
Committee Meeting

of

SENATE ENVIRONMENT AND ENERGY COMMITTEE

“The Committee will receive testimony from invited guests on the issues of chromium-6 in drinking water, and the Department of Environmental Protection's proposed changes to the septic system density standards for the Highlands Region”

The following bills will be considered:

Senate Bill No. 853, Senate Bill No. 1160, Senate Bill No. 2731, Senate Bill No. 2732

Senate Concurrent Resolution 39

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

DATE: November 3, 2016
10:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Senator Bob Smith, Chair
Senator Linda R. Greenstein, Vice Chair
Senator Richard J. Codey
Senator Christopher “Kip” Bateman
Senator Samuel D. Thompson



ALSO PRESENT:

Judith L. Horowitz
Matthew L. Peterson
Office of Legislative Services
Committee Aides

Alison Accettola
Senate Majority
Committee Aide

Rebecca Panitch
Senate Republican
Committee Aide

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



BOB SMITH
Chairman

LINDA R. GREENSTEIN
Vice-Chairwoman

RICHARD J. CODEY
CHRISTOPHER "KIP" BATEMAN
SAMUEL D. THOMPSON

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New Jersey State Legislature

SENATE ENVIRONMENT AND ENERGY COMMITTEE

STATE HOUSE ANNEX

PO BOX 068

TRENTON NJ 08625-0068

COMMITTEE NOTICE

TO: MEMBERS OF THE SENATE ENVIRONMENT AND ENERGY COMMITTEE

FROM: SENATOR BOB SMITH, CHAIRMAN

SUBJECT: COMMITTEE MEETING - NOVEMBER 3, 2016

The public may address comments and questions to Judith L. Horowitz or Matthew H. Peterson, Committee Aides, or make bill status and scheduling inquiries to Pamela Petrone, 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.

The Senate Environment and Energy Committee will meet on Thursday, November 3, 2016 at 10:00 AM in Committee Room 10, 3rd Floor, State House Annex, Trenton, New Jersey.

The committee will receive testimony from invited guests on the issues of chromium-6 in drinking water and the Department of Environmental Protection's proposed changes to the septic system density standards for the Highlands Region.

The following bill(s) will be considered:

S-853 Stack	Requires local governments and authorities to obtain financing cost estimate required to be provided by NJ Environmental Infrastructure Trust for certain projects.
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S-1160 Holzapfel	Provides State income tax credit for removal of lawns near Barnegat Bay.
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S-2731 Greenstein/Bateman (pending intro and referral)	Authorizes New Jersey Environmental Infrastructure Trust to expend additional sums to make loans for environmental infrastructure projects in FY2017.
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(OVER)

Senate Environment And Energy Committee

Page 2

November 3, 2016

S-2732 Codey/Gill (pending intro and referral)	Amends list of environmental infrastructure projects approved for long-term funding for FY2017 to include new projects and revise allowable loan amounts for already approved projects.
SCR-39 Smith, B/Greenstein	Amends Constitution to dedicate all State moneys received from settlements and awards in cases of environmental contamination for certain environmental purposes.

Issued 10/27/16

For reasonable accommodation of a disability call the telephone number or fax number above, or for persons with hearing loss dial 711 for NJ Relay. The provision of assistive listening devices requires 24 hours' notice. CART or sign language interpretation requires 5 days' notice.

For changes in schedule due to snow or other emergencies, see website <http://www.njleg.state.nj.us> or call 800-792-8630 (toll-free in NJ) or 609-847-3905.

SENATE, No. 853

STATE OF NEW JERSEY
217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

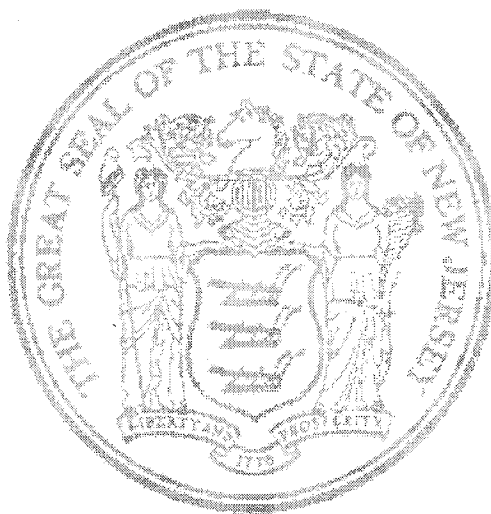
Sponsored by:
Senator BRIAN P. STACK
District 33 (Hudson)

SYNOPSIS

Requires local governments and authorities to obtain financing cost estimate required to be provided by NJ Environmental Infrastructure Trust for certain projects.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning costs of financing environmental infrastructure
2 projects, and supplementing P.L.1985, c.334 (C.58:11B-1 et
3 seq.), N.J.S.40A:2-1 et seq., and P.L.1983, c.313 (C.40A:5A-1 et
4 seq.).

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

8
9 1. A local government unit seeking to finance \$500,000 or
10 more of the costs of any environmental infrastructure project shall
11 submit a request for a financing cost estimate for the project on a
12 form made available online by the trust pursuant to section 2 of
13 P.L. , c. (C.) (pending before the Legislature as this bill).

14
15 2. a. The trust shall make available a financing cost estimate to
16 any local government unit seeking to finance \$500,000 or more of
17 the costs of an environmental infrastructure project. The financing
18 cost estimate shall provide a local government unit with an estimate
19 of the costs of financing an environmental infrastructure project
20 through the trust to enable the local government unit to evaluate,
21 and other interested parties to consider, the potential savings of trust
22 financing, including interest costs, compared to other available
23 methods of financing the project.

24 b. The trust may require the local government unit to provide
25 information concerning the project and the borrower needed to
26 generate a financing cost estimate, including, but not limited to, a
27 detailed description of the project, design, engineering and
28 environmental information, a cost estimate prepared by the project
29 engineer or other qualified person, information regarding the
30 borrower, the amount to be financed, and any other information the
31 trust deems relevant in order for the cost estimate to be as accurate
32 as possible.

33 The trust, in conjunction with the Department of Environmental
34 Protection, shall provide with the financing cost estimate;

35 (1) a description of the priority system used by the Department
36 of Environmental Protection in awarding financing under the
37 program; and

38 (2) a comparison of the estimates of the cost of issuance and
39 underwriting fees, servicing fees, and interest costs for a project
40 financed through the trust versus a project financed independently
41 by the local government unit through its own bond process.

42 c. The trust, through its web site, shall make available online a
43 form that may be completed by the local government unit for
44 submission to the trust in order for the trust to make an estimate of
45 financing costs for the project. Upon submission of the completed
46 form, the trust shall, within 15 days thereafter, provide an estimate
47 of the financing costs and possible interest rate that may be made
48 available for the project.

1 3. A local unit that does not finance an environmental
2 infrastructure project with funding provided by the New Jersey
3 Environmental Infrastructure Trust shall submit the financing cost
4 estimate provided by the New Jersey Environmental Infrastructure
5 Trust pursuant to section 2 of P.L. , c. (C.) (pending before the
6 Legislature as this bill) together with the supplemental debt
7 statement that is submitted to the Director of the Division of Local
8 Government Services in the Department of Community Affairs
9 pursuant to N.J.S.40A:2-42.

10 As used in this section, "environmental infrastructure project"
11 shall have the same meaning as provided in section 3 of P.L.1985,
12 c.334 (C.58:11B-3).

13
14 4. An authority that does not finance an environmental
15 infrastructure project with funding provided by the New Jersey
16 Environmental Infrastructure Trust shall submit the financing cost
17 estimate provided by the New Jersey Environmental Infrastructure
18 Trust pursuant to section 2 of P.L. , c. (C.) (pending before the
19 Legislature as this bill) together with the proposed project financing
20 that is submitted to the Local Finance Board in the Division of
21 Local Government Services in the Department of Community
22 Affairs pursuant to section 6 of P.L.1983, c.313 (C.40A:5A-6).

23 As used in this section, "environmental infrastructure project"
24 shall have the same meaning as provided in section 3 of P.L.1985,
25 c.334 (C.58:11B-3).

26
27 5. Sections 1, 3, and 4 of this act shall take effect on the 180th
28 day after the date of enactment and the remainder of this act shall
29 take effect immediately.

30
31
32 STATEMENT

33
34 This bill would require local governments and authorities
35 seeking to finance \$500,000 or more for an environmental
36 infrastructure project to request from the New Jersey Environmental
37 Infrastructure Trust (trust) an estimate of financing costs if the
38 project were to be funded in whole or in part by the trust. The bill
39 requires the trust to make available online a form for requests for
40 the financing cost estimate. The estimate will enable the local
41 government unit to evaluate, and other interested parties to
42 consider, the potential savings of financing and interest costs
43 offered by trust financing compared to other available methods of
44 financing the project.

45 The bill provides that the trust may require the local government
46 unit to provide information concerning the project and the borrower
47 needed to generate the financing cost estimate, including, but not
48 limited to, a detailed description of the project, design, engineering

S853 STACK

1 and environmental information, a cost estimate prepared by the
2 project engineer or other qualified person, information regarding
3 the borrower, the amount to be financed, and any other information
4 the trust deems relevant in order for the cost estimate to be as
5 accurate as possible. Upon submission of the completed form, the
6 trust must provide the estimate within 15 days.

7 If a local government or authority does not use trust financing
8 for the project, the financing cost estimate must be submitted by the
9 local government to the Division of Local Government Services in
10 the Department of Community Affairs with the local government's
11 supplemental debt statement required pursuant to N.J.S.40A:2-42,
12 or by the authority with the proposed project financing required to
13 be submitted pursuant to section 6 of P.L.1983, c.313 (C.40A:5A-
14 6), as the case may be.

SENATE ENVIRONMENT AND ENERGY COMMITTEE

STATEMENT TO

SENATE, No. 853

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 3, 2016

The Senate Environment and Energy Committee favorably reports Senate Bill No. 853 with committee amendments.

This bill, as amended, would require a local government unit seeking to finance \$1 million or more of the cost of an environmental infrastructure project or project component to request a financing cost estimate from the New Jersey Environmental Infrastructure Trust (NJEIT) (renamed the "New Jersey Infrastructure Bank" pursuant to P.L.2016, c.56). Under the bill, a local government unit that is awarded a grant for all or part of the costs of an environmental infrastructure project would not be required to submit a request for a financing cost estimate if the local government unit is seeking to finance less than \$1 million of the remaining costs of that project. In addition, a local government unit would not be required to submit a request for a financing cost estimate for an environmental infrastructure project that was approved either by ordinance of a municipality or by resolution of an authority, prior to or on the date of enactment of the bill into law.

The bill would require the NJEIT to make available online a form for a local government unit to request a financing cost estimate. The estimate would enable a local government unit to evaluate, and other interested parties to consider, the potential savings of financing and interest costs offered by NJEIT financing compared to other available methods of financing the project. The bill provides that the NJEIT may require the local government unit to provide information concerning the project and the borrower needed to generate a financing cost estimate, including, but not limited to, a detailed description of the project, design, engineering and environmental information, a cost estimate prepared by the project engineer or other qualified person, information regarding the borrower, and the amount to be financed. Upon submission of the completed form, the NJEIT would provide the estimate within five days.

Under the bill, if a local government or authority does not use NJEIT financing for the project, the financing cost estimate must be submitted by the local government to the Division of Local Government Services in the Department of Community Affairs with the local government's supplemental debt statement required pursuant

to N.J.S.40A:2-42, or by the authority with the proposed project financing required to be submitted pursuant to section 6 of P.L.1983, c.313 (C.40A:5A-6), as the case may be.

The committee amendments would make the bill identical to Assembly Bill No. 1649 (1R) of 2016-2017. Specifically, the amendments would:

- (1) increase the minimum amount of money a local government unit must be seeking to finance before the requirements of the bill apply, from \$500,000 to \$1 million;
- (2) specify that the requirements of the bill also apply if a local government is seeking to finance \$1 million or more of the costs of a project component;
- (3) provide that a local government unit that is awarded a grant for all or part of the costs of an environmental infrastructure project would not be required to submit a request for a financing cost estimate if the local government unit is seeking to finance less than \$1 million of the remaining costs of that project;
- (4) provide that a local government unit would not be required to submit a request for a financing cost estimate for an environmental infrastructure project that was approved either by ordinance of a municipality or by resolution of an authority, prior to or on the date of enactment of the bill into law; and
- (5) reduce the time in which the NJEIT must provide the financing cost estimate from 15 to five days.

This bill was pre-filed for introduction in the 2016-2017 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

As amended and reported, this bill is identical to Assembly Bill No. 1649 (1R) of 2016, which was also reported by the committee.

[First Reprint]
SENATE, No. 853

STATE OF NEW JERSEY
217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

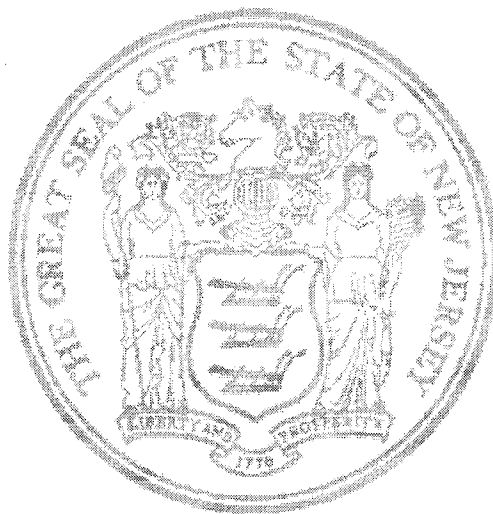
Sponsored by:
Senator BRIAN P. STACK
District 33 (Hudson)

SYNOPSIS

Requires local governments and authorities to obtain financing cost estimate from NJ Environmental Infrastructure Trust for certain projects.

CURRENT VERSION OF TEXT

As reported by the Senate Environment and Energy Committee on November 3, 2016, with amendments.



1 AN ACT concerning '~~costs of~~ the' financing '~~of~~' environmental
 2 infrastructure projects, and supplementing '~~P.L.1985, c.334~~
 3 (C.58:11B-1 et seq.),~~]~~' N.J.S.40A:2-1 et seq., '~~and~~' P.L.1983,
 4 c.313 (C.40A:5A-1 et seq.) '~~,~~ and P.L.1985, c.334 (C.58:11B-1

5 et seq.)' .
 6

7 **BE IT ENACTED** by the Senate and General Assembly of the State
 8 of New Jersey:
 9

10 1. '~~a.~~' A local government unit seeking to finance
 11 '~~[\$500,000] \$1,000,000~~' or more of the costs of any environmental
 12 infrastructure project '~~or project component~~' shall submit a request
 13 for a financing cost estimate for the project on a form made
 14 available online by the trust pursuant to section 2 of P.L. ,
 15 c. (C.) (pending before the Legislature as this bill).

16 '~~b.~~ A local government unit that is awarded a grant for all or
 17 part of the costs of an environmental infrastructure project shall not
 18 be required to submit a request for a financing cost estimate
 19 pursuant to this section if the local government unit is seeking to
 20 finance less than \$1,000,000 of the remaining costs of that project
 21 or project component.

22 c. A local government unit shall not be required to submit a
 23 request for a financing cost estimate pursuant to this section for an
 24 environmental infrastructure project the appropriation of which was
 25 approved either by ordinance of a municipality or by resolution of
 26 an authority, as appropriate, prior to or on the date of enactment of
 27 P.L. , c. (C.) (pending before the Legislature as this bill). ''
 28

29 2. a. The trust shall make available a financing cost estimate to
 30 any local government unit seeking to finance '~~[\$500,000]~~
 31 \$1,000,000' or more of the costs of an environmental infrastructure
 32 project '~~or project component~~'. The financing cost estimate shall
 33 provide a local government unit with an estimate of the costs of
 34 financing an environmental infrastructure project through the trust
 35 to enable the local government unit to evaluate, and other interested
 36 parties to consider, the potential savings of trust financing,
 37 including interest costs, compared to other available methods of
 38 financing the project.

39 b. The trust may require the local government unit to provide
 40 information concerning the project and the borrower needed to
 41 generate a financing cost estimate, including, but not limited to, a
 42 detailed description of the project, design, engineering and
 43 environmental information, a cost estimate prepared by the project

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SEN committee amendments adopted November 3, 2016.

1 engineer or other qualified person, information regarding the
2 borrower, the amount to be financed, and any other information the
3 trust deems relevant in order for the cost estimate to be as accurate
4 as possible.

5 The trust, in conjunction with the Department of Environmental
6 Protection, shall provide with the financing cost estimate;

7 (1) a description of the priority system used by the Department
8 of Environmental Protection in awarding financing under the
9 program; and

10 (2) a comparison of the estimates of the cost of issuance and
11 underwriting fees, servicing fees, and interest costs for a project
12 financed through the trust versus a project financed independently
13 by the local government unit through its own bond process.

14 c. The trust, through its web site, shall make available online a
15 form that may be completed by the local government unit for
16 submission to the trust in order for the trust to make an estimate of
17 financing costs for the project. Upon submission of the completed
18 form, the trust shall, within '[15] 5' days thereafter, provide an
19 estimate of the financing costs and possible interest rate that may be
20 made available for the project.

21

22 3. A local unit that does not finance an environmental
23 infrastructure project with funding provided by the New Jersey
24 Environmental Infrastructure Trust shall submit the financing cost
25 estimate provided by the New Jersey Environmental Infrastructure
26 Trust pursuant to section 2 of P.L. , c. (C.) (pending before the
27 Legislature as this bill) together with the supplemental debt
28 statement that is submitted to the Director of the Division of Local
29 Government Services in the Department of Community Affairs
30 pursuant to N.J.S.40A:2-42.

31 As used in this section, "environmental infrastructure project"
32 shall have the same meaning as provided in section 3 of P.L.1985,
33 c.334 (C.58:11B-3).

34

35 4. An authority that does not finance an environmental
36 infrastructure project with funding provided by the New Jersey
37 Environmental Infrastructure Trust shall submit the financing cost
38 estimate provided by the New Jersey Environmental Infrastructure
39 Trust pursuant to section 2 of P.L. , c. (C.) (pending before the
40 Legislature as this bill) together with the proposed project financing
41 that is submitted to the Local Finance Board in the Division of
42 Local Government Services in the Department of Community
43 Affairs pursuant to section 6 of P.L.1983, c.313 (C.40A:5A-6).

44 As used in this section, "environmental infrastructure project"
45 shall have the same meaning as provided in section 3 of P.L.1985,
46 c.334 (C.58:11B-3).

- 1 5. Sections 1, 3, and 4 of this act shall take effect on the 180th
- 2 day after the date of enactment and the remainder of this act shall
- 3 take effect immediately.

SENATE, No. 1160

STATE OF NEW JERSEY
217th LEGISLATURE

INTRODUCED FEBRUARY 8, 2016

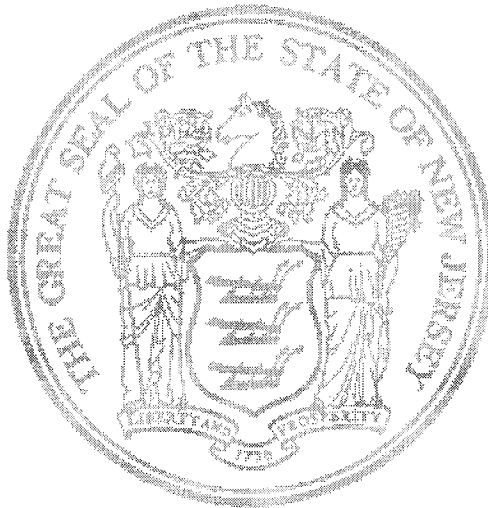
Sponsored by:
Senator JAMES W. HOLZAPFEL
District 10 (Ocean)

SYNOPSIS

Provides State income tax credit for removal of lawns near Barnegat Bay.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT providing a gross income tax credit for certain
2 homeowners who remove grass lawns near Barnegat Bay and
3 supplementing N.J.S. 54A:1-1 et seq.
4

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

8 1. a. A taxpayer owning property within 1,000 feet of Barnegat
9 Bay and its tributaries, as defined by the Division of Taxation in
10 consultation with the Department of Environmental Protection, shall
11 be entitled to claim a recurring annual credit of \$250 against the
12 State tax otherwise due under the "New Jersey Gross Income Tax
13 Act," N.J.S.54A:1-1 et seq., for replacing all grass lawns on the
14 taxpayer's property with stones, crushed shells or other similar
15 materials that require no maintenance from fertilizers, liming
16 materials, insecticides, pesticides, herbicides or other chemical
17 agents that could eventually flow into Barnegat Bay.

18 The annual tax credit shall also be available to eligible property
19 owners who have replaced grass lawns in the manner described in
20 this section prior to the effective date of this act.

21 b. The Director of the Division of Taxation shall adopt, in
22 accordance with the "Administrative Procedure Act," P.L.1968,
23 c.410 (C.52:14B-1 et seq.), rules and regulations necessary to
24 effectuate the provisions of this act.
25

26 2. This act shall take effect immediately and apply to taxable
27 years beginning January 1 next occurring after the effective date of
28 this act.
29

30
31 STATEMENT
32

33 This bill authorizes a recurring annual tax credit of \$250 against
34 the State income tax to owners of properties situated within 1,000
35 feet of Barnegat Bay and its tributaries who replace grass lawns
36 with stone, crushed shells, or other similar materials. Property
37 owners with existing stone or crushed shell lawns would also be
38 eligible for this benefit. The bill's objective is to provide an
39 incentive to property owners to reduce the amount of lawn
40 fertilizers and other chemical agents used in landscaping that flow
41 into Barnegat Bay. These substances are believed to be one of the
42 major causes of the degradation of the bay's waters and ecosystems.

SENATE ENVIRONMENT AND ENERGY COMMITTEE

STATEMENT TO

SENATE, No. 1160

STATE OF NEW JERSEY

DATED: NOVEMBER 3, 2016

The Senate Environment and Energy Committee favorably reports Senate Bill No. 1160.

This bill authorizes a recurring annual tax credit of \$250 against the State income tax to owners of properties situated within 1,000 feet of Barnegat Bay and its tributaries who replace grass lawns with stone, crushed shells, or other similar materials. Property owners with existing stone or crushed shell lawns would also be eligible for this benefit.

SENATE, No. 2731

STATE OF NEW JERSEY
217th LEGISLATURE

INTRODUCED NOVEMBER 3, 2016

Sponsored by:

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Senator CHRISTOPHER "KIP" BATEMAN

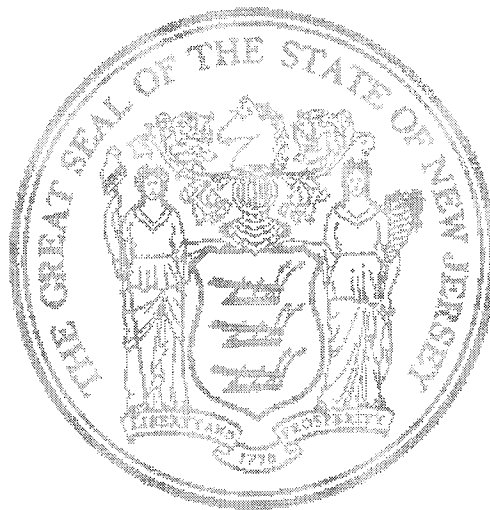
District 16 (Hunterdon, Mercer, Middlesex and Somerset)

SYNOPSIS

Authorizes New Jersey Environmental Infrastructure Trust to expend additional sums to make loans for environmental infrastructure projects for FY2017.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT authorizing the expenditure of additional funds by the New
2 Jersey Environmental Infrastructure Trust for the purpose of
3 making loans to eligible project sponsors to finance a portion of
4 the cost of construction of environmental infrastructure projects,
5 and amending P.L.2016, c.31.

6
7 **BE IT ENACTED** by the Senate and General Assembly of the State
8 of New Jersey:
9

10 1. Section 1 of P.L.2016, c.31 is amended to read as follows:

11 1. a. The New Jersey Environmental Infrastructure Trust,
12 established pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.), is
13 authorized to expend the aggregate sum of up to **[\$409.35]**
14 \$641.576 million and any unexpended balance of the aggregate
15 expenditures authorized pursuant to section 1 of P.L.2000, c.93,
16 section 1 of P.L.2001, c.224, section 1 of P.L.2002, c.71, section 1
17 of P.L.2003, c.159, section 1 of P.L.2004, c.110, section 1 of
18 P.L.2005, c.197, section 1 of P.L.2006, c.67, section 1 of P.L.2007,
19 c.140, section 1 of P.L.2008, c.67, section 1 of P.L.2009, c.101,
20 section 1 of P.L.2010, c.62, section 1 of P.L.2011, c.95, section 1 of
21 P.L.2012, c.38, section 1 of P.L.2013, c.94, section 1 of P.L.2014,
22 c.26, and section 1 of P.L.2015, c.107 for the purpose of making
23 loans, to the extent sufficient funds are available, to or on behalf of
24 local government units or public water utilities (hereinafter referred
25 to as "project sponsors") to finance all or a portion of the cost of
26 construction of environmental infrastructure projects listed in
27 sections 2 and 4 of **[this act]** P.L.2016, c.31, as amended by
28 P.L. , c. (pending before the Legislature as this bill).

29 b. The trust is authorized to increase the aggregate sums
30 specified in subsection a. of this section by:

31 (1) the amounts of capitalized interest and the bond issuance
32 expenses as provided in subsection b. of section 7 of **[this act]**
33 P.L.2016, c.31, as amended by P.L. , c. (pending before the
34 Legislature as this bill);

35 (2) the amounts of reserve capacity expenses and debt service
36 reserve fund requirements as provided in subsection c. of section 7
37 of **[this act]** P.L.2016, c.31, as amended by P.L. , c. (pending
38 before the Legislature as this bill);

39 (3) the interest earned on amounts deposited for project costs
40 pending their distribution to project sponsors as provided in
41 subsection d. of section 7 of **[this act]** P.L.2016, c.31, as amended
42 by P.L. , c. (pending before the Legislature as this bill);

43 (4) the amounts of the loan origination fee as provided in
44 subsection e. of section 7 of **[this act]** P.L.2016, c.31, as amended
45 by P.L. , c. (pending before the Legislature as this bill); and

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

Matter underlined thus is new matter.

1 (5) the amount appropriated to the Department of Environmental
2 Protection for the purpose of making zero interest and principal
3 forgiveness loans pursuant to section 3 of P.L.2016, c.32, as
4 amended by P.L. , c. (pending before the Legislature as Senate
5 Bill No. 2732 of 2016 and Assembly Bill No. of 2016), in
6 connection with the project costs of a particular project sponsor, to
7 the extent the priority ranking and an insufficiency of funding
8 prevents the department from making the loan as provided in
9 subsection f. of section 7 of **[this act]** P.L.2016, c.31, as amended
10 by P.L. , c. (pending before the Legislature as this bill).

11 c. (1) Of the sums made available to the trust from the "Water
12 Supply Trust Fund" established pursuant to subsection a. of section
13 15 of the "Water Supply Bond Act of 1981" (P.L.1981, c.261)
14 pursuant to P.L.1997, c.223, the trust is authorized to transfer such
15 amounts to the Department of Environmental Protection as needed
16 for drinking water project loans pursuant to the "Safe Drinking
17 Water Act Amendments of 1996," Pub.L.104-182, and any
18 amendatory and supplementary acts thereto (hereinafter referred to
19 as the "Federal Safe Drinking Water Act"), under terms and
20 conditions established by the Commissioner of Environmental
21 Protection and trust, and approved by the State Treasurer, which
22 loans shall be jointly administered by the trust and department.

23 (2) Of the sums appropriated to the trust from the "Wastewater
24 Treatment Trust Fund" established pursuant to section 15 of the
25 "Wastewater Treatment Bond Act of 1985," (P.L.1985, c.329)
26 pursuant to P.L.1987, c.198, the trust is authorized to transfer such
27 amounts as needed to the Clean Water State Revolving Fund
28 established pursuant to section 1 of P.L.2009, c.77 for the purposes
29 of issuing loans or providing the State match as required for the
30 award of the capitalization grants made available to the State for
31 clean water projects pursuant to the "Water Quality Act of 1987"
32 (33 U.S.C. s.1251 et seq.), and any amendatory and supplementary
33 acts thereto (hereinafter referred to as the "Federal Clean Water
34 Act").

35 (3) Of the sums appropriated to the trust from the "1992
36 Wastewater Treatment Trust Fund" established pursuant to section
37 27 of the "Green Acres, Clean Water, Farmland and Historic
38 Preservation Bond Act of 1992" (P.L.1992, c.88) pursuant to
39 P.L.1996, c.86, the trust is authorized to transfer such amounts as
40 needed to the Clean Water State Revolving Fund for the purpose of
41 providing the State match as required for the award of the
42 capitalization grants made available to the State for clean water
43 projects pursuant to the Federal Clean Water Act.

44 (4) Of the sums appropriated to the trust from the "Stormwater
45 Management and Combined Sewer Overflow Abatement Fund"
46 created pursuant to section 14 of the "Stormwater Management and
47 Combined Sewer Overflow Abatement Bond Act of 1989"
48 (P.L.1989, c.181) pursuant to P.L.1998, c.87, the trust is authorized

1 to transfer such amounts as needed to the Clean Water State
2 Revolving Fund for the purpose of providing the State match as
3 required for the award of the capitalization grants made available to
4 the State for clean water projects pursuant to the Federal Clean
5 Water Act.

6 (5) Of the sums appropriated to the trust from the "2003 Water
7 Resources and Wastewater Treatment Trust Fund" established
8 pursuant to subsection b. of section 19 of the "Dam, Lake, Stream,
9 Flood Control, Water Resources, and Wastewater Treatment Project
10 Bond Act of 2003" (P.L.2003, c.162) pursuant to P.L.2004, c.110,
11 the trust is authorized to transfer such amounts as needed to the
12 Clean Water State Revolving Fund for the purpose of providing the
13 State match as required for the award of the capitalization grants
14 made available to the State for clean water projects pursuant to the
15 Federal Clean Water Act.

16 (6) Of the sums appropriated to the trust from repayments of
17 loans deposited in any account, including the "Clean Water State
18 Revolving Fund," "Wastewater Treatment Fund," the "1992
19 Wastewater Treatment Fund," the "Water Supply Fund," the
20 "Stormwater Management and Combined Sewer Overflow
21 Abatement Fund" or the Drinking Water State Revolving Fund, as
22 appropriate, pursuant to sections 11 and 12 of P.L.1995, c.219,
23 sections 11 and 12 of P.L.1996, c.85, sections 11 and 12 of
24 P.L.1997, c.221, sections 12 and 13 of P.L.1998, c.84, section 11 of
25 P.L.1999, c.174, section 11 of P.L.2000, c.92, section 11 of
26 P.L.2001, c.222, section 11 of P.L.2002, c.70, section 11 of
27 P.L.2003, c.158, section 11 of P.L.2004, c.109, section 11 of
28 P.L.2005, c.196, section 11 of P.L.2006, c.68, section 10 of
29 P.L.2007, c.140, section 10 of P.L.2008, c.67, section 10 of
30 P.L.2009, c.101, section 10 of P.L.2010, c.62, section 10 of
31 P.L.2011, c.95, section 10 of P.L.2012, c.38, section 10 of
32 P.L.2013, c.94, section 10 of P.L.2014, c.26, section 10 of
33 P.L.2015, c.107, and section 10 of P.L.2016, c.31 for deposit into
34 one or more reserve funds or accounts established by the trust
35 pursuant to section 11 of P.L.1985, c.334 (C.58:11B-11), the trust
36 shall transfer to the respective fund of origin the unexpended
37 balance of all such moneys no longer utilized by the trust for such
38 purposes.

