the entire state of Rhode Island. We have preserved the entire state of Rhode Island in the State of New Jersey.

So what is too much? Where do we stop? My friends on the other side of this particular issue will talk of sprawl. Well, whose sprawl are we stopping? When I see a new home going up, I see a new business going up, you know what I see? I see people living the American dream, following their hopes, their desires, starting a business, having that first home for their children to play in. We're pushing people-- If we purchase more land, we are pushing people out of the market of owning a home. Inherently, the cost of property will go up in the State of New Jersey because there will be less of it to purchase. Rutgers did a study on this -- home prices, property values go up, which means a new family, those who are trying to get themselves moving forward, have fewer opportunities to do so.

Now, there are other things that we can do. I know the farming community here -- preserving our land; very important. I grew up in Hunterdon County. Senator Bateman, thank you for being my Senator. I grew up in Hunterdon County -- beautiful farmland everywhere. And I've seen some farmland go down and housing go up. And I'm okay with that. I grew up in an apartment as a child. My dreams and desires are to own a

home. That dream and desire is becoming increasingly difficult in the State of New Jersey.

Now, property taxes, other things, play a key role into that. But purchasing open space also plays a key role.

Now, folks will talk about water quality in the State of New Jersey. Listen, I don't agree with rules and regulations on what you can have in terms of your piece of land. I think people should be able to do what they want to do. But we already have rules and regulations in place, and I've seen this in my home town of Flemington, New Jersey, where I grew up in Hunterdon County. It's where you can regulate how much a home can take up of a parcel to protect the water and the runoff. And so when folks come up and talk about sprawl, whose sprawl are they really hurting? It's my sprawl. It's the sprawl of the folks who are trying to get out of the inner cities and purchase their first home, right? That's the sprawl that we're hurting.

And so I think that there is just a better way that we can move forward on this particular issue -- a long-term plan. So I would ask you, respectfully, instead of rushing this through, let's look at different alternatives that can be long-term, that we can use the property that we already have in the State of New Jersey and utilize that for the good of all. Because like I said, I enjoy good open space just as much as anyone else in this room. And so I just think that there are different methods and means to go about in making that happen.

Senator?

SENATOR SMITH: Thank you for your comments.

MR. IWICKI: I appreciate it.

SENATOR SMITH: Tom Gilbert, New Jersey Keep It Green, in favor.

**T O M G I L B E R T:** On behalf of the 185 member groups of the New Jersey Keep It Green Coalition, thank you, Chairman Smith, Senator Bateman, for your bipartisan sponsorship and leadership on this important issue. Thank you, Senator Whelan, Senator Greenstein, for your continued support on this issue.

Our coalition is grateful for the Senate's continued commitment to advancing a sustainable source of funding for land, water, and historic preservation efforts which are essential to protecting quality of life, public health and safety, and economic vitality in New Jersey -- the most densely populated state in the nation.

I wanted to call your attention to a recent draft report. This is from the New Jersey DEP -- the statewide Comprehensive Outdoor Recreation Plan -- which clearly demonstrates why a sustainable source of funding is needed, rather than a stop-gap approach. According to the report, there are still at least 650,000 acres of high-value lands that still need to be protected in New Jersey, long-term, to protect water quality, provide parks and recreation, and support the economy.

This does not include the 400,000 acres of critical farmlands identified by the Department of Agriculture that still need to be preserved to maintain a viable agriculture industry in the state. That's over 1 million acres that the State agencies have identified for long-term protection.

As you may know, Rutgers University has done various analyses, and they've projected that New Jersey will be the first state to reach build-out in the nation, around mid-century. So that means that

those lands that are still left, as either not developed or not yet preserved in the state around mid-century, will either be preserved or developed. So the question is: What happens to those 1 million acres of priority lands that State agencies have identified as important? The die will be cast in the next three decades.

And so I think one question that needs to be asked is: What happens if the State of New Jersey fails to make the investment over the next three decades to protect those critical lands? What happens if we don't protect the lands that are essential to maintaining agriculture in the Garden State -- the third-largest industry in the State? What happens if the State fails to protect the lands that safeguard the drinking water supplies for the State's population? What happens if the State fails to protect important natural flood buffers along rivers and along the coast when we have the inevitable next Superstorm?

So for all these reasons, this is why this cannot be kicked down the road. The State has to make this investment over the next three decades.

And Senator Smith, to your point that we're talking about six-tenths of 1 percent of the State budget. Do we think that it makes sense for the State of New Jersey to prioritize six-tenths of 1 percent of the State budget over the next three decades to protect these resources? Absolutely, without question.

