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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2025

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A N A C T

RELATING TO AGRICULTURE AND FORESTRY -- OLD GROWTH FOREST  
PROTECTION ACT

Introduced By: Representatives Shanley, Bennett, and Phillips

Date Introduced: February 05, 2025

Referred To: House Environment and Natural Resources

It is enacted by the General Assembly as follows:

1 SECTION 1. Legislative findings.

2 (1) Current Rhode Island laws do not provide protection for forestland apart from existing  
3 wetland protection laws.

4 (2) Rhode Island is the only state in New England that has no state-owned forests protected  
5 in their natural state.

6 (3) The world is facing a biodiversity crisis where populations of native species are  
7 declining at an alarming rate and many species are facing extinction. Native species in Rhode Island  
8 are at risk of becoming regionally extinct due to habitat destruction.

9 (4) Old growth forests are significant ecosystems where native trees, plants, and animals  
10 live.

11 (5) There are certain animals, insects, birds, and plants that only live in old growth forests.

12 (6) Old growth forests are important carbon sinks which store more carbon than an average  
13 Rhode Island forest, and, if cut, would release its stored carbon into the atmosphere contributing to  
14 Climate Change.

15 (7) Old growth forests are extremely rare, and once cut, may not come back for one hundred  
16 (100) years or more.

17 (8) According to the 2020 forest action plan prepared jointly by the Rhode Island  
18 department of environmental management and the United States forest service, only one percent

1 (1%) of Rhode Island’s forests are over one hundred (100) years old.

2 (9) Clearcutting, and other forms of destructive logging, increases the presence and spread  
3 of invasive plants, which can outcompete native plants and harbor ticks.

4 (10) Natural heritage areas on state-owned land have been logged.

5 (11) Clearcutting of forests creates carbon emissions which does not comply with the goals  
6 of chapter 6.2 of title 42 ("2021 act on climate").

7 (12) Clearcutting and most other types of logging of natural forests increase the occurrence  
8 of destructive brush fire by promoting dry, flammable logging debris, small trees, and underbrush  
9 including grassy weeds.

10 (13) Wildfires were at their lowest point when the state was dominated by old growth  
11 forests due to old growth forests being more resistant to wildfires. Wildfires increased in the 19<sup>th</sup>  
12 and early 20th centuries after the primeval old growth forests were clear cut.

13 (14) According to the United States Department of the Interior, nationally, almost nine (9)  
14 out of ten (10) wildfires are caused by humans.

15 (15) In 2007, the Rhode Island natural heritage program was discontinued.

16 (16) Not one natural area preserve has been designated since the passage of chapter 122 of  
17 title 42 ("natural areas protection act of 1993").

18 (17) According to the 2023 report, “Wildlands in New England,” based on research  
19 conducted by Harvard Forest, Highstead Foundation, Northeast Wilderness Trust, and Wildlands,  
20 Woodlands, Farmlands and Communities, Rhode Island is the only state in New England with no  
21 protected Wildlands on public land.

22 (18) The natural area preserves qualify as wildlands.

23 (19) It is a matter of public benefit that old growth forests be untouched and left in their  
24 natural state.

25 SECTION 2. Title 2 of the General Laws entitled "AGRICULTURE AND FORESTRY"  
26 is hereby amended by adding thereto the following chapter:

27 CHAPTER 28

28 OLD GROWTH FOREST PROTECTION ACT

29 **2-28-1. Short title.**

30 This chapter shall be known and may be cited as the “Old Growth Forest Protection Act”.

31 **2-28-2. Definitions.**

32 As used in this chapter, the following terms have the following meanings:

33 (1) “Buffer area” means an area on land owned by the state or its cities and towns  
34 immediately adjacent to an old growth forest or natural area preserve that is of sufficient size and

1 configuration for each old growth forest or natural area preserve to protect the area from  
2 ecologically harmful human activity or alteration.

3 (2) “Clearcutting” means an even-age extractive logging operation that removes most or  
4 all of the trees over a considerable portion of a stand at one time.

5 (3) “Council” means the state planning council in the division of statewide planning of the  
6 State of Rhode Island.