39 d. For the purposes of **[this act]** P.L.2016, c.31, as amended by
40 P.L. , c. (pending before the Legislature as this bill):

41 (1) "capitalized interest" means the amount equal to interest paid
42 on trust bonds which is funded with trust bond proceeds and the
43 earnings thereon;

44 (2) "debt service reserve fund expenses" means the debt service
45 reserve fund costs associated with reserve capacity expenses, water
46 supply projects for which the project sponsors are public water
47 utilities as provided in section 9 of P.L.1985, c.334 (C.58:11B-9),
48 other drinking water projects not eligible for, or interested in, State

1 or federal debt service reserve funds pursuant to the "Water Supply
2 Bond Act of 1981," P.L.1981, c.261, as amended and supplemented
3 by P.L.1997, c.223, and any clean water projects not eligible for, or
4 interested in, State or federal debt service reserve funds from the
5 Clean Water State Revolving Fund;

6 (3) "issuance expenses" means and includes, but need not be
7 limited to, the costs of financial document printing, bond insurance
8 premiums or other credit enhancement, underwriters' discount,
9 verification of financial calculations, the services of bond rating
10 agencies and trustees, the employment of accountants, attorneys,
11 financial advisors, loan servicing agents, registrars, and paying
12 agents, and any other costs related to the issuance of trust bonds;
13 and

14 (4) "loan origination fee" means the fee charged by the
15 Department of Environmental Protection and financed under the
16 trust loan to pay a portion of the costs incurred by the department in
17 the implementation of the New Jersey Environmental Infrastructure
18 Financing Program; and

19 (5) "reserve capacity expenses" means those project costs for
20 reserve capacity not eligible for loans under rules and regulations
21 governing zero interest loans adopted by the Commissioner of
22 Environmental Protection pursuant to section 4 of P.L.1985, c.329
23 but which are eligible for loans from the trust in accordance with
24 the rules and regulations adopted by the trust pursuant to section 27
25 of P.L.1985, c.334 (C.58:11B-27).

26 e. The trust is authorized to increase the loan amount in the
27 future to compensate for a refunding of the issue, provided adequate
28 savings are achieved, for the loans issued pursuant to P.L.1995,
29 c.218, P.L.1996, c.87, P.L.1997, c.222, P.L.1998, c.85, P.L.1999,
30 c.173, P.L.2000, c.93, P.L.2001, c.224, P.L.2002, c.71, P.L.2003,
31 c.159, P.L.2004, c.110, P.L.2005, c.197, P.L.2006, c.67, P.L.2007,
32 c.140, P.L.2008, c.67, P.L.2009, c.101, P.L.2010, c.62, P.L.2011,
33 c.95, P.L.2012, c.38, P.L.2013, c.94, P.L.2014, c.26, P.L.2015,
34 c.107, [and] P.L.2016, c.31, and P.L. . . . , c. (pending before the
35 Legislature as this bill).

36 (cf: P.L.2016, c.31, s.1)

37

38 2. Section 2 of P.L.2016, c.31 is amended to read as follows:

39 2. a. (1) The New Jersey Environmental Infrastructure Trust is
40 authorized to expend funds for the purpose of making supplemental
41 loans to or on behalf of the project sponsors listed below for the
42 following clean water environmental infrastructure projects:

1

Project Sponsor	Project Number	Estimated Allowable DEP Loan Amount	Estimated Total Allowable Loan Amount
Warren Township SA	S340964-01-1	\$75,000	\$100,000
North Hudson SA	S340952-19-1	\$75,000	\$100,000
North Hudson SA	S340952-20-1	\$675,000	\$900,000
Ewing Lawrence SA	S340391-10-1	\$3,675,000	\$4,900,000
Wanaque Valley RSA	S340780-04-1	[\$750,000] \$1,125,000	[\$1,000,000] \$1,500,000
Warren Township SA	S340964-02-1	[\$75,000] \$262,500	[\$100,000] \$350,000
Burlington Township	S340712-14-1	\$150,000	\$200,000
Ventnor City	S340667-02-1	\$3,750,000	\$5,000,000
Total projects: [6] 8		[\$5,475,000] \$9,787,500	[\$7,300,000] \$13,050,000

2

3 (2) The loans authorized in this subsection shall be made for the
4 difference between the allowable loan amounts required by these
5 projects based upon final building costs pursuant to subsection a. of
6 section 7 of **[this act]** P.L.2016, c.31, as amended by P.L. _____,
7 c. (pending before the Legislature as this bill), and the loan
8 amounts certified by the chairman of the trust in State fiscal years
9 2015 and 2016 and for increased allowable costs as defined and
10 determined in accordance with the rules and regulations adopted by the
11 trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27). The
12 loans authorized in this subsection shall be made to or on behalf of the
13 project sponsors listed, up to the individual amounts indicated and in
14 the priority stated, to the extent sufficient funds are available, except
15 as a project fails to meet the requirements of section 6 of **[this act]**
16 P.L.2016, c.31, as amended by P.L. _____, c. (pending before the
17 Legislature as this bill).

18 (3) The loans authorized in this subsection shall have priority over
19 the environmental infrastructure projects listed in subsection a. of
20 section 4 of **[this act]** P.L.2016, c.31, as amended by P.L. _____,
21 c. (pending before the Legislature as this bill).

22 b. (1) The trust is authorized to expend funds for the purpose of
23 making supplemental loans to or on behalf of the project sponsors
24 listed below for the following drinking water environmental
25 infrastructure projects:

1

Project Sponsor	Project Number	Estimated Allowable DEP Loan Amount	Estimated Total Allowable Loan Amount
Gloucester City	0414001-020-1	\$975,000	\$1,300,000
North Jersey District Water Supply Comm.	1613001-017-1	[\$1,125,000] \$2,700,000	[\$1,500,000] \$3,600,000
Total Projects: 2		[\$2,100,000] \$3,675,000	[\$2,800,000] \$4,900,000

2

3 (2) The loans authorized in this subsection shall be made for the
4 difference between the allowable loan amount required by this
5 project based upon final building costs pursuant to subsection a. of
6 section 7 of **[this act] P.L.2016, c.31, as amended by P.L. _____,**
7 **c. (pending before the Legislature as this bill),** and the loan
8 amount certified by the chairman of the trust in State fiscal years
9 2015 and 2016 and for increased allowable costs as defined and
10 determined in accordance with the rules and regulations adopted by
11 the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27).
12 The loans authorized in this subsection shall be made to or on
13 behalf of the project sponsors listed, up to the individual amounts
14 indicated and in the priority stated, to the extent sufficient funds are
15 available, except as a project fails to meet the requirements of
16 section 6 of **[this act] P.L.2016, c.31, as amended by P.L. _____, c.**
17 **(pending before the Legislature as this bill).**

18 (3) The loans for the projects authorized in this subsection shall
19 have priority over environmental infrastructure projects listed in
20 subsection b. of section 4 of **[this act] P.L.2016, c.31, as amended**
21 **by P.L. _____, c. (pending before the Legislature as this bill).**

22 c. The trust is authorized to adjust the allowable trust loan
23 amount for projects authorized in this section to between 25% and
24 75% of the total allowable loan amount and such excess amounts to
25 the extent the priority ranking and an insufficiency of funding
26 prevents the Department of Environmental Protection from making
27 the loan as provided in subsection f. of section 7 of **[this act]**
28 **P.L.2016, c.31, as amended by P.L. _____, c. (pending before the**
29 **Legislature as this bill).**

30 (cf: P.L.2016, c.31, s.2)

31

32 3. Section 3 of P.L.2016, c.31 is amended to read as follows:

33 3. a. The New Jersey Environmental Infrastructure Trust is
34 authorized to make loans to or on behalf of the project sponsors for
35 the clean water projects listed in subsection a. of section 2 and
36 subsection a. of section 4 of **[this act] P.L.2016, c.31, as amended**
37 **by P.L. _____, c. (pending before the Legislature as this bill),** up to

1 the individual amounts indicated and in the priority stated, except as
 2 any such amount may be reduced by the trust pursuant to subsection
 3 a. of section 7 of ["this act"] P.L.2016, c.31, as amended by P.L. ,
 4 c. (pending before the Legislature as this bill), or if a project fails
 5 to meet the requirements of section 6 of ["this act"] P.L.2016, c.31,
 6 as amended by P.L. , c. (pending before the Legislature as this
 7 bill). The trust is authorized to increase any such amount pursuant
 8 to subsection b., c., d., e. or f. of section 7 or section 8 of ["this act"]
 9 P.L.2016, c.31, as amended by P.L. , c. (pending before the
 10 Legislature as this bill).

11 b. The trust is authorized to make loans to project sponsors for
 12 the drinking water projects listed in subsection b. of section 2 and
 13 subsection b. of section 4 of ["this act"] P.L.2016, c.31, as amended
 14 by P.L. , c. (pending before the Legislature as this bill), up to
 15 the individual amounts indicated and in the priority stated, except as
 16 any such amount may be reduced by the trust pursuant to subsection
 17 a. of section 7 of ["this act"] P.L.2016, c.31, as amended by P.L. ,
 18 c. (pending before the Legislature as this bill), or if a project fails
 19 to meet the requirements of section 6 of ["this act"] P.L.2016, c.31,
 20 as amended by P.L. , c. (pending before the Legislature as this
 21 bill). The trust is authorized to increase any such amount pursuant
 22 to subsection b., c., d., e. or f. of section 7 or section 8 of ["this act"]
 23 P.L.2016, c.31, as amended by P.L. , c. (pending before the
 24 Legislature as this bill).

25 (cf: P.L.2016, c.31, s.3)

26
 27 4. Section 4 of P.L.2016, c.31 is amended to read as follows:

28 4. a. The following environmental infrastructure projects shall
 29 be known and may be cited as the "Storm Sandy and State Fiscal
 30 Year 2017 Clean Water Project Eligibility List":
 31

Project Sponsor	Project Number	Estimated Allowable DEP Loan Amount	Estimated Total Allowable Loan Amount
Camden County MUA	S340640-15	\$6,825,000	\$9,100,000
Jersey City MUA	S340928-15	\$30,300,000	\$40,400,000
Elizabeth City	S340942-18	[\$3,525,000] \$6,150,000	[\$4,700,000] \$8,200,000
Ocean County UA	S340372-56	\$6,000,000	\$8,000,000
Bayshore RSA	S340697-05	\$21,150,000	\$28,200,000
Bayshore RSA	S340697-06	\$8,100,000	\$10,800,000
Atlantic County UA	S340809-27	\$2,400,000	\$3,200,000

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<u>Atlantic County</u> <u>UA</u>	<u>S340809-23</u>	<u>\$5,250,000</u>	<u>\$7,000,000</u>
<u>Atlantic County</u> <u>UA</u>	<u>S340809-25</u>	<u>\$8,250,000</u>	<u>\$11,000,000</u>
<u>Atlantic County</u> <u>UA</u>	<u>S340809-26</u>	<u>\$1,125,000</u>	<u>\$1,500,000</u>
<u>Middletown</u> <u>Township SA</u>	<u>S340097-04</u>	<u>\$15,675,000</u>	<u>\$20,900,000</u>
<u>Hoboken City</u>	<u>S340635-05</u>	<u>\$3,825,000</u>	<u>\$5,100,000</u>
<u>North Hudson</u> <u>SA</u>	<u>S340952-19</u>	<u>\$3,225,000</u>	<u>\$4,300,000</u>
<u>North Hudson</u> <u>SA</u>	<u>S340952-23</u>	<u>\$1,275,000</u>	<u>\$1,700,000</u>
<u>North Hudson</u> <u>SA</u>	<u>S340952-26</u>	<u>\$675,000</u>	<u>\$900,000</u>
<u>Cumberland</u> <u>County UA</u>	<u>S340550-07</u>	<u>\$937,500</u>	<u>\$1,250,000</u>
<u>Millville City</u>	<u>S340921-07</u>	<u>\$9,000,000</u>	<u>\$12,000,000</u>
<u>Passaic Valley</u> <u>SC</u>	<u>S340689-22</u>	<u>[\$2,250,000]</u> <u>\$2,925,000</u>	<u>[\$3,000,000]</u> <u>\$3,900,000</u>
<u>Passaic Valley</u> <u>SC</u>	<u>S340689-25</u>	<u>\$6,825,000</u>	<u>\$9,100,000</u>
<u>Passaic Valley</u> <u>SC</u>	<u>S340689-31</u>	<u>\$3,000,000</u>	<u>\$4,000,000</u>
<u>Passaic Valley</u> <u>SC</u>	<u>S340689-34</u>	<u>\$2,175,000</u>	<u>\$2,900,000</u>
<u>Jersey City</u> <u>MUA</u>	<u>S340928-21</u>	<u>\$9,000,000</u>	<u>\$12,000,000</u>
<u>Bergen County</u> <u>UA</u>	<u>S340386-17</u>	<u>\$7,500,000</u>	<u>\$10,000,000</u>
<u>Cinnaminson SA</u>	<u>S340170-07</u>	<u>\$6,750,000</u>	<u>\$9,000,000</u>
<u>Gloucester</u> <u>County UA</u>	<u>S340902-14</u>	<u>\$33,750,000</u>	<u>\$45,000,000</u>
<u>Stafford</u> <u>Township</u>	<u>S344100-03</u>	<u>\$4,200,000</u>	<u>\$5,600,000</u>
<u>Barnegat</u> <u>Township</u>	<u>S344130-01</u>	<u>\$337,500</u>	<u>\$450,000</u>
<u>Ocean County</u>	<u>S344080-04</u>	<u>\$825,000</u>	<u>\$1,100,000</u>
<u>Ocean County</u>	<u>S344080-10</u>	<u>\$180,000</u>	<u>\$240,000</u>
<u>Ocean County</u>	<u>S344080-11</u>	<u>\$252,000</u>	<u>\$336,000</u>
<u>Jackson</u> <u>Township</u>	<u>S344050-02</u>	<u>\$975,000</u>	<u>\$1,300,000</u>
<u>Kearny MUA</u>	<u>S340259-07</u>	<u>\$4,875,000</u>	<u>\$6,500,000</u>
<u>Cumberland</u> <u>County UA</u>	<u>S340550-08</u>	<u>\$937,500</u>	<u>\$1,250,000</u>
<u>North Wildwood</u> <u>City</u>	<u>S340663-06</u>	<u>[\$10,350,000]</u> <u>\$13,575,000</u>	<u>[\$13,800,000]</u> <u>\$18,100,000</u>
<u>Willingboro</u> <u>MUA</u>	<u>S340132-08</u>	<u>\$1,350,000</u>	<u>\$1,800,000</u>
<u>Ocean County</u> <u>UA</u>	<u>S340372-57</u>	<u>\$2,100,000</u>	<u>\$2,800,000</u>
<u>Perth Amboy</u> <u>City</u>	<u>S340435-15</u>	<u>\$1,500,000</u>	<u>\$2,000,000</u>
<u>Atlantic County</u> <u>UA</u>	<u>S340809-24</u>	<u>\$600,000</u>	<u>\$800,000</u>

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Rockaway Valley RSA	S340821-06	\$4,875,000	\$6,500,000
Gloucester Township MUA	S340364-13	\$975,000	\$1,300,000
<u>Franklin Township SA</u>	<u>S340839-06</u>	<u>\$12,825,000</u>	<u>\$17,100,000</u>
South Monmouth RSA	S340377-03	\$2,250,000	\$3,000,000
South Monmouth RSA	S340377-04	\$1,200,000	\$1,600,000
South Monmouth RSA	S340377-05	\$2,550,000	\$3,400,000
Washington Township MUA	S340930-03	\$1,725,000	\$2,300,000
Washington Township MUA	S340930-04	\$825,000	\$1,100,000
Montclair Township	S340837-03	\$1,125,000	\$1,500,000
Ocean Township SA	S340750-12	\$3,000,000	\$4,000,000
Pine Hill MUA	S340274-05	\$1,275,000	\$1,700,000
Oradell Borough	S340835-04	\$1,125,000	\$1,500,000
Ocean Township	S340112-07	[\$1,875,000] <u>\$2,250,000</u>	[\$2,500,000] <u>\$3,000,000</u>
Long Beach Township	S340023-06	\$3,750,000	\$5,000,000
<u>Somerset Raritan Valley SA</u>	<u>S340801-08</u>	<u>\$3,900,000</u>	<u>\$5,200,000</u>
<u>Gloucester City</u>	<u>S340958-07</u>	<u>\$900,000</u>	<u>\$1,200,000</u>
Hillsborough Township	S340099-02	\$1,200,000	\$1,600,000
<u>Manasquan Borough</u>	<u>S340450-02</u>	<u>\$1,350,000</u>	<u>\$1,800,000</u>
Burlington County	S340818-07	\$1,725,000	\$2,300,000
Carteret Borough	S340939-09	[\$6,450,000] <u>\$7,950,000</u>	[\$8,600,000] <u>\$10,600,000</u>
Hammonton Town	S340927-09	\$3,450,000	\$4,600,000
Sea Girt Borough	S340468-01	\$2,625,000	\$3,500,000
Ventnor City	S340667-03	\$1,200,000	\$1,600,000
<u>Cumberland County IA</u>	<u>S342015-03</u>	<u>\$12,075,000</u>	<u>\$16,100,000</u>
<u>Salem County IA</u>	<u>S342022-01</u>	<u>\$5,775,000</u>	<u>\$7,700,000</u>
Somerville Borough	S342013-01	\$13,050,000	\$17,400,000
Total Projects: [44] 64		[\$215,850,000] \$328,744,500	[\$287,800,000] \$438,326,000

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2
3
4

b. The following environmental infrastructure projects shall be known and may be cited as the "Storm Sandy and State Fiscal Year 2017 Drinking Water Project Eligibility List":

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1

Project Sponsor	Project No.	Estimated Allowable DEP Loan Amount	Estimated Total Allowable Loan Amount
Hammonton Town	0113001-011	\$1,425,000	\$1,900,000
Saddle Brook Township	0257001-002	\$1,350,000	\$1,800,000
Bordentown City	0303001-006	\$1,125,000	\$1,500,000
Bordentown City	0303001-007	\$2,100,000	\$2,800,000
Pemberton Township	0329004-004	\$900,000	\$1,200,000
Willingboro MUA	0338001-009	\$5,250,000	\$7,000,000
East Orange Water Commission	0705001-011	\$7,275,000	\$9,700,000
Newark City	0714001-015	[\$8,850,000] \$13,650,000	[\$11,800,000] \$18,200,000
Washington Township MUA	0818004-009	\$600,000	\$800,000
Washington Township MUA	0818004-010	\$1,425,000	\$1,900,000
Washington Township MUA	0818004-011	\$1,200,000	\$1,600,000
Washington Township MUA	0818004-012	\$150,000	\$200,000
Washington Township MUA	0818004-014	\$675,000	\$900,000
Clinton Town	1005001-009	\$900,000	\$1,200,000
Hightstown Borough	1104001-007	\$300,000	\$400,000
Hightstown Borough	1104001-008	\$150,000	\$200,000
Pennington Borough	1108001-001	\$900,000	\$1,200,000
Milltown Borough	1214001-004	\$1,875,000	\$2,500,000
Middlesex Water Company	1225001-016	\$4,275,000	\$5,700,000
Middlesex Water Company	1225001-023	[\$5,550,000] \$6,000,000	[\$7,400,000] \$8,000,000
Berkeley Township MUA	1505004-007	\$525,000	\$700,000
Berkeley Township MUA	1505004-008	\$2,625,000	\$3,500,000
Jackson Township MUA	1511001-010	[\$4,425,000] \$6,150,000	[\$5,900,000] \$8,200,000
Jackson Township MUA	1511001-011	\$1,125,000	\$1,500,000
Little Egg Harbor MUA	1516001-003	\$3,450,000	\$4,600,000
Little Egg Harbor MUA	1516001-500	\$750,000	\$1,000,000

Ocean Township	1520001-007	\$975,000	\$1,300,000
Ocean Gate Borough	1521001-001	\$600,000	\$800,000
Stafford Township	1530004-018	\$1,800,000	\$2,400,000
Stafford Township	1530004-019	\$1,350,000	\$1,800,000
Manchester Utilities Authority	1603001-014	\$1,500,000	\$2,000,000
North Jersey District Water Supply Comm.	1613001-033	\$3,000,000	\$4,000,000
North Shore Water Association	1904004-002	\$337,500	\$450,000
Lake Glenwood Village	1922010-008	\$675,000	\$900,000
Rahway City	2013001-007	\$13,650,000	\$18,200,000
Rahway City	2013001-008	\$2,025,000	\$2,700,000
Passaic Valley Water Comm.	1605002-025	\$27,450,000	\$36,600,000
Netcong Borough	1428001-009	\$300,000	\$400,000
Trenton City	1111001-010	\$7,875,000	\$10,500,000
Cape May City	0502001-004	\$1,650,000	\$2,200,000
Gloucester City	0414001-020A	\$187,500	\$250,000
Long Beach Township	1517001-500	\$6,900,000	\$9,200,000
Long Beach Township	1517001-501	\$1,425,000	\$1,900,000
Clinton Town	1005001-008	\$1,125,000	\$1,500,000
Total Projects:		[\$85,087,500]	[\$113,450,000]
[36] 44		\$138,975,000	\$185,300,000

c. The trust is authorized to adjust the allowable trust loan amount for projects authorized in this section to between 0% and 75% of the total allowable loan amount, and such excess amounts to the extent the priority ranking and an insufficiency of funding prevents the Department of Environmental Protection from making the loan as provided in subsection f. of section 7 of [this act] P.L.2016, c.31, as amended by P.L. , c. (pending before the Legislature as this bill), and up to 100% of the total allowable loan amount for projects certified by the Department of Environmental Protection pursuant to section 1 of P.L.2013, c.93 (C.58:11B-9.5). (cf: P.L.2016, c.31, s.4)

5. Section 5 of P.L.2016, c.31 is amended to read as follows:

5. In accordance with and subject to the provisions of sections 5, 6, and 23 of P.L.1985, c.334 (C.58:11B-5, 58:11B-6, and 58:11B-23) and as set forth in the financial plan required pursuant to section 21 of P.L.1985, c.334 (C.58:11B-21), or the financial plan required pursuant to section 25 of P.L.1997, c.224 (C.58:11B-21.1), any proceeds from bonds issued by the trust to make loans

1 for priority environmental infrastructure projects listed in sections 2
2 and 4 of [this act] P.L.2016, c.31, as amended by P.L. _____,
3 c. (pending before the Legislature as this bill), which are not
4 expended for that purpose may be applied for the payment of all or
5 any part of the principal of and interest and premium on the trust
6 bonds whether due at stated maturity, the interest payment dates or
7 earlier upon redemption. A portion of the proceeds from bonds
8 issued by the trust to make loans for priority environmental
9 infrastructure projects pursuant to [this act] P.L.2016, c.31, as
10 amended by P.L. _____, c. (pending before the Legislature as this
11 bill), may be applied for the payment of capitalized interest and for
12 the payment of any issuance expenses; for the payment of reserve
13 capacity expenses; for the payment of debt service reserve fund
14 expenses for the payment of the loan origination fees; and for the
15 payment of increased costs as defined and determined in accordance
16 with the rules and regulations adopted by the trust pursuant to
17 section 27 of P.L.1985, c.334 (C.58:11B-27).

18 (cf: P.L.2016, c.31, s.5)

19
20 6. Section 6 of P.L.2016, c.31 is amended to read as follows:

21 6. Any loan made by the New Jersey Environmental
22 Infrastructure Trust pursuant to [this act] P.L.2016, c.31, as
23 amended by P.L. _____, c. (pending before the Legislature as this bill)
24 shall be subject to the following requirements:

25 a. The chairman of the trust has certified that the project is in
26 compliance with the provisions of P.L.1977, c.224, P.L.1985, c.334,
27 P.L.1992, c.88, P.L.1997, c.223, P.L.1997, c.224, P.L.1997, c.225,
28 P.L.1999, c.175 or P.L.2003, c.162, and any rules and regulations
29 adopted pursuant thereto, and any amendatory and supplementary
30 acts thereto, as applicable. In making this certification, the
31 chairman may conclusively rely on the project review conducted by
32 the Department of Environmental Protection without any
33 independent review thereof by the trust;

34 b. The loan shall be conditioned upon inclusion of the project
35 on a project eligibility list approved pursuant to section 20 of
36 P.L.1985, c.334 (C.58:11B-20) or section 24 of P.L.1997, c.224
37 (C.58:11B-20.1);

38 c. The loan shall be repaid within a period not to exceed 30
39 years of the making of the loan;

40 d. The loan, including any portion thereof made by the trust
41 pursuant to subsection f. of section 7 of [this act] P.L.2016, c.31,
42 as amended by P.L. _____, c. (pending before the Legislature as this
43 bill), shall not exceed the allowable project cost of the
44 environmental infrastructure facility, exclusive of capitalized
45 interest and issuance expenses as provided in subsection b. of
46 section 7 of [this act] P.L.2016, c.31, as amended by P.L. _____,
47 c. (pending before the Legislature as this bill), reserve capacity

1 expenses and the debt service reserve fund expenses as provided in
2 subsection c. of section 7 of **[this act] P.L.2016, c.31, as amended**
3 **by P.L. , c. (pending before the Legislature as this bill)**, interest
4 earned on project costs as provided in subsection d. of section 7 of
5 **[this act] P.L.2016, c.31, as amended by P.L. , c. (pending**
6 **before the Legislature as this bill)**, the amounts of the loan
7 origination fee as provided in subsection e. of section 7 of **[this act]**
8 **P.L.2016, c.31, as amended by P.L. , c. (pending before the**
9 **Legislature as this bill)**, refunding increases as provided in section 8
10 of **[this act] P.L.2016, c.31, as amended by P.L. , c. (pending**
11 **before the Legislature as this bill)**, and increased costs as defined
12 and determined in accordance with the rules and regulations
13 adopted by the trust pursuant to section 27 of P.L.1985, c.334
14 (C.58:11B-27);

15 e. The loan shall bear interest, exclusive of any late charges or
16 administrative fees payable to the trust pursuant to subsection o. of
17 section 5 of P.L.1985, c.334 (C.58:11B-5) by the project sponsors
18 receiving trust loans, at or below the interest rate paid by the trust
19 on the bonds issued to make or refund the loans authorized by **[this**
20 **act] P.L.2016, c.31, as amended by P.L. , c. (pending before the**
21 **Legislature as this bill)**, adjusted for underwriting discount and
22 original issue discount or premium, in accordance with the terms
23 and conditions set forth in the financial plan required pursuant to
24 section 21 of P.L.1985, c.334 (C.58:11B-21) or the financial plan
25 required pursuant to section 25 of P.L.1997, c.224 (C.58:11B-21.1);
26 and

27 f. The loan shall be subject to all other terms and conditions as
28 the trust shall determine to be consistent with the provisions of
29 P.L.1985, c.334 (C.58:11B-1 et seq.) and any rules and regulations
30 adopted pursuant thereto, and with the financial plan required by
31 section 21 of P.L.1985, c.334 (C.58:11B-21) or the financial plan
32 required pursuant to section 25 of P.L.1997, c.224 (C.58:11B-21.1).
33 The eligibility lists and authorization for the making of loans
34 pursuant to **[this act] P.L.2016, c.31, as amended by P.L. , c.**
35 **(pending before the Legislature as this bill)**, shall expire on July 1,
36 2017, and any project sponsor which has not executed and delivered
37 a loan agreement with the trust for a loan authorized in **[this act]**
38 **P.L.2016, c.31, as amended by P.L. , c. (pending before the**
39 **Legislature as this bill)**, shall no longer be entitled to that loan.
40 (cf: P.L.2016, c.31, s.6)

41

42 7. Section 7 of P.L.2016, c.31 is amended to read as follows:

43 7. a. The New Jersey Environmental Infrastructure Trust is
44 authorized to reduce the individual amount of loan funds made
45 available to or on behalf of project sponsors pursuant to sections 2
46 and 4 of **[this act] P.L.2016, c.31, as amended by P.L. ,**
47 **c. (pending before the Legislature as this bill)**, based upon final

1 building costs defined in and determined in accordance with rules
2 and regulations adopted by the trust pursuant to section 27 of
3 P.L.1985, c.334 (C.58:11B-27) or rules and regulations adopted by
4 the Commissioner of Environmental Protection pursuant to section
5 4 of P.L.1985, c.329, section 11 of P.L.1977, c.224 (C.58:12A-11)
6 or section 5 of P.L.1981, c.261. The trust is authorized to use any
7 such reduction in the loan amount made available to a project
8 sponsor to cover that project sponsor's increased costs due to
9 differing site conditions or other allowable expenses as defined and
10 determined in accordance with the rules and regulations adopted by
11 the trust pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27).

12 b. The trust is authorized to increase each loan amount
13 authorized in sections 2 and 4 of **[this act]** P.L.2016, c.31, as
14 amended by P.L. , c. (pending before the Legislature as this
15 bill), by the amount of capitalized interest and issuance expenses
16 allocable to each loan made by the trust pursuant to **[this act]**
17 P.L.2016, c.31, as amended by P.L. , c. (pending before the
18 Legislature as this bill); provided that the increase for issuance
19 expenses, excluding underwriters' discount, original issue discount
20 or premiums, municipal bond insurance premiums and bond rating
21 agency fees, shall not exceed 0.4% of the principal amount of trust
22 bonds issued to make loans authorized by **[this act]** P.L.2016, c.31,
23 as amended by P.L. , c. (pending before the Legislature as this
24 bill).

25 c. The trust is authorized to increase each loan amount
26 authorized in sections 2 and 4 of **[this act]** P.L.2016, c.31, as
27 amended by P.L. , c. (pending before the Legislature as this
28 bill), by the amount of reserve capacity expenses, and by the debt
29 service reserve fund expenses associated with the costs identified in
30 paragraphs (3) and (4) of subsection d. of section 1 of **[this act]**
31 P.L.2016, c.31, as amended by P.L. , c. (pending before the
32 Legislature as this bill).

33 d. The trust is authorized to increase each loan amount
34 authorized in sections 2 and 4 of **[this act]**, P.L.2016, c.31, as
35 amended by P.L. , c. (pending before the Legislature as this
36 bill), by the interest earned on amounts deposited for project costs
37 pending their distribution to project sponsors.

38 e. The trust is authorized to increase each loan amount
39 authorized in sections 2 and 4 of **[this act]** P.L.2016, c.31, as
40 amended by P.L. , c. (pending before the Legislature as this
41 bill), by the loan origination fee.