The DEP report itself states that, "The preservation of land for conservation, public and recreation purposes will require a long-term, stable funding source along with a concerted planning and acquisition effort." SCR-2 would do exactly do that. It would provide a reliable source of

funding over the next three decades to protect these critical lands and resources before it is too late. In fact, it is the only viable proposal on the table that can accomplish this.

As Senator Smith described, a stop-gap bond measure would barely scratch the surface of these needs. It would bring no predictability in funding. A water user fee does not have sufficient public or political support to move forward. And those who don't support this approach haven't identified any viable alternatives that can provide long-term funding at \$200 million annually. And that is the amount, as Alison pointed out, that the State has already been investing in these programs over the last several decades. And the question is: Is the State going to continue that, or is it going to come to an end?

So we feel this is absolutely the right approach. The voters deserve the opportunity to have their say on this.

On the fiscal concerns, the legislation has been modified to include safeguards that will cap the funds at \$200 million a year -- which, by the way, is the amount that the State was investing back in 1998. So all we're talking about here is trying to maintain 1998 spending levels.

There is a mechanism to reduce funding if revenues were to fall. And it's important to note that revenues are not falling, they're growing. Sales tax revenues are up 8.5 percent year-to-date; they're projected to grow by \$445 million this year. And so that means that these preservation efforts could be funded using less than half of the growth in revenue, not at the expense -- not taking dollars away from existing needs.

And this is a wise investment. It will support key industries. Previous studies have shown that every \$1 invested will return \$10 in

economic value to the State through nature's goods and services, such as water filtration and flood control.

So in closing, we thank you for your continued bipartisan leadership. We urge the Assembly to work with the Senate and move this approach forward and give the voters an opportunity to have their say on the November ballot.

Thank you.

SENATOR SMITH: Thank you, Tom.

Jeff Tittel, Sierra Club -- neither in favor nor opposed.

**J E F F T I T T E L:** And the reason is that, unfortunately, I don't think this bill will move -- or this SCR is going to move in the Assembly unless we have a compromise.

Sierra Club's position has been all along that we want a long-term, stable, dedicated source of funding. That's our first and primary goal. We also have concerns that if we take it out of existing revenue and we dedicate those funds for a long period of time it would lead to cuts in other programs. For instance, when they say, "It's only one-sixteenth of 1 percent," we have a budget right now where this Legislature, in 1998, had passed a dedication -- not a constitutional dedication -- but a dedication of the societal benefits charge for clean energy programs to go forward to help people make their homes more resilient, to have rebates for solar, to be able to have rebates for high-energy efficient appliances. We're stealing that money. So we don't have the money for that, and that's already a program we passed. If we put and lock in -- for the next 30 years -- another \$200 million, what else is going to get robbed? We'll never see that money again.

And for us, that's an important piece of money that should be guaranteed and we would like to see that dedicated.

SENATOR SMITH: So what is your \$200 million of alternative revenue?

MR. TITTEL: Let me get into it, because I think we have to look at it. Because my biggest concern is, as you know, you've had how many hearings already, and the Assembly isn't going to move on it. Assembly leadership doesn't support it. Assemblyman Prieto is head of the Budget Committee. He knows all those different points that Senator Thompson said on our long-term funding problems, as does Majority Leader Greenwald. And I think we need to come up with a mix of some existing revenues, maybe, but also look at other alternatives. And that's really why I'm here to testify because I think we need to do that.

So I want to go back to the 1998 Governor's Council on the Outdoors report where they listed a bunch of different other options.

SENATOR SMITH: Hold for one second.

I think the comment that this has no chance on the Assembly is a misstatement. Senator Whelan will tell you that in Atlantic City one of the key phrases that's used at some of the casinos is, "new shooter, new direction," right? We have a new Speaker. And I'm hopeful that the new Speaker will provide a different direction. But we will see.

MR. TITTEL: Well, I just know from my own experience in watching Speaker Prieto as head of the Budget Committee dealing with all these other issues. And I don't think Environmental Chair Grace Spencer's comments have changed; and I don't think Lou Greenwald's, the Majority Leader, have changed. And that's why I think we need to work on a

compromise. Because the worst thing we could do is be at loggerheads over two different funding mechanisms and nothing happens, and then open space loses.

SENATOR SMITH: Well, you do realize that in the last session that's where the environmental community was. We have many, many groups in favor, but then you have some groups opposed. That didn't show a great deal of leadership either. Because you would think on an issue like open space preservation the environmental community would be united. Unfortunately, it wasn't.

MR. TITTEL: Well, we also have environmental groups opposing power lines through national parks, and other groups supporting it. We have groups that oppose fracking, we have groups that oppose pipelines; there are other groups that either have done mitigation work for that or have supported some of those projects. So there is always going to be splits.

SENATOR SMITH: It is okay to disagree.