7 (4) “Even-age extractive logging operation” means an extractive logging activity that:

8 (i) Creates a clearing or opening that exceeds one-fifth (1/5) acre;

9 (ii) Creates a stand in which the majority of trees are within ten (10) years of the same age;

10 (iii) Within a period of thirty (30) years, cuts or removes more than the lesser of the growth  
11 of the basal area of all tree species (not including a tree of a non-native invasive tree species) in a  
12 stand; or twenty percent (20%) of the basal area of a stand; and

13 (iv) Includes the application of clearcutting, high grading, seed-tree cutting, shelterwood  
14 cutting, or any other logging method in a manner inconsistent with selection management.

15 (5) “Extractive logging” means the felling or removal of any trees from a forest for any  
16 purpose.

17 (6) “Forest” means any area of land over one acre in size with a concentration of trees and  
18 related vegetation which has the capacity for self-perpetuation.

19 (7) “Forestry vehicle” means every vehicle which is designed for and used for forest  
20 product operations purposes involving the harvesting, production, maintaining, and sale of forest  
21 products originating in the state, and used by the owner of the vehicle or family member(s) or  
22 employee(s) or designees of the owner, in the conduct of the owner's forestry product operations,  
23 which use shall include the delivery of forest products produced by the forester.

24 (8) “Natural area preserve” means a natural area preserve as defined in § 42-122-3.

25 (9) “Natural heritage areas” means the mapped rare natural communities and locales where  
26 rare or endangered species listed in the Rhode Island natural heritage data carry out important  
27 lifecycle activities to include, but not limited to, breeding, hibernating, and feeding, with eligibility  
28 questions to be resolved by the coordinator of the natural heritage program. Such determination  
29 shall constitute a "contested case" as defined in § 42-35-1.

30 (10) “Old growth forest” means a contiguous forest at least five (5) acres in size that  
31 exhibits at least six (6) of the following characteristics with eligibility questions to be resolved by  
32 the coordinator of the natural heritage program. Such determination shall constitute a "contested  
33 case" as defined in § 42-35-1:

34 (i) Contains an ecologically significant number of trees over one hundred (100) years old

1 as of July 1, 2025;

2 (ii) Shows no evidence of significant human disturbance that originated on the site within  
3 the past one hundred (100) years;

4 (iii) Has an abundance of late successional tree species, with at least a majority of canopy  
5 trees that exceed half their maximum biological age including numerous large diameter trees;

6 (iv) Consists of complex structural diversity of old, young, and middle-aged trees at  
7 different canopy levels;

8 (v) Contains large standing dead trees called "snags", live trees with cavities, dead, broken,  
9 or decaying parts or canopy gaps due to natural disturbance;

10 (vi) Has coarse woody debris along the forest floor consisting of abundant dead wood in  
11 various sizes and stages of decay;

12 (vii) Has an abundance of lichen and moss on trees, and decaying logs on the ground;

13 (viii) Has the presence of balding bark on the older trees;

14 (ix) Has the presence of stag-headed shaped tree crowns among the older trees in the forest;

15 (x) Has the presence of an ecologically significant natural community or diversity of native  
16 tree species; or

17 (xi) Has the capacity for self-perpetuation.

18 (11) "Prescribed burning" means the intended controlled application of fire by the  
19 department of environmental management, fire departments, or any other agency of the state.

20 (12) "Rare forest ecosystem" means any contiguous forest over one acre in size that  
21 contains a high level of native biodiversity, old growth forest characteristics, or any characteristics  
22 that makes the forest ecologically distinct as determined by the natural heritage program.

23 (13) "Wildlands" means tracts of any size and current condition, permanently protected  
24 from development and extractive logging, in which management is explicitly intended to allow  
25 natural processes to prevail with free will and minimal human interference.

26 **2-28-3. Prohibitions.**

27 (a) Extractive logging conducted in old growth forests on state-owned land, or any land  
28 owned by the cities and towns of Rhode Island, is strictly prohibited, except as provided in § 2-28-  
29 4.

30 (b) Extractive logging conducted in a natural area preserve is strictly prohibited, except as  
31 provided in § 2-28-4.

32 (c) Clearcutting conducted in any forest on state-owned land is strictly prohibited.