42 f. The trust is authorized to increase each loan amount
43 authorized in sections 2 and 4 of **[this act]** P.L.2016, c.31, as
44 amended by P.L. , c. (pending before the Legislature as this
45 bill), by the amount appropriated to the Department of
46 Environmental Protection for the purpose of making the
47 corresponding zero interest loan pursuant to section 3 of P.L.2016,

1 c.32, as amended by P.L. , c. (pending before the Legislature as
2 Senate Bill No. 2732 of 2016 and Assembly Bill No. of 2016), in
3 connection with the project costs of the project sponsor, to the
4 extent the priority ranking and an insufficiency of funding prevents
5 the department from making the loan.
6 (cf: P.L.2016, c.31, s.7)

7
8 8. Section 8 of P.L.2016, c.31 is amended to read as follows:

9 8. The New Jersey Environmental Infrastructure Trust is
10 authorized to increase the individual amount of loan funds made
11 available to project sponsors by the trust pursuant to P.L.1989,
12 c.190, P.L.1990, c.97, P.L.1991, c.324, P.L.1992, c.37, P.L.1993,
13 c.192, P.L.1994, c.105, P.L.1995, c.218, P.L.1996, c.87, P.L.1997,
14 c.222, P.L.1998, c.85, P.L.1999, c.173, P.L.2000, c.93, P.L.2001,
15 c.224, P.L.2002, c.71, P.L.2003, c.159, P.L.2004, c.110, P.L.2005,
16 c.197, P.L.2006, c.67, P.L.2007, c.140, P.L.2008, c.67, P.L.2009,
17 c.101, P.L.2010, c.62, P.L.2011, c.95, P.L.2012, c.38, P.L.2013,
18 c.94, P.L.2014, c.26, P.L.2015, c.107, **[or]** P.L.2016, c.31, or
19 P.L. , c. (pending before the Legislature as this bill), provided
20 that adequate savings are achieved, to compensate for a refunding
21 of trust bonds issued to make loans authorized by the
22 aforementioned acts.
23 (cf: P.L.2016, c.31, s.8)

24
25 9. Section 9 of P.L.2016, c.31 is amended to read as follows:

26 9. The expenditure of funds authorized pursuant to **[this act]**
27 P.L.2016, c.31, as amended by P.L. , c. (pending before the
28 Legislatre as this bill), is subject to the provisions of P.L.1977,
29 c.224 (C.58:12A-1 et al.), P.L.1985, c.329, P.L.1985, c.334
30 (C.58:11B-1 et seq.), as amended and supplemented by P.L.1997,
31 c.224, P.L.1992, c.88, P.L.1989, c.181, P.L.1997, c.223, P.L.1997,
32 c.225, P.L.1999, c.175, or P.L.2003, c.162, and the rules and
33 regulations adopted pursuant thereto or the Federal Safe Drinking
34 Water Act, as appropriate.
35 (cf: P.L.2016, c.31, s.9)

36
37 10. This act shall take effect immediately.

38

39

40

STATEMENT

41

42 This bill would authorize the New Jersey Environmental
43 Infrastructure Trust (NJEIT) to expend additional sums to make
44 loans for environmental infrastructure projects for Fiscal Year
45 2017.

46 In August 2016, P.L.2016, c.31 was enacted into law, which
47 authorized the NJEIT to expend up to \$411.35 million, and any
48 unexpended balances from previous authorizations, to provide low-

1 interest and market-rate loans to project sponsors (primarily local
2 governments, public authorities, or public water utilities) for a
3 portion of the total costs of 80 eligible environmental infrastructure
4 projects for Fiscal Year 2017. This included 44 projects on the
5 "Storm Sandy and State Fiscal Year 2017 Clean Water Project
6 Eligibility List" and 36 projects on the "Storm Sandy and State
7 Fiscal Year 2017 Drinking Water Project Eligibility List." The
8 NJEIT was also authorized under P.L.2016, c.31 to provide
9 supplemental loans to six clean water projects and two drinking
10 water projects that received loans in the past and which require
11 supplemental loans in order to meet actual costs.

12 This bill would amend the lists of environmental infrastructure
13 projects for which the NJEIT is authorized to make loans in
14 P.L.2016, c.31 to include new projects and revise allowable loan
15 amounts for already approved projects. Thus, under the bill, the
16 NJEIT would be authorized to expend up to \$641.576 million, and
17 any unexpended balances from previous authorizations, to provide
18 loans to project sponsors for a total of 108 eligible environmental
19 infrastructure projects for Fiscal Year 2017. This would include 64
20 projects on the "Storm Sandy and State Fiscal Year 2017 Clean
21 Water Project Eligibility List" and 44 projects on the "Storm Sandy
22 and State Fiscal Year 2017 Drinking Water Project Eligibility List."
23 The NJEIT would also be authorized to make supplemental loans to
24 eight clean water projects and two drinking water projects.

SENATE ENVIRONMENT AND ENERGY COMMITTEE

STATEMENT TO

SENATE, No. 2731

STATE OF NEW JERSEY

DATED: NOVEMBER 3, 2016

The Senate Environment and Energy Committee favorably reports Senate Bill No. 2731.

This bill would authorize the New Jersey Environmental Infrastructure Trust (NJEIT) (renamed the "New Jersey Infrastructure Bank" pursuant to P.L.2016, c.56) to expend additional sums to make loans for environmental infrastructure projects for Fiscal Year 2017.

In August 2016, P.L.2016, c.31 was enacted into law, which authorized the NJEIT to expend up to \$411.35 million, and any unexpended balances from previous authorizations, to provide low-interest and market-rate loans to project sponsors (primarily local governments, public authorities, or public water utilities) for a portion of the total costs of 80 eligible environmental infrastructure projects for Fiscal Year 2017. This included 44 projects on the "Storm Sandy and State Fiscal Year 2017 Clean Water Project Eligibility List" and 36 projects on the "Storm Sandy and State Fiscal Year 2017 Drinking Water Project Eligibility List." The NJEIT was also authorized under P.L.2016, c.31 to provide supplemental loans to six clean water projects and two drinking water projects that received loans in the past and which require supplemental loans in order to meet actual costs.

This bill would amend the lists of environmental infrastructure projects for which the NJEIT is authorized to make loans in P.L.2016, c.31 to include new projects and revise allowable loan amounts for already approved projects. Thus, under the bill, the NJEIT would be authorized to expend up to \$641.576 million, and any unexpended balances from previous authorizations, to provide loans to project sponsors for a total of 108 eligible environmental infrastructure projects for Fiscal Year 2017. This would include 64 projects on the "Storm Sandy and State Fiscal Year 2017 Clean Water Project Eligibility List" and 44 projects on the "Storm Sandy and State Fiscal Year 2017 Drinking Water Project Eligibility List." The NJEIT would also be authorized to make supplemental loans to eight clean water projects and two drinking water projects.

SENATE, No. 2732

STATE OF NEW JERSEY
217th LEGISLATURE

INTRODUCED NOVEMBER 3, 2016

Sponsored by:

Senator RICHARD J. CODEY

District 27 (Essex and Morris)

Senator NIA H. GILL

District 34 (Essex and Passaic)

Co-Sponsored by:

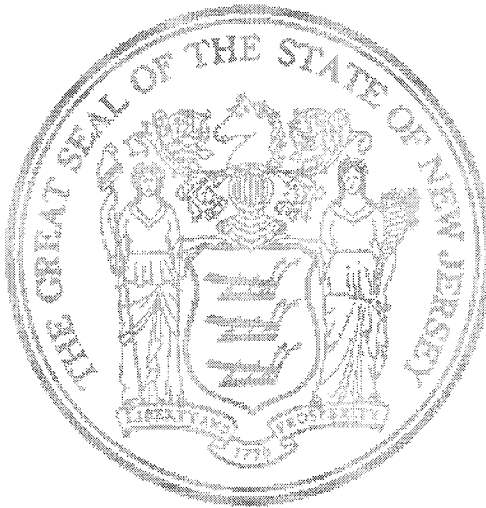
Senator Thompson

SYNOPSIS

Amends list of environmental infrastructure projects approved for long-term funding for FY2017 to include new projects and revise allowable loan amounts for already approved projects.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the financing of environmental infrastructure
2 projects in Fiscal Year 2017 and amending P.L.2016, c.32.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 1 of P.L.2016, c.32 is amended to read as follows:

8 1. a. (1) There is appropriated to the Department of
9 Environmental Protection from the "Clean Water State Revolving
10 Fund" established pursuant to section 1 of P.L.2009, c.77, an
11 amount equal to the federal fiscal year 2016 capitalization grant
12 made available to the State for clean water project loans pursuant to
13 the "Water Quality Act of 1987" (33 U.S.C. s.1251 et seq.), and any
14 amendatory and supplementary acts thereto (hereinafter referred to
15 as the "Federal Clean Water Act").

16 (2) There is appropriated to the Department of Environmental
17 Protection from the "Interim Financing Program Fund" created and
18 established by the New Jersey Environmental Infrastructure Trust
19 pursuant to subsection d. of section 9 of P.L.1985, c.334 (C.58:11B-
20 9) such amounts as may be necessary to supplement the sums
21 appropriated from the Clean Water State Revolving Fund for the
22 purposes of clean water project loans and providing the State match
23 as required or will be required for the award of the capitalization
24 grants made available to the State for clean water projects pursuant
25 to the Federal Clean Water Act.

26 (3) There is appropriated to the Department of Environmental
27 Protection from the "Disaster Relief Emergency Financing Program
28 Fund" created and established by the New Jersey Environmental
29 Infrastructure Trust pursuant to section 1 of P.L.2013, c.93
30 (C.58:11B-9.5) such amounts as may be necessary to supplement
31 the sums appropriated from the Clean Water State Revolving Fund
32 for the purposes of clean water project loans and providing the State
33 match as required or will be required for the award of the
34 capitalization grants made available to the State for clean water
35 projects pursuant to the Federal Clean Water Act.

36 (4) There is appropriated to the Department of Environmental
37 Protection from the "Loan Origination Fee Fund" created and
38 established by the New Jersey Environmental Infrastructure Trust
39 pursuant to section 1 of P.L.2005, c.202 (C.58:11B-10.2), and any
40 repayments of loans and interest therefrom, such amounts as may be
41 necessary to supplement the sums appropriated from the Clean
42 Water State Revolving Fund for the purposes of clean water project
43 loans and providing the State match as required or will be required
44 for the award of the capitalization grants made available to the State
45 for clean water projects pursuant to the Federal Clean Water Act.

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

Matter underlined thus is new matter.

1 (5) There is appropriated to the Department of Environmental
2 Protection from the "Drinking Water State Revolving Fund"
3 established pursuant to section 1 of P.L.1998, c.84 an amount equal
4 to the federal fiscal year 2016 capitalization grant made available to
5 the State for drinking water projects pursuant to the "Safe Drinking
6 Water Act Amendments of 1996," Pub.L.104-182, and any
7 amendatory and supplementary acts thereto (hereinafter referred to
8 as the "Federal Safe Drinking Water Act").

9 The Department of Environmental Protection is authorized to
10 transfer from the Clean Water State Revolving Fund to the Drinking
11 Water State Revolving Fund an amount up to the maximum amount
12 authorized to be transferred pursuant to the Federal Safe Drinking
13 Water Act to meet present and future needs for the financing of
14 eligible drinking water projects, and an amount equal to that
15 maximum amount is hereby appropriated to the department for
16 those purposes.

17 The Department of Environmental Protection is authorized to
18 transfer from the Drinking Water State Revolving Fund to the Clean
19 Water State Revolving Fund an amount up to the maximum amount
20 authorized to be transferred pursuant to the Federal Clean Water
21 Act to meet present and future needs for the financing of eligible
22 clean water projects, and an amount equal to that maximum amount
23 is hereby appropriated to the department for those purposes.

24 (6) There is appropriated to the Department of Environmental
25 Protection the unappropriated balances from the Clean Water State
26 Revolving Fund, including the balances from the Federal Disaster
27 Relief Appropriations Act, and any repayments of loans and interest
28 therefrom, for the purposes of clean water project loans and
29 providing the State match as available on or before June 30, 2017,
30 as required or will be required for the award of the capitalization
31 grants made available to the State for clean water projects pursuant
32 to the Federal Clean Water Act.

33 (7) There is appropriated to the Department of Environmental
34 Protection the unappropriated balances from the "Wastewater
35 Treatment Fund" established pursuant to section 15 of the
36 "Wastewater Treatment Bond Act of 1985" (P.L.1985, c.329), and
37 any repayments of loans and interest therefrom, as available on or
38 before June 30, 2017, for the purposes of clean water project loans
39 and providing the State match as required or will be required for the
40 award of the capitalization grants made available to the State for
41 clean water projects pursuant to the Federal Clean Water Act.

42 (8) There is appropriated to the Department of Environmental
43 Protection the unappropriated balances from the "1992 Wastewater
44 Treatment Fund" established pursuant to section 27 of the "Green
45 Acres, Clean Water, Farmland and Historic Preservation Bond Act
46 of 1992" (P.L.1992, c.88), and any repayments of loans and interest
47 therefrom, as available on or before June 30, 2017, for the purposes
48 of clean water project loans and providing the State match as

1 required or will be required for the award of the capitalization
2 grants made available to the State for clean water projects pursuant
3 to the Federal Clean Water Act.

4 (9) There is appropriated to the Department of Environmental
5 Protection the unappropriated balances from the "2003 Water
6 Resources and Wastewater Treatment Fund" established pursuant to
7 subsection a. of section 19 of the "Dam, Lake, Stream, Flood
8 Control, Water Resources, and Wastewater Treatment Project Bond
9 Act of 2003" (P.L.2003, c.162), and any repayments of loans and
10 interest therefrom, as available on or before June 30, 2017, for the
11 purposes of clean water project loans and providing the State match
12 as required or will be required for the award of the capitalization
13 grants made available to the State for clean water projects pursuant
14 to the Federal Clean Water Act.

15 (10) There is appropriated to the Department of Environmental
16 Protection the unappropriated balances from the Drinking Water
17 State Revolving Fund, including the balances from the Disaster
18 Relief Appropriations Act of 2013, for the purposes of drinking
19 water project loans and any repayments of loans and interest
20 therefrom, that are or may become available on or before June 30,
21 2017.

22 (11) There is appropriated to the Department of Environmental
23 Protection such sums as may be needed from loan repayments and
24 interest earnings from the "Water Supply Fund" established
25 pursuant to section 14 of the "Water Supply Bond Act of 1981"
26 (P.L.1981, c.261) for the "Drinking Water State Revolving Fund
27 Match Accounts" contained within that fund for the purpose of
28 providing the State match as required or will be required for the
29 award of the capitalization grants made available to the State for
30 drinking water projects pursuant to the Federal Safe Drinking Water
31 Act.

32 (12) There is appropriated to the Department of Environmental
33 Protection from the "Interim Financing Program Fund" created and
34 established by the New Jersey Environmental Infrastructure Trust
35 pursuant to subsection d. of section 9 of P.L.1985, c.334 (C.58:11B-
36 9) such amounts as may be or become available on or before June
37 30, 2017, and any repayments of loans and interest therefrom, as
38 may be necessary to supplement the sums appropriated from the
39 Drinking Water State Revolving Fund for the purposes of drinking
40 water project loans and providing the State match as required or
41 will be required for the award of the capitalization grants made
42 available to the State for clean water projects pursuant to the
43 Federal Safe Drinking Water Act.

44 (13) There is appropriated to the Department of Environmental
45 Protection from the "Disaster Relief Emergency Financing Program
46 Fund" created and established by the New Jersey Environmental
47 Infrastructure Trust pursuant to section 1 of P.L.2013, c.93
48 (C.58:11B-9.5) such amounts as may be necessary to supplement

1 the sums appropriated from the Drinking Water State Revolving
2 Fund for the purposes of drinking water project loans and providing
3 the State match as required or will be required for the award of the
4 capitalization grants made available to the State for drinking water
5 projects pursuant to the Federal Safe Drinking Water Act.

6 (14) There is appropriated to the Department of Environmental
7 Protection from the "Loan Origination Fee Fund" created and
8 established by the New Jersey Environmental Infrastructure Trust
9 pursuant to section 1 of P.L.2005, c.202 (C.58:11B-10.2), and any
10 repayments of loans and interest therefrom, such amounts as may be
11 necessary to supplement the sums appropriated from the Drinking
12 Water State Revolving Fund for the purposes of drinking water
13 project loans and providing the State match as required or will be
14 required for the award of the capitalization grants made available to
15 the State for drinking water projects pursuant to the Federal Safe
16 Drinking Water Act.

17 (15) There is appropriated to the Department of Environmental
18 Protection such sums as may be received by the Department of
19 Community Affairs as the grantee from the United States
20 Department of Housing and Urban Development Community
21 Development Block Grant - Disaster Recovery Program (CDBG-
22 DR), as anticipated and upon availability on or before June 30,
23 2017, for the purposes of CDBG-DR eligible clean water and
24 drinking water project loans and providing the State match as
25 required or will be required for the award of the capitalization
26 grants made available to the State for clean water projects pursuant
27 to the Federal Clean Water Act and drinking water projects pursuant
28 to the Federal Safe Drinking Water Act, respectively.

29 (16) There is appropriated to the Department of Environmental
30 Protection such sums as may be or become available on or before
31 June 30, 2017, as repayments of drinking water project loans and
32 any interest therefrom from the "Water Supply Fund" established
33 pursuant to section 14 of the "Water Supply Bond Act of 1981"
34 (P.L.1981, c.261) for the purposes of drinking water project loans
35 and providing the State match as required or will be required for the
36 award of the capitalization grants made available to the State for
37 drinking water projects pursuant to the Federal Safe Drinking Water
38 Act.

39 (17) Of the sums appropriated to the Department of
40 Environmental Protection from the "Water Supply Fund" pursuant
41 to P.L.1999, c.174, P.L.2001, c.222, P.L.2002, c.70 and P.L.2003,
42 c.158, the department is authorized to transfer any unexpended
43 balances and any repayments of loans and interest therefrom as may
44 be or become available on or before June 30, 2017, in such amounts
45 as needed to the Drinking Water State Revolving Fund accounts
46 contained within the Water Supply Fund established for the
47 purposes of providing drinking water project loans and providing
48 the State match as required or will be required for the award of the

1 capitalization grants made available to the State for drinking water
2 projects pursuant to the Federal Safe Drinking Water Act.

3 (18) Of the sums appropriated to the Department of
4 Environmental Protection from the "1992 Wastewater Treatment
5 Fund" pursuant to P.L.1996, c.85, P.L.1997, c.221, P.L.1998, c.84,
6 P.L.1999, c.174, P.L.2000, c.92, P.L.2001, c.222 and P.L.2002,
7 c.70, the department is authorized to transfer any unexpended
8 balances and any repayments of loans and interest therefrom as may
9 be or become available on or before June 30, 2017, in such amounts
10 as needed to the Clean Water State Revolving Fund accounts
11 contained within the 1992 Wastewater Treatment Fund for the
12 purposes of providing clean water project loans and providing the
13 State match as required or will be required for the award of the
14 capitalization grants made available to the State for clean water
15 projects pursuant to the Federal Clean Water Act.

16 (19) Of the sums appropriated to the Department of
17 Environmental Protection from the "2003 Water Resources and
18 Wastewater Treatment Fund" pursuant to P.L.2004, c.109, and
19 P.L.2007, c.139, the department is authorized to transfer any
20 unexpended balances and any repayments of loans and interest
21 therefrom as may be or become available on or before June 30,
22 2017, in such amounts as needed to the Clean Water State
23 Revolving Fund accounts contained within the 2003 Water
24 Resources and Wastewater Treatment Fund for the purposes of
25 providing clean water project loans and providing the State match
26 as required or will be required for the award of the capitalization
27 grants made available to the State for clean water projects pursuant
28 to the Federal Clean Water Act.

29 (20) There is appropriated to the Department of Environmental
30 Protection the sums deposited by the New Jersey Environmental
31 Infrastructure Trust into the Clean Water State Revolving Fund, the
32 "Wastewater Treatment Fund," the "1992 Wastewater Treatment
33 Fund," the "Water Supply Fund," the "Stormwater Management and
34 Combined Sewer Overflow Abatement Fund," established pursuant
35 to the "Stormwater Management and Combined Sewer Overflow
36 Abatement Bond Act of 1989" (P.L.1989, c.181), the "2003 Water
37 Resources and Wastewater Treatment Fund" and the Drinking
38 Water State Revolving Fund, as appropriate, pursuant to paragraph
39 (6) of subsection c. of section 1 of P.L.2016, c.31, as available on or
40 before June 30, 2017, for the purposes of providing clean water
41 project loans and drinking water project loans and providing the
42 State match as required or will be required for the award of the
43 capitalization grants made available to the State for clean water
44 projects pursuant to the Federal Clean Water Act and drinking water
45 projects pursuant to the Federal Safe Drinking Water Act.

46 Any such amounts shall be for the purpose of making zero
47 interest and principal forgiveness financing loans, to the extent
48 sufficient funds are available, to or on behalf of local government

1 units or public water utilities (hereinafter referred to as "project
2 sponsors") to finance a portion of the cost of construction of clean
3 water projects and drinking water projects listed in sections 2 and 3
4 of **[this act]** P.L.2016, c.32, as amended by P.L. , c. (pending
5 before the Legislature as this bill), and for the purpose of
6 implementing and administering the provisions of **[this act]**
7 P.L.2016, c.32, as amended by P.L. , c. (pending before the
8 Legislature as this bill), to the extent permitted by the Federal
9 Disaster Relief Appropriations Act, the Federal Clean Water Act,
10 and any amendatory and supplementary acts thereto, P.L.2009, c.77,
11 the "Wastewater Treatment Bond Act of 1985" (P.L.1985, c.329),
12 the "Water Supply Bond Act of 1981" (P.L.1981, c.261), the
13 "Stormwater Management and Combined Sewer Overflow
14 Abatement Bond Act of 1989" (P.L.1989, c.181), the "Green Acres,
15 Clean Water, Farmland and Historic Preservation Bond Act of
16 1992" (P.L.1992, c.88), the "Dam, Lake, Stream, Flood Control,
17 Water Resources, and Wastewater Treatment Project Bond Act of
18 2003" (P.L.2003, c.162), the Federal Safe Drinking Water Act, and
19 any amendatory and supplementary acts thereto, and State law.

20 b. The department is authorized to make zero interest and
21 principal forgiveness financing loans to or on behalf of the project
22 sponsors for the environmental infrastructure projects listed in
23 subsection a. of section 2 and subsection a. of section 3 of **[this act]**
24 P.L.2016, c.32, as amended by P.L. , c. (pending before the
25 Legislature as this bill), for clean water projects, up to the
26 individual amounts indicated and in the priority stated, to the extent
27 there are sufficient eligible project applications, and except that any
28 such amounts may be reduced if a project fails to meet the
29 requirements of section 4 or 5 of **[this act]** P.L.2016, c.32, as
30 amended by P.L. , c. (pending before the Legislature as this
31 bill), or by the Commissioner of Environmental Protection pursuant
32 to section 7 of **[this act]** P.L.2016, c.32, as amended by P.L. , c.
33 (pending before the Legislature as this bill), provided:

34 (1) a maximum of \$3 million in principal forgiveness loans shall
35 be issued to Barnegat Bay Watershed environmental infrastructure
36 projects as provided in subsection a. of section 3 of **[this act]**
37 P.L.2016, c.32, as amended by P.L. , c. (pending before the
38 Legislature as this bill), wherein principal forgiveness shall be a
39 minimum of 25 percent of the fund loan amount per project
40 sponsor;

41 (2) a maximum of \$60 million shall be issued to finance clean
42 water redevelopment projects as provided in subsection a. of section
43 3 of **[this act]** P.L.2016, c.32, as amended by P.L. , c. (pending
44 before the Legislature as this bill);

45 (3) a maximum of \$3 million in principal forgiveness loans shall
46 be issued as provided in subsection a. of section 3 of **[this act]**
47 P.L.2016, c.32, as amended by P.L. , c. (pending before the

1 Legislature as this bill), addressing combined sewer overflow
2 abatement projects, including projects that use practices that restore
3 natural hydrology through infiltration, evapotranspiration, or the
4 usage or harvesting of stormwater, wherein principal forgiveness
5 loans shall be a minimum of 25 percent of the fund loan amount per
6 project in an amount not to exceed \$1 million of principal
7 forgiveness per project sponsor; and

8 (4) those projects listed in subsection a. of section 2 **of this act**
9 and subsection a. of section 3 of **this act** P.L.2016, c.32, as
10 amended by P.L. , c. (pending before the Legislature as this
11 bill), that were previously identified in P.L.2015, c.108 are granted
12 continued priority status and shall be subject to the provisions of
13 P.L.2015, c.108, provided such projects receive short-term funding
14 prior to June 30, 2017.

15 c. The department is authorized to make zero interest and
16 principal forgiveness financing loans to or on behalf of the project
17 sponsors for the environmental infrastructure projects listed in
18 subsection b. of section 3 of **this act** P.L.2016, c.32, as amended
19 by P.L. , c. (pending before the Legislature as this bill), for
20 drinking water projects, up to the individual amounts indicated and
21 in the priority stated, provided:

22 (1) a maximum of 30 percent of the 2016 Drinking Water State
23 Revolving Fund loans not to exceed \$5 million may be issued as
24 provided in subsection b. of section 3 of **this act** P.L.2016, c.32,
25 as amended by P.L. , c. (pending before the Legislature as this
26 bill), for drinking water systems, as follows:

27 (a) up to \$500,000 of Drinking Water State Revolving Fund
28 loans shall be available for drinking water systems serving up to
29 500 residents wherein principal forgiveness shall be 100 percent of
30 the total loan amount;

31 (b) any unexpended funds available pursuant to subparagraph (a)
32 of this paragraph shall be available for drinking water systems
33 serving populations greater than 500 residents and up to 10,000
34 residents wherein principal forgiveness shall not exceed \$500,000
35 in aggregate when accounting for the principal forgiveness loans
36 issued pursuant to subparagraph (a) of this paragraph, and shall not
37 exceed 50 percent of the total loan amount per project sponsor in an
38 amount not to exceed \$1 million per project sponsor.

39 Loans for drinking water systems serving 500 or fewer residents
40 shall be given the highest priority, followed by systems serving
41 between 501 to 10,000 residents; and

42 (c) any unexpended funds available pursuant to subparagraphs
43 (a) and (b) of this paragraph shall be available for municipally-
44 owned drinking water systems needing treatment for a national
45 primary drinking water contaminant or a State-regulated primary
46 contaminant wherein the principal forgiveness shall not exceed 20
47 percent of the total loan amount not to exceed \$2 million per project
48 sponsor.

1 Loans may be made pursuant to this subsection to the extent
2 there are sufficient eligible project applications and as required or
3 will be required for the award of the capitalization grants made
4 available to the State for drinking water projects pursuant to the
5 Federal Safe Drinking Water Act. Any such amounts may be
6 reduced by the Commissioner of Environmental Protection pursuant
7 to section 7 of ~~["this act"] P.L.2016, c.32, as amended by P.L. , c.~~
8 ~~(pending before the Legislature as this bill)~~, or if a project fails to
9 meet the requirements of section 4 or 5 of ~~["this act"] P.L.2016, c.32,~~
10 ~~as amended by P.L. , c. (pending before the Legislature as this~~
11 ~~bill).~~

12 (2) Those projects listed in subsection b. of section 2 ~~["of this~~
13 ~~act"] and subsection b. of section 3 of ["this act"] P.L.2016, c.32, as~~
14 ~~amended by P.L. , c. (pending before the Legislature as this~~
15 ~~bill)~~, that were previously identified in P.L.2015, c.108 are granted
16 continued priority status and shall be subject to the provisions of
17 P.L.2015, c.108 provided such projects receive short-term funding
18 prior to June 30, 2016.

19 d. The department is authorized to make zero interest and
20 principal forgiveness financing loans to or on behalf of the project
21 sponsors for the environmental infrastructure projects listed in
22 sections 2 and 3 of ~~["this act"] P.L.2016, c.32, as amended by~~
23 ~~P.L. , c. (pending before the Legislature as this bill)~~, under the
24 same terms, conditions and requirements as set forth in this section
25 from any unexpended balances of the amounts appropriated
26 pursuant to section 1 of P.L.1987, c.200, section 2 of P.L.1988,
27 c.133, section 1 of P.L.1989, c.189, section 1 of P.L.1990, c.99,
28 section 1 of P.L.1991, c.325, section 1 of P.L.1992, c.38, section 1
29 of P.L.1993, c.193, section 1 of P.L.1994, c.106, section 1 of
30 P.L.1995, c.219, section 1 of P.L.1996, c.85, section 1 of P.L.1997,
31 c.221, section 2 of P.L.1998, c.84, section 2 of P.L.1999, c.174,
32 section 2 of P.L.2000, c.92, sections 1 and 2 of P.L.2001, c.222,
33 sections 1 and 2 of P.L.2002, c.70, sections 1 and 2 of P.L.2003,
34 c.158, sections 1 and 2 of P.L.2004, c.109, sections 1 and 2 of
35 P.L.2005, c.196, sections 1 and 2 of P.L.2006, c.68, sections 1 and
36 2 of P.L.2007, c.139, sections 1 and 2 of P.L.2008, c.68, sections 1
37 and 2 of P.L.2009, c.102, sections 1 and 2 of P.L.2010, c.63,
38 sections 1 and 2 of P.L.2011, c.93, sections 1 and 2 of P.L.2012,
39 c.43, sections 1 and 2 of P.L.2013, c.95, sections 1 and 2 of
40 P.L.2014, c.25, ~~["and"] sections 1 and 2 of P.L.2015, c.108, and~~
41 ~~sections 1 and 2 of P.L.2016, c.32,~~ including amounts resulting
42 from the low bid and final building cost reductions authorized
43 pursuant to section 6 of P.L.1987, c.200, section 7 of P.L.1988,
44 c.133, section 6 of P.L.1989, c.189, section 6 of P.L.1990, c.99,
45 section 6 of P.L.1991, c.325, section 6 of P.L.1992, c.38, section 6
46 of P.L.1993, c.193, section 6 of P.L.1994, c.106, section 6 of
47 P.L.1995, c.219, section 6 of P.L.1996, c.85, section 6 of P.L.1997,

1 c.221, section 7 of P.L.1998, c.84, section 6 of P.L.1999, c.174,
2 section 6 of P.L.2000, c.92, section 6 of P.L.2001, c.222, section 6
3 of P.L.2002, c.70, section 6 of P.L.2003, c.158, section 6 of
4 P.L.2004, c.109, section 6 of P.L.2005, c.196, section 6 of
5 P.L.2006, c.68, section 6 of P.L.2007, c.139, section 6 of P.L.2008,
6 c.68, section 7 of P.L.2009, c.102, section 6 of P.L.2010, c.63,
7 section 6 of P.L.2011, c.93, section 6 of P.L.2012, c.43, section 6 of
8 P.L.2013, c.95, section 6 of P.L.2014, c.25, [and] section 6 of
9 P.L.2015, c.108, and section 6 of P.L.2016, c.32, and from any
10 repayments of loans and interest from the Clean Water State
11 Revolving Fund, the "Wastewater Treatment Fund," the "Water
12 Supply Fund," the "1992 Wastewater Treatment Fund," the "2003
13 Water Resources and Wastewater Treatment Fund," and amounts
14 deposited therein during State fiscal year 2015 and State fiscal year
15 2016 pursuant to the provisions of section 16 of P.L.1985, c.329,
16 and section 2 of P.L.2009, c.77 and any amendatory and
17 supplementary acts thereto, including any Clean Water State
18 Revolving Fund Accounts contained within the "Wastewater
19 Treatment Fund," and from any repayment of loans and interest
20 from the Drinking Water State Revolving Fund.

21 e. The department is authorized to make zero interest and
22 principal forgiveness Sandy financing loans to or on behalf of the
23 project sponsors for the Sandy environmental infrastructure projects
24 listed in subsection a. of section 3 of [this act] P.L.2016, c.32, as
25 amended by P.L. , c. (pending before the Legislature as this
26 bill), for clean water projects and subsection b. of section 3 of [this
27 act] P.L.2016, c.32, as amended by P.L. , c. (pending before the
28 Legislatre as this bill) for drinking water projects, in a manner
29 consistent with the Federal Disaster Relief Appropriations Act, up
30 to the individual amounts indicated, except that any such amount
31 may be reduced by the Commissioner of Environmental Protection
32 pursuant to section 7 of [this act] P.L.2016, c.32, as amended by
33 P.L. , c. (pending before the Legislature as this bill), or if a
34 project fails to meet the requirements of section 4, 5, or 7 of [this
35 act] P.L.2016, c.32, as amended by P.L. , c. (pending before the
36 Legislatre as this bill), provided:

37 (1) a maximum of \$140 million shall be provided for Sandy
38 financing loans for clean water and \$30 million for drinking water
39 projects to provide financial assistance to communities affected by
40 the Storm Sandy, and for projects whose purpose is to reduce flood
41 damage risk and vulnerability or to enhance resiliency to rapid
42 hydrologic change or a natural disaster; and

43 (2) a maximum of \$10 million shall be provided in the form of
44 principal forgiveness loans for drinking water projects to provide
45 auxiliary power to publicly-owned facilities affected by Storm
46 Sandy.