MR. TITTEL: Right. Just like in labor, I mean, and just like within your own caucus -- there is going to be disagreements.

SENATOR SMITH: Democrats never disagree. (laughter)

But that being said, why don't you focus on the \$200 million of revenue that you are referring to.

MR. TITTEL: So I wanted to go back to the Governor's Council on the Outdoors report, where they had listed a group of different things: everything from a small fee on rental cars; they also proposed a carbon tax; gas tax--

SENATOR SMITH: How much does the small fee on cars come to? What's the total amount of dollars?

MR. TITTEL: That was about \$20 million.

SENATOR SMITH: About \$20 million for car fees. Okay, next.

MR. TITTEL: Water user fee, which your own--

SENATOR SMITH: Water tax? Not going to happen, but go ahead. And I would love it to happen. I mean, I've been espousing it for 25 years.

MR. TITTEL: Well, I actually think it could happen if it's part of a program to fix existing infrastructure.

SENATOR SMITH: And how many dollars do you put to the water tax?

MR. TITTEL: I would say, based on the 10 cents-per-thousand gallons, you could do about \$80 million a year.

SENATOR SMITH: So \$80 million, okay. Next?

MR. TITTEL: I think going back after leases of public lands that are being put out for 10 cents on the dollar, that would generate about \$25 million to \$30 million a year.

SENATOR SMITH: Okay, \$25 million.

MR. TITTEL: The report also called for a 5 percent fee on lands that go out of -- excuse me -- go out of-- Instead of a rollback, extending the rollback on farm land that gets a tax break--

SENATOR SMITH: Roll back taxes?

MR. TITTEL: Well, it's actually-- What they did in the report, instead of doing a rollback, they just had a 5 percent fee which would be about \$15 million a year.

SENATOR SMITH: Okay.

MR. TITTEL: Which would be a way to do it without going through the Constitution.

SENATOR SMITH: Okay.

MR. TITTEL: We would also support-- Assemblywoman Huttel has a bill in for a bottle bill--

SENATOR SMITH: Bottle bill.

MR. TITTEL: --with the money going for open space.

SENATOR SMITH: How many dollars on that?

MR. TITTEL: About \$25 million.

SENATOR SMITH: Okay, \$25 million. And you think that one will pass, too?

MR. TITTEL: Well, look, if we don't try we're going to end up with nothing.

SENATOR SMITH: Okay, next.

MR. TITTEL: And then the last one that I have is the plastic bag bill, which instead of going for Barnegat Bay could go for open space.

SENATOR SMITH: And how many dollars do you put down on that?

MR. TITTEL: It's about \$15 million to \$20 million.

SENATOR SMITH: All right.

MR. TITTEL: It could be more; could be \$25 million.

SENATOR SMITH: All right. So the new revenues in that -- new revenues -- are water tax at \$80 million, bottle bill at \$25 million, plastic bag bill at \$15 million. That's \$120 million. Well, I guess car fees would be new, too. So that's about \$160 million in new revenue, and then \$40 million of existing revenues. How do you protect that, in a perfect world. Let's suppose all six of these measures passed, all right? -- which would not be an easy thing, but let's suppose they did. How would you guarantee that it would be used for open space?

MR. TITTEL: You have to constitutionally dedicate it.

SENATOR SMITH: So constitutional dedication is not a problem?

MR. TITTEL: No, it's new revenue versus existing revenue -- is the problem for us.

SENATOR SMITH: All right. You need new revenue.

MR. TITTEL: At least a mix of new revenue.

SENATOR SMITH: Right.

MR. TITTEL: I don't think we can all take it from one source.

SENATOR SMITH: Yes, you have \$40 million in here of existing.

MR. TITTEL: I mean, and also there's been talk about the gas tax -- and I won't get into that, but when Governor Whitman first proposed open space it was on the gas tax. It was 2 cents for open space, which was about \$160 million.

SENATOR SMITH: Okay, thank you.

MR. TITTEL: I mean, so my point is I think we need to work on something and come up with a compromise, because if we don't we're all

going to lose out -- and that's my point. I think we need to figure this out a little more.

Thank you.

SENATOR SMITH: I appreciate the comments.

SENATOR WHELAN: Mr. Chairman.

SENATOR SMITH: Yes, sir, Senator.

SENATOR WHELAN: I certainly appreciate the comments, but--

SENATOR SMITH: The new shooter, new direction?

SENATOR WHELAN: Well, I like that, too. (laughter)

MR. TITTEL: I've crapped, too, as a new shooter.

SENATOR WHELAN: I just don't know, quite frankly, how realistic any of those proposals are. I mean, the plastic bag tax became an issue in the campaign I just had which, you know, is fine with me. I mean, I've--

MR. TITTEL: And you won, yes.