33 **2-28-4. Exception for hazard trees and invasive trees.**

34 (a) Felling of individual trees bordering trails that constitute a safety hazard as determined

1 by the natural heritage program, established pursuant to the provisions of § 42-467-2, may be  
2 permitted in old growth forests and natural area preserves on state-owned land, or any land owned  
3 by the cities and towns of Rhode Island, subject to the approval of the natural heritage program,  
4 and such trees shall remain in the forest and left where they fell, or a short distance from the trail  
5 to avoid constituting an obstruction or hazard.

6 (b) Felling of invasive trees that are non-native to the state and threatening to native  
7 ecosystems as determined by the natural heritage program may be permitted in old growth forests  
8 and natural area preserves on state-owned land, or any land owned by the cities and towns of Rhode  
9 Island, subject to the approval of the natural heritage program.

10 (c) No forestry vehicle shall be used to fell any trees in old growth forests and natural area  
11 preserves on state-owned land, or any land owned by the cities and towns of Rhode Island.

12 **2-28-5. Requirements.**

13 (a) All state and municipal owned forests over one acre in size prior to scheduled extractive  
14 logging operations and prescribed burning operations shall undergo an inventory conducted by the  
15 natural heritage program, pursuant to the provisions of chapter 167 of title 42, to determine if the  
16 forest meets the criteria to be designated as an old growth forest, natural heritage area, or rare forest  
17 ecosystem, as defined in § 2-28-2. The natural heritage program shall be notified of the extractive  
18 logging operation and prescribed burning operation no less than three (3) months in advance. All  
19 documents pertaining to the extractive logging operation or prescribed burning operation shall be  
20 turned over to the natural heritage program at the same time as the initial notice. A report of the  
21 inventory prepared by the natural heritage program with the data collected shall be submitted to the  
22 council and made easily available to the public at least four (4) weeks before any extractive logging  
23 or prescribed burning takes place on state-owned land and land owned by the cities and towns of  
24 Rhode Island. All extractive logging operations on state-owned land in forests over one acre in size  
25 are subject to the approval of the council which upon consultation with the natural heritage program  
26 shall determine whether the extractive logging operation involves clearcutting, or any other  
27 ecologically destructive logging practice, or creates a fire hazard. No extractive logging operation  
28 or prescribed burning operation shall take place until after the natural heritage program's report  
29 and after the council's approval. There shall be a visual record of all extractive logging operations  
30 on state-owned land, as well as felling of hazard trees and invasive trees in old growth forests on  
31 state-owned land and land owned by the cities and towns of Rhode Island, and in the natural area  
32 preserves, containing images and video of the trees intended to be felled and nearby trees before  
33 and after the extractive logging operation and the felling of hazard trees and invasive trees takes  
34 place. The visual record shall be the responsibility of the natural heritage program.

1           (b) All extractive logging operations and prescribed burning operations of forests over one  
2 acre in size on state-owned land shall only take place after a public hearing and upon notice. The  
3 notice shall set forth the substance of the proposed action and describe, with or without legal  
4 description, the area affected and shall set forth the time and place of the hearing and shall be  
5 published at least twice a week for three (3) successive weeks before the hearing in a newspaper  
6 published in the county where the property is located and in a newspaper with statewide  
7 distribution. No action shall be taken by the state prior to the expiration of sixty (60) days after the  
8 notice is published. During the sixty (60) day period, any scheduled extractive logging operation  
9 or prescribed burning operation may be appealed by any resident of this state in a suit brought  
10 against the department of environmental management in the superior court in the county of  
11 Providence. In any action, the court shall vacate the extractive logging operation or prescribed  
12 burning operation if it finds the operation violates state or federal law. During the pendency of an  
13 appeal the state shall take no action pursuant to the scheduled extractive logging operation or  
14 prescribed burning operation.

15           (c) Whenever any land is acquired by the state, or any of its cities and towns, an inventory  
16 shall be conducted by the natural heritage program to determine if the forest meets the criteria to  
17 be designated as an old growth forest, natural heritage area, or rare forest ecosystem, as defined in  
18 § 2-28-2. No extractive logging or prescribed burning shall take place in any acquired land by the  
19 state before the natural heritage program completes its inventory.