1 f. For the purposes of **[this act]** P.L.2016, c.32, as amended by
 2 P.L. , c. (pending before the Legislature as this bill):

3 "Base financing" means zero interest loans provided by the
 4 Department of Environmental Protection from moneys made
 5 available for the purposes of **[this act]** P.L.2016, c.32, as amended
 6 by P.L. , c. (pending before the Legislature as this bill), from
 7 any source other than funds received pursuant to the Federal
 8 Disaster Relief Appropriations Act, related State matching funds,
 9 and interest earned thereon.

10 "Federal Disaster Relief Appropriations Act" means the
 11 "Disaster Relief Appropriations of 2013" (Pub.L.113-2), and any
 12 amendatory and supplementary acts thereto.

13 "Sandy financing" or "Sandy funding" means grants, zero
 14 interest loans or principal forgiveness loans provided by the
 15 Department of Environmental Protection from funds made available
 16 to the State for clean water projects, clean water project match,
 17 drinking water projects or drinking water project match pursuant to
 18 the Federal Disaster Relief Appropriations Act.
 19 (cf: P.L.2016, c.32, s.1)

20

21 2. Section 2 of P.L.2016, c.32 is amended to read as follows:

22 2. a. (1) The department is authorized to expend funds for the
 23 purpose of making supplemental zero interest loans to or on behalf
 24 of the project sponsors listed below for the following clean water
 25 environmental infrastructure projects:
 26

Project Sponsor	Project Number	Estimated Allowable DEP Loan Amount	Estimated Total Allowable Loan Amount
Warren Township SA	S340964-01-1	\$75,000	\$100,000
<u>North Hudson SA</u>	<u>S340952-19-1</u>	<u>\$75,000</u>	<u>\$100,000</u>
North Hudson SA	S340952-20-1	\$675,000	\$900,000
<u>Ewing Lawrence SA</u>	<u>S340391-10-1</u>	<u>\$3,675,000</u>	<u>\$4,900,000</u>
Wanaque Valley RSA	S340780-04-1	[\$750,000] <u>\$1,125,000</u>	[\$1,000,000] <u>\$1,500,000</u>
Warren Township SA	S340964-02-1	[\$75,000] <u>\$262,500</u>	[\$100,000] <u>\$350,000</u>
Burlington Township	S340712-14-1	\$150,000	\$200,000
Ventnor City	S340667-02-1	\$3,750,000	\$5,000,000
Total projects: [6] 8		[\$5,475,000] \$9,787,500	[\$7,300,000] \$13,050,000

27

28 (2) The loans authorized in this subsection shall be made for the
 29 difference between the allowable loan amounts required by these

1 projects based upon final building costs pursuant to section 7 of
 2 【this act】 P.L.2016, c.32, as amended by P.L. , c. (pending
 3 before the Legislature as this bill), and the loan amounts certified
 4 by the Commissioner of Environmental Protection in State fiscal
 5 years 2015 and 2016 and for increased allowable costs as defined
 6 and determined in accordance with the rules and regulations
 7 adopted by the department pursuant to section 4 of P.L.1985, c.329.
 8 The loans authorized in this subsection shall be made to or on
 9 behalf of the project sponsors listed, up to the individual amounts
 10 indicated and in the priority stated, to the extent sufficient funds are
 11 available, except as a project fails to meet the requirements of
 12 section 4, 5, or 7 of 【this act】 P.L.2016, c.32, as amended by
 13 P.L. , c. (pending before the Legislature as this bill).

14 (3) The zero interest loans for the projects authorized in this
 15 subsection shall have priority over projects listed in subsection a. of
 16 section 3 of 【this act】 P.L.2016, c.32, as amended by P.L. , c.
 17 (pending before the Legislature as this bill).

18 b. (1) The department is authorized to expend funds for the
 19 purpose of making supplemental loans to or on behalf of the project
 20 sponsors listed below for the following drinking water
 21 environmental infrastructure projects:
 22

Project Sponsor	Project Number	Estimated Allowable DEP Loan Amount	Estimated Total Allowable Loan Amount
Gloucester City	0414001-020-1	\$975,000	\$1,300,000
North Jersey District Water Supply Comm.	1613001-017-1	<u>【\$1,125,000】</u> <u>\$2,700,000</u>	<u>【\$1,500,000】</u> <u>\$3,600,000</u>
Total Projects: 2		<u>【\$2,100,000】</u> <u>\$3,675,000</u>	<u>【\$2,800,000】</u> <u>\$4,900,000</u>

23
 24 (2) The loans authorized in this subsection shall be made for the
 25 difference between the allowable loan amount required by this
 26 project based upon final building costs pursuant to section 6 of 【this
 27 act】 P.L.2016, c.32, as amended by P.L. , c. (pending before the
 28 Legislature as this bill), and the loan amount certified by the
 29 Commissioner of Environmental Protection in State fiscal year 2015
 30 and 2016 and for increased allowable costs as defined and
 31 determined in accordance with the rules and regulations adopted by
 32 the department pursuant to section 5 of P.L.1981, c.261. The loans
 33 authorized in this subsection shall be made to or on behalf of the
 34 project sponsors listed, up to the individual amounts indicated and
 35 in the priority stated, to the extent sufficient funds are available,
 36 except as a project fails to meet the requirements of section 4, 5, or

1 7 of **[this act]** P.L.2016, c.32, as amended by P.L. , c. (pending
 2 before the Legislature as this bill).

3 (3) The zero interest loans for the projects authorized in this
 4 subsection shall have priority over projects listed in subsection b. of
 5 section 3 of **[this act]** P.L.2016, c.32, as amended by P.L. , c.
 6 (pending before the Legislature as this bill).

7 c. The Department of Environmental Protection is authorized
 8 to adjust the allowable Department of Environmental Protection
 9 loan amount for projects authorized in this section to between 25%
 10 and 75% of the total allowable loan amount.

11 (cf: P.L.2016, c.32, s.2)

12
 13 3. Section 3 of P.L.2016, c.32 is amended to read as follows:

14 3. a. The following environmental infrastructure projects shall
 15 be known and may be cited as the "Storm Sandy and State Fiscal
 16 Year 2017 Clean Water Project Eligibility List":
 17

Project Sponsor	Project Number	Estimated Allowable DEP Loan Amount	Estimated Total Allowable Loan Amount
Camden County MUA	S340640-15	\$6,825,000	\$9,100,000
Jersey City MUA	S340928-15	\$30,300,000	\$40,400,000
Elizabeth City	S340942-18	[\$3,525,000] <u>\$6,150,000</u>	[\$4,700,000] <u>\$8,200,000</u>
Ocean County UA	S340372-56	\$6,000,000	\$8,000,000
Bayshore RSA	S340697-05	\$21,150,000	\$28,200,000
Bayshore RSA	S340697-06	\$8,100,000	\$10,800,000
Atlantic County UA	S340809-27	\$2,400,000	\$3,200,000
<u>Atlantic County UA</u>	<u>S340809-23</u>	<u>\$5,250,000</u>	<u>\$7,000,000</u>
<u>Atlantic County UA</u>	<u>S340809-25</u>	<u>\$8,250,000</u>	<u>\$11,000,000</u>
<u>Atlantic County UA</u>	<u>S340809-26</u>	<u>\$1,125,000</u>	<u>\$1,500,000</u>
Middletown Township SA	S340097-04	\$15,675,000	\$20,900,000
Hoboken City	S340635-05	\$3,825,000	\$5,100,000
North Hudson SA	S340952-19	\$3,225,000	\$4,300,000
North Hudson SA	S340952-23	\$1,275,000	\$1,700,000
North Hudson SA	S340952-26	\$675,000	\$900,000
Cumberland County UA	S340550-07	\$937,500	\$1,250,000
Millville City	S340921-07	\$9,000,000	\$12,000,000

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Passaic Valley SC	S340689-22	[\$2,250,000] \$2,925,000	[\$3,000,000] \$3,900,000
Passaic Valley SC	S340689-25	\$6,825,000	\$9,100,000
Passaic Valley SC	S340689-31	\$3,000,000	\$4,000,000
Passaic Valley SC	S340689-34	\$2,175,000	\$2,900,000
Jersey City MUA	S340928-21	\$9,000,000	\$12,000,000
Bergen County UA	S340386-17	\$7,500,000	\$10,000,000
Cinnaminson SA	S340170-07	\$6,750,000	\$9,000,000
Gloucester County UA	S340902-14	\$33,750,000	\$45,000,000
Stafford Township	S344100-03	\$4,200,000	\$5,600,000
Barnegat Township	S344130-01	\$337,500	\$450,000
Ocean County	S344080-04	\$825,000	\$1,100,000
Ocean County	S344080-10	\$180,000	\$240,000
Ocean County	S344080-11	\$252,000	\$336,000
Jackson Township	S344050-02	\$975,000	\$1,300,000
Kearny MUA	S340259-07	\$4,875,000	\$6,500,000
Cumberland County UA	S340550-08	\$937,500	\$1,250,000
North Wildwood City	S340663-06	[\$10,350,000] \$13,575,000	[\$13,800,000] \$18,100,000
Willingboro MUA	S340132-08	\$1,350,000	\$1,800,000
Ocean County UA	S340372-57	\$2,100,000	\$2,800,000
Perth Amboy City	S340435-15	\$1,500,000	\$2,000,000
Atlantic County UA	S340809-24	\$600,000	\$800,000
Rockaway Valley RSA	S340821-06	\$4,875,000	\$6,500,000
Gloucester Township MUA	S340364-13	\$975,000	\$1,300,000
Franklin Township SA	S340839-06	\$12,825,000	\$17,100,000
South Monmouth RSA	S340377-03	\$2,250,000	\$3,000,000
South Monmouth RSA	S340377-04	\$1,200,000	\$1,600,000
South Monmouth RSA	S340377-05	\$2,550,000	\$3,400,000
Washington Township MUA	S340930-03	\$1,725,000	\$2,300,000
Washington Township MUA	S340930-04	\$825,000	\$1,100,000
Montclair Township	S340837-03	\$1,125,000	\$1,500,000

Ocean Township SA	S340750-12	\$3,000,000	\$4,000,000
Pine Hill MUA	S340274-05	\$1,275,000	\$1,700,000
Oradell Borough	S340835-04	\$1,125,000	\$1,500,000
Ocean Township	S340112-07	[\$1,875,000] <u>\$2,250,000</u>	[\$2,500,000] <u>\$3,000,000</u>
Long Beach Township	S340023-06	\$3,750,000	\$5,000,000
Somerset Raritan Valley SA	S340801-08	<u>\$3,900,000</u>	<u>\$5,200,000</u>
Gloucester City	S340958-07	\$900,000	\$1,200,000
Hillsborough Township	S340099-02	\$1,200,000	\$1,600,000
Manasquan Borough	S340450-02	<u>\$1,350,000</u>	<u>\$1,800,000</u>
Burlington County	S340818-07	\$1,725,000	\$2,300,000
Carteret Borough	S340939-09	[\$6,450,000] <u>\$7,950,000</u>	[\$8,600,000] <u>\$10,600,000</u>
Hammonton Town	S340927-09	\$3,450,000	\$4,600,000
Sea Girt Borough	S340468-01	\$2,625,000	\$3,500,000
Ventnor City	S340667-03	\$1,200,000	\$1,600,000
Cumberland County IA	S342015-03	<u>\$12,075,000</u>	<u>\$16,100,000</u>
Salem County IA	S342022-01	<u>\$5,775,000</u>	<u>\$7,700,000</u>
Somerville Borough	S342013-01	\$13,050,000	\$17,400,000
Total Projects: [44] 64		[\$215,850,000] <u>\$328,744,500</u>	[\$287,800,000] <u>\$438,326,000</u>

b. The following environmental infrastructure projects shall be known and may be cited as the "Storm Sandy and State Fiscal Year 2017 Drinking Water Project Eligibility List":

Project Sponsor	Project No.	Estimated Allowable DEP Loan Amount	Estimated Total Allowable Loan Amount
Hammonton Town	0113001-011	\$1,425,000	\$1,900,000
Saddle Brook Township	0257001-002	\$1,350,000	\$1,800,000
Bordentown City	0303001-006	\$1,125,000	\$1,500,000
Bordentown City	0303001-007	\$2,100,000	\$2,800,000
Pemberton Township	0329004-004	\$900,000	\$1,200,000
Willingboro MUA	0338001-009	\$5,250,000	\$7,000,000
East Orange Water Commission	0705001-011	\$7,275,000	\$9,700,000

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Newark City	0714001-015	[\$8,850,000] <u>\$13,650,000</u>	[\$11,800,000] <u>\$18,200,000</u>
Washington Township MUA	0818004-009	\$600,000	\$800,000
Washington Township MUA	0818004-010	\$1,425,000	\$1,900,000
Washington Township MUA	0818004-011	\$1,200,000	\$1,600,000
Washington Township MUA	0818004-012	\$150,000	\$200,000
Washington Township MUA	0818004-014	\$675,000	\$900,000
Clinton Town	1005001-009	\$900,000	\$1,200,000
Hightstown Borough	1104001-007	\$300,000	\$400,000
Hightstown Borough	1104001-008	\$150,000	\$200,000
Pennington Borough	1108001-001	\$900,000	\$1,200,000
Milltown Borough	1214001-004	\$1,875,000	\$2,500,000
Middlesex Water Company	1225001-016	\$4,275,000	\$5,700,000
Middlesex Water Company	1225001-023	[\$5,550,000] <u>\$6,000,000</u>	[\$7,400,000] <u>\$8,000,000</u>
Berkeley Township MUA	1505004-007	\$525,000	\$700,000
Berkeley Township MUA	1505004-008	\$2,625,000	\$3,500,000
Jackson Township MUA	1511001-010	[\$4,425,000] <u>\$6,150,000</u>	[\$5,900,000] <u>\$8,200,000</u>
Jackson Township MUA	1511001-011	\$1,125,000	\$1,500,000
Little Egg Harbor MUA	1516001-003	\$3,450,000	\$4,600,000
Little Egg Harbor MUA	1516001-500	\$750,000	\$1,000,000
Ocean Township	1520001-007	\$975,000	\$1,300,000
Ocean Gate Borough	1521001-001	\$600,000	\$800,000
Stafford Township	1530004-018	\$1,800,000	\$2,400,000
Stafford Township	1530004-019	\$1,350,000	\$1,800,000
Manchester Utilities Authority	1603001-014	\$1,500,000	\$2,000,000
North Jersey District Water Supply Comm.	1613001-033	\$3,000,000	\$4,000,000
North Shore Water Association	1904004-002	\$337,500	\$450,000
Lake Glenwood Village	1922010-008	\$675,000	\$900,000
Rahway City	2013001-007	\$13,650,000	\$18,200,000
Rahway City	2013001-008	\$2,025,000	\$2,700,000

Passaic Valley Water Comm.	1605002-025	\$27,450,000	\$36,600,000
Netcong Borough	1428001-009	\$300,000	\$400,000
Trenton City	1111001-010	\$7,875,000	\$10,500,000
Cape May City	0502001-004	\$1,650,000	\$2,200,000
Gloucester City	0414001-020A	\$187,500	\$250,000
Long Beach Township	1517001-500	\$6,900,000	\$9,200,000
Long Beach Township	1517001-501	\$1,425,000	\$1,900,000
Clinton Town	1005001-008	\$1,125,000	\$1,500,000
Total Projects:		[\$85,087,500]	[\$113,450,000]
[36] 44		\$138,975,000	\$185,300,000

c. The Department of Environmental Protection is authorized to adjust the allowable Department of Environmental Protection loan amount for projects authorized in this section to between 25% and 75% of the total allowable loan amount and loan amounts to less than 25% to the extent the priority ranking and an insufficiency of funding prevents the department from making the loan.
(cf: P.L.2016, c.32, s.3)

4. Section 4 of P.L.2016, c.32 is amended to read as follows:

4. Any financing loan made by the Department of Environmental Protection pursuant to **[this act]** P.L.2016, c.32, as amended by P.L. , c. (pending before the Legislature as this bill), shall be subject to the following requirements:

a. The Commissioner Environmental Protection has certified that the project is in compliance with the provisions of P.L.1977, c.224, P.L.1985, c.329, P.L.1992, c.88, P.L.1997, c.223, P.L.1997, c.225 or P.L.2003, c.162, and any rules and regulations adopted pursuant thereto;

b. The estimated Department of Environmental Protection allowable loan amount shall not exceed 75% of the total allowable loan amount of the environmental infrastructure facility for projects listed in subsections a. and b. of section 2 **[of this act,]** and **[in]** subsections a. and b. of section 3 of **[this act]** P.L.2016, c.32, as amended by P.L. , c. (pending before the Legislature as this bill), provided that:

(1) for clean water loans to municipalities that do not satisfy the New Jersey Environmental Infrastructure Trust credit policy but are subject to State financial supervision and oversight pursuant to the "Local Government Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), the Department of Environmental Protection allowable loan amount shall be up to 100% of the total allowable loan amount not to exceed a total of \$10,000,000 for all such loans;

(2) for clean water and drinking water loans to municipalities receiving funding under the United States Department of Housing and Urban Development Community Development Block Grant –

1 Disaster Recovery Program (CDBG-DR) the Department of
2 Environmental Protection allowable loan amount shall be up to
3 100% of the total allowable loan amount; and

4 (3) for loans to drinking water systems serving 500 or fewer
5 residents the Department of Environmental Protection allowable
6 loan amount shall be 100% of the total allowable loan amount not to
7 exceed a total of \$500,000 for all such loans. The loan amount for
8 supplemental loans shall not exceed that percentage of the
9 allowable project cost of the project's initial program loan; and

10 (4) for loans to communities in a combined sewer overflow
11 sewershed sponsoring construction projects that reduce or eliminate
12 excessive infiltration, inflow, or extraneous flows, the Department
13 of Environmental Protection allowable loan amount shall be up to
14 100% of the total allowable loan amount;

15 c. The loan shall be repaid within a period not to exceed 30
16 years of the making of the loan; and

17 d. The loan shall be subject to any other terms and conditions
18 as may be established by the commissioner and approved by the
19 State Treasurer, which may include, notwithstanding any other
20 provision of law to the contrary, subordination of a loan authorized
21 in [this act] P.L.2016, c.32, as amended by P.L. , c. (pending
22 before the Legislature as this bill), to loans made by the New Jersey
23 Environmental Infrastructure Trust pursuant to P.L.2016, c.31, as
24 amended by P.L. , c. (pending before the Legislature as Senate
25 Bill No. of 2016 and Assembly Bill No. of 2016), or to
26 administrative fees payable to the trust pursuant to subsection o. of
27 section 5 of P.L.1985, c.334 (C.58:11B-5).

28 (cf: P.L.2016, c.32, s.4)

29

30 5. Section 5 of P.L.2016, c.32 is amended to read as follows:

31 5. a. Any Sandy financing loan made by the Department of
32 Environmental Protection pursuant to [this act] P.L.2016, c.32, as
33 amended by P.L. , c. (pending before the Legislature as this
34 bill), shall be subject to the following requirements:

35 (1) The commissioner has certified that the project is in
36 compliance with the provisions of Title X, Chapter 7 of the Federal
37 "Disaster Relief Appropriations Act of 2013" (Pub.L.113-2), and
38 any amendatory and supplementary acts thereto; and

39 (2) The commissioner has certified that the project is in
40 compliance with the provisions of P.L.1977, c.224, P.L.1985, c.329,
41 P.L.1992, c.88, P.L.1997, c.223, P.L.1997, c.225 or P.L.2003,
42 c.162, and any rules and regulations adopted pursuant thereto.

43 b. The total amount of Sandy financing loans received by any
44 project sponsor for drinking water projects listed in subsection b. of
45 section 3 of [this act] P.L.2016, c.32, as amended by P.L. ,
46 c. (pending before the Legislature as this bill), shall not exceed
47 \$15 million of which not more than \$4.5 million of the principal
48 may be forgiven. In the event a project sponsor's individual loan

1 needs exceed \$15 million, the borrower may select which of its
2 projects it will seek funding pursuant to this section, and the
3 borrower may seek a loan for excess costs in a base financing loan.
4 In the event that additional Sandy funding becomes available
5 because project sponsors do not close on loans or the project
6 sponsors loan requests are less than originally applied for, the loan
7 not to exceed amount may be increased to the extent needed to
8 assure full utilization of Sandy funding for drinking water projects,
9 provided:

10 (1) the loan shall be repaid within a period not to exceed 30
11 years of the making of the loan;

12 (2) the loan shall be conditioned upon approval of a loan from
13 the New Jersey Environmental Infrastructure Trust pursuant to
14 P.L.2016, c.31, as amended by P.L. , c. (pending before the
15 Legislature as Senate Bill No. of 2016 and Assembly Bill No. of
16 2016), prior to June 30, 2017; and

17 (3) the loan shall be subject to any other terms and conditions as
18 may be established by the commissioner and approved by the State
19 Treasurer, which may include, notwithstanding any other provision
20 of law to the contrary, subordination of a loan authorized in [this
21 act] P.L.2016, c.32, as amended by P.L. , c. (pending before the
22 Legislature as this bill), to loans made by the trust pursuant to
23 P.L.2016, c.31, as amended by P.L. , c. (pending before the
24 Legislature as Senate Bill No. of 2016 and Assembly Bill No. of
25 2016), prior to June 30, 2017, or to administrative fees payable to
26 the trust pursuant to subsection o. of section 5 of P.L.1985, c.334
27 (C.58:11B-5).

28 (cf: P.L.2016, c.32, s.5)

29

30 6. Section 6 of P.L.2016, c.32 is amended to read as follows:

31 6. The priority lists and authorization for the making of loans
32 pursuant to sections 2 and 3 of [this act] P.L.2016, c.32, as
33 amended by P.L. , c. (pending before the Legislature as this
34 bill), shall expire on July 1, 2017, and any project sponsor which
35 has not executed and delivered a loan agreement with the
36 department for a loan authorized in [this act] P.L.2016, c.32, as
37 amended by P.L. , c. (pending before the Legislature as this
38 bill), shall no longer be entitled to that loan.

39 (cf: P.L.2016, c.32, s.6)

40

41 7. Section 7 of P.L.2016, c.32 is amended to read as follows:

42 7. The Commissioner of Environmental Protection is
43 authorized to reduce or increase the individual amount of loan funds
44 made available to or on behalf of project sponsors pursuant to
45 sections 2 and 3 of [this act] P.L.2016, c.32, as amended by
46 P.L. , c. (pending before the Legislature as this bill), based upon
47 final or low bid building costs defined in and determined in

1 accordance with rules and regulations adopted by the commissioner
2 pursuant to section 4 of P.L.1985, c.329, section 2 of P.L.1999,
3 c.362 (C.58:12A-12.2), or section 5 of P.L.1981, c.261, provided
4 that the total loan amount does not exceed the estimated total
5 allowable loan amount. The commissioner is authorized to reduce
6 or increase the individual amount of loan funds made available to or
7 on behalf of project sponsors pursuant to sections 2 and 3 of [this
8 act] P.L.2016, c.32, as amended by P.L. , c. (pending before the
9 Legislature as this bill), in an amount not to exceed 10 percent of
10 the total allowable loan amount based upon additional project costs
11 to comply with the Department of Environmental Protection's
12 guidance for asset management, emergency response, flood
13 protection, and auxiliary power.
14 (cf: P.L.2016, c.32, s.7)

15
16 8. Section 8 of P.L.2016, c.32 is amended to read as follows:

17 8. The expenditure of the funds appropriated by [this act]
18 P.L.2016, c.32, as amended by P.L. , c. (pending before the
19 Legislature as this bill), is subject to the provisions and conditions
20 of P.L.1977, c.224, P.L.1985, c.329, P.L.1992, c.88, P.L.1997,
21 c.223, P.L.1997, c.225 or P.L.2003, c.162, and the rules and
22 regulations adopted by the Commissioner of Environmental
23 Protection pursuant thereto, and the provisions of the Federal
24 Disaster Relief Appropriations Act, the Federal Clean Water Act or
25 the Federal Safe Drinking Water Act, and any amendatory and
26 supplementary acts thereto, as appropriate.
27 (cf: P.L.2016, c.32, s.8)

28
29 9. Section 10 of P.L.2016, c.32 is amended to read as follows:

30 10. a. Prior to repayment to the Clean Water State Revolving
31 Fund pursuant to sections 1 and 2 of P.L.2009, c.77 and any
32 amendatory and supplementary acts thereto, prior to repayment to
33 the "Wastewater Treatment Fund" pursuant to the provisions of
34 section 16 of P.L.1985, c.329, prior to repayment to the "1992
35 Wastewater Treatment Fund" pursuant to the provisions of section
36 28 of P.L.1992, c.88, prior to repayment to the Drinking Water
37 State Revolving Fund, prior to repayment to the "Stormwater
38 Management and Combined Sewer Overflow Abatement Fund"
39 pursuant to the provisions of section 15 of P.L.1989, c.181, prior to
40 repayment to the "2003 Water Resources and Wastewater
41 Treatment Fund" pursuant to the provisions of section 20 of
42 P.L.2003, c.162, or prior to repayment to the "Water Supply Fund"
43 pursuant to the provisions of section 15 of P.L.1981, c.261,
44 repayments of loans made pursuant to these acts may be utilized by
45 the New Jersey Environmental Infrastructure Trust established
46 pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.), as amended and
47 supplemented by P.L.1997, c.224, under terms and conditions
48 established by the commissioner and trust, and approved by the

1 State Treasurer, and consistent with the provisions of P.L.1985,
2 c.334 (C.58:11B-1 et seq.) and federal tax, environmental or
3 securities law, to the extent necessary to secure repayment of trust
4 bonds issued to finance loans approved pursuant to P.L.2016, c.31,
5 as amended by P.L. _____, c. (pending before the Legislature as
6 Senate Bill No. _____ of 2016 and Assembly Bill No. _____ of 2016), and to
7 secure the administrative fees payable to the trust pursuant to
8 subsection o. of section 5 of P.L.1985, c.334 (C.58:11B-5) by the
9 project sponsors receiving trust loans.

10 b. Prior to repayment to the Clean Water State Revolving Fund
11 pursuant to section 1 and 2 of P.L. 2009, c.77 and any amendatory
12 and supplementary acts thereto, prior to repayment to the
13 "Wastewater Treatment Fund" pursuant to the provisions of section
14 16 of P.L.1985, c.329, prior to repayment to the "1992 Wastewater
15 Treatment Fund" pursuant to the provisions of section 28 of
16 P.L.1992, c.88, prior to repayment to the "Water Supply Fund"
17 pursuant to the provisions of section 15 of P.L.1981, c.261, prior to
18 repayment to the Drinking Water State Revolving Fund, prior to
19 repayment to the "2003 Water Resources and Wastewater
20 Treatment Fund" pursuant to the provisions of section 20 of
21 P.L.2003, c.162, or prior to repayment to the "Stormwater
22 Management and Combined Sewer Overflow Abatement Fund"
23 pursuant to the provisions of section 15 of P.L.1989, c.181, the trust
24 is further authorized to utilize repayments of loans made pursuant to
25 P.L.1989, c.189, P.L.1990, c.99, P.L.1991, c.325, P.L.1992, c.38,
26 P.L.1993, c.193, P.L.1994, c.106, P.L.1995, c.219, P.L.1996, c.85,
27 P.L.1997, c.221, P.L.1998, c.84, P.L.1999, c.174, P.L.2000, c.92,
28 P.L.2001, c.222, P.L.2002, c.70, P.L.2003, c.158, P.L.2004, c.109,
29 P.L.2005, c.196, P.L.2006, c.68, P.L.2007, c.139, P.L.2008, c.68,
30 P.L.2009, c.102, P.L.2010, c.63, P.L.2011, c.93, P.L.2012, c.43,
31 P.L.2013, c.95, P.L.2014, c.25, P.L.2015, c.108, **[or]** P.L.2016,
32 c.32, or P.L. _____, c. (pending before the Legislature as this bill), to
33 secure repayment of trust bonds issued to finance loans approved
34 pursuant to P.L.1995, c.218, P.L.1996, c.87, P.L.1997, c.222,
35 P.L.1998, c.85, P.L.1999, c.173, P.L.2000, c.93, P.L.2001, c.224,
36 P.L.2002, c.71, P.L.2003, c.159, P.L.2004, c.110, P.L.2005, c.197,
37 P.L.2006, c.67, P.L.2007, c.140, P.L.2008, c.67, P.L.2009, c.101,
38 P.L.2010, c.62, P.L.2011, c.95, P.L.2012, c.38, P.L.2013, c.94,
39 P.L.2014, c.26, P.L.2015, c.107 **[or]** , P.L.2016, c.31, or P.L. _____,
40 c. (pending before the Legislature as Senate Bill No. _____ of 2016 and
41 Assembly Bill No. _____ of 2016), and to secure the administrative fees
42 payable to the trust under these loans pursuant to subsection o. of
43 section 5 of P.L.1985, c.334 (C.58:11B-5).

44 c. To the extent that any loan repayment sums are used to
45 satisfy any trust bond repayment or administrative fee payment
46 deficiencies, the trust shall repay such sums to the department for
47 deposit into the Clean Water State Revolving Fund, the
48 "Wastewater Treatment Fund," the "1992 Wastewater Treatment

1 Fund," the "Water Supply Fund," the Drinking Water State
2 Revolving Fund, the "2003 Water Resources and Wastewater
3 Treatment Fund," or the "Stormwater Management and Combined
4 Sewer Overflow Abatement Fund," as appropriate, from amounts
5 received by or on behalf of the trust from project sponsors causing
6 any such deficiency.
7 (cf: P.L.2016, c.32, s.10)
8

9 10. This act shall take effect immediately.
10
11

12 STATEMENT
13

14 This bill would amend the list of environmental infrastructure
15 projects approved by the Legislature for long-term funding for
16 Fiscal Year 2017 to include new projects and revise allowable loan
17 amounts for already approved projects.

18 Under current law, on or before May 15 of each year, the New
19 Jersey Environmental Infrastructure Trust (NJEIT) must submit a
20 list of environmental infrastructure projects, known as the project
21 eligibility list, to be approved by the Legislature for long-term
22 funding. The list is introduced in each House in the form of
23 legislative appropriations bills. In August 2016, P.L.2016, c.32 was
24 enacted into law, which appropriated funds to the Department of
25 Environmental Protection (DEP) for the purpose of financing
26 approximately \$411.35 million in environmental infrastructure
27 projects through the NJEIT in Fiscal Year 2017. Of that amount,
28 \$295.1 million was made available for clean water project loans and
29 \$116.25 million for drinking water project loans.

30 Also in August 2016, P.L.2016, c.30 was enacted into law,
31 which, among other things, provided the NJEIT with the authority
32 to submit an additional project eligibility list, by October 15 of each
33 year, for approval by the Legislature. Pursuant to that authority, the
34 NJEIT submitted an additional project eligibility list and revisions
35 to allowable loan amounts for projects that were already approved
36 in P.L.2016, c.32. This bill would amend P.L.2016, c.32 to include
37 those new projects and revisions to allowable loan amounts for
38 already approved projects. Under the bill and P.L.2016, c.32,
39 approximately \$641.58 million would be made available for
40 environmental infrastructure projects in Fiscal Year 2017. Of that
41 amount, approximately \$451.38 million would be available for
42 clean water project loans and \$190.2 million for drinking water
43 project loans.