SENATOR WHELAN: But the reality is, I've used this analogy. It's a lot easier to break one pencil than it is to do three, or four, or five. If I give you five pencils to break in half -- maybe Senator Smith can because he's a big, strong guy -- but for most of us, that's hard. One pencil, yes. We can snap that.

The simpler, the better. Not to say that this bill is simple, but it's one stroke and we get where we need to be. I hear what you're saying and, in a perfect world, as the Chairman has said, it would be great to say, "Hey, we'll do a bag tax, and we'll do" -- what was the big one, the \$120 million water tax?

MR. TITTEL: Water tax, or a gas tax would be about \$160 million.

SENATOR SMITH: Yes, \$80 million is the water tax. That's the biggest item on here.

SENATOR WHELAN: I mean, that would be great, but I have no-- Sitting here, I have no sense of optimism of being able to do a water tax that Senator Smith is trying to pass -- went nowhere--

SENATOR SMITH: Only for 25 years.

SENATOR WHELAN: So if you have a consensus around one of those, now you have to go out and get another consensus around the next one, and the next one, and the next one to get to your \$200 million. Hey, listen, I can live with \$180 million, with all due respect to the Chair -- \$175 million. But I just see building a consensus on five or six different issues a lot more difficult than trying to build a consensus on one. We'll see where it goes in the Assembly, and maybe we'll be back here revisiting some of these suggestions. But I just think that's a very difficult -- trying to build a consensus for five or six different bills.

MR. TITTEL: I understand that, but I also think that a gas tax would get us almost there. And under the bill last year, only \$160 million was actually going for open space; \$40 million or \$50 million was going for stewardship. I agree. But I think that if we don't try to come up with some other funding mechanisms to help, my concern is it's not going to move in the Assembly and then we all lose out. And to me that's the critical part. And that's why I think we need to have that discussion.

SENATOR WHELAN: As the Chairman says, I really appreciate your input; I really do. But I think--

SENATOR SMITH: Senator Bateman.

SENATOR WHELAN: --one from column A, column B is (indiscernible).

SENATOR BATEMAN: I agree with my colleague.

Jeff, first of all, thank you. I mean, I appreciate you coming up with some suggestions. But, I mean, I just think that I'm hopeful that the new leadership, with the new Speaker, will at least be able to sit down with us. I think every time we advance this another time, I think it refocuses our energies on this very important issue. And I think if we send it to the Assembly one more time maybe they'll sit down. Maybe this is not the perfect solution, but some of the issues that you raised-- I mean, you know, if we even did the gas tax -- which I thought we should have done years ago -- it has to get to the Transportation Trust Fund. I mean, I think that the public would support that. There is a nexus between raising the gas tax and our infrastructure. But the bottle tax -- that's never going to fly. And so you talk about five or six initiatives which, you know, as Senator Whelan said, we could be optimistic. But I could never support a water tax. I know my party could never support a water tax.

You say it's not going anywhere. I think this our best approach. The Governor-- The Administration said that they want to come up with a stable source of funding. But, you know, I think the Governor's done a great job in many areas, but it's been four years and they haven't come up with any solution.

So where do we go from here? It's easy to say it's not going to happen. Well maybe--

MR. TITTEL: I agree.

SENATOR BATEMAN: The income tax, when they first proposed it, didn't happen. They kept proposing it. I'm not saying that's a good thing, but after a while the public realized it. And you know, to allow the public to vote on something like this -- let's give them the opportunity.

MR. TITTEL: Well, let me just respond in two ways: one, in the lower house, both the majority and the minority oppose this, as does the Governor. It makes it tough to pass. The other point is when you hear about the polling, I think if the public also knew that \$200 million taken out of existing revenue -- given New Jersey's other shortfalls for pension, transportation, our employment rate -- realize it might lead to cuts in monies that would affect them for schools and other things -- they may not be so positive in the polls. I don't think they would be, and that's part of the problem. It also could hurt our bond rating, because when you actually tie up money for that long the bond houses don't like it. And that's why you need to try to have a mix. And I think that would help.

By the way, your running mate, Jack Ciattarelli, actually put in a water fee bill. And Pete Biondi was a supporter in the past, too, by the way.

SENATOR BATEMAN: But not of the water tax.

MR. TITTEL: Yes, he was.

SENATOR BATEMAN: I don't think you're right, but--

MR. TITTEL: No, he was. He was a co-sponsor until DeCroce kind of knuckled him under -- but he was.

My point was that I think we need to try to work-- And there could be other revenue sources out there. I mean, I personally think going after some of these leases, which could probably -- should get us about \$25

million going after some of the rollbacks. If you start putting together at least a few things, it makes the hit a lot less onerous, which I think would buy more Assembly support.