20           (d) The natural heritage program, established pursuant to the provisions of § 42-167-2,  
21 shall conduct an inventory of the forests on state-owned land and land owned by the cities and  
22 towns to determine the extent and condition of old growth forest stands, natural heritage areas, and  
23 rare forest ecosystems. The preliminary identification of old growth forest stands, natural heritage  
24 areas, and rare forest ecosystems shall include an estimate of necessary buffer areas, including an  
25 explanation of the rationale for the estimated size and shape of the buffer areas. The maps shall use  
26 GIS type mapping software with data of species, land features, soil, water, invasives, and other  
27 relevant ecological data in the map files. The maps and data shall be made available to the public  
28 on a state website. All old growth forests, natural heritage areas, and rare forest ecosystems on  
29 state-owned land identified in this inventory shall be considered for designation as natural area  
30 preserves.

31           **2-28-6. Preservation and protected funding.**

32           Protecting the remaining areas of old growth forests, as defined in § 2-28-2, shall be a  
33 priority for the State of Rhode Island and annual application to the general assembly by the division  
34 of statewide planning for appropriations to fund the natural heritage program, established pursuant

1 to § 42-167-2, shall be made to carry out the provisions of this chapter.

2 **2-28-7. Penalties.**

3 (a) Any person, firm, or corporation violating the provisions of §§ 2-28-3, 2-28-4, or 2-  
4 28-5, shall be subject to a civil penalty of not less than five thousand dollars (\$5,000) and not more  
5 than twenty-five thousand dollars (\$25,000) for each offence.

6 (b) It is the duty of the associate director for planning to conduct the hearing brought by  
7 the coordinator of the natural heritage program under the provisions of this chapter, chapter 122 of  
8 title 42 ("natural areas protection act of 1993"), and chapter 167 of title 42 ("natural heritage  
9 program").

10 SECTION 3. Title 42 of the General Laws entitled "STATE AFFAIRS AND  
11 GOVERNMENT" is hereby amended by adding thereto the following chapter:

12 CHAPTER 167

13 NATURAL HERITAGE PROGRAM

14 **42-167-1. Short title.**

15 This chapter shall be known and may be cited as the "Natural Heritage Program".

16 **42-167-2. Natural heritage program.**

17 (a) There is hereby established within the division of statewide planning a natural heritage  
18 program.

19 (b) The natural heritage program shall consist of a coordinator who shall be appointed by  
20 the associate director for planning, and support personnel appointed by the coordinator. The  
21 coordinator is required to have an advanced degree in one or more of the following: conservation  
22 biology, botany, zoology, or forest ecology. In addition, the coordinator should have experience in  
23 planning or managing natural forest ecosystems for the purpose of preservation through passive  
24 management. The coordinator and employees of the natural heritage program shall not have been  
25 previously employed in any capacity by the timber industry including advertising, legal, or  
26 lobbying.

27 (c) The natural heritage program shall have the following powers and duties:

28 (1) To find, monitor, and protect native biodiversity, old growth forests, rare forest  
29 ecosystems, and rare and endangered natural species in the State of Rhode Island;

30 (2) To inventory old growth forests, rare forest ecosystems, rare and endangered natural  
31 species, and areas with unique native biodiversity as set forth in § 2-28-5;

32 (3) To designate the natural area preserves as defined in § 42-122-3;

33 (4) To maintain the natural heritage database;

34 (5) To create a biodiversity protection plan;

- 1           (6) To create a rare and endangered species list;
- 2           (7) To create a list of invasive species in Rhode Island;
- 3           (8) To conduct such hearings, examinations, and investigations as may be necessary and  
4 appropriate to the conduct of its operations and the fulfillment of its responsibilities;
- 5           (9) To obtain access to public records and apply for the process of subpoena, if necessary,  
6 to produce books, papers, records, and other data;
- 7           (10) Accept on behalf of the state, gifts, grants, or loans of funds, personal or real property,  
8 or services from any source, public or private, and comply, subject to the provisions of this chapter,  
9 with the terms and conditions thereof;
- 10          (11) Accept, from a federal agency, loans or grants for use in carrying out its purposes and  
11 enter into agreement with the agency respecting any such loans or grants;
- 12          (12) To retain by contract or employ counsel, auditors, engineers, appraisers, private  
13 consultants and advisors, or other personnel needed to provide necessary services;
- 14          (13) To create forest management plans in coordination with municipalities for the natural  
15 area preserves on land owned by the cities and towns;
- 16          (14) To create forest management plans in coordination with private landowners for the  
17 natural area preserves on land owned by private landowners;
- 18          (15) To formulate policies and plans and to adopt regulations necessary to implement  
19 protections for native biodiversity, old growth forests, rare forest ecosystems, and rare and  
20 endangered natural species, and to carry out the provisions of this chapter;
- 21          (16) To make any studies of conditions, activities, or problems of the state's natural area  
22 preserves needed to carry out the natural heritage program's responsibilities; and
- 23          (17) To develop educational materials and to carry out educational programs for the public  
24 about the native biodiversity in Rhode Island's old growth forests and natural areas, and the state's  
25 natural history.