SENATE ENVIRONMENT AND ENERGY COMMITTEE

STATEMENT TO

SENATE, No. 2732

STATE OF NEW JERSEY

DATED: NOVEMBER 3, 2016

The Senate Environment and Energy Committee favorably reports Senate Bill No. 2732.

This bill would amend the list of environmental infrastructure projects approved by the Legislature for long-term funding for Fiscal Year 2017 to include new projects and revise allowable loan amounts for already approved projects.

Under current law, on or before May 15 of each year, the New Jersey Environmental Infrastructure Trust (NJEIT) (renamed the "New Jersey Infrastructure Bank" pursuant to P.L.2016, c.56) must submit a list of environmental infrastructure projects, known as the project eligibility list, to be approved by the Legislature for long-term funding. The list is introduced in each House in the form of legislative appropriations bills. In August 2016, P.L.2016, c.32 was enacted into law, which appropriated funds to the Department of Environmental Protection (DEP) for the purpose of financing approximately \$411.35 million in environmental infrastructure projects through the NJEIT in Fiscal Year 2017. Of that amount, \$295.1 million was made available for clean water project loans and \$116.25 million for drinking water project loans.

Also in August 2016, P.L.2016, c.30 was enacted into law, which, among other things, provided the NJEIT with the authority to submit an additional project eligibility list, by October 15 of each year, for approval by the Legislature. Pursuant to that authority, the NJEIT submitted an additional project eligibility list and revisions to allowable loan amounts for projects that were already approved in P.L.2016, c.32. This bill would amend P.L.2016, c.32 to include those new projects and revisions to allowable loan amounts for already approved projects. Under the bill and P.L.2016, c.32, approximately \$641.58 million would be made available for environmental infrastructure projects in Fiscal Year 2017. Of that amount, approximately \$451.38 million would be available for clean water project loans and \$190.2 million for drinking water project loans.

**SENATE CONCURRENT
RESOLUTION No. 39**

STATE OF NEW JERSEY

217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Co-Sponsored by:

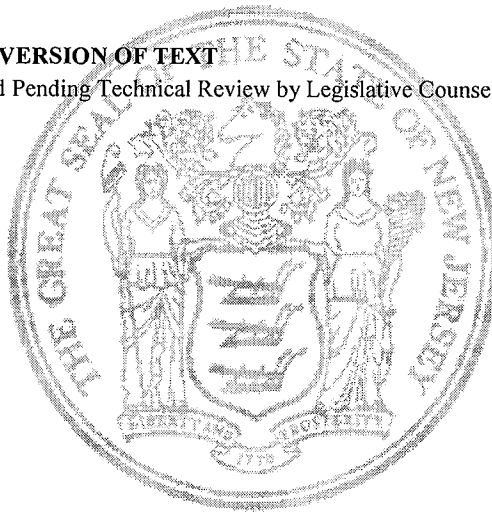
**Senators P.Barnes, III, Codey, Lesniak, Scutari, Vitale, Turner, Weinberg
and Sarlo**

SYNOPSIS

Amends Constitution to dedicate all State moneys received from settlements and awards in cases of environmental contamination for certain environmental purposes.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



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

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. There shall be credited annually to a special account in the
16 General Fund an amount equivalent to the revenue annually derived
17 from all settlements and judicial and administrative awards
18 collected by the State in connection with claims based on
19 environmental contamination.

20 The amount annually credited pursuant to this paragraph shall be
21 dedicated, and shall be appropriated from time to time by the
22 Legislature, only for paying for costs incurred by the State to repair
23 damage to, restore, or permanently protect the State's natural
24 resources, or for any of the purposes enumerated in Article VIII,
25 Section II, paragraph 6 of the State Constitution, except that no
26 more than five percent of the moneys appropriated pursuant to this
27 paragraph may be expended for administrative costs of the State or
28 its departments, agencies, or authorities for the purposes authorized
29 in this paragraph.

30
31 2. When this proposed amendment to the Constitution is finally
32 agreed to pursuant to Article IX, paragraph 1 of the Constitution, it
33 shall be submitted to the people at the next general election
34 occurring more than three months after the final agreement and
35 shall be published at least once in at least one newspaper of each
36 county designated by the President of the Senate, the Speaker of the
37 General Assembly and the Secretary of State, not less than three
38 months prior to the general election.

39
40 3. This proposed amendment to the Constitution shall be
41 submitted to the people at that election in the following manner and
42 form:

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

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

47 If you favor the proposition printed below make a cross (X), plus
48 (+), or check (✓) in the square opposite the word "Yes." If you are

1 opposed thereto make a cross (X), plus (+) or check (✓) in the
2 square opposite the word "No."

3 b. In every municipality the following question:
4

	YES	<p>CONSTITUTIONAL AMENDMENT DEDICATING MONEYS FROM STATE ENVIRONMENTAL CONTAMINATION CASES</p> <p>Do you approve amending the Constitution to dedicate all moneys collected by the State in cases of contamination of the environment? The moneys would have to be used only for environmental purposes.</p>
	NO	<p>INTERPRETIVE STATEMENT</p> <p>This amendment would dedicate all moneys collected by the State through settlements or awards for legal claims based on environmental contamination. These moneys would be dedicated solely for environmental purposes. These purposes could include preserving, repairing, or restoring natural resources. They may also include cleaning contaminated sites and underground storage tank sites, funding water quality programs, or preserving open space, farmland, or historic buildings or sites. Currently, these moneys may be used for any State purpose.</p>

5
6
7
8

STATEMENT

9 This constitutional amendment would dedicate all moneys from
10 settlements and awards collected by the State in connection with
11 legal claims based on environmental contamination. The amount
12 dedicated may be used only to repair damage to, restore, or
13 permanently protect the State's natural resources, and for any of the
14 purposes enumerated in Article VIII, Section II, paragraph 6 of the
15 State Constitution. Those constitutionally enumerated purposes
16 include providing funding for cleaning contaminated sites and
17 underground storage tank sites, water quality programs, and
18 preserving open space, farmland, and historic buildings or sites. In
19 addition, no more than five percent of the moneys dedicated and
20 appropriated annually pursuant to this constitutional amendment
21 may be expended for administrative costs of the State or its
22 departments, agencies, or authorities for the authorized purposes.

[First Reprint]

**SENATE CONCURRENT
RESOLUTION No. 39**

**STATE OF NEW JERSEY
217th LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Co-Sponsored by:

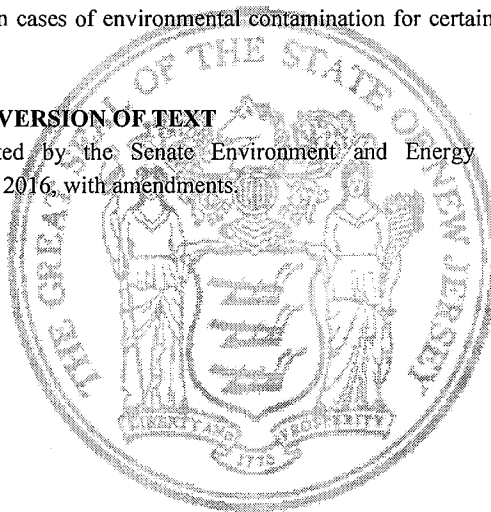
**Senators P.Barnes, III, Codey, Lesniak, Scutari, Vitale, Turner, Weinberg
and Sarlo**

SYNOPSIS

Amends Constitution to dedicate all State moneys received from settlements and awards in cases of environmental contamination for certain environmental purposes.

CURRENT VERSION OF TEXT

As reported by the Senate Environment and Energy Committee on November 3, 2016, with amendments.



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

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. There shall be credited annually to a special account in the
16 General Fund an amount equivalent to the revenue annually derived
17 from all settlements and judicial and administrative awards
18 collected by the State in connection with claims based on
19 environmental contamination.

20 The amount annually credited pursuant to this paragraph shall be
21 dedicated, and shall be appropriated from time to time by the
22 Legislature, only for paying for costs incurred by the State to repair
23 '[damage to]', restore, 'or replace damaged or lost natural
24 resources of the State.' or permanently protect the '[State's]'
25 natural resources '[', or for any of the purposes enumerated in
26 Article VIII, Section II, paragraph 6 of the State Constitution '] of
27 the State' , except that no more than five percent of the moneys
28 appropriated pursuant to this paragraph may be expended for
29 administrative costs of the State or its departments, agencies, or
30 authorities for the purposes authorized in this paragraph.

31
32 2. When this proposed amendment to the Constitution is finally
33 agreed to pursuant to Article IX, paragraph 1 of the Constitution, it
34 shall be submitted to the people at the next general election
35 occurring more than three months after the final agreement and
36 shall be published at least once in at least one newspaper of each
37 county designated by the President of the Senate, the Speaker of the
38 General Assembly and the Secretary of State, not less than three
39 months prior to the general election.

40
41 3. This proposed amendment to the Constitution shall be
42 submitted to the people at that election in the following manner and
43 form:

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SEN committee amendments adopted November 3, 2016.

- 1 There shall be printed on each official ballot to be used at the
 2 general election, the following:
 3 a. In every municipality in which voting machines are not used,
 4 a legend which shall immediately precede the question as follows:
 5 If you favor the proposition printed below make a cross (X), plus
 6 (+), or check (✓) in the square opposite the word "Yes." If you are
 7 opposed thereto make a cross (X), plus (+) or check (✓) in the
 8 square opposite the word "No."
 9 b. In every municipality the following question:

10

	YES	<p>CONSTITUTIONAL AMENDMENT DEDICATING MONEYS FROM STATE ENVIRONMENTAL CONTAMINATION CASES</p> <p>Do you approve amending the Constitution to dedicate all moneys collected by the State in cases of contamination of the environment? The moneys would have to be used only '<u>for environmental purposes</u>' to <u>repair, restore, replace, or preserve the State's natural resources</u>'.</p>
	NO	<p>INTERPRETIVE STATEMENT</p> <p>This amendment would dedicate all moneys collected by the State through settlements or awards for legal claims based on environmental contamination. These moneys would be dedicated '<u>solely for environmental purposes</u>. These purposes could include preserving, repairing, or restoring' to <u>repair, replace, or restore damaged</u>' natural resources. They '<u>may</u> <u>could</u>' also '<u>include cleaning contaminated sites and underground storage tank sites, funding water quality programs, or preserving open space, farmland, or historic buildings or sites</u>' <u>be used to preserve the State's natural resources</u>'. Currently, these moneys may be used for any State purpose.</p>

11

SENATE ENVIRONMENT AND ENERGY COMMITTEE

STATEMENT TO

SENATE CONCURRENT RESOLUTION No. 39

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 3, 2016

The Senate Environment and Energy Committee favorably reports Senate Concurrent Resolution No. 39 with committee amendments.

This constitutional amendment would dedicate all moneys from settlements and awards collected by the State in connection with legal claims based on environmental contamination. With proposed committee amendments, the amount dedicated may be used only to repair, restore, or replace damaged or lost natural resources of the State, or permanently protect the State's natural resources. In addition, no more than five percent of the moneys dedicated and appropriated annually pursuant to this constitutional amendment may be expended for administrative costs of the State, or its departments, agencies, or authorities for the authorized purposes.

The proposed committee amendments would delete language that authorizes the use of moneys from settlements and awards for any of the purposes enumerated in Article VIII, Section II, paragraph 6 of the State Constitution, such as providing funding for cleaning contaminated sites and underground storage tank sites, water quality programs, and preserving open space, farmland, and historic buildings or sites.

This resolution was pre-filed for introduction in the 2016-2017 session pending technical review. As reported, the resolution includes the changes required by technical review, which has been performed.

[Second Reprint]

**SENATE CONCURRENT
RESOLUTION No. 39**

STATE OF NEW JERSEY

217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Co-Sponsored by:

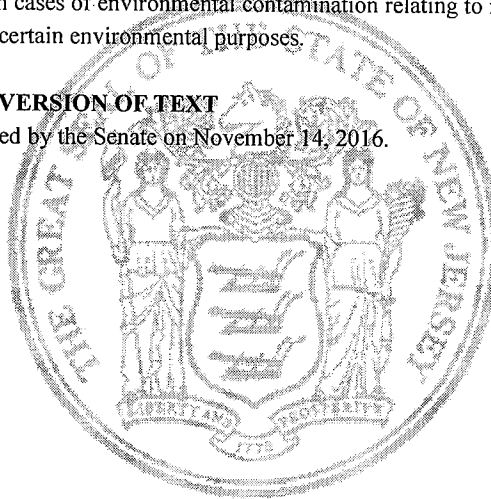
**Senators P.Barnes, III, Codey, Lesniak, Scutari, Vitale, Turner, Weinberg
and Sarlo**

SYNOPSIS

Amends Constitution to dedicate all State moneys received from settlements and awards in cases of environmental contamination relating to natural resource damages for certain environmental purposes.

CURRENT VERSION OF TEXT

As amended by the Senate on November 14, 2016.



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

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 the
9 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. There shall be credited annually to a special account in the
16 General Fund an amount equivalent to the revenue annually derived
17 from all settlements and judicial and administrative awards ²relating to
18 natural resource damages² collected by the State in connection with
19 claims based on environmental contamination.

20 The amount annually credited pursuant to this paragraph shall be
21 dedicated, and shall be appropriated from time to time by the
22 Legislature, ²[only]² for paying for costs incurred by the State to
23 repair '[damage to]', restore, 'or replace damaged or lost natural
24 resources of the State,¹ or permanently protect the '[State's]' natural
25 resources '[, or for any of the purposes enumerated in Article VIII,
26 Section II, paragraph 6 of the State Constitution] of the State'¹ ,
27 ²[except that no more than five] or for paying the legal or other costs
28 incurred by the State to pursue settlements and judicial and
29 administrative awards relating to natural resource damages. The first
30 priority for the use of any moneys by the State to repair, restore, or
31 replace damaged or lost natural resources of the State, or permanently
32 protect the natural resources of the State, pursuant to this paragraph
33 shall be in the immediate area in which the damage to the natural
34 resources occurred in connection with the claim for which the moneys
35 were recovered. If no reasonable project is available to satisfy the first
36 priority for the use of the moneys, or there are moneys available after
37 satisfying the first priority for their use, the second priority for the use
38 of any moneys by the State to repair, restore, or replace damaged or
39 lost natural resources of the State, or permanently protect the natural
40 resources of the State, pursuant to this paragraph shall be in the same
41 water region in which the damage to the natural resources occurred in
42 connection with the claim for which the moneys were recovered. If no

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SEN committee amendments adopted November 3, 2016.

²Senate floor amendments adopted November 14, 2016.

1 reasonable project is available to satisfy the first or second priority for
 2 the use of the moneys, or there are moneys available after satisfying
 3 the first or second priority for their use, the moneys may be used by
 4 the State to repair, restore, or replace damaged or lost natural resources
 5 of the State, or permanently protect the natural resources of the State,
 6 pursuant to this paragraph without geographic constraints. Up to 10²
 7 percent of the moneys appropriated pursuant to this paragraph may be
 8 expended for administrative costs of the State or its departments,
 9 agencies, or authorities for the purposes authorized in this paragraph.

10
 11 2. When this proposed amendment to the Constitution is finally
 12 agreed to pursuant to Article IX, paragraph 1 of the Constitution, it
 13 shall be submitted to the people at the next general election
 14 occurring more than three months after the final agreement and
 15 shall be published at least once in at least one newspaper of each
 16 county designated by the President of the Senate, the Speaker of the
 17 General Assembly and the Secretary of State, not less than three
 18 months prior to the general election.

19
 20 3. This proposed amendment to the Constitution shall be
 21 submitted to the people at that election in the following manner and
 22 form:

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

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

27 If you favor the proposition printed below make a cross (X), plus
 28 (+), or check (✓) in the square opposite the word "Yes." If you are
 29 opposed thereto make a cross (X), plus (+) or check (✓) in the square
 30 opposite the word "No."

31 b. In every municipality the following question:

	YES	<p>CONSTITUTIONAL AMENDMENT DEDICATING MONEYS FROM STATE ENVIRONMENTAL CONTAMINATION CASES</p> <p>Do you approve amending the Constitution to dedicate all moneys collected by the State ²<u>relating to natural resource damages</u>² in cases of contamination of the environment? The moneys would have to be used ²["only"]² ["for <u>environmental purposes]</u> <u>to repair, restore,</u> <u>replace, or preserve the State's natural</u> <u>resources</u>¹. ²<u>The moneys may also be used to</u> <u>pay legal or other costs incurred by the State</u> <u>in pursuing its claims.</u>²</p>
--	-----	--

		<p>INTERPRETIVE STATEMENT</p> <p>This amendment would dedicate ²all² moneys collected by the State ²<u>relating to natural resource damages</u>² through settlements or awards for legal claims based on environmental contamination. These moneys would be dedicated ¹solely for environmental purposes. These purposes could include preserving, repairing, or restoring to repair, replace, or restore damaged¹ natural resources ², or to preserve the State's natural resources. The moneys would be spent in an area as close as possible to the geographical area in which the damage occurred². ²They The moneys² ¹may could¹ also ¹include cleaning contaminated sites and underground storage tank sites, funding water quality programs, or preserving open space, farmland, or historic buildings or sites be used ²to preserve the State's natural resources¹ to pay for the State's legal or other costs in pursuing the claims². Currently, these moneys may be used for any State purpose.</p>
	NO	

STATEMENT TO
[First Reprint]
SENATE CONCURRENT RESOLUTION No. 39

with Senate Floor Amendments
(Proposed by Senator SMITH)

ADOPTED: NOVEMBER 14, 2016

These floor amendments would limit the dedication of moneys derived from all settlements and judicial and administrative awards collected by the State in connection with claims based on environmental contamination to only those moneys collected relating to natural resource damages. In addition, the amendments would authorize the use of the dedicated moneys to pay the legal or other costs incurred by the State to pursue settlements and judicial and administrative awards relating to natural resource damages.

The amendments would prioritize, in the following order, the use of the dedicated moneys by the State to repair, restore, or replace damaged or lost natural resources of the State, or to permanently protect the natural resources of the State, in connection with the claim for which the money was recovered: (1) in the immediate area in which the damage to the natural resources occurred; or (2) in the same water region in which the damage to the natural resources occurred. If no reasonable project is available to satisfy the first or second priority for the use of the moneys, or if there are moneys available after satisfying the first or second priority, moneys may be used by the State to repair, restore, or replace damaged or lost natural resources of the State, or permanently protect the natural resources of the State, without geographic constraints.

Finally, the amendments increase the amount of dedicated moneys that may be used to pay for related administrative costs from five to 10 percent of the moneys appropriated pursuant to the paragraph.

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SENATOR BOB SMITH (Chair): All right; are we all present and accounted for?

I think Governor Codey is on his way.

Let's start as we normally start: Welcome to--

UNIDENTIFIED MEMBERS OF AUDIENCE: --the most interesting Committee-- (laughter)

SENATOR SMITH: All right; let's try it again. (laughter)

Welcome to--

UNIDENTIFIED MEMBERS OF AUDIENCE: --the best--

SENATOR SMITH: --the most interesting Committee in the Legislature. All right. (laughter)

Ms. Horowitz, if you would call the roll.

MS. HOROWITZ (Committee Aide): Senator Smith.

SENATOR SMITH: Present.

MS. HOROWITZ: Senator Greenstein.

SENATOR LINDA R. GREENSTEIN (Vice Chair): Present.

MS. HOROWITZ: Senator Bateman.

SENATOR BATEMAN: Present.

MS. HOROWITZ: Senator Thompson.

SENATOR THOMPSON: Here.

SENATOR SMITH: Good.

So here's the plan for today, because we have just a stunning agenda, I think; very interesting stuff. So what we're going to do is to do four bills quickly. I don't believe they're controversial at all, but that's usually the kiss of death when I say that. (laughter) We want to do the

Environmental Infrastructure Trust bills, and then Senator Holzapfel's tax credit for the removal of lawns near the Barnegat Bay.

And then we're going to go into our two hearings; and what we're doing is developing a record for the Legislature -- the one hearing is on chromium-6, which is now in the news and is of concern. That will be the second of the two hearings. The first hearing will be septic density, and the validity or invalidity or good scientific basis or not good scientific basis of the scientific sampling used for the modeling of the septic density. And it's really -- we want to focus on science; we don't want to have any-- I don't want to hear about, "I hate the Highlands Act," or, "I love the Highlands Act." What's the science? So we're going to do that first of the two, and then we'll do chromium.

And then, lastly, we're going to have a discussion of the -- we're going to SCR-39, which is the amendment to the Constitution on the dedication of NRDs, Natural Resource Damages. So that's the plan.

So with that being said, do we have the Environmental Infrastructure Trust present?

Come on up and introduce yourselves. And for anybody who hasn't heard about the Environmental Infrastructure Trust, this is probably the most successful program in State government.

DAVID ZIMMER: Thank you, Senator.

Red is on? Yes. (referring to PA microphone)

SENATOR SMITH: Yes.

MR. ZIMMER: Good morning, Mr. Chairman and Committee members. My name is David Zimmer, and I am the Executive Director of the NJEIT.

SENATOR SMITH: Good.

JUDY KARP, Esq.: Good morning. I am Judy Karp, and I am the Legal and Compliance Officer for the NJEIT.

SENATOR SMITH: Okay.

So here's the plan, Mr. Zimmer. We have two bills directly on topic -- S-2731, which is Senator Greenstein and Senator Bateman, authorizing the New Jersey Environmental Infrastructure Trust to expend additional sums to make loans for environmental infrastructure projects in 2017. The second Bill is Governor Codey and Senator Gill, amending the list of environmental infrastructure projects approved for long-term funding for Fiscal Year 2017 to include new projects, and revise allowable loan amounts for already-approved projects.

And then, thirdly -- this is not your Bill, but we would like comments on it -- this is S-853 by Senator Stack, which requires local governments and authorities to obtain financing cost estimates, required to be provided by the New Jersey Environmental Infrastructure Trust, for certain projects.

So we would love to have comments on all three.

And, I'm sorry -- also included is-- We have the Concurrent -- or now, I guess, Assembly Bill 1649, which is Assemblyman Schaer and Assemblywoman Spencer, requiring local governments and authorities to obtain financing cost estimates from New Jersey Environmental Infrastructure Trust for certain projects. And that is the analog of S-853?

MS. HOROWITZ: (off mike) Right. We're amending S-853 to be identical to the Assembly's.

SENATOR SMITH: Right. We're amending S-853 to be identical to A-1649.

Okay. So with that large slug of requests, take it and run.

MR. ZIMMER: All right.

Once again, thank you, Mr. Chairman and Committee members. It is always fun to come back, particularly to this Committee.

This is, really, the inaugural year. If you remember, back in May, it was this Committee that really kick-started the change to our statute that allows -- really provides flexibility for communities and regional utility authorities, if they weren't on the original project priority list, to get long-term financing in May. But if the project has proceeded to a point where they are now ready to receive, they don't have to wait until next year. We actually have the opportunity now to come before you as these two appropriation bills do-- And both appropriation bills -- they're identical bills; one is for the DEP, one is for the EIT. What it does is it amends the list so we can actually add additional projects for long-term financing this year. It also amends the list to allow anybody who was on May's list -- if you have a change order, there's a-- When you have construction projects, and you open up the ground, you never know what you're going to find. There are always changes that contractors need, and sometimes those changes cause the dollar amount of the project to go above the appropriated amount. It gives those projects the opportunity to come back and say, "Can you please increase my dollar amount?" And they don't have to wait until next year to come back into us for a second loan to supplement a loan, which is really -- it's wasted time and wasted costs on their expense.

So the bills in front of you are really quite simple. They're just amendments; that's all they are. They're amendments of the list. We add 30 new projects, and 11 projects have asked for dollar increases. So we have 41 changes; and those 41 changes added an additional \$230 million to the original \$411 million that you all approved back in May. So there's an additional \$230 million worth of environmental projects that are now available for long-term financing; and another \$230 million, of construction jobs that are going to get done.

SENATOR SMITH: Right. And where does the money come from, David?

MR. ZIMMER: So the sources of funds for the program -- we get Federal dollars every single year. New Jersey gets about \$80 million in both Clean Water and Drinking Water -- *Clean Water* being sewers -- Clean Water and Drinking Water. And then, what the Trust does is we work with the DEP; we lever those dollars. The dollars get repaid; we take those repayments every single year and lend them out again. So we typically have, in any given year, anywhere between \$500 million and \$700 million worth of financing available for environmental projects, in a combination of money that the State provides at 0 percent and money that EIT matches with municipal bonds at a AAA rate. So I can tell you, we did our last deal in May. We did a bond deal where three-quarters of the funds came from the State at 0 percent; a quarter of the funds for the projects came from our AAA bond deals. We issued 20-year paper at 0.586 percent for your local communities.

SENATOR SMITH: Well, a quick reaction to that -- and I'm sure every Senator on the Committee has a reaction -- you're good for the

taxpayers, because we're getting these projects done at the lowest possible interest rate.

MR. ZIMMER: Yes.

SENATOR SMITH: You're good for the environment, because we have projects that, whether they're water, sewer, whatever, we're cleaning up and doing better -- a better job of it. And you're doing it efficiently, and cost-effectively, and you're helping us every which way -- unless somebody sees it differently.

MR. ZIMMER: And it doesn't touch the General Fund, Senator.

SENATOR SMITH: And it doesn't touch the General Fund, and there are no new taxes. (laughter) Oh, did I say that? That's great; I mean, it really is wonderful. And by the way, you're very good for the economy--

MR. ZIMMER: Yes.

SENATOR SMITH: --because you put a lot of people to work. Triple, out-of-the-park grand slam.

MR. ZIMMER: Senator, if I may. I really just have to commend the members on this Committee. You guys have been -- we've made a lot of efficiency changes in the last five years. And you guys have been incredibly supportive at the front-end -- of helping us make those changes. So thank you very much.

SENATOR SMITH: Well, you know, before we get to be declared a love fest (laughter), maybe we should-- Let me ask you one other question. That's Senator Stack's Bill, which says to local governments, "At

least find out what we can do for you in terms of financing.” Do you think that’s a good Bill?

MR. ZIMMER: Yes, we support that Bill. All it really requires is for somebody to come in-- We have a mock calculator that we actually set up and tried it out with a couple of our stakeholders. It essentially asks for three things besides your name and your contact info. It asks you how much money you want to borrow, it asks you what your rating is, and it asks you for how long you want to borrow. And we allow flexibility in there if you want to do short-term, band-type borrowing and then extend it out. So the model is actually fairly robust; it takes less than five minutes. You give us that information, you push “enter,” and immediately we will -- we have a calculator in the background; it calculates how much we estimate it would cost at the current interest rate curve if you came in and borrowed through the Trust, versus if you came in and borrowed 100 percent of the funds on your own, independently. And you would see that on -- if you came in and you borrowed a 20-year loan, on average, you’re going to save somewhere -- 25 percent of your loan amount, give or take. If you do a 30-year loan, you’re going to save upwards of 40 percent.

So again, it’s just-- You don’t have to come into the Trust; but it really is an eye-opener--

SENATOR SMITH: Right.

MR. ZIMMER: --for people to say, “You know, I didn’t realize that this program could be that effective for us.”

SENATOR SMITH: Perfect.

MR. ZIMMER: It’s a transparency bill.

SENATOR SMITH: Any questions?

Sam -- Senator Thompson.

SENATOR THOMPSON: On the latter point, there, I'm sure there's no problem in your telling what it would cost if they borrowed with you; but I noticed it also does require you to tell them what it would cost if they borrowed somewhere else. Will that be sort of a challenge coming up with those figures?

MR. ZIMMER: So the way that we get to that dollar amount is, we take their rating and there are curves that -- there's an index that-- *Thompson* is a financial provider of information. There is a curve that they put out. And we gauge ourselves against that curve. And if you're not AAA rated like the Trust, for every grade that you are lower than the Trust there's an additional amount of coupons. So--

SENATOR THOMPSON: Okay; I just wanted to be sure that wouldn't be a challenge--

MR. ZIMMER: Yes.

SENATOR THOMPSON: --estimating what somebody else would charge them. (laughter)

MR. ZIMMER: Right. So again, it is an estimate, but I would guess that we would be within 5 percent of the final cost on either side.

SENATOR BATEMAN: Mr. Chairman, through you, if I may.

SENATOR SMITH: Yes, sir.

SENATOR BATEMAN: First of all, I just want to say thank you; you've been very involved in obviously the Somerville landfill redevelopment.

MR. ZIMMER: Yes.

SENATOR BATEMAN: Can you give just a quick update on where we are with that money?

MR. ZIMMER: With the Somerville funds?

SENATOR BATEMAN: Yes.

MR. ZIMMER: They've actually started--

SENATOR BATEMAN: The Green Seam.

MR. ZIMMER: Yes. So they have started drawing on that, which means the construction has started and they're coming into the Trust. I don't have the exact dollar amounts that they've drawn. And if I remember that project, it was north of \$10 million.

SENATOR BATEMAN: Yes, I think it's \$13 million--

MR. ZIMMER: Yes.

SENATOR BATEMAN: --but I wasn't sure.

MS. KARP: It's \$14 million.

SENATOR BATEMAN: So they'll be able to go back next year to apply for more? Or is that the entire appropriation for that?

MR. ZIMMER: So the way the construction work-- So every project that comes into the Trust, we have now changed the program so that you come in for a construction loan program first. And then what we do is, we say -- if they need more funds, then what we do is, on a quarterly basis, we put that project list in front of you -- through the aides -- and we say, "Here are the new projects," or "Here are projects that have change orders that they need an increase." So it's a very flexible, very seamless borrowing process to get the construction work done. And then once that construction work is done, then they actually make the project eligibility

list that we put in front of you and say, "Okay, now can we long-term finance them with the State dollars?"

SENATOR BATEMAN: Good stuff. Right; thank you.

MR. ZIMMER: Yes.

SENATOR SMITH: Good. As I said, terrific program.

So let's move-- And just for the record, we have slips from a number of entities indicating "no need to testify." Mr. Tittel from the Sierra Club, in favor, no need to testify; Zoe Baldwin, from the UTCA, no need to testify and in favor; Ciro Scalera, New Jersey Laborers, in favor, no need to testify.

So let's--

SENATOR BATEMAN: May I make a motion to--

SENATOR SMITH: How about number one, S-2731, by Greenstein and Bateman -- a motion by Senator Bateman, seconded by Senator Greenstein. Let's take a roll call on that.

MS. HOROWITZ: On Senate Bill 2731, Senator Thompson.

SENATOR THOMPSON: Yes.

MS. HOROWITZ: Senator Bateman.

SENATOR BATEMAN: Yes.

MS. HOROWITZ: Senator Greenstein.

SENATOR GREENSTEIN: Yes.

MS. HOROWITZ: Senator Smith.

SENATOR SMITH: Yes. The Bill is released.

The second Bill is 2732 by Governor Codey and Senator Gill, amending the list of Environmental Infrastructure projects. The motion to release is by Senator Greenstein, seconded by Senator Bateman.

Let's take a roll call on that.

MS. HOROWITZ: On Senate Bill 2732, Senator Thompson.

SENATOR THOMPSON: Yes.

MS. HOROWITZ: Senator Bateman.

SENATOR BATEMAN: Yes.

MS. HOROWITZ: Senator Greenstein.