SENATOR BATEMAN: Some of those are viable, I agree. But I also think it's a cop-out to say, "Oh, yes, we have \$200 million, now we're going to be cutting programs." I mean, you know, the whole belief behind this is that revenues are going to increase, the economy is going to get better, and we may not have to cut \$200 million out of our budget.

MR. TITTEL: And right now--

SENATOR BATEMAN: We may have the funding coming in.

MR. TITTEL: And right now there are people who are expecting to get rebates for their appliances and they're getting bupkes. And that's money that was supposed to be set aside and is being diverted as we speak.

SENATOR SMITH: It wasn't constitutionally dedicated.

MR. TITTEL: But the point is we have a shortfall in our budget and they grabbed it. And so this \$200 million means they're going to have to grab money from somewhere else, unfortunately. Unless we do something that somebody who ran for governor four years ago who didn't win said -- and I'm not talking about Corzine, but the other guy who talked about expanding sales tax to other areas to fund open space and other things. That was one of his proposals.

SENATOR SMITH: We appreciate the comments.

Tom Wells, Nature Conservancy, in favor.

Tom.

**T O M W E L L S:** Good morning, Chairman Smith, members of the Committee. Thanks so much for letting us testify on this bill.

We've been before you many times, as you know. I'm not going to go over some of the things that Tom Gilbert said, or that Alison Mitchell said -- from the New Jersey Conservation Foundation. But I did want to mention that some people have talked about doing this on an annual basis, or doing it through short-term bonds. And I just want-- I've lived this process of short-term bonds, both back in the 1990s when two bond acts were passed. They were supposed to be for at least three years, maybe more. They ran out after two years.

Then we had the Garden State Preservation Trust, which was a long-term source of funding. It was dedicated -- it was constitutionally dedicated. It worked pretty well. And then the Legislature and various Administrations haven't been able to agree on a long-term source since then. And so we have the 2007 Bond Act, which was supposed to be for one year and it got stretched to two. And then the 2009 Bond Act got stretched. It was supposed to be for two years and it got stretched to four, and now we're going into our fifth year of no new funding for open space.

And so these hit-and-miss, off-and-on funding cycles -- they just don't work in terms of preparing to do projects and negotiating.

And so all I'm saying is that this is really the only way that we can do it -- a constitutional dedication over a fairly long period of time so that organizations that are doing the work to preserve the land -- the State agencies, some of the many nonprofits that do this work -- can have a stable source of funding.

The other thing, as you mentioned, I think, before, is that this bill provides some funding for stewardship of our open lands. And we've had a great record in terms of-- We're probably the best state in the country in terms of putting away land and preserving land, partially because we don't have a big Federal footprint in the State. It's gone to the State and local government to preserve the lands in our state.

But those lands need to be stewarded. And this dedication provides \$40 million a year -- or that percentage of the \$200 million -- to allow for local governments, county governments, and also the State to provide better stewardship of their lands. And so I think that's really an important thing, too, that it wouldn't be provided for in a short-term bonding approach to preserving our State lands.

So thank you very much.

SENATOR SMITH: Thank you, Tom.

Ed Wengryn, New Jersey Farm Bureau, in favor.

**EDWARD D. WENGRYN:** Mr. Chairman and Senators, thank you for having the hearing today and for your earlier action in moving the proposal forward.

New Jersey Farm Bureau supports what you're doing here and a stable, long-term dedicated source of funding.

When a landowner is faced with the decision of what to do with their resource -- the biggest, largest investment they've ever had -- it's their land and how they move forward, moving the farm from one generation to the next, staying in agriculture or leaving agriculture. If they leave agriculture, there are two buyers: developers -- whether it's commercial

or residential -- or the State through preservation and ensuring the land stays available for future agriculture.

Without this funding source in place, the only exit strategy is having the land leave agriculture. So it's important to come up with a stable, long-term source of funding to continue that option of preservation and ensuring that agriculture has a future in the Garden State.

That's why we support this proposal, plain and simple. It's the only thing out there that's looking long-term, stable, and ensuring an option for landowners on how they-- It's a willing seller-willing buyer proposal. The 17 counties have done comprehensive preservation plans for agriculture. They have an agricultural master plan on how to do preservation. The dollars are not spent willy-nilly; they are targeted areas. There are landowners who they approach constantly to encourage, "When the time comes, we'll be here." They can't make those commitments anymore. They can't go out there. There are local dollars and county funds, but they're limited. So they don't have the broad reach they have had in the past. The State provided -- when dealing with nonprofits -- 50 percent of the funding; when dealing with county and local governments, 60 percent of the funding. So that's the largest part of making the commitment to land preservation in agriculture.