26          (d) The natural heritage program as set forth in this chapter shall be a separate entity from  
27 the natural heritage preservation program as set forth in chapter 17.5 of title 42 ("natural heritage  
28 preservation program"). Nothing contained in chapter 17.5 of title 42 shall be applicable to or  
29 restrict the natural heritage program as set forth in this chapter.

30           SECTION 4. Sections 42-122-3, 42-122-4, 42-122-5, 42-122-6 and 42-122-7 of the  
31 General Laws in Chapter 42-122 entitled "Natural Areas Protection Act of 1993" are hereby  
32 amended to read as follows:

33           **42-122-3. Definitions.**

34           As used in this chapter:



1 (1) “~~Director~~ Coordinator” means the ~~director~~ coordinator of the ~~department of~~  
2 ~~environmental management~~ natural heritage program of the ~~state~~ State of Rhode Island.

3 (2) “Council” means the state planning council in the division of statewide planning of the  
4 State of Rhode Island.

5 ~~(2)~~(3) “Natural area preserve” means areas of most environmentally sensitive or  
6 ecologically valuable land and/or water containing habitat suitable for plant or animal life or  
7 geological features of biological, scientific, educational, geological, paleontological, or scenic  
8 value worthy of preservation in its natural condition which has been approved by the ~~director~~  
9 coordinator with the consent of the council.

10 **42-122-4. System of natural area preserves.**

11 The ~~director~~ coordinator shall establish a system of natural area preserves and shall have  
12 the responsibility as set forth in this chapter for selection of all natural area preserves within the  
13 system, and shall ensure that these preserves are maintained in as natural and wild a state as is  
14 consistent with educational, scientific, biological, geological, paleontological, and scenic purposes.  
15 The ~~director~~ coordinator shall ensure the use of natural area preserves for research and other  
16 purposes consistent with the intent of this chapter. The ~~director~~ coordinator may adopt regulations  
17 for establishing and managing the natural area preserve system including, but not limited to,  
18 procedures for the adoption and revision of a management plan for each designated natural area  
19 preserve.

20 **42-122-5. Procedure for designation of non-state owned land as a natural area**  
21 **preserve.**

22 (a) The ~~director~~ coordinator may approve non-state owned land as a natural area preserve  
23 ~~only upon the recommendation of the natural heritage preservation commission (established under~~  
24 ~~§ 42-17.5-4) and~~ director with the consent of the council only after a public hearing and upon notice.  
25 The notice required under this section shall set forth a description of the proposed action, including  
26 a description of the land to be offered, and the time and place of the hearing. The notice shall  
27 conform to the requirements of § 42-35-1 et seq.

28 (b) The natural heritage ~~preservation commission~~ program shall review requests from  
29 municipalities, ~~private land conservation~~ environmental organizations, and private landowners  
30 desiring designation of a parcel of land as a natural area preserve, ~~and make recommendations to~~  
31 ~~the director.~~ Any request must include the written consent of the private landowner before any  
32 review shall commence. In making recommendations, it shall be guided by ~~the natural heritage~~  
33 ~~program and other~~ additional relevant sources of information about critical environmental  
34 resources. The natural heritage ~~preservation commission~~ program personnel may also, on its own

1 initiative, make ~~recommendations~~ requests for designation of areas to the ~~director~~ coordinator.