SENATOR GREENSTEIN: Yes.

MS. HOROWITZ: Senator Smith.

SENATOR SMITH: Yes. And that Bill is released.

And then the third EIT-related Bill is the Stack Bill, S-853. And we're conforming that to the Assembly Bill, A-1649. This is the Bill that requires municipalities to, at least, run the financing by the Environmental Infrastructure Trust, but doesn't require them to use their loan provisions if they don't want to. It's just good old -- plain old good government.

And we do have slips on that. Peggy Gallos, Association of New Jersey Environmental Authorities, in favor, no need to testify; Judy Karp, the Environmental Infrastructure Trust, in favor, no need to testify; the same for Mr. Zimmer; the same for Mr. Scalera; and Lori Buckelew, League of Municipalities, who the last time around had some concerns, and they are now withdrawing any opposition to the Bill and have no need to testify. So we have a third very happy Bill.

So a motion to release 853 and 1649, conforming to 1649.

SENATOR GREENSTEIN: I'll move it.

SENATOR THOMPSON: Don't we have to amend one of them first?

SENATOR SMITH: What's that?

SENATOR THOMPSON: Didn't you say we have to amend one of them to make it so--

SENATOR SMITH: Yes, we have to -- I think we can in the same motion, right? -- say that Senate 853 will be amended to A-1649, and then released; yes, or not?

MS. HOROWITZ: We can vote on the whole thing, amending it--

SENATOR SMITH: We can vote on the whole thing, and amending it at the same time, yes.

SENATOR BATEMAN: To do a Committee substitute, or is it--

MS. HOROWITZ: No, it's amendments to the Senate Bill.

SENATOR BATEMAN: Right, to conform with the Assembly.

MS. HOROWITZ: Right.

SENATOR SMITH: Right.

SENATOR BATEMAN: That's what Sam said.

SENATOR THOMPSON: We can just make a motion to amend it, and then we'll pass it.

SENATOR BATEMAN: Yes.

SENATOR SMITH: And then releasing the Assembly Bill too.

MS. HOROWITZ: Right.

SENATOR SMITH: Right.

SENATOR BATEMAN: He's got that motion.

SENATOR SMITH: All right.

SENATOR BATEMAN: Second.

SENATOR SMITH: Senator Thompson, seconded by Senator Bateman.

Let's take a roll call on that.

MS. HOROWITZ: Okay, to amend Senate Bill 853 to make it identical to Assembly Bill 1649 (1R) and to release both the Senate, as amended, and the Assembly Bill, Senator Thompson.

SENATOR THOMPSON: Yes.

MS. HOROWITZ: Senator Bateman.

SENATOR BATEMAN: Yes.

MS. HOROWITZ: Senator Greenstein.

SENATOR GREENSTEIN: Yes.

MS. HOROWITZ: Senator Smith.

SENATOR SMITH: Yes. And the amended 853 is released, with--

SENATOR CODEY: I vote--

SENATOR SMITH: --A-1649--

SENATOR CODEY: I vote "yes."

SENATOR SMITH: Oh, I'm sorry; Governor Codey.
(laughter)

MS. HOROWITZ: And Governor Codey.

SENATOR SMITH: Sorry about that. I didn't see you get in there.

SENATOR CODEY: Understood.

SENATOR SMITH: And if you want to vote on the other two bills, we'd love to have your vote on them.

SENATOR CODEY: I'm sure.

SENATOR SMITH: They are the EIT bills.

All right; so one more bill before we get to the hearings, and that's Senator Holzapfel's 1160, providing a tax credit -- I believe, it's \$250 for removal of lawns near the Barnegat Bay. If you remember all the hearings that we had on the Barnegat Bay, probably the single-biggest issue with the Barnegat Bay is fertilizers going into the Bay. Senator Holzapfel has an incentive for people to take out lawns. And if you end up putting in stone; stone doesn't need to be fertilized. So it would be a very good thing.

So Doug O'Malley, in favor, no need to testify; Ed Waters, New Jersey Green Industry Council, opposed.

Ed Waters, come on up. What's the problem?

E D W A T E R S: Good morning, Mr. Chairman and members of the Committee.

Again, Ed Waters with State Street Associates, representing New Jersey Green Industry Council. New Jersey Green Industry Council is an umbrella organization representing the industries of lawn care, landscape, golf course superintendents, arborists, pest control, nurseries, and retail.

SENATOR SMITH: Okay.

MR. WATERS: Again, Senator, you and I have had this conversation multiple times. We would certainly disagree with you that fertilizer is a big contributor to Barnegat Bay's pollution. In fact, we believe it's a rather small contributor compared to other things that are contributing to pollution in the Bay.

But we think that this Bill is going to only exacerbate some of the issues that are listed in the Bill, especially when you're talking about

stone or shells, which will create additional runoff because there's no grass to stop the runoff from going into the Bay.

SENATOR SMITH: Now, you do understand we didn't say *asphalt*?

MR. WATERS: Well, it's still rocks.

SENATOR SMITH: This is stone or shells.

MR. WATERS: Yes, but it's still--

SENATOR SMITH: I believe that's a permeable surface that water can still sink into the ground.

MR. WATERS: Well, let me turn it over to John. John can--

SENATOR SMITH: All right.

MR. WATERS: John is an agronomist; he can speak more to this.

J O H N B U E C H N E R: Agronomy is the study of soil science and crops. And in this situation, our crop is turf grass.

It's been proven in university studies that turf grass is a very good filter. Oftentimes when they put in shell or stones, they'll put plastic or landscape fabric down, which actually will impede vertical movement of moisture. And so you're actually going to increase runoff.

And stone lawns are not -- they get weeds. And people then put on pesticides to control the weeds, which could lead to additional runoff into the Bay.

Turf grass is a very, very good filter; it also-- Even if you fertilize it or not, it's still going to filter out air contaminants and other things, and trap them; where with a stone lawn, it's going to run right off.

SENATOR SMITH: Okay. Anything else? (no response)

Okay; then the last witness is Jeff Tittel, in favor.

Mr. Tittel.

J E F F T I T T E L: Thank you. And I also want to thank this Committee for all the work that they've done on Barnegat Bay. I wish some of those bills would have actually been signed so we would be much farther along in the protection of the Bay.

We support the Bill for a couple of reasons. One, nonpoint pollution -- a lot of it coming from lawns, the major source of the eutrophication problems in the Bay.

Another reason we support the Bill is that the over-pumping of the aquifers in the Barnegat Bay area has led to a decline in stream flows, keeping fresh, clean water out of the Bay. And lawns are a major culprit. You know, a lawn can use thousands of gallons in the summertime, and we really do not need green lawns down the shore. It makes no sense.

And so we support this legislation because I think, one, it will help limit fertilizer use and runoff from lawns; and, two, it will help save water, and we're in a drought.

Thank you.

SENATOR SMITH: Okay.

There are no other witnesses.

Any comments from members of the Committee?

Senator Thompson.

SENATOR THOMPSON: I have two problems with this. One is that this gives \$250 tax credit in perpetuity. I could see giving *a* tax credit for some incentive or so on, but in perpetuity -- you know, forever --

somebody's getting \$250 in tax credits, and so on, for the next 100 years or God knows how many years.

SENATOR SMITH: So if it was limited to only as long as it remained stone--

SENATOR THOMPSON: Well, let me finish these, then we can (indiscernible).

The second thing is, again, okay, we give this \$250 tax credit. The home is sold; they put in shell, or rock, or whatever. The home is sold and somebody comes back in and puts in grass again. Now what happens there?

SENATOR SMITH: Well, I think you have a reasonable point.

SENATOR THOMPSON: Does the tax credit go away? I mean, it just says the tax credit is given for putting it in; it doesn't say anything about if you take it away later.

SENATOR CODEY: It's a very *de minimus* amount of money, to use a Republican word. (laughter)

Because you didn't say agronomy, right?

MR. BUECHNER: (off mike) (indiscernible) certified.

SENATOR CODEY: You can use an agronomist--

SENATOR THOMPSON: I bring these up; I'm going to abstain. You can pass it on, and the sponsor can look at these -- my problems.

SENATOR SMITH: So Sam, what's -- is the solution to revise the Bill, amend the Bill to say that you're only eligible for the credit as long as it--

SENATOR THOMPSON: No, I'm saying go ahead-- I'll abstain; pass it out and pass my comments along to the sponsor, then he can do what he wants.

SENATOR BATEMAN: He wants to talk to Jim about it.

SENATOR THOMPSON: That's all.

SENATOR SMITH: Okay; so you're okay leaving it as is without amending it here?

SENATOR BATEMAN: Yes, I want to talk to the sponsor about his intentions.

SENATOR SMITH: All right; sounds good.

But I do think you have a very valid point.

SENATOR BATEMAN: He does; he has very good points.

SENATOR SMITH: There's no question about that.

All right; so a motion to release by Senator Bateman, seconded by Senator Thompson, with concerns noted.

And let's take a roll call on that.

MS. HOROWITZ: On Senate Bill 1160, Senator Thompson.

SENATOR THOMPSON: Abstain.

MS. HOROWITZ: Senator Bateman.

SENATOR BATEMAN: Yes.

MS. HOROWITZ: Governor Codey.

SENATOR CODEY: Yes, I'm going to vote for it. But you're going to have to -- if you want to do away with the crushed rock and everything else, it's going to cost you more than \$250.

SENATOR BATEMAN: There are a lot of questions about the Bill.

MS. HOROWITZ: Senator Greenstein.

SENATOR GREENSTEIN: Yes, but I also think that the questions raised were good ones; so hopefully we can get them answered.

SENATOR SMITH: Yes, they were.

MS. HOROWITZ: Senator Smith.

SENATOR SMITH: Yes. And Senator Bateman will speak to Senator Holzapfel, as well as Senator Thompson, and get it straightened out.

Okay, so--

SENATOR CODEY: And listen, by the way, on the artificial turf as a lawn -- is that like plastic on the sofa? (laughter) Is that one over your head, sir? (laughter) Where were you born and raised?

MR. TITTEL: (off mike) Where was your grandmother's house? (laughter)

SENATOR CODEY: Exactly.

MR. BUECHNER: (off mike) Your question is, what's the material -- what's it made of?

SENATOR CODEY: No, no, forget about it, sir. We come from different neighborhoods. (laughter)

SENATOR SMITH: Okay, so let's get to our two separate issue hearings. And let's go with the proposed septic density changes to the Highlands.

And remember, we're trying to focus. The focus is, are the rules which are based on the data points from the Well Testing Act -- are they

the correct scientific basis to be used for the development of those new septic standards?

And this was by invitation, so let me start with representatives of the DEP.

Mr. Cantor, if you would come forward and talk to us, we would appreciate it.

RAYMOND CANTOR, Esq.: Thank you, Mr. Chairman and members of the Committee.

My name is Raymond Cantor; I am Chief Advisor to Commissioner Bob Martin of the Department of Environmental Protection.

With me today is Jeff Hoffman. Mr. Hoffman is the State Geologist.

I would just like to start by giving an overview of what the rule does, and how we got to this point, and why we made some of the decisions we made. And then I will let Mr. Hoffman talk more about the science behind the rule.

When the Legislature adopted the Highlands Water Protection and Planning Act, it also required that the Department adopt a septic density standard for its regulation in the preservation area. N.J.S.A. 13:20-32e requires the Department to establish “a septic density standard established at a level to prevent degradation of water quality, or to require the restoration of water quality, and to protect ecological uses from individual, secondary, and cumulative impacts, in consideration of deep aquifer recharge available for dilution.”

In setting the septic density standard, we did two things initially. One, we chose a nitrate as a surrogate pollutant. So nitrate was

chosen, not just because of its impact to groundwater, but because it was representative of other impacts from other pollutants that could occur from development. And if we could control nitrates then we're, therefore, using it as a surrogate to prevent other pollutants as well.

We also used the Trela-Douglas model to measure nitrate -- you know, input from septic systems. That model has been used throughout the state, and is fairly well-established in New Jersey.

Because a septic density standard is essentially a planning tool to limit development of where it's applied, we set our standards on a regional basis, and we also look to find out the inputs on a regional basis.

The Department, back in May 2005, and then again in December 2006, adopted and readopted our initial and now current standards for septic density. We established septic density standards in two parts of the Preservation Area, a forested and nonforested. Essentially in the forested area -- what that standard became was 88 acres for every septic system in the forested, and 25 acres for every septic system in the nonforested area.

We were then sued by the Farm Bureau, and they challenged several of our decision points. One, they challenged our use of the drought of record as being the amount of precipitation that we were accounting for in the model. They challenged the amount of people we assumed per household. We chose the number 4; they thought we should be using the statewide average of 2.7. And they thought that our background nitrate was set at an arbitrary low ambient nitrate level, again because of, in part, a limited data set that was used for that analysis.

The case went to the Appellate Division; the Appellate Division remanded it back to the Department to supplement the record. It went to OAL; OAL upheld our analysis. It was then upheld or agreed upon by the Commissioner at that point in time; and then went back up to the Appellate Division for further review. At that point in time, we asked the Appellate Division to hold off on its hearing of the case, as we could do further study of the input and the challenges by the Farm Bureau. Ultimately, in January of 2012, we asked the Court -- and the Court agreed and the Farm Bureau agreed -- to remand the case back to DEP and end the challenge without prejudice. And that began our analysis of that standard in depth.

When we looked at all the parameters that were done for this rule, again we looked at each one. And we essentially upheld most of what we had done before. We retained the approach of using nitrate as a surrogate pollutant; we retained our original approach of using -- looking at our parameters and continuing to use the Trela-Douglas model; we retained the number of occupants that were used in a household; significantly, we retained using drought of record as a conservative factor in determining amount of water coming down for recharge. But we did make two changes to our rule; and that's the rule that's being proposed right now, it's in the *Register*. When we did the initial rule, I said we have broken it down into forested and nonforested areas. But that was at a point before the Regional Master Plan was adopted by the Highlands Council. So we had nothing from a planning perspective by which to apply the septic density model.

Now that the RMP is out there -- and we believe this is very consistent with legislative intent -- we wanted to be consistent with how the

Highlands Council manages development in its region. So then rather than using forested and nonforested, we relied then on their Land Use Capability Zones. And there are basically three: There is Existing Community, which is the more developed; Conservation, which is largely farmland; and the Protection, which is largely undeveloped forested area. So rather than forested and nonforested, we use the three Land Use Capability Zones.

Significantly, we also changed the background target nitrate level. We commissioned the U.S.G.S. to do a report for us -- a peer review report. The methodology that the U.S.G.S. had come up with-- Again, I mentioned it was peer-reviewed, but it was supported by the Office of Science; it was also supported by our independent Science Advisory Board that looks at issues for the Department and makes recommendations. The Science Advisory Board is largely made up of academics and other professionals within the field.

So again, as a result of those two changes, we essentially -- and changing the background nitrate level -- we changed, going from 88 and 25 and forested and nonforested, to basically having septic density standards of 23 acres for the Protection Area, 12 acres for the Conservation Area, and 10 acres for the Existing Community

At this point, I will turn it over to Mr. Hoffman to talk more about the science behind those analyses.

J E F F R E Y L . H O F F M A N: Good morning. Thank you for this opportunity.

I am Jeff Hoffman, a DEP employee. I am also the New Jersey State Geologist.

I've been working on this issue since the late 2000s, and have been involved in generating the science that was behind the decisions that were made.

As Mr. Cantor said, we're using a septic density model to estimate how much land you need -- each system needs to have to generate enough recharge to dilute the nitrate coming out of a system to the standard you pick. For that purpose, there are four input parameters: the number of people per home; their nitrate loading rate -- pounds per person per year; the recharge that occurs through this land; and then the nitrate target you are shooting for. At the time of the initial development of the Highlands regulations, the Department went with 4 people per home; a nitrate load of 10 pounds per person per year; for a recharge rate -- in order to estimate what the active recharge would be, we chose to use the drought of record during the 1960s, a time of much lower rainfall and recharge than normal, of 9.8 inches per year.

SENATOR SMITH: So that, theoretically, would be a conservative assumption. In other words, you're not getting more dilution because you're using a heavier rainfall; you're getting less dilution because you're using a drought number.

MR. HOFFMAN: Yes, sir; that's correct.

SENATOR SMITH: Okay.

MR. HOFFMAN: And the less dilution results in larger lot sizes. You need more land to capture the recharge.

SENATOR SMITH: Okay.

MR. HOFFMAN: And the last was, what is the appropriate nitrate target that you are trying to meet as a planning tool? At the time,

the Department chose to use an approach -- we use the word *nonforested* versus *forested*, based upon land use parameters and looking at monitoring wells in both nonforested and forested areas.

SENATOR THOMPSON: Excuse me.

MR. HOFFMAN: Yes, please.

SENATOR THOMPSON: You don't have your mike turned on. (referring to PA microphone)

MS. HOROWITZ: Yes, it's on.

MR. HOFFMAN: Is that better?

SENATOR CODEY: No.

SENATOR SMITH: Maybe move it closer to your--

MR. HOFFMAN: I'll talk louder.

SENATOR CODEY: There you go.

SENATOR SMITH: All right.

MR. HOFFMAN: Okay, sorry.

In 2008, the approach was to look at forested versus nonforested lands. We were quite conservative at the time in trying to estimate which monitoring wells were only in forested lands. The result was that there were only seven wells that we felt were appropriately characteristic of forested lands; and those seven wells resulted in an average nitrate target of 0.21 milligrams per liter. That, in turn, translated to a septic zoning of 88 acres per system.

In nonforested land, in contrast, it was 0.76 milligrams per liter -- those are estimates based on studies of northern New Jersey -- resulting in a septic density estimate of 25 acres per systems.

SENATOR SMITH: So the seven wells that you used--

MR. HOFFMAN: Yes, sir.

SENATOR SMITH: --how deep was the sample?

MR. HOFFMAN: It varied. There was shallow and deep; they ranged from 33 deep to, I believe, about 400. It was a range.

SENATOR SMITH: Thank you.

MR. HOFFMAN: The approach of using only seven wells to generate the target was criticized during the hearings; and it is a small sample size. So after that, we decided to find as much nitrate data as we could. The biggest data set available is the Private Well Testing Act; however, that is not uniformly distributed across the Highlands. We needed a way to leverage that data to make it apply to the entire Highlands area, not just locations where the data came from.

To that end, we contracted with the United States Geological Survey to develop a model that would allow prediction of medium nitrate concentrations in areas where there were no observations, based upon areas where there were observations.

They first developed a model that would -- using available data from very accurately located wells -- what's called an *NWIS* database, N-W-I-S -- to generate which parameters -- which land-use parameters most accurately predict the nitrate values observed in the areas around those wells. They came up with a series of five different parameters in their model. Then they reapplied that model using all the data available, including the Private Well Testing Act, to estimate land use throughout the Highlands. We were leveraging data from where we had it, using aggression model to estimate nitrate values where there were no values measured.

At that time, there were a total of 19,670 data points in the model used to do this. Of this, 19,371, the majority, were from the Private Well Testing Act.

During this approach, we ran into one problem -- was that of that 19,000 data points, about 25 percent were non-detects. A *non-detect* is when you try to measure the nitrate in a sample, but the nitrate value is so low it goes below the detection limit of the analytic method used.

A quarter of 19,000 is a very significant number. How do we account for that? The U.S.G.S. looked at four different methods ranging from very conservative to not. *Very conservative* was assumed that ND value was zero; there actually is no nitrate in that sample. The *least conservative* was to assume the value was the detection limit. If your detection limit, for example, was 0.1 milligrams per liter, and you measured something below that -- such as zero, 0.1, or something in between. They reran the model four times using four different approaches to all NDs. At the end, the Department decided to be most conservative and assumed all ND values were actually zero milligrams per liter. So that resulted in the most conservative number -- trying to leverage the Private Well Testing Act data to make it useful to the entire Highlands.

As was mentioned, this resulted in estimates of, in the Existing Community Zone, 1.77 milligrams per liter; Conservation, 2.6 milligrams; Protection, 0.8 milligrams per liter.

There have been a number of concerns expressed about the Private Well Testing Act data. The first is that -- some people have said that the data has not been properly quality assured, quality controlled. I do not believe that's a valid concern. All samples taken for the Private Well

Testing Act are done by certified labs. These labs must be recertified yearly, with the results submitted to the State. So all the values are done by certified laboratory technicians in certified labs.

The State runs a check-in when the data comes in via our data portal, where they come with reported GPS locations. We run a check on GPS locations, versus the reported lot and block, to make sure the value is reported for the appropriate location.

And last, when a report comes in, it's impossible to check every single value because we do not have an actual lab sheets in front of us. But we look for anonymously high values. If a number is out of bounds, we would rather -- we ask the lab to resubmit that data point.

So I believe the QA/QC is properly done on the Private Well Testing Act data.

There's also been an expressed concern that the private wells are too shallow; that they are not properly indicative of deeper groundwater quality, as compared to other observation wells. The observation wells generally are in the NWIS database; the domestic wells are in the Private Well Testing Act. I have pulled the well depths for the NWIS wells, versus domestic well depths in the counties in the Highlands, and there is no correlation there between depths and nitrate values. In the Highlands, you have more fractured rocks, and it is possible that nitrate can travel down fractures more quickly than you would expect without being diluted or modified by any sort of chemical reaction. There is good correlation between depth of the well and nitrate value. So in that sense, the deeper wells do not give you -- they generally are lower in nitrate, but not always. In this sense, a private well-- Also, in the Highlands, a lot of private wells

are quite deep. There are some areas that do not have -- are not very good aquifers, and the private wells tend to go deeper also. So there is not a good correlation there.

And the last argument that has been made about the recharge value is that deep aquifer recharge is not properly calculated by using the drought of record. Deep aquifer recharge is not actually a term of the art; no one actually knows how to calculate that. When we were trying to figure out just how to estimate that, we chose to use drought of record. During a major drought, the shallow groundwater paths flow up -- it hasn't rained -- and the deeper paths containing older water -- they are the flow paths that make it to the stream. And we've made estimate of recharge based upon stream base flows during the drought of record in the 1960s.

Any questions?

SENATOR SMITH: No, I thought it was very elucidating testimony.

Senator Thompson.

MR. HOFFMAN: Please.

SENATOR THOMPSON: Your nitrate levels--

MR. HOFFMAN: Yes, sir.

SENATOR THOMPSON: --where are they being measured? That is, at what point relative to the septic system, and so on? You are trying to test where?

MR. HOFFMAN: All of the nitrate levels from the NWIS database come from the actual wells. Those are generally with--

SENATOR THOMPSON: Oh, you're measuring in the well itself -- in the septic system.

MR. HOFFMAN: In the well-- Well, for the NWIS database. For the Private Well Testing Act, there are two locations. They are supposed to come from the place where the water enters the house.

SENATOR THOMPSON: No, wait, wait; just a minute.

MR. HOFFMAN: I'm sorry.

SENATOR THOMPSON: You said *from the well*. Now, the well -- are you speaking of the septic system, or are you speaking of a water well somewhere?

MR. HOFFMAN: Water well.

SENATOR THOMPSON: Okay. And we know where the well is related to where the septic system is, or--?

MR. HOFFMAN: No. The Private Well Testing Act is required to be anonymous. The State is not -- the State--

SENATOR THOMPSON: No, I meant the separation between the well and the--

MR. HOFFMAN: Oh, yes. There are minimum separation distances in all towns relating to setbacks from well to septic. I believe it is 100 feet.

SENATOR THOMPSON: Okay.

MR. HOFFMAN: There are minimum setbacks.

SENATOR THOMPSON: What you're testing is how much migration there has been from septic systems to a particular well.

MR. HOFFMAN: That's correct. There is some dilution along there; yes.

SENATOR THOMPSON: And you're checking in the well itself.

MR. HOFFMAN: Well, for the Private Well Testing Act the sampling is done either where the well water hits the house at an intake there; or if there's no water treatment facility in the house -- no water softener or anything -- then maybe taking it from a tap. So it's not actually from the well itself; it's from some point in the distribution system where it has not been affected by any process.

SENATOR THOMPSON: Thank you.

SENATOR SMITH: So how are you assured that the septic system on the same property with the well -- that the septic system is not affecting the nitrate concentration in the well?

MR. HOFFMAN: We're not.

SENATOR SMITH: Okay.

All right, let's have Mr. Obropta come up from -- Dr. Obropta--

SENATOR THOMPSON: I do have one more question.

SENATOR SMITH: Sure.

MR. HOFFMAN: Yes, sir.

SENATOR THOMPSON: Your definition of *a septic system*. It is strictly the system serving one home; thus, if somebody built a system to serve multiple homes, that would not be considered *a septic system*. Is that correct, or what?

MR. HOFFMAN: That's-- Normally, yes. It's only one-- For the purpose of the--

SENATOR THOMPSON: Because the proposals that you're putting here about--

MR. HOFFMAN: Yes, it's for one individual home.

SENATOR THOMPSON: --you know, so many per acre, etc. Thus, if somebody built a septic system to service a number of homes, that would not be in compliance with what you're saying here -- if they built one system to service a number of homes.

MR. HOFFMAN: Correct.

SENATOR SMITH: Thank you. Stick around, everybody.

Dr. Chris Obropta, from Rutgers University; the Director of the New Jersey Water Resources Institute.

C H R I S T O P H E R C. O B R O P T A, P h . D . : Is this on; can you hear me? (referring to PA microphone)

MS. HOROWITZ: Push the button.

SENATOR SMITH: Push the button so it's red. That's it.

DR. OBROPTA: How's that, good?

SENATOR SMITH: Good.

DR. OBROPTA: So my name is Christopher Obropta; I'm with Rutgers University. I run the Water Resources Research Institute.

I'm also an Associate Professor in the Environmental Science Department, where I teach Bioenvironmental Engineering. I'm not sure why engineering is in the Environmental Science Department, but that's the way Rutgers does things. And I'm also the Extension Specialist with Rutgers Cooperative Extension in Water Resources. A big part of my job is running around the state trying to extend the knowledge of the University out to help the communities solve their water problems. So, that's what I do.

So Senator Smith had called me up and asked me to look at this U.S.G.S. report and kind of give him some comments on it. So I spent a little time doing that.

I thought it was interesting that they're using Private Well Testing data. The nature of that data is that it is in developed areas. You know, the calculations that were originally done for this suggested that you needed 88 acre lots to achieve a background concentration of nitrate. And I've been to the Highlands; there are not a lot of homes on septic systems that are on 88-acre lots. So I would expect that the well and the septic are certainly -- there's certainly impact there. So my question with this was, how can you use Private Well Testing data to actually represent background conditions?

So I guess the question becomes, what is background conditions? And the law wants us to make sure that they're not degraded -- the water quality is not degraded. So degradation is an interesting thing, because if you look at the seven wells that were collected early on -- in the forested land, they got a very low concentration. And my expectation would be that if you're going to develop in the Highlands, you're either going to develop one of two types of land: forested land or agricultural land, right? So when we look at degradation, usually we look at either going back to a natural condition -- maintaining a natural condition which, in this case, would probably be the forested land; or not having any impact over what the existing is. In which case, the U.S.G.S. report kind of gives you what existing conditions are. So that was, kind of, my thought on this.

And I guess what I'm trying to say is, that I think what you can do is you can really look at this two ways. And I think it's up to the people

who wrote this law -- is what you're trying to achieve. Are you trying to hold that natural condition, in which case it would be that 0.21 milligrams per liter of nitrate which they measured in forest lands. Or are you trying to hold the conditions that exist there right now in the Highlands, of 1.77 milligrams per liter in the areas that they are looking at. So in that, it actually ranged from 0.8 to, I guess, to 1.77 is what I have seen in a report.

So I thought about this a little bit and I said, "Well, if you're going to actually develop forested land, and you held that number of 25 acres, then you're certainly going to raise the groundwater concentration. If it's 0.21, you're going to raise it to 1.77. So if you consider that *degradation*, then you're degrading that water.

If you developed an agriculture land where I would expect the nitrate concentrations to be somewhat higher, because farmers are fertilizing their lawn -- and we just had a discussion about grass being fertilized in the Barnegat Bay -- it's the same thing: that nitrogen is making its way down to the groundwater. So I would expect the groundwater under farmland to be higher. So if you want to hold what that existing is, then you could probably go to much smaller lots and still maintain that dilution; you should be able to achieve that.

So I think when you're looking at this, it's the definition of degradation that you really need to think about. What I would suggest to do would be a couple of things: one, I would put in a caveat here inside this law that would allow a developer to actually go out and collect groundwater data, so Jeff can have something real to put in his models to get the dilution and how big the lots should be. So there are ways that you can actually go out and just measure groundwater data. We don't want to do that right

now in forested land because the argument is that we're going to disturb the forest; we may create more damage than we would help. But if somebody is going to come in and develop 100 acres of forest land, why not let them measure the groundwater and see what the real numbers are, and allow that as an option, at least, in the law in addition to having these lot sizes.

The other thing that is not being talked about here at all is, there's technology out there that can actually reduce the nitrate coming out of septic systems. We use advanced technologies in stormwater management all the time. We've got these hydrodynamic separators and we've got filters; but we're not using these at all in septic systems. The septic system that you're designing now in the Highlands is the same system that we were using 45 years ago -- the system that I have at my house. So we have advanced technologies; technologies have advanced over the years. And there are some great systems out there that can actually reduce the nitrate coming out up to 70 percent.

So why aren't we allowing people to use that option? Now, granted, that technology would have to be certified and verified. New Jersey DEP actually has a process for that for stormwater, where they have an independent group look at the technology, and verify it, and then DEP issues a certification that says, "You can use this technology, and here are the removal rates they'll get based on how you're using it" So you could do the same thing for septic systems, right? And that would allow you to have smaller lot sizes while still protecting and preserving the water quality, which is what we're trying to do in the beginning. So that's kind of the point that I had there.

Regarding the numbers being used for the septic -- I think the report -- this report, the U.S.G.S. report did exactly what it said it was going to do. It calculated the background concentrations, and I think the regression analysis is appropriate. I think U.S.G.S. did a good job on this. The question becomes, are these the numbers we should be using to determine what we want to meet as background conditions?

In the end, the numbers you're coming up with are 0.8, 1.7 milligrams per liter of nitrate. The criteria -- the drinking water criteria is 10. So you're way under the criteria to begin with. So the question does become, do you want to call *degradation* as not violating that overall average, or not violating -- not exceeding the concentration that's on the existing lot? And that's the question for you, as law makers, to determine, I think.

Questions?

You don't seem happy, Senator Smith; sorry.

SENATOR SMITH: Well--

DR. OBROPTA: Was it all right? (laughter)

SENATOR SMITH: No, no, no. I never look happy under any circumstances. (laughter)

I think you had two terrific suggestions in there -- one being that any development be site-specific; that the developing entity has to measure the groundwater nitrate concentration, and then you can make a rational decision about going forward.

And I love the idea about the advanced technology on septic systems. Who sets the standards for septic systems?

DR. OBROPTA: Well, there's a Chapter 199 regulation that was written many years ago that hasn't been changed over the years. But

it's a standard that New Jersey has developed over the years to design septic systems; and we've been using that same design standard for years. I used to design septic systems a long time ago, and it's the same as it was back then.

There are places like Rhode Island -- the professor I worked closely with up at the University of Rhode Island -- where they have very small lots, and they are right on the ocean, or they're right near a lake -- and they're using some of these advanced technologies to keep the nitrogen out of those water bodies. And they are very effective; they're tested, they're proven. It's not -- they're not hokey technologies; they're proven technologies, so it's something we should consider. The only question, though, becomes, a lot these technologies require energy, so there has to be a pump circulating. So when you install the technology, there's a good chance the homeowner can say, "Well, you know, I don't want to pay that electric bill," and they can turn it off and just let it be -- go back to being a regular system where the pump's not functioning and it won't get the nitrogen removal. So what people have done was they have put telecommunications devices on there that go to the Department of Health, and they can see on the screen if they turned off their pump, you know, and they can go out and make sure they have it on. So there are ways we can check that. There are always bad players in the area, but I think advanced technology is something we really should be considering.