The other part of the agriculture program is it is a private/public partnership. The landowner is selling their developing rights -- the commercial development rights, residential development rights. They are retaining the agricultural value, they are maintaining the land for agricultural use, and they are keeping it available for future agriculture.

So there is no burden on the local tax system. There's no burden on the State for the maintenance. That's in the hands of the private landowner who retains those rights and privileges on those properties. They stay part of the agricultural economy, supporting the food and agricultural complex in this state -- which we've already talked about is the third-largest industry. That's why it's really important to make the commitment now so that these things can go. In the last-- Since the 1980s, when the Farmland Retention and Development Act came about, we've preserved over 200,000 acres. We've talked about -- through the other reports that you've heard -- another 400,000 is needed. There are just over 750,000 lands in active agriculture now. It's a race against the clock, and the clock starts now.

So thank you for doing this. We continue to work with you on moving forward.

The other thing I will say: This is the stepping stone. All of those funding opportunities that Jeff and people have put out to enhance State revenues, they are always on the table, they are always options. What you're saying is, "We're taking this action now to ensure this program," and if these can do offsets in the future, let them come down in the future, and as they happen-- But make the commitment now. And that's what I think this proposal does.

So thank you very much.

SENATOR SMITH: Ed, we need your help -- the New Jersey's Farm Bureau's help.

MR. WENGRYN: We're working on it.

SENATOR SMITH: Well, I'm hoping that we're going to see this posted in the Senate. And there were a number of Senators from rural districts who were not supportive, which makes no sense.

MR. WENGRYN: And we are having conversations with them, and working it out, getting their support.

SENATOR SMITH: Right, right.

MR. WENGRYN: They know how important it is to their members and the farmers.

SENATOR SMITH: And then, step two -- same thing on the Assembly side.

MR. WENGRYN: Yes.

SENATOR SMITH: We need to get--

MR. WENGRYN: We're working across--

SENATOR SMITH: We need to let people know how important farming is to the State of New Jersey, as well as open space and historic preservation. And you guys could have a key role in that.

MR. WENGRYN: And we're doing it.

SENATOR SMITH: Thank you, Ed.

MR. WENGRYN: Thank you.

SENATOR SMITH: Stacy McCormack, American Littoral Society, in favor.

**S T A C Y M c C O R M A C K:** I'll just keep my comments brief and specific to the Blue Acres Program, because that's the program that we're most concerned with.

This bill is obviously critical. Sustainable funding is critical to moving people out of harm's way, as you had mentioned earlier. And we

can't continue to put people right back in harm's way, back into vulnerable places, back in front of the storms that we know are coming again, for repeated, extreme weather events.

The purpose of the Blue Acres Program is for local, county, municipal, and State governments to have the funds to buy out these properties and move people out of the way. These properties are often in clusters that flood over and over again, causing repeated damage to the environment, residents' lives, businesses, and immeasurable costs to rebuild infrastructure. We need to continue to move people out of harm's way, rebuild the infrastructure, and stop only relying on FEMA dollars to do it. The State is not putting dollars into the programs that it needs to. These are the unmet needs -- these are the unmet needs that we keep hearing about over, and over, and over again at all of the Sandy hearings that you, thankfully, held this summer. We keep hearing about the unmet needs and no one is talking about how to cover that. These are the dollars that can fill that gap, and part of that is also helping municipalities plan for strategic retreat in the cases where it is necessary, and helping them move people and businesses, residents -- and restore the ecosystem -- out of the way of extreme weather events.

So not only is it preservation for farmland and open space, but we are talking about moving people away from another storm event; and beyond that need, that we continue to talk about ways to help Sandy victims. So it isn't just a couple of the things that we've already covered, but it's really a flood plain management in that program as well.

SENATOR BATEMAN: Mr. Chairman, if I may comment on this.

Thank you very much for bringing that up. That's one of the more important aspects of this legislation. I attended a meeting last week, again, in Manville. It was attended by over 200, 250 residents, many of them just begging for buyouts. Because if you know Manville at all, they haven't been hit once -- they've been hit probably, in my lifetime, a half a dozen times. And you know what? We have to move them out of harm's way. This would be-- Obviously, this would be very important revenue for that whole process. And the DEP was there; they were great. But they are saying, "We've waited long enough." And you know, the shore, obviously, is very important, too, but so are the flood-prone areas. So I'm glad you raised that point.

SENATOR SMITH: And, by the way, the last huge hit to Manville was Flood Floyd. And in Flood Floyd we did catastrophic relief. We did \$100 million of State money so that we could do things like buyouts and other things to get people and property out of harm's way. It's kind of a shame we haven't done anything this Superstorm.