2 (c) To be designated a natural area preserve the property owner must voluntarily grant to  
3 the state of Rhode Island a conservation easement, which shall include the reasons for the  
4 designation, and prepare a management plan for the preserve that defines the methods by which the  
5 educational, scientific, biological, geological, paleontological, and/or scenic purposes of the  
6 designation shall be carried out. The conservation easement shall be recorded in the land evidence  
7 records in the city or town where the parcel is located.

8 (d) In areas under the jurisdiction of the coastal resources management council (CRMC),  
9 the ~~director~~ coordinator shall coordinate with the CRMC areas to be proposed for inclusion within  
10 the program.

11 **42-122-6. Procedures for designation of state-owned land as a natural area preserve.**

12 (a) A request for designation of state-owned land as a natural area preserve shall be made  
13 to the ~~director~~ coordinator, that request specifying the area to be designated, the reasons for the  
14 designation, the proposed management strategy necessary to protect the critical environmental  
15 resources within the area, and the changes that would be required in current management practices.  
16 The request for designation may be made by the director of any state agency for any parcel of land  
17 under the agency's control. The coordinator shall review requests from environmental  
18 organizations and private individuals desiring designation of a parcel of state-owned land as a  
19 natural area preserve. The natural heritage program coordinator may also, on their own initiative,  
20 make designations of areas with the consent of the council.

21 (b) The ~~director~~ coordinator may approve the designation of state-owned land as a preserve  
22 with the consent of the council only after consultation with the managing agency, and after a public  
23 hearing. Notice requirements for the public hearing shall be the same as required under § 42-122-  
24 5(a). Before a preserve is designated, a management plan must be approved by the ~~director~~  
25 coordinator and adopted by the department managing the preserve.

26 **42-122-7. Designation as a natural area preserve.**

27 An area designated as a natural area preserve is declared to be put to its highest, best, and  
28 most important use for public benefit and no interest in this preserve owned by the state shall be  
29 alienated or put to any use other than as a natural area preserve, ~~except upon a finding by the director~~  
30 ~~in consultation with the natural heritage preservation commission, that the qualifying features of~~  
31 ~~the land have been destroyed or irretrievably damaged and that the public purposes of the~~  
32 ~~designation have been utterly frustrated.~~

33 ~~Any finding the director is required to make under this section shall be made only after a~~  
34 ~~public hearing and upon notice. The notice required by this section shall set forth the substance of~~

1 ~~the proposed action and describe, with or without legal description, the area affected and shall set~~  
2 ~~forth the time and place of the hearing and shall be published at least twice (2) a week for three (3)~~  
3 ~~successive weeks before the hearing in a newspaper published in the county where the property is~~  
4 ~~located and in a newspaper with statewide distribution. No finding, which the director is required~~  
5 ~~to make, shall be effective until the finding has been published. No action shall be taken by the~~  
6 ~~state pursuant to the finding prior to the expiration of sixty (60) days after the finding becomes~~  
7 ~~effective. During the sixty day (60) period, any finding may be appealed by any resident of this~~  
8 ~~state in a suit brought against the director in the superior court for the judicial district of Providence.~~  
9 ~~In any action, the court shall vacate the finding if it finds the director acted arbitrarily or illegally~~  
10 ~~in making the finding. During the pendency of an appeal the state shall take no action pursuant to~~  
11 ~~the findings of the director.~~

12 SECTION 5. Chapter 42-122 of the General Laws entitled "Natural Areas Protection Act  
13 of 1993" is hereby amended by adding thereto the following section:

14 **42-122-8. Administration of natural area preserves.**

15 All natural area preserves, except areas under the jurisdiction of the coastal resources  
16 management council (CRMC) pursuant to § 42-122-5, shall be administered by the division of  
17 statewide planning.

18 SECTION 6. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO AGRICULTURE AND FORESTRY -- OLD GROWTH FOREST  
PROTECTION ACT

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1           This act would create the old growth forest protection act to provide protection for state-  
2 owned forestland in their natural state. This act would prohibit extractive logging in old growth  
3 forests on state-owned land or land owned by a municipality, or a natural area preserve. This act  
4 would further prohibit clearcutting in any forest on state-owned land. The act would further create  
5 the natural heritage program within the division of statewide planning.

6           This act would take effect upon passage.

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