SENATOR SMITH: Let me ask Mr. Cantor from the DEP.

Has the DEP thought about changing your regulations on septic systems, especially in the Highlands?

MR. CANTOR: (off mike) We have not specifically considered that, especially as it relates --

MS. HOROWITZ: He has to come up--

SENATOR SMITH: You have to come up to the mike, Ray.

DR. OBROPTA: Oh, I'm sorry.

MR. CANTOR: No, we have not specifically considered that as related to this specific rule.

As I mentioned before, the idea of a septic density standard is to look at not only nitrates, but -- nitrate is just *a* pollutant. We also look at the cumulative and secondary effects of development. So we're not -- nitrates going in at a certain percentage is only part of the equation. Having advanced systems may, in the sense, prevent nitrate from going into the groundwater; but nitrate is not a driving factor, as was just mentioned. We're well below the health standard, we're well below the-- Again, we think we're being very protective of existing conditions in the Highlands area. Again, as was mentioned as well, if you're developing in a farmland, you're probably actually improving the water quality from a nitrate perspective.

But the purpose of using nitrate as a surrogate in a septic density model is to prevent development from a larger scale. So again, having an advanced system has not been the driving factor. Having less development and all its secondary impacts -- impervious cover, fertilizer, human activity -- is the driving factor that we're trying to achieve.

SENATOR SMITH: Well, the problem, you know--

DR. OBROPTA: Can I speak to that before you go on?

SENATOR SMITH: Yes, please; go ahead.

DR. OBROPTA: Because, you know, we're talking about -- you're talking about limiting development; I thought we were talking about maintaining water quality.

I've been doing stormwater management for years, and we can put a system in place to mitigate all those other factors. So we can make the asphalt driveway porous asphalt; we can build rain guards to treat stormwater runoff; we can minimize the impacts so there is virtually no runoff from smaller storms from these developments. So there are ways that we can address those other concerns. But the nitrate from the septic is what I thought we were here to really talk about.

SENATOR SMITH: By the way, you've now answered your own question -- about why Rutgers puts engineering with the environment.

DR. OBROPTA: There you go. (laughter) Thanks.

SENATOR SMITH: So, in any case, the policy issue is degradation -- how do we, as lawmakers, and the people who passed the Highlands Act, believe what the definition of *degradation* should be. And the thing that-- And I'll give Ray-- And there are more witnesses, I think, who Ray may have. The thing that is somewhat disturbing is the concept that the well testing data is not necessarily representative of the Highlands aquifer -- the reason being it's from sites that have development and septic. And therefore, they probably have a higher concentration of nitrates -- as I understand the testimony -- a higher concentration of nitrates than, perhaps, what really is the correct, or true, or scientifically valid representation as demonstrated by the seven wells -- the seven well data, which is roughly one-eighth of the nitrate concentration; which, I think you said was 0.2 compared to 1.7.

DR. OBROPTA: Yes.

SENATOR SMITH: Something like that.

So that's where the rubber is hitting the road on this.

But we're going to have more testimony. And if you would like to stick around and you hear something really that needs a comment, we'd love to hear from you.

And Ray, I think you also had -- your request was to have somebody from the Farm Bureau as a witness, correct?

MR. CANTOR: Well, again, that was when I thought-- Well, again, we are looking for scientific data.

SENATOR SMITH: Right.

MR. CANTOR: And the Farm Bureau did present when they challenged our rule of scientific data. So I just recommended that they may have something to offer.

But could I just make a couple of quick comments--

SENATOR SMITH: You sure can.

MR. CANTOR: --on what was just said before?

Again, I just want to make the distinction-- And I think the Doctor did make this distinction as to what we're looking at.

We are looking at existing nitrate conditions in the Highlands Preservation Area and trying to maintain that. We are not looking at a pristine level of Highlands and trying to get to a pristine level. We're trying to maintain existing conditions and improve them where we can.

SENATOR SMITH: Right.

MR. CANTOR: If we had a pristine standard that any development you're going to add there is going to impact that pristine

standard, you then basically have a no-development type of threshold; unless you went to, as you mentioned, a higher quality septic system to prevent nitrate. But again, we're looking at this to protect existing water quality.

As to the point on-- Well, again, you mentioned on representing -- they're not being represented because it's skewed to developed areas; I won't comment on that. I think the U.S.G.S. is going to have a much more informed statement than we do. But we believe that the regression analysis does predict nitrate levels in those more pristine areas.

And on the issue of using site-specific data, we went to our Science Advisory Board, I believe, back in 2010 -- it may have been 2011 or so -- and asked them the question of whether or not using the Trela-Douglas model and nitrate as a surrogate for pollutant is an appropriate methodology to protect the Highlands from a septic density standard. And they said, "Yes, it is, but only on a regional basis." They said we should not be using it on a site-specific standard. Where it may be -- where you can do a site-specific-- Again, if you're doing it that way, you should be doing it for the health standard to make sure that the well water is protected from a health perspective. But from a regional planning perspective, they recommended us against using a site-specific standard -- using a groundwater under that site -- and recommended a regional approach, which is what we went with.

SENATOR SMITH: Good. Now, you mentioned the U.S.G.S. is present. And I didn't have them on the witness list, but I would love to hear from the U.S.G.S.

DR. OBROPTA: There is actually something in their report here -- I'm on page 14 -- it talks about "overrepresentation of urban and, possibly, agriculture areas; and underrepresentation of forest areas in the combined NWIS/PWTA database must therefore result in higher median nitrate concentrations for all water samples than the actual median concentration of groundwater underlying the entire Highlands region." So they recognize, in their report--

SENATOR SMITH: There's a limitation on the data.

DR. OBROPTA: --that because their data was Private Well Testing data, that it may be skewed to the higher end. So that's already -- they already accounted for that in their report

SENATOR SMITH: Okay. So let's hear from the U.S.G.S. Who--

SENATOR THOMPSON: Mr. Chairman.

SENATOR SMITH: Yes, sir; Senator.

SENATOR THOMPSON: There's something I missed somewhere here -- again, we talked about the well data, and so on. How we translate the available well data to the conclusions that one in each 23 acres in a certain area, one in 12 acres in another area, and so on -- how that well data determines how many acres are suitable in the given area, etc. I missed how we get to that point.

MR. CANTOR: I could explain, but I would rather have Mr. Hoffman come back and really explain it to you.

SENATOR THOMPSON: Thus, because you also mentioned while we're in a pristine area and we're trying to keep it pristine -- that

would be one thing. But we're not in a pristine area, we're just trying to maintain it.

MR. CANTOR: Well, of course; and again--

SENATOR THOMPSON: And you make some changes-- There are going to be changes; it's not going to be exactly what it was.

MR. CANTOR: Which is why we don't use the term *background* or *pristine*. We use the term the *existing conditions* and maintaining the existing conditions

SENATOR THOMPSON: Well, that's what I'm saying. You said, okay, we go to existing conditions. But if you're going to make some changes and going to add some more nitrate in, there's going to be a change. So what are you determining that will be acceptable? I mean, you make a change, you can't be exactly the same; there are going to be changes.

MR. CANTOR: Jeff, you want to explain that?

MR. HOFFMAN: (off mike) Sure, I'll try.

I'll go back, first, to the underlying model, the Trela-Douglas model. This was developed in the 1970s and first applied to the New Jersey Pinelands. It's a very simple model, in the sense that it looks at -- assumes that the nitrate that's in the groundwater -- all that comes from your septic system. So it uses an estimate of how many pounds per person comes into the system from each person -- how many pounds per year; how much dilution occurs on the lot; and then how much -- what target are you trying to reach at the end.

If you can imagine a bottle of water, and let's say you want to dilute -- you want this to be dark green when you're done. How many drops of dark green can you put in?

SENATOR THOMPSON: I'm a Ph.D. Chemist; you don't have to get too simple for me. (laughter)

MR. HOFFMAN: I'm sorry; okay. Thank you for that.

So it's a basic -- just a dilution model -- inputs, outputs -- and the question is what is the output concentration? What is the nitrate target you're trying to reach if only the nitrate load is from the septic system of the house? We're limiting it to that, and the only recharge comes from what infiltrates on your lot. You only have to dilute the nitrate that you're generating yourself.

But that target then becomes the important question. What is the appropriate target for the area? In the Pinelands, back in the 1970s, they chose a value of 2 milligrams per liter; and the zoning that was done should result in an average groundwater concentration, from the septic loads, of 2 on a regional basis.

In the Highlands, the approach has evolved over time. When this was first done, we looked at forested and nonforested to try and figure out what's in the purely forested areas and in the nonforested areas. What's the current nitrate in those areas? And we developed that -- how much land do we have to encompass--

SENATOR THOMPSON: I don't mean to cut you short; I just want to see if my thoughts are what you're going to say.

MR. HOFFMAN: Please.

SENATOR THOMPSON: That based upon the amount of load that you found in the well from the septic system, you're calculating how much land it would take to reduce this amount of load down to the levels that you're seeking.

MR. HOFFMAN: Right.

SENATOR THOMPSON: Is that okay?

And that came up, in certain areas, to 23 acres; and other areas to 12 acres, and so on. Is that correct?

MR. HOFFMAN: That's correct.

SENATOR THOMPSON: Okay; I got my answer then.

Thank you.

SENATOR SMITH: Good.

MR. HOFFMAN: Thank you.

SENATOR SMITH: All right, let me ask the U.S.G.S. to come forward; and we would love to hear the benefit of your wisdom.

R I C H A R D H. K R O P P: Mr. Chairman and members of the Committee, we appreciate the opportunity to come before you today and talk about the studies we've done in the Highlands.

I have with me today Ron Baker, who is the author of the report. So if there are any specific questions on the report, Ron is here to be able to address those.

I will give you a little background as to the U.S.G.S. role.

The Highlands and the New Jersey Department of Environmental Protection contracted with the U.S. Geological Survey to determine the median concentration of nitrate within the Highlands and its subregions. The median is the central tendency measure of choice when data is not normally distributed, and where there are a few extreme values that may strongly affect the mean. These conditions are characteristic of water quality data, and median concentrations are often reported and used in regulatory and other purposes.

The simplest method of estimating the media concentration of well water contaminants would be to calculate the median concentration among all the available data from the wells sampled in the area of interest. However, such an estimate of a median tends to be biased, as the wells are not randomly or uniformly distributed geographically, and they tend to be located near areas of human activity. This would include urban, residential, agriculture, and other developed areas. Therefore, undeveloped areas, and areas that are served by water sources other than a well, would be underrepresented in the density of the well data. If the objective is to determine the median concentration underlying the entire area of interest, this bias must be counterbalanced in some way.

In the Highlands study, the U.S.G.S. developed a method to minimize bias and estimate median concentrations in areas without well water data. This was accomplished by relating those nitrate concentrations, measured over the past 15 years, to quantitative land use variables; and using those relations to estimate the median concentration in areas where the nitrate data was not available. Logistic regression is a nonparametric which relates to probability of an outcome to one or more explanatory variables, and used to develop those relationships. The method was used to estimate median nitrate concentrations for the current conditions in the subregions of the New Jersey Highlands.

The initial study of the New Jersey Highlands Council, which was completed in 2008, included estimates of median concentrations consistent with the available nitrate data from the U.S.G.S. National Water Information System -- NWIS; you've heard that used a couple of times. At the time, there were only 352 wells with nitrate concentrations in our

NWIS database for the Highlands that were appropriate for the study. Upon review of the U.S.G.S., DEP and the Highlands Council recognized that using additional nitrate values from the Private Well Testing Act would improve the nitrate estimates in 2012. The U.S.G.S. repeated the statistical analysis, using both the Private Well Testing data and the NWIS data, which consisted of over 19,000 wells. The results of this analysis are in our published report.

We welcome the opportunity to provide further information to assist the Committee in your deliberations. And we're here to answer any questions that you have about our study.

SENATOR SMITH: So tell me about the 352 wells.

MR. KROPP: Okay.

Those were in NWIS. So NWIS is a database in which the U.S.G.S. goes out and collects information from existing wells around the country. And when it goes into the NWIS database, we want information on that well: where is it exactly located, how deep it is, what is the construction of that well, and all that. It's all the metadata that goes into the database.

SENATOR SMITH: Are they-- The 352 -- are they across the country, or are they in New Jersey?

MR. KROPP: No, this is just in the Highlands.

SENATOR SMITH: Just in the Highlands.

MR. KROPP: Yes, yes; this is just in the Highlands.

SENATOR SMITH: So suppose you took the 352 only--

MR. KROPP: We did that.

SENATOR SMITH: --how does your median nitrate number come out?

R O N A L D J. B A K E R, Ph.D.: Well, that's what was done for the original study which was used for the original Highlands Master Plan. And we did come up with reasonable numbers. But everyone realized, at the time, that it really wasn't enough data to properly represent the entire Highlands. It's a very large area to be represented by only 352 wells. And as has been mentioned previously, only seven of these wells represent a natural condition.

So it's been clear from the start that it would be beneficial to have a larger well data set to better calculate the median concentration.

SENATOR SMITH: Well, just to get back to the question. The 352 -- is that where the DEP had the original number of the 88 acres?

DR. BAKER: Yes.

SENATOR SMITH: Okay.

DR. BAKER: That's my understanding.

B I L L W O L F E: (off mike) Natural conditions.

SENATOR SMITH: All right. Is that correct?

MR. WOLFE: (off mike) Based on natural conditions.

SENATOR SMITH: Yes.

UNIDENTIFIED MEMBER OF AUDIENCE: (off mike) No; close, but almost.

SENATOR SMITH: Close, but almost. All right.

So Dr. Obropta read the disclaimer in your report--

MR. KROPP: Yes.

SENATOR SMITH: --that the nitrate concentrations will be affected in the 19,000 data points because they're on developed property.

DR. BAKER: Yes. I would like to address that.

SENATOR SMITH: Please.

DR. BAKER: Dr. Obropta was accurate in saying that, on page 14, we clearly stated that if you take the median value of all of the actual data collected in that database, the number probably will be higher than the actual median concentration because these wells are located in developed areas and are clustered around homes and neighborhoods.

SENATOR SMITH: Right.

DR. BAKER: That's why we did this study in the first place. We wanted to, as much as possible, reduce the geographical and spatial bias. So in our regression model, we used variables such as percent agriculture, percent urban, septic density, known contamination sites, and sole length of streams. We used a number of variables that are related to nitrate concentration to create a model which we can apply to areas that didn't have any development, so that we could reduce the bias and better represent the forested and nondeveloped areas in the model. And, in fact, that did considerably reduce the median nitrate concentration in the two areas and in the three usability zones.

SENATOR SMITH: Yes, you need to give me some -- maybe orders of magnitude, or some way in which to put this in perspective.

As I understand what you're saying -- and everybody's welcome to correct me if I have this way wrong -- is that because there's a lack of data, we're going to take the existing data that has some bias and then try to put some factors on it to reduce the bias.

MR. KROPP: Right.

DR. BAKER: That's correct.

SENATOR SMITH: So let me ask you the question. If you didn't do this model, if you had the 19,000 data points, and said, "Okay, I just want the median," what density would result then?

MR. KROPP: We didn't analyze that.

DR. BAKER: No, we weren't really part of that process. Our role was to provide a median concentration, and the rest of the process was done by--

SENATOR SMITH: Yes, a best-guess, median concentration, because it's not based on actual--

MR. KROPP: Well, it's an estimate. So the quote that Dr. Obropta came up with was, if you took the median values of the data and just used those, you would have a bias because those wells are only located where there is human activity.

SENATOR SMITH: Right.

MR. KROPP: Because of that, what he didn't say was then we did the regression analysis. To remove that geographic bias is why you do a regression analysis, okay?

SENATOR SMITH: How much did the number change?

MR. KROPP: From--?

SENATOR SMITH: If you did the 19,000 data points--

MR. KROPP: Just straight median?

SENATOR SMITH: --without trying to adjust for bias, what's the nitrate number then, compared to the nitrate number with the regression analysis?

DR. BAKER: It is stated in the report what it would be with just the data and with removing the bias in a few different ways.

SENATOR SMITH: And by the way, do we have-- We have the report, right?

DR. BAKER: Yes.

MR. KROPP: Yes.

SENATOR SMITH: Can we enter that into this record?

MR. KROPP: Sure.

SENATOR SMITH: All right. When the Legislature ultimately looks at this issue, they should have everything they can on it.

And by the way, I didn't mention this at the beginning of this hearing -- everybody is welcome to participate in the record. So if you have -- you're listening to some of our scientific experts, if you have additional information that you think the Legislature needs to look at, you want to send it to Judy Horowitz at OLS and then it will be added on to this transcript that the Legislature will have. Because I think, as everybody in the audience can realize, this is not an easy issue, all right? It is scientifically complex, all right?

MR. KROPP: We have the report.

SENATOR SMITH: It's in the report; if you wouldn't mind--

DR. BAKER: And I have this information.

SENATOR SMITH: Right.

DR. BAKER: The median of all of the individual samples was 1.79 milligrams per liter nitrate as nitrogen.

SENATOR SMITH: So that's the 19,600--

DR. BAKER: Yes, the median of all those values--

SENATOR SMITH: --plus the 352.

DR. BAKER: Yes.

MR. KROPP: Yes.

SENATOR SMITH: Every well tested; okay.

DR. BAKER: And the calculated median, after we did the regression analysis, was 1.25 milligrams per liter.

SENATOR SMITH: And that's the number that's being used--

DR. BAKER: For the overall the Highlands.

SENATOR SMITH: --for the density.

DR. BAKER: And there's a table in the report that shows the Planning Area, Preservation Area, and Conservation Zone; and all of the combinations of a zone and area, and how those numbers changed when you did the regression. I wouldn't want to read through all these--

SENATOR SMITH: No, please. (laughter)

DR. BAKER: In virtually all cases, the concentration is reduced when we include information about septic density, and agriculture, and urban land use.

SENATOR SMITH: Right. And if you used just the seven wells, what's the number?

DR. BAKER: We didn't really do that part of the study. But I believe it was 2-point-- It was just over 2 milligrams--

SENATOR SMITH: It was 0.2?

MR. WOLFE: (off mike) It was 0.21.

SENATOR SMITH: It was 0.21.

MR. KROPP: It was 0.21.

DR. BAKER: It was 0.21? Or 0.21; that's right.

SENATOR SMITH: So our three numbers are 0.21, if it's the seven wells; 1.7-and-change if you use the 19,600; and 1.25 if you do the regression analysis to try and take out the bias.

MR. KROPP: But they are different areas. The seven wells was only the forested area.

SENATOR SMITH: Right.

MR. KROPP: So the 19,000 was the entire region. So you're not comparing apples to apples there, is what I'm saying, okay?

SENATOR SMITH: Okay.

All right; questions for the U.S.G.S.? Anybody have questions for the U.S.G.S.? (no response)

Okay, thank you very much.

MR. KROPP: Thank you.

SENATOR SMITH: We have John Thonet, Thonet Associates. Mr. Thonet.

Could you give us the benefit of your background?

J O H N A . T H O N E T: Yes, my name is John Thonet; I'm a private environmental planning consultant. I have a Bachelor of Science degree and a Master of Science degree from the State University College of Environmental Science and Forestry at Syracuse University. That's a dual major in Forestry or Environmental Science, and Civil Engineering.

I've been in practice for myself since 1980; I've been working for 44 years. My specialty is environmental planning and engineering design for land development projects and land use planning programs.

Certainly the Highlands Act Regional Master Plan is a great example of a planning program that would be of great interest to me and,

indeed, was. So I've been following the program since its inception. And, in fact, I submitted voluminous comments during the Regional Master Plan review, specifically on the issue that we're talking about here tonight; but really on all of the water resources-related issues. So the files of the Highlands Council are filled with volumes of paper from me on that.

The reason I presume I was asked to come here and testify is because I continued my involvement in this process professionally, because I was interested; but also because at the time that this study was prepared, I was the President of the Board of Trustees of the New Jersey Highlands Coalition. And in July -- late July of 2015, Mr. Cantor and Mr. Hoffman of the DEP invited the New Jersey Highlands Coalition, together with many other environmental groups, to a meeting in Trenton where they provided a presentation -- quite similar to the presentation they made to you today -- for the benefit of all the environmental organizations so that they would understand what was coming -- that, "These were changes, there had been a new study, and we just want to give you a heads-up. These are the answers that we're planning on using." And that was about a year-and-a-half ago; that was July 30, I think, of 2015.

And I sat at that meeting, and I immediately noticed that the-- I always look at the forested areas, because that's the most important thing in the Preservation Area. There are more forests than anything else; and, in fact, if you take the forested areas, together with the wetlands and the streams, those areas constitute 75 percent of the Preservation Area in which they have precious few wells, even today. Even with adding 19,000 wells from the Private Well Testing Act, they still have precious few wells within that 75 percent of the Preservation Area.

And so when I looked and I saw that within the forested areas the estimated existing nitrate levels were five times what the measured nitrate levels were in the original studies by U.S.G.S, it sounded like there was something wrong. And just to give you an idea: In a pristine area -- and we know the Highlands isn't totally pristine, but there are large areas that come close -- but in a pristine area in New Jersey, a forested area, you would expect nitrate levels on the order of 0.1 milligrams per liter, or about one-tenth what this model estimates.

Now, when they did the original studies in 2008, they did not use 0.1 for all of those areas. Through their modeling, they came up with 0.2, and that's what they used. But again, that's only one-fifth of what the estimated values are by this study.

That just gave me doubt. That didn't say, "Oh, no, this is wrong." But I'm sitting at a meeting, and I'm just flipping through the report, and that's the first thing that popped out -- that these numbers are really different.

So I said, "You know, I'm not going to just wing this and provide comments off the cuff. I want to review this study in detail and submit comments." And Mr. Cantor and Mr. Hoffman were quite nice about that, and they said, "Absolutely; be our guest. We'd love to have your comments." So I submitted them.

About a month later, September 1 -- and I have a package of everything I will talk about today; I have a package, and I am going to give it to you so you can read it at your leisure. I would have sent it earlier, actually, but since I just found out I was invited a few days ago, I didn't -- and I was traveling and had business, I didn't have time to send it in

advance. But I will leave it with you so that you'll have all the background information on everything I'm talking about today.

At any rate, I prepared a memorandum to Jeff Hoffman -- as I was, in fact, invited to do by the DEP -- and in that first memorandum I said, "You know, Jeff, the big problem I have is in your original studies you treated the Preservation Area as a separate entity, and the Planning Area as a separate entity. And I thought that was appropriate. But now you've combined them all, and you're using the entire Highlands region to do a regression analysis to predict not only what the nitrate levels would be where you don't have wells in the Planning Area; but what it would be in the Preservation Area, in those areas where you don't really have data now."

And the Preservation Area is significantly different than the Planning Area. I just told you; I'm not making this up. This comes out of the Regional Master Plan; it comes out of the actual reports that I have with me tonight that are prepared by the Department of Environmental Protection -- 75 percent is forests, wetlands, and water -- streams. There are very few wells in those areas. You know, under the Private Well Testing Act -- what happens is when you sell a property you have to test the well and send the data in. I know; I bought a house in 2003, and I had to comply because it became effective in September 2002.

SENATOR SMITH: So Dr. Thonet -- to make sure I'm understanding your testimony correctly -- you're saying that the proposed rule has a density requirement that goes across the board, both Planning and Preservation.

MR. THONET: Right.

SENATOR SMITH: And it's your opinion that the Preservation Area should have a different septic density, because it is a different area with different groundwater values that shouldn't be using the nitrate data from the Planning Area.

MR. THONET: Correct. If you did a regression analysis just in the Preservation Area, you would find that it's most closely related to how much development there is, versus how much undevelopment there is. So in other words, it would be related to forests, it would be related to wetlands. Those are not--

SENATOR SMITH: I got it.

MR. THONET: Okay.

SENATOR SMITH: Let me ask you to stop for a second.

Let me ask U.S.G.S. -- is it possible to do the regression analysis separating the two areas so that it's not across the board on a septic density standard?

DR. BAKER: (off mike) It is possible--

SENATOR SMITH: If you would stand up--

DR. BAKER: Yes.

MS. HOROWITZ: Come forward.

SENATOR SMITH: --and come to the microphone, too, if it's okay; just so that it gets recorded.

MR. WOLFE: (off mike) The law requires the Preservation Area to be (indiscernible). It only applies in the Preservation Area.

DR. BAKER: Yes, I think we need to keep in mind that the groundwater does not care about the political boundaries; it cares more about the lithology, the precipitation, the environment that it is in. And so

we used all values from the Highland physiographic province -- which is pretty much consistent with the physiographic region -- and it is appropriate to use all of the data to create the most strong model that you can, because more data gives you more power of statistics. So it is appropriate to use all of that data, and then apply it to the different areas independently.

And in the report, there is a table showing what the median concentration is for each area and for each Capability Land Zone (*sic*), and land use, and the combination of those two.

SENATOR SMITH: Right. But the problem is, as I understand it from Dr. Thonet, is that--

MR. THONET: I'm not a doctor.

SENATOR SMITH: Oh, what are you? You're a Master, right? You have Master's degrees.

MR. THONET: Although people do call me a *doctor*, but that's just because I fix things.

SENATOR SMITH: All right; sorry about that. (laughter)

So in any case, the question-- I understand your point about more data. But you have this area of forested area that's, according to Mr. Thonet, 75 percent of the Preservation Area, roughly. And that the same standards that you have on the Planning Area or on the well testing -- the 19,000 data points -- shouldn't be used to set the density for that area.

DR. BAKER: Well, both areas have a mix of urban, ag, and forest land.

SENATOR SMITH: Okay.

DR. BAKER: Yes, the one area has more urban and the other has less.

SENATOR SMITH: Okay.

DR. BAKER: But that all goes into the model.

SENATOR SMITH: All right; I appreciate the comment.

DR. BAKER: The other thing is that we are not estimating median concentration for a forested area. We are estimating them as we were asked to do -- for the different areas with regions.

SENATOR SMITH: How many different regions did you end up with?

DR. BAKER: Well, there are -- it's the Land Use Capability Zones; there are three of them. There's the Planning Area and the Preservation Areas, as we know; and there's the Conservation Zone, the Existing Community Zone, and the Protection Zone. So we have median concentrations for each of those areas and zones, and for each area/zone combination.

SENATOR SMITH: Okay; thank you very much. We appreciate your comments.

Would you like to finish your testimony, if there's anything else?

MR. THONET: Absolutely.

SENATOR SMITH: Go ahead.

MR. THONET: I, of course, disagree with that philosophy. Regression analysis is always best when you apply it just to the area that you're concerned with and just for the land attributes of that area.

This study is totally underrepresented in the forest areas. Yes, in the entire Highlands we have forests, but in the Preservation Area -- which is the most important area to protect -- it's overwhelmingly forested. So it's underrepresented in this study, which is why you're getting such tremendously different answers. They have developed a regression analysis to predict what would be in a forested area because they have some forested areas throughout the entire Planning Area -- in the entire Highlands region. But they're underrepresented. And if you look at the contributing factors that they look at to decide what these nitrate levels are, forests aren't even one of them, okay?

SENATOR SMITH: Got it.

MR. THONET: So that's an important part. But I continued my conversation with Jeff Hoffman who, at that time, was responding to my comments. And I said, "Jeff, you know, it sounds to me like you're trying to predict using Planning Area data in the Preservation Area." I said, "I don't think you have as many of these private wells in the Preservation zone." And Jeffrey said, "No, you're wrong," and he was correct; he sent me the data. And they actually have a similar number of wells in both the Planning Area and the Preservation Area; in fact, a little more in the Preservation Area, which I found interesting.

But that's the data, and that doesn't lie. So there are plenty of wells available in the Preservation Area. But of course, they're not in the forests; they're not in the 75 percent that you're trying to estimate nitrates for.

So yes, they could do a separate study; but it would still have the same bias because those wells -- there are very few wells in the forested area.

SENATOR SMITH: Got it.

MR. THONET: And, I believe that both the U.S.G.S. and DEP have testified to that today.

So my main reason for asking that they do it separately was to get a better answer. And the reason you want a better answer is, this is -- we talked about degradation. This is a nondegradation zone. We don't have to guess what that means. This is not a policy decision. The Senate doesn't get to say, "*Nondegradation* means no degradation; none."

SENATOR SMITH: Actually, we did get to say. We put it in the Highlands Act.

MR. THONET: Well, you did get to say. (laughter) Actually, the Senate gets to say whatever they like. (laughter)

MR. TITTEL: (off mike) Now, you have to enforce it. (laughter)

MR. THONET: But I think the important thing is, it's in the rules. Nondegradation means no degradation--

SENATOR SMITH: Got it.

MR. THONET: --and we heard a very good explanation as to how that works. At the point of the septic, you're not violating the target. So that's how that works.

SENATOR SMITH: Got it.

MR. THONET: Anyway, Jeff wrote back to me and we settled these issues about how many wells were in which place and so forth. But it

didn't change my mind about the fact that you need to do a separate Preservation model. And I had also said you have to get more data in the undeveloped forested areas, wetland areas. You need to go in and do some actual sampling -- put some points there to get real numbers, because you don't really have enough. And that was a comment that I had with regard to their original 2008 study-- is that they really should go in and get some data. And Jeff did respond, and he said, "It's too expensive." And I have my letter -- the letter from Jeffrey Hoffman to me responding to my first memorandum to him, and that's what he says.

SENATOR SMITH: Great.

MR. THONET: Now, the other thing that I have to share with you is that in my first memorandum I also noted that I have a study here, done by Jeffrey Hoffman, and it's dated 2014. And when I read this -- because while I'm reading this new study, it sounded awfully like the one I had read about a year earlier. And I read it, and it is the same study. It's the same analysis done by the U.S.G.S. in the same year with totally different answers.

SENATOR SMITH: What do you mean, "Totally different answers"?

MR. THONET: Completely different answers.

SENATOR SMITH: What do you -- give me an example of the totally different answers.

MR. THONET: (laughter) Okay. And I also have it in writing, and I'll submit it to you.

SENATOR SMITH: Good.

MR. THONET: So in September of last year -- let's see; all right. The 2014 study's results are significantly different from the 2015 study's results, both of which were prepared by U.S.G.S. and DEP just one year earlier using the identical database. For example, the 2015 study reports a median nitrate concentration of 1.05 milligrams per liter for the Protection Zone within the Preservation Area, more than 10 times greater than the median concentration reported in 2014.

SENATOR SMITH: Stop.

Mr. Hoffman, what's the story here?

Turn *on* your mike; turn *off* your mike.

MR. HOFFMAN: It is on; okay.

SENATOR SMITH: Okay.

MR. HOFFMAN: The U.S.G.S. was working on the database and developing a model, like Mr. Thonet says. They provided a preliminary answer to me in 2014. That preliminary answer had not been peer reviewed and had not been approved by U.S.G.S. for publication.

I was -- I inappropriately took those results and put them into the first version of the report I wrote. I can provide you with the final version. But the bottom line is, I took preliminary unreviewed U.S.G.S. results and used them in a report. As when the U.S.G.S. model went through further review, through the SAB, Science Advisory Board process, and through the peer review process, we discovered a numerical error in their analysis for the preliminary results. They corrected that in the final report. So the final report went through peer review.

After they corrected it, I revised my report, which estimated septic zonings based upon the results, and changed my original report.