Bill Kibler, Raritan Headwaters Association, in favor.

Bill.

**B I L L K I B L E R:** Mr. Chairman, thank you. Just getting over bronchitis -- pardon my voice.

Raritan Headwaters supports a long-term, constitutionally dedicated source of funding for open space preservation in New Jersey. One of the primary reasons that we do is that we see many of the challenges that you see, that we've been dealing with for some time. We deal with the issue of protecting water quality on a daily basis; we're concerned about flooding

issues both in our watershed and downstream of our watershed. We're concerned about the long-term viability of agriculture in our state.

None of those challenges arose overnight. None of those challenges arose in the course of the last year. And we're not going to be able to address any of those challenges overnight, or address any of those challenges in the course of a year. We need a long-term plan, which many of the organizations in this room have helped contribute to. And we need a sustainable form of long-term funding -- and this bill does that. So I think this is an excellent opportunity, and that's why we support the bill.

There is an extensive amount of need outstanding. You've heard it, I guess, on the global scale. We're just a little bitty watershed association. We cover about 470 square miles. I have, on my desk, 12 pending open space preservation projects. We are not a land conservation organization; we're a watershed association. And I've got 12 projects now that have been sitting on my desk for between six months and five years, depending on the project. Because, as you heard, they take time to develop. And I'm sure that my colleagues have a lot more opportunities out there than what we do, because we're not actively out seeking them. These are all projects where people have come to us asking to preserve property.

One of the keys to these projects is that they are all public/private partnerships. Open space preservation in New Jersey is an excellent example of a successful public/private partnership. Every one of the 12 projects that I have outstanding right now is a partnership between a nonprofit -- at least one; myself and sometimes partners -- a municipal partner -- because we always work with one of the 39 municipalities in my watershed; typically one or more State agencies; our private funders, as well

as our foundation funders; and, most importantly, a willing seller. It doesn't happen without a willing seller.

If you want to see need, if you want to physically see the need for more open space preservation efforts in this state, I invite you to come to my watershed on any pleasant, summer day -- please don't do it right now, or any time this week with the temperatures in the single digits -- but come out to the State Park at Spruce Run Reservoir on any weekend when the weather's nice. But don't bother coming after 10:00 a.m., because the gates will be closed because the parking lots are full, the beaches are full, the hiking trails are full. They have to close the parks at roughly 10:00 a.m. every morning on weekends.

So I'd invite you to come out on a weekend and meet with those people and ask them if they'd like to have a voice in open space preservation in our state. In fact, better yet: Ask the people in line who aren't making it in the gate if they'd like a voice in open space preservation in our state. Most of those folks who are using those State parks in my watershed do not live in my watershed. There is some local use, but it's a lot of folks coming from outside. And one of the beauties of open space preservation in New Jersey -- although we have a lot of work to do with preserving and making open space successful in our urban areas -- New Jersey is a small enough state that when we invest in open space preservation, we're largely investing in open space that is accessible to the people of the State of New Jersey. And that's what I'm seeing in my watershed: folks coming from outside the watershed on day trips. Because they don't have to go to the Adirondacks, which is no way a day trip. They can come to open space right here in their state.

I just wanted to close by thanking the Committee for your leadership on this effort. And I especially want to thank Senator Bateman and Chairman Smith for your perseverance on this issue. I try not to make a habit of coming to Trenton, but I'm going to keep coming until we make this happen. And thank you for your efforts.

SENATOR BATEMAN: Until we get it right. (laughter)

SENATOR WHELAN: It will be a long time before we get it right, Bill.

SENATOR SMITH: Jennifer Coffey, Stony Brook-Millstone. Are you here, Jennifer?

SENATOR BATEMAN: She's here.

SENATOR SMITH: And Jennifer didn't mark in favor or opposed.

SENATOR BATEMAN: Well, I suspect she's in favor. (laughter)

**JENNIFER COFFEY:** Merely an oversight on my part. (laughter)

Thank you. Jennifer Coffey; I'm the Policy Director with the Stony Brook-Millstone Watershed Association. And we are a member of the New Jersey Keep It Green Coalition, and are in strong support of SCR-2.

So in the interest of time, I'd like to just take a few minutes to talk about the need and the importance of long-term, stable funding in connection with water. And particularly with New Jersey's water issues.

So clean water has been in the news quite a bit in the past few weeks with regard to West Virginia, and the chemical spills, and the individuals who are out of water there. There are reoccurring stories from

Pennsylvania and a number of places in our country with regard to the impacts of fracking, as well as other water contamination issues.

In New Jersey we really only have three water problems: We have too much water. We have too much water from flooding, we have too much water from stormwater runoff, and that is simply an inherited issue with the 350 years worth of development that we have here in New Jersey. So we have too much water.