Mr. Thonet has a copy of both my first one using the erroneous, superseded results, and the final.

SENATOR SMITH: Got it.

MR. HOFFMAN: He's comparing the two.

SENATOR SMITH: Got it, got it. Okay.

U.S.G.S., again.

Just confirmation that that's your recollection of the event as well.

DR. BAKER: Yes, that is correct. We had just really started working with the Private Well Testing Act, did some calculations, and had some correspondence with DEP. And they apparently took that to be a final version and ran with it, basically. But we really weren't -- hadn't completed the work and hadn't sent it through any review process.

SENATOR SMITH: Got it. We appreciate that.

Okay, so Mr. Thonet, I--

MR. THONET: It's relevant.

SENATOR SMITH: I'm surrounded by conspiracy theories every day. (laughter)

MR. THONET: No, no.

SENATOR SMITH: And in the environment, more than any other area.

MR. THONET: No, it's relevant; it tied in with my other testimony.

SENATOR SMITH: Go to another point, if you have any others.

MR. THONET: Okay.

At any rate, Jeff did tell me that story, and I was about to tell the same story.

SENATOR SMITH: Okay.

MR. THONET: He told me he put it up on, I think, September 8, 2015; and pulled it down on September 10.

SENATOR SMITH: Okay. So next--

MR. THONET: So apparently I and everyone else who has the study--

SENATOR SMITH: Got it.

MR. THONET: --went to the web page on those two days.

SENATOR SMITH: The first one was wrong; got it.

The next point, if there are more.

MR. THONET: There are more.

So Jeff told me the story about the fact that the U.S.G.S. had made a mistake. Okay; that's good. They did the study in 2012; and in 2014, in the process of redoing this, they said that -- Jeff said that-- No, the U.S.G.S. said that the Department had asked them to prepare this in a final form, in a scientific investigative report; and in the process of going through that review, discovered that there had been an error. Well, the error totally changed the results. So now I had two reports with the same date, only one doesn't have any markings on it other than "this is the report;" and the other is another one that says *Revised September 2015; Preliminary, Subject to Revision.*" And I have that for you too. And the answers are totally different, because those answers now agree with the answers in the U.S.G.S.'s new report.

So I wrote another memo, and basically asked why. And Jeff provided the U.S.G.S.'s explanation. And I have a letter from Mr. Kropp; it's undated. I don't know why it's undated, but it is the letter that explains to Mr. Hoffman what happened. But it does more than that. It also goes back to the 2008 study, and it says that in 2008-- These are the nitrate levels that we've been regulating with for the last eight years, okay? We based it all on the U.S.G.S. study from 2008. And what Mr. Kropp says is, in 2008, the U.S.G.S. submitted a draft report to the New Jersey Highlands Council which included estimates of median nitrate concentrations consistent with the available nitrate data from the U.S.G.S. National Water Information System. At that time, there were only 352 wells, with a nitrate concentration in the NWIS database for the Highlands that were appropriate for this study.

Now, of course, the first thing I knew when I looked at this is, "Well, that's not right." Because obviously, the Private Well Testing Act was passed in 2001; effective in 2002; and I was subject to it, as a brand-new homeowner, in 2003. So certainly by 2008, when the original study was done, they had several years of data. And remember, the study you're looking at only has 10 years of the Private Well Testing data; this could have had four or five years of data.

SENATOR SMITH: So they didn't have that data in that original letter. This has been an ongoing and evolving process. What is the point?

MR. THONET: Well, the point is that in all of the studies in everything published by the Highlands Council in their original Master Plan, in the letters from U.S.G.S., in the reports from both U.S.G.S. and

from DEP, they repeatedly say that the 2008 studies were based on the best available data. Clearly they have changed their mind; they had thousands of additional wells available--

SENATOR SMITH: Right.

MR. THONET: --that they, at that time, for whatever reason, didn't consider the best available data.

SENATOR SMITH: Sins of the past.

MR. THONET: Right.

SENATOR SMITH: They're now saying they are taking that data into account.

MR. THONET: Right.

SENATOR SMITH: Next point.

MR. THONET: Well, of course, existing conditions is not a moving target.

SENATOR SMITH: No; so I'll grant you that they made a mistake in 2008. But so what? They're now doing a study that has all of the data points in it--

MR. THONET: The 2008 study--

SENATOR SMITH: --the question is whether the data points should be used in this study or not. Different issue.

MR. THONET: The issue--

SENATOR SMITH: We want to talk about the science; I don't want to talk about past history.

MR. THONET: Senator, the issue is this.

SENATOR SMITH: Is the science good, or is the science bad?

MR. THONET: Well, we are; and that's what I'm trying to get to.

SENATOR SMITH: Well, you're giving us a little bit of Peyton Place here, you know? (laughter) Just get to the point. Why is the science bad?

MR. THONET: Existing conditions is in 2004. You can't use data collected after 2004 to define existing conditions. And a point of fact, most of the well data from the Private Well Testing Act is after 2004.

SENATOR SMITH: They're now using it.

MR. THONET: The testing data--

SENATOR SMITH: They're now using it. Is it wrong to use it, right to use it? Talk about the science.

MR. THONET: Wrong to use it.

SENATOR SMITH: Tell us why.

MR. THONET: It's not the existing condition, as of the Highlands Act passage. That's what the law says: existing conditions.

SENATOR SMITH: Oh, now I get your point. You're saying that we should be talking about the nitrate at the time of the passage of the law.

MR. THONET: That's right.

SENATOR SMITH: If you had said that sentence, I'd understand where you're going.

MR. THONET: Well, I don't have as good a coach as you do. (laughter)

SENATOR SMITH: No, no, no, no.

All right; so your point is made.

MR. THONET: But I'm trying.

SENATOR SMITH: That's what the baseline should be. I got it.

MR. THONET: Yes.

SENATOR SMITH: Next.

MR. THONET: So that's another flaw. Not only does it have a bias, but it's also -- this is data taken after the Act was passed; and we're trying to maintain the nitrate levels in the Preservation Area with no change whatsoever since 2004. And those 2008 studies didn't include any data past 2004.

SENATOR SMITH: Got it.

MR. THONET: Okay.

That's really-- I have-- I submitted another memo to Jeffrey on January 16, 2016, in response to his response to me.

SENATOR SMITH: Right, right. And the point is--?

MR. THONET: And it just included a lot of questions--

SENATOR SMITH: Okay.

MR. THONET: --for some explanation that he could provide or the U.S.G.S. could provide for why -- what was the error? And the letter from Mr. Kropp simply says, "There was a statistical correction that we had neglected to -- that we had put into the old study that we decided wasn't necessary." So I was just asking -- what kind of unnecessary statistical--

SENATOR SMITH: All right; so let me ask the question.

MR. THONET: Yes.

SENATOR SMITH: Mr. Kropp, what was the statistical correction? Come on over to the microphone.

MR. KROPP: (off mike) I brought him today, since he was (indiscernible) do the work. (laughter)

SENATOR SMITH: Okay.

DR. BAKER: Okay. It was basically-- It appeared as though a coefficient needed to be added to the equation to make it correct; and it didn't need to be added. And it was simply my error in adding this, which didn't need to be added.

SENATOR SMITH: All right. I want you taken out and lashed-- (laughter)

DR. BAKER: I'm sorry?

SENATOR SMITH: All right. You're not permitted to have statistical corrections.

DR. BAKER: Okay.

MR. THONET: I was asking for an explanation of what that was, and I still haven't heard it.

SENATOR SMITH: So after the meeting, you guys talk. (laughter)

MR. THONET: Okay.

SENATOR SMITH: Any other points, Mr. Thonet?

MR. THONET: After the meeting, we'll talk.

SENATOR SMITH: Anything else?

MR. THONET: No, that's it. And I thank this Committee very much.

SENATOR SMITH: All right.

So the last witness on this -- we had requested-- The Farm Bureau said they had science that they wanted to present. Do you have science, Ed, that you want to present?

ED WENGRYN: (off mike) Unless you guys have questions about--

SENATOR SMITH: Well, what's-- what science? Come on over for one second. What science did the Farm Bureau present with regard to the septic density? What science?

MR. WENGRYN: So our lawsuit -- some of the issues that were raised here questioned why did they not look at alternative septic systems in establishing criteria for nitrate pollution in the Highlands. If you're wanting to improve water quality, then you need to change the septic systems that you're using -- that old septic technology isn't working, it's part of the pollution problem. Why are we repeating, using the same--

SENATOR SMITH: So the Farm Bureau would be in favor of actually improving the required septic systems in the State of New Jersey?

MR. WENGRYN: Yes. We questioned the use of seven wells to develop a nitrate background for--

SENATOR SMITH: Got it. Yes, seven is not a lot of data.

MR. WENGRYN: --800,000 acres. Come on.

SENATOR SMITH: I got it.

MR. WENGRYN: You know--

SENATOR SMITH: All right; so it wasn't necessarily science; you were attacking--

MR. WENGRYN: We would reiterate--

SENATOR SMITH: --the methodology.

MR. WENGRYN: And then we also show by changing -- using actually the proper population data in the Highlands -- it's actually lower than the rest of the statewide population. So you have, like, 2.5 per home, instead of 2.7; and they're using 4--

SENATOR SMITH: Got it.

MR. WENGRYN: --and if you used real population--

SENATOR SMITH: Right.

MR. WENGRYN: So all of those things that Ray had mentioned that we had challenged, we brought in experts and did the modeling using their model and then alternative models for determining it.

SENATOR SMITH: Right; got it.

Thank you very much, Ed.

So this is to be continued; however, I really would appreciate anybody with a discussion of the science -- whether the sampling is correct, that this is the way the model should be used to establish the density of development in the Highlands -- if you would send that to us so we can add it to the record, that would be terrific.

And then I think all the legislators have to think about and decide whether we believe that the model that's being used with the Well Testing Act is appropriate, and should be used as the source of a nondegradation standard for the Highlands. Don't know the answer; we want to read about it, we want to think about it, and we want to hear what else you have to say. The record will be open for an additional two weeks, so if you have a scientific opinion -- no conspiracy theories; science -- please send them in to Judy.

Ray, you wanted to get one last--

MR. CANTOR: (off mike) Just one last comment.

SENATOR SMITH: One last comment.

MR. CANTOR: First of all, Mr. Chairman--

SENATOR SMITH: By the way, did you ever think that nitrates would be so exciting? (laughter)

Go ahead, Ray.

MR. CANTOR: I've been doing this for quite some time. I remember back when I was with OLS, I had a little jar with sewage sludge in there. So yes, a lot of things become exciting in this field.

SENATOR SMITH: Yes.

MR. CANTOR: I wanted to thank you, Mr. Chairman, and this Committee for really focusing on the science today. I think you had a very good discussion.

I just wanted to emphasize that's what we've been trying to do. As a regulator and as a lawyer, in particular, I don't have that science background; I can't make those my own decisions, and neither can the Commissioner, which is why we rely on a host of scientists -- both within the Department and without -- to give us that information.

Throughout this entire process, we've been working with Mr. Hoffman, now our State Geologist; with our Office of Science; running things by our Science Advisory Board; contracting with the U.S.G.S. and having them do a peer-reviewed document; taking in testimony; meeting with environmental groups and others to hear what they have to say; and continually challenging our experts if they have heard anything that changes their conclusions. And again, we've had a very vigorous process over the

last several years. Again, we think we have the right science and we're making the right decisions.

And again, we thank you, Mr. Chairman, today, for also focusing on that and highlighting all the efforts that everyone has been doing on this issue.

SENATOR SMITH: Great.

And by the way, we had one other witness planned for today, but he had a conflict, and that was Stephen Souza, Ph.D., President of Princeton Hydro, who, as an engineer, is taking the-- I'll read one paragraph, but it will be in the record.

"The proposed Highlands Density Septic Rule Proposal is inconsistent with the anti-degradation rules and the intent of the Highlands regulations to protect the region's surface and groundwater quality. The analysis is flawed in that NJDEP is making use of well data compiled by the U.S.G.S. from wells recognized as being 'clustered in urban areas.' The database is lacking in terms of groundwater data collected from wells located within largely undeveloped, forested areas." That seems to be the issue. "As such, the NJDEP is using data from developed areas to support an increase in septic density throughout the Highlands that could result in the degradation of surface and groundwater resources in undeveloped or far less developed areas."

So in any case, he has a pretty thorough letter. That's a paragraph; and if anybody wants a copy of it, Judy has it available.

We're closing the hearing on septic density--

MR. CANTOR: And if you want, Mr. Chairman, we'll be happy to send you our response to that letter as well, for the record.

SENATOR SMITH: We love to read stuff. (laughter) So please, send in your cards and letters.

Now, I have to apologize to the chromium-6 -- the hexavalent chromium people. We're just not going to be able to do it today, but we'll schedule it for the next hearing because we really want to get started on that issue and get some basic information.

Our last item today is -- if I can find my agenda -- SCR-39.

Now, Senator Bateman is the co-prime, I believe. Or no?

Senator Greenstein is the co-prime, and I think Senator Bateman is the sponsor.

SENATOR BATEMAN: Yes.

SENATOR SMITH: Okay.

So this last Bill deals with Natural Resource Damage claims and what should be done with the proceeds. And we've had two very difficult situations in the last three years: one with the Exxon settlement, one with the Passaic River settlement. And I don't think anybody is happy about how any of that ended up.

So what you have here is the start of the process to do a constitutional amendment to say that Natural Resource Damages should be used for environmental purposes. Now, those environmental purposes, to the extent possible -- you want to clean up whatever the natural resource damage is; maybe secondly, you want to apply the damage money to related purposes for that watershed; and you also may want to use it for other environmental purposes, depending on the size of the proceeds, the nature of the claim, etc.

There's a second issue, and the second issue is the process by which the State of New Jersey currently uses outside law firms, in effect, as their environmental gunslingers. They are hired on a contingent-fee basis, mostly; and what that means is that these law firms can go for years, and years, and years, and years, spending time, their lawyers' time, and even money to chase "polluters." And the Attorney General's Office, unless-- I didn't get the impression that there was a great deal of enthusiasm in the Office of the Attorney General to undertake this. Like every other piece of State government, we're stretched thin on resources. So the model that probably has to be used -- unless somebody can come up with a better alternative -- is to continue the environmental gunslinger practice.

The way this SCR is written, it says -- it does not address that issue. It says all the money should be dedicated -- with the exception of some administrative costs -- all the money should be dedicated toward the environmental purposes. So we haven't addressed that issue; and you really do need to because, otherwise, you're going to set something up that's not going to work. There will be nobody to do it.

So with that in mind, and to get this on the ballot in 2017, we need to pass it in two years with a majority vote. All right; I don't think there will be a two-thirds vote. I don't think that's possible.

UNIDENTIFIED MEMBER OF AUDIENCE: Three-fifths.

SENATOR SMITH: Or three-fifths vote.

SENATOR BATEMAN: Yes, based on the past voting.

SENATOR SMITH: Based on past voting records, yes. I mean, we're not making this up.

SENATOR BATEMAN: So we need 21 now, and 21 in January.

SENATOR SMITH: Right.

SENATOR GREENSTEIN: Chairman, are you saying you think this should be changed, or--

SENATOR BATEMAN: It has to be amended.

SENATOR SMITH: I think it has to be changed; the only thing is, we're not going to be able to do it today. I think what we need to do is get it out of Committee today; and then Assemblyman McKeon, on the other side, is the sponsor. And I think we need to sit down and see if we can work those issues out and, hopefully, amend it on the floor on November 14. And then the last session for both houses is December 14 -- all right? -- so that we have a chance to try and get it passed in the two successive years. So the recommendation is to release it, even though we know there are at least two major changes that have to be made.

SENATOR BATEMAN: Mr. Chairman, does Assemblyman McKeon have any suggestions on the funding aspect of it, the legal aspect?

SENATOR SMITH: I haven't talked to him yet; that's the problem.

SENATOR BATEMAN: I'll reach out to him.

SENATOR SMITH: Would you, please?

SENATOR BATEMAN: Yes, absolutely.

SENATOR SMITH: Yes, and also talk to him about the use of the monies. We'd like to have a little bit more toward the cleanup of the problem--

SENATOR BATEMAN: Yes; that was the goal.

SENATOR SMITH: --that has created the Natural Resource Damages; but then other environmental purposes may be acceptable as well. So you might have a tiered -- first thing is take care of the damages, etc.

SENATOR GREENSTEIN: And Bob, can you just state what the two changes are again, just briefly?

SENATOR SMITH: Well, the two areas of change--

SENATOR BATEMAN: We haven't made them yet. (laughter)

SENATOR GREENSTEIN: Two areas.

SENATOR SMITH: We don't know what the changes are yet. The one is, where does the money go; not-- The money has to be used for environmental purposes. But it may also include paying the lawyers, because otherwise, I don't think you're going to get a system where you're going to have our environmental gunslingers out there doing their thing, all right? And the question is, can State government do it? I don't think they can.

And a sub-question in there is, with the balance, after you pay the lawyers, what is the balance used for? And my thought is, the first priority should be the property that created the Natural Resource Damage claim first; and then, after that, maybe other things, or maybe stuff related to that property. But we have to work out language.

And then the-- Actually, I think those are the two issues, right? Lawyers and use of the money -- lawyers and use of the money. But we don't know the answer yet.

SENATOR GREENSTEIN: Right.

SENATOR SMITH: Right. And we'd love to have you involved with the conservations--

SENATOR GREENSTEIN: Okay, that would be great.

SENATOR SMITH: --and hopefully we can come up with amendments by the 11th; and hopefully we can avoid Appropriations.

SENATOR BATEMAN: Yes, we don't want it to go to Appropriations.

SENATOR SMITH: Yes; now, we already have some amendments that-- We want to release it with the amendments drafted to improve it; but we are going to amend it again.

Can we have Mr. Potosnak, with amendments?

Ed, based on the fact that we're not ready to amend it, other than the amendments that we have, hopefully you can be brief.

ED POTOSNAK: Very brief.

So, hi; I'm Ed Potosnak with the New Jersey League of Conservation Voters. I also serve as Chair of the Keep it Green Coalition, which led the constitutional amendment question in 2014 which had overwhelming support, 65 percent.

For the New Jersey League of Conservation Voters, one of our priority issues is putting a lockbox around the NRD funds--

SENATOR SMITH: Sure.

MR. POTOSNAK: --to ensure they can make up for the degradation that the polluters made in the local community, as you have articulated. That's critical; it's been a successful program. And unfortunately, there has been a lot of money grabs from Trenton working towards--

SENATOR SMITH: Money grabs in Trenton? (laughter)

MR. POTOSNAK: Yes, taking the money and trying to divert it to other purposes. So unfortunately, we have to be realistic and ensure that the many positive impacts over the lifetime of this program are continued. The communities that are disaffected -- this is a one-shot deal for them to get the environment restored and back on track to the beautiful place it was before it was destroyed.

That's why it's really important, and we want to thank the Committee for taking it up and looking at both those two issues -- about making sure we can continue to go after the polluters and that there's a sustainable financial way to do that; and that the communities that are impacted see the benefits of the funding. And that's really what this is about. And we're happy to stand with you and continue to work with you, as we move it through to tee it up for 2017, so we can stop that raiding altogether.

So thank you very much.

SENATOR SMITH: Thank you.

Debbie Mans, New York/New Jersey Baykeeper, in favor.

DEBORAH A. MANS: Thanks; just real quick.

As Ed mentioned, these cases were brought for very specific reasons and very specific claims to make our communities and our natural resources whole. And diverting the funds into the General Fund does not do that. So we are supportive of this; we are supportive of-- Of course, we want to see the final language on the use of outside counsel and outside experts -- consultants to bring the cases. We understand that zero NRD cases have been brought under this Administration, and they are actually settling out the complaints that were brought under the prior

Administration that use outside counsel and resources. So that's a really critical point about this.

And then separately, obviously, supportive of language that would require the nexus or connection to the damage -- the original damage for the restoration or replacement.

So thank you.

SENATOR SMITH: We appreciate your comments.

Jeff Tittel, Sierra Club, in favor.

MR. TITTEL: Since we're talking about amendments, I have a couple of other little pieces.

Jeff Tittel, New Jersey Sierra Club.

And I just want to make one correction. The Exxon settlement -- the State hasn't gotten the money yet. We're still in court, challenging that. So hopefully we can get this passed. That may be one piece -- us, Clean Water Action, Environment New Jersey, and Delaware Riverkeeper are actually at the Appellate Division. So I wanted to make sure that you knew that. So this actually gives us even more of an imperative in some ways.

The second point I want to make is that we had this language in the 2004 CBT dedication for Open Space. I had asked for it to be in; you put it in; it was in the original bill. Some of the groups that are now supporting this -- I'm glad they've come around -- worked to take that out because there was money going from DEP in that program for some restoration programs or stewardship; whatever. And had that been in place in 2014, we wouldn't be here today and they wouldn't have stolen \$140 million from the Passaic River or go after the \$225 million.

And I did want to add a couple of little points.

There are billions of dollars in potential settlements out there. This Administration not only has failed to go after (indiscernible) our NRD claim; there are some massive pollution problems out there where assessments have not been done. The Ringwood Superfund site, as an example; the Quanta Superfund site; the Millville Shieldalloy site; White Chemical in Newark. There are literally over a hundred major sites out there and potentially a lot of damages, because these are major sites that have had severe impacts to the environment. The Ringwood site alone has polluted billions of gallons of reservoir water right next to the Wanaque Reservoir.

One other little point I want to make is that you also may want to think of language, because we may get another Administration who may change it back -- how this program was done originally, by program. At one point, NRD was collected in New Jersey under the Whitman Administration as a program. It was only a change in the law by Senator McNamara at the end of her Administration that made you have to sue. So if we can get that-- It's one thing that we're going to be working on to see changed, so that the DEP could actually assess NRD as a program. So I would respectfully ask if you could add settlements or money from program to be dedicated. But that was a change in the law that happened in--

SENATOR SMITH: I think that may-- (confers with staff)

You know what? We need something more specific.

MR. TITTEL: Okay.

SENATOR SMITH: Okay?

MR. TITTEL: We can talk after.

SENATOR SMITH: All right.

MR. TITTEL: And then my final point is that the communities have been affected twice: first by the pollution and the burden that it creates in the communities; and second, by that money being diverted for other purposes. And I really agree that the money needs to be focused into those communities or areas. For instance, years ago, when the Trenton tunnel was being built, we found a pile of toxic goo. And the NRD money for that went to buy salt marsh land down in Salem County instead of fixing the D and R Canal in Trenton, or a playground for the people in Trenton, or planting trees. So I think the money should be targeted back into the areas where the original damages occurred.

Thank you.

SENATOR SMITH: Thank you for the comments.

MR. POTOSNAK: Mr. Chairman, may I just correct something real quick?

SENATOR SMITH: Well, let me just say two things, because it's-- The "no need to testify slips": Amy Hansen, New Jersey Conservation Foundation, in favor, no need to testify; Madeline Emde, New Jersey Audubon, in favor, with amendments -- which we're planning to do -- no need to testify.

Mr. Potosnak, your reprise. (laughter)

MR. POTOSNAK: Just real quick.

Jeff had made some good points.

One thing I just wanted to correct: On the NRD language that was included in the CBT -- although that language was there, it didn't have the nexus provision, which I think he so clearly articulated why it's

important that the money goes back to the communities that were disaffected; and it would have had quite the opposite effect, which could have been used anywhere in the state.

So that wasn't perfect language in the CBT; it was quite problematic. So this will also address that issue, and quite well.

Thanks.

SENATOR SMITH: Thank you.

And I missed Mr. Pringle.

Mr. Pringle, Clean Water Action, in favor.

DAVID PRINGLE: Thank you, Mr. Chairman. I'll be brief.

I'm pleased to be one of the four groups, hopefully, providing a service to the State in continuing the Exxon litigation, so that when it's time for -- when we get this done, it won't be too late for Exxon.

A couple-- I'm glad you're-- I think the two ideas you have for amendments are excellent ones. The language will be important; it is critical for it not to go to environmental programs generally, but to the communities affected. As Jeff mentioned, there are many examples of money going -- being diverted for otherwise laudable projects, but not helping the communities that are most affected.

Second, on the lawyers' front -- we were one of the champions under the McGreevey Administration of hiring outside lawyers because the State didn't have the resources to get it done. So it's entirely appropriate for that to be included.

I think the language will be important, though. I'm not sure what the exact answer is, but I think there probably should be some kind of cap, whether it's a percentage or a dollar figure. For example, under Exxon,

the lawyers are getting \$55 million. That's a huge chunk of money, and they did take a lot of risk. So, you know, we need to factor that in. But we do need the vast majority of the money to be going to the victims of the settlement.

And then when it comes, it is three-fifths-- I know this issue has bipartisan support, but there is more than three-fifths majority in both houses by the Democrats. The problem last time around wasn't three-fifths; it was getting it up for a vote in the Assembly. This passed in the Senate last session, but it didn't pass in the Assembly. So I think the bigger hurdle will be, maybe, getting it up for a vote, not--

SENATOR SMITH: Could be.

MR. PRINGLE: I think it would be good-- I think we might get three-fifths, and we would certainly be working towards that. Regardless, if we're going to get it in the 2017 ballot without three-fifths, it has to sit in final form for, I think it's 25, 30 days? I forget exactly what. But we don't-- And it's the legislative calendar year, so we only have until early- to mid-January to get it through the first time, if we're only going simple majority and we want it on the 2017 ballot.

SENATOR SMITH: (confers with staff) Yes, you may be right on the time issue. But we're going to try.

MR. PRINGLE: Yes. So full steam ahead, and let's get three-fifths as soon as possible, and then we settle it both ways.

And I think that's it.

Thank you.

SENATOR SMITH: Bill Wolfe. You got a slip in just before the bell rang.

Bill.

MR. WOLFE: Thank you, Mr. Chairman; great hearing today.

I submitted some written comments, asking for clarifications on amendments. And I was outside the room when you began. So apparently you are going to make some amendments?

SENATOR SMITH: To--

MR. WOLFE: To this resolution, somehow, to--

SENATOR SMITH: Oh, to the SCR? Yes.

MR. WOLFE: Okay.

SENATOR SMITH: On the floor.

MR. WOLFE: Then I conveyed what my thinking in terms of the problematic areas with the 5 percent cap for-- The Department's in a Catch-22--

SENATOR SMITH: DEP Administrative; right.

MR. WOLFE: You're not going to get the settlements if they don't do the technical basis for the settlements. So you need the resources in the Department. And the way it's drafted now, you're going to further drain resources from the Department.

And the second point, dealing with the uses of the funds -- and I missed the initial testimony; I apologize. The uses of the funds -- I think we need to restore the dedication, \$32 million, to Parks that was previously taken away by the current Open Space dedication. So Parks are being -- they've lost the legal dedication they previously had, and they have diminished resources because they don't have a dedication anymore and they're competing with other Open Space uses. So I think the first dibs on

this money should be to restore what we may have inadvertently made an error on in the Open Space--

SENATOR SMITH: I want you to arm wrestle with Debbie Mans and tell me who won. (laughter)

MR. WOLFE: Excuse me?

SENATOR SMITH: Arm wrestle with Debbie Mans--

MR. WOLFE: Okay.

SENATOR SMITH: --and tell me who won.

MR. WOLFE: The billionaire who's building the island in Manhattan.

UNIDENTIFIED MEMBER OF AUDIENCE: Donald Trump?

MR. WOLFE: No, no; not Donald Trump. (laughter)

And so I missed that conversation; so I missed Ms. Mans' testimony. I apologize. I was trying to clarify a few issues with Mr. Thonet about his testimony.

SENATOR SMITH: It's the most interesting Committee in the Legislature; I got it.

MR. WOLFE: This is one of the better hearings in a long time.

The final point is, to clarify the uses of the monies. And everybody was shocked and outraged with the Exxon pennies-on-the-dollar thing. But if you go back and look at the data of the Department's pattern, going to back to the Whitman Administration-- And I worked on the NRD program with Sierra Club when Rick Gimello was the Assistant Commissioner, so this goes back. They were always pennies on the dollar, all right? So Exxon was not an aberration; Exxon was just a very big site.

If you want to correct that pennies-on-the-dollar problem, it's a resource question with the State -- you have to beef up the DEP program; you have to take it away from Site Remediation where it is governed by the Site Remediation process, because they document the injuries, and the case manager controls that conversation with the private consultant -- what are they called?

UNIDENTIFIED MEMBERS OF AUDIENCE: (off mike)
LSRP.

MR. WOLFE: LSRP. So the database to determine injury has already been kind of biased in a direction that's not healthy, in my book. And finally, you have to have the Department promulgate regulations. Brad Campbell made a commitment to a judge to promulgate regulations, and he never did it. I don't know how you get away with stuff like that. And the courts have, twice or three times -- I cited the case law to you and Assemblyman McKeon -- three or four times, courts have found the DEP's NRD are legally deficient because there is not promulgated regulations. So we need to get that in place.

And finally, historically, again, Mike Catania, when he ran a group called Conservation Resources, Inc., was the go-between between the RPs, corporate polluters, and the Department in terms of allocating not only the NRD monies, but other settlement monies. And he produced a report; he produced a 10-year report when he closed shop. And he has data and tables, and tables, and tables -- hundreds of cases that he participated in and targeted a local conservation group to utilize the money for a restoration project. So that data has to somehow get in the conversation, because it's very helpful so the legislators can see where the money is going.

And the nexus issue -- you can have information to make a nexus analysis on.

But more importantly, the groups here that testified before you were the recipients of those monies.

MR. TITTEL: (off mike) Not us.

MR. WOLFE: Not Sierra Club; excuse me, let me clarify that. Not Sierra Club. (laughter)

MS. MANS: (off mike) It was not NRD money.

MR. WOLFE: So what I'm trying to say is there's a report out there; I suggest you get on the phone and call Mike Catania up at Duke Foundation and say, "Mike, why did you take your report down?" I analyzed that report; I excerpted that report; I wrote about that report. That report is no longer available online. I wanted to inject it into the testimony today and give you that information; and I can't give you that information. Because there are several million dollars involved, and it tells you who the RP was, where the site was, where the restoration money is going, and the local conservation group that got it. And I think you should be cognizant of that, because when a corporate lobbyist gets up here you know he has a financial stake, he's got skin in the game, he's got a dog in the fight. You need to know the faces that come up here that put a green face on -- that they've got the same economic interest at stake.

And finally, Mr. Potosnak's claim about why the NRD provision in the original Open Space bill -- that it is a post hoc rationalization of a very bad decision that he should just 'fess up to. And that's why-- Let's get the slate clean; let's say we made mistakes; we're learning from the mistakes. We're going to put the NRD to use first in the

Parks. And I would, like, prefer some honesty to say, "We apologize. We didn't realize it was going to have such a devastating effect on the Parks." You see, I wish somebody would just be honest. "I made a mistake." Own it, and then let's move on. But when you get that kind of garbage, that's over my head--

SENATOR SMITH: Yes.

MR. WOLFE: Thank you.

SENATOR SMITH: All right, Bill. You're going over the line.

A motion to release by Senator Bateman--

SENATOR BATEMAN: Yes.

SENATOR SMITH: --a second by Senator Greenstein.

Let's take a vote to release in an imperfect form.

MS. HOROWITZ: On Senate Concurrent Resolution No. 39, with Senate Committee amendments, Senator Thompson left a "no" vote.

Senator Bateman.

SENATOR BATEMAN: Yes.

MS. HOROWITZ: Senator Greenstein.

SENATOR GREENSTEIN: Yes.

MS. HOROWITZ: Senator Smith.

SENATOR SMITH: Yes.

And we're adjourned.

(MEETING CONCLUDED)