We also have the flip side of the coin, which is we have too little water. And anyone who has lived through a drought in New Jersey or has had the privilege of taking a look at something called the Water Supply Master Plan, which is woefully out-of-date, or has the privilege of driving around New Jersey knows that we have developed many, many areas. And many of those areas that are developed are preventing our rainwater from infiltrating the ground and recharging our groundwater sources -- which is where 50 percent get their drinking water from.

So we have too much water, we have too little water, and we also have too dirty of water. So 50 percent of our drinking water sources violate clean water standards; 89 percent of our -- let me get this right -- swimming waters violate clean water standards; and 99 percent -- that's 99 percent -- of our waters that are designated for fishing violate clean water standards. So we have too much water, too little water, and too dirty of water.

There are a number of plans that exist: watershed management plans, characterization and assessment plans. Senator Bateman talked about Manville, so flood mitigation plans. The common theme in these plans -- which are well developed to address New Jersey's water issues -- is

acquisition. And long-term, stable funding, as you've heard from a number of folks today, is really critical in moving forward with those acquisition plans.

So if we have a hope of addressing our water issues in New Jersey -- water which is so fundamentally critical to our top industries -- tourism, pharmaceutical, agriculture -- as well as our need to drink it, swim in it, and fish in it, we have to pass long-term, stable funding.

So I want to thank you for your commitment here today. I want to thank you for your insight into this issue. And I want to thank you for your tenacity on this issue in bringing this up again. And we will continue to work hard on this, as we know that you will as well.

Thank you.

SENATOR SMITH: Thank you.

And our last speaker is Dave Pringle from Clean Water Action, in opposition.

**DAVID PRINGLE:** Thank you, Mr. Chairman.

I am with Clean Water Action; I always have been. For the last 25 years Clean Water Action, the Garden State Chapter, has done business as the New Jersey Environmental Federation. But we've recently decided to go back and simplify things and just be Clean Water Action.

We share the same concerns as the Sierra Club. I just want to not beat a dead horse, but highlight a couple of points.

Right now, nothing's viable. This bill isn't any more viable than any of the revenue options that Jeff laid out. Assemblyman Prieto very clearly stated in December that he wasn't supportive of taking \$200

million of the existing revenue, and nothing has occurred since then to suggest anything has changed.

And he's done that for some of the same concerns that we have. In addition to the things that have been previously discussed, the Transportation Trust Fund is broke, the Democratic caucus has raised alarm bells at what the Governor said in terms of pensions just a week or so ago. The pension payments are going to be increasing dramatically; we don't currently have a way to pay for that. The Democrats, rightfully, opposed the Governor's plan to cut property taxes because there wasn't a way to pay for that. Schools need more money, and everything else.

So unless you're going to say what's getting cut -- and it is a cut, because revenue isn't growing at any greater rate than our expenses are growing. So to say sales tax revenue is growing by \$500 million, that's great. But so is inflation and everything else, so the growth in sales tax revenue isn't net, it's gross, and it doesn't get us anywhere. In fact, this bill is a much greater cut of new revenue than the 1998 plan. In 1998 we were taking \$98 million of existing sales tax revenue when it was growing by about \$1 billion a year. So that was 10 percent of the existing growth. This is \$200 million out of \$400 million to \$500 million, so that's a 40 to 50 percent chunk out of revenues. So it's a greater cut than the 1998 plan, at a time when the State is in much less strong fiscal shape.

And it's all well and good to have a \$200 million cap and have it be even less than that if revenue fails. But for the revenue to fail so much that that kicks in, then what little growth there is, is even more needed for all of the government programs that we're currently funding -- not even

including all the other things we want to be funding that we're currently not, like Transportation Trust.

There are other revenue options on the table. We can constitutionally dedicate REGI and those funds could be going to open space. Senator Lesniak has a bill in, and Senator Smith had bills in to that effect -- that doesn't require the Governor sign off. It doesn't require-- It only requires two simple majorities or 60 percent, and there has been Republican and Democratic support that if the leadership would move those bills, that bill is actually more viable than anything else that we've been talking about today. That's \$50 million, \$60 million a year right there. Obviously, some of that should be going to Clean Energy, but that's another revenue. Sales tax is being expanded to the Internet. So there are a lot of options out there.

That said, we very much appreciate-- We obviously want open space funded, and we are hopeful that moving this bill forward will stimulate the debate and the need for compromise, and get everybody to the table to come up with something that is, in fact, viable. Because right now, nothing is viable.

Thank you.

SENATOR SMITH: Thank you for your comments.

There are no other slips. That concludes our hearing.

Thank you, everyone, for participating.

**(HEARING CONCLUDED)**