

LEGISLATIVE HISTORY CHECKLIST

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LAWS of 1999

CHAPTER: 89

NJSA: 58:10A-37.5

(Petroleum underground storage tank fund - grants)

BILL NO: S1679 (substituted for A2962)

SPONSOR(S): McNamara & Vitale

DATE INTRODUCED: February 18, 1999

COMMITTEE:

ASSEMBLY: Solid & Hazardous Waste

SENATE: Environment

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE:

ASSEMBLY: March 29, 1999

SENATE: March 22, 1999

DATE OF APPROVAL: May 3, 1999

THE FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL: 1st Reprint

(Amendments during passage denoted by superscript numbers)

S1679

SPONSORS STATEMENT: *Yes*

(Begins on page 6 of original bill)

COMMITTEE STATEMENT:

ASSEMBLY: *Yes*

SENATE: *Yes*

FLOOR AMENDMENT STATEMENTS: *No*

LEGISLATIVE FISCAL ESTIMATE: *No*

A2962

SPONSORS STATEMENT: *Yes*
(Begins on page 9 of original bill)

COMMITTEE STATEMENT:

ASSEMBLY: *Yes*

SENATE: *No*

Identical to Senate Statement for S1679

FLOOR AMENDMENT STATEMENTS: *No*

LEGISLATIVE FISCAL ESTIMATE: *No*

GOVERNOR'S ACTIONS

VETO MESSAGE: *No*

GOVERNOR'S PRESS RELEASE ON SIGNING: *Yes*

THE FOLLOWING WERE PRINTED:

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REPORTS: *No*

HEARINGS: *No*

NEWSPAPER ARTICLES: *No*

P.L. 1999, CHAPTER 89, *approved May 3, 1999*
Senate, No. 1679 (*First Reprint*)

1 **AN ACT** concerning financial assistance for petroleum underground
2 storage tanks and amending P.L.1997, c.235.

3

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

6

7 1. Section 5 of P.L.1997, c.235 (C.58:10A-37.5) is amended to
8 read as follows:

9 5. a. The authority may award financial assistance from the fund to
10 an eligible owner or operator in the form of a loan or a conditional
11 hardship grant as provided in this section. An award of financial
12 assistance, either as a loan or a grant, or a combination of both, may,
13 upon application therefor, be for 100% of the eligible project costs.
14 However, a loan that any applicant may receive from the fund for an
15 upgrade, remediation, or closure, or any combination thereof, for any
16 one facility, may not exceed \$1,000,000 and a grant that any applicant
17 may receive from the fund for any one facility, may not exceed
18 \$250,000. The total amount of financial assistance awarded as grants
19 in any one year may not exceed **[10%]** one third of the total amount
20 of financial assistance awarded in that year ¹except that this limitation
21 upon the award of grants shall not apply to financial assistance
22 awarded between January 1, 1999 and March 31, 2000¹.

23 b. A public entity applying for financial assistance from the fund
24 may only be awarded financial assistance in the form of an interest free
25 loan.

26 c. An applicant, other than a public entity, may apply for and
27 receive a conditional hardship grant as provided in paragraph (1) of
28 this subsection, or a loan for an upgrade, closure, or remediation as
29 provided in paragraph (2) of this subsection. Financial assistance
30 awarded an applicant pursuant to this subsection may consist entirely
31 of a conditional hardship grant, a loan for an upgrade, or loan for a
32 closure, or a loan for a remediation, or any combination thereof,
33 except that the total amount of the award of financial assistance shall
34 be subject to the per facility dollar limitation enumerated in subsection
35 a. of this section. Notwithstanding any other provision of this
36 subsection to the contrary, no tax exempt, nonprofit organization,
37 corporation, or association shall be awarded a conditional hardship
38 grant pursuant to paragraph (1) of this subsection.

39 (1) A conditional hardship grant for eligible project costs of an

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:

¹ Senate SEN committee amendments adopted February 18, 1999.

1 upgrade, closure or remediation shall be awarded by the authority
2 based upon a finding of eligibility and financial hardship and upon a
3 finding that the applicant meets the criteria set forth in this act.

4 In order to be eligible for a conditional hardship grant, the applicant
5 shall have owned or operated the subject petroleum underground
6 storage tank as of December 1, 1996 and continually thereafter or shall
7 have inherited the property from a person who owned the petroleum
8 underground storage tank as of that date. No applicant shall be
9 eligible for a conditional hardship grant if the applicant has a taxable
10 income of more than \$100,000 or a net worth, exclusive of the
11 applicant's primary residence, of over \$100,000.

12 A finding of financial hardship by the authority shall be based upon
13 a determination that an applicant cannot reasonably be expected to
14 repay all or a portion of the eligible project costs if the financial
15 assistance were to be awarded as a loan. The amount of an award of
16 a conditional hardship grant shall be the amount of that portion of the
17 eligible project costs the authority determines the applicant cannot
18 reasonably be expected to repay.

19 In making a finding of financial hardship for an application for the
20 upgrade, closure, or remediation of a petroleum underground storage
21 tank, where the petroleum underground storage tank is a part of the
22 business property of the owner, the authority shall base its finding
23 upon the cash flow of the applicant's business, whether or not any part
24 of the applicant's business is related to the ownership or operation of
25 that petroleum underground storage tank. In making a finding of
26 financial hardship for an application for the upgrade or remediation of
27 a petroleum underground storage tank, where the petroleum
28 underground storage tank is not a part of the business property of the
29 owner, the authority shall base its finding upon the applicant's taxable
30 income in the year prior to the date of the application being submitted.

31 If the authority awards a conditional hardship grant in combination
32 with a loan pursuant to this subsection, the authority shall release to
33 the applicant the loan monies prior to the release of the conditional
34 hardship grant monies.

35 Conditional hardship grants awarded to an applicant shall be subject
36 to the lien provisions enumerated in section 16 of P.L.1997, c.235
37 (C.58:10A-37.16).

38 (2) A loan to an eligible owner or operator for the eligible project
39 costs of an upgrade, closure, or remediation shall be awarded by the
40 authority only upon a finding that the applicant other than a public
41 entity is able to repay the amount of the loan.

42 In making a finding of an applicant's ability to repay a loan for the
43 upgrade, closure, and remediation of a regulated tank, or for the
44 remediation of a discharge from a petroleum underground storage
45 tank, the authority shall base its finding, as applicable, upon the cash
46 flow of the applicant's business, the applicant's taxable income and the

1 applicant's personal and business assets, except that the authority may
2 not consider the applicant's primary residence as collateral, except that
3 the authority may consider the applicant's primary residence as
4 collateral with the permission of the applicant or where the subject
5 petroleum underground storage tank or regulated tank is located at the
6 primary residence.

7 d. The authority shall, where applicable, require an applicant
8 applying for financial assistance from the fund to submit to the
9 authority the financial statements of the applicant's business for three
10 years prior to the date of the application, the most recent interim
11 financial statement for the year of the application, the applicant's
12 federal income tax returns, or other relevant documentation.

13 e. Nothing in this section is intended to alter the priority or criteria
14 for awarding financial assistance established pursuant to section 4 of
15 P.L.1997, c.235 (C.58:10A-37.4).

16 f. An eligible owner or operator may only be awarded that amount
17 of financial assistance issued as a loan for which the applicant
18 demonstrates he could not qualify for and obtain as a commercial loan.
19 The provisions of this subsection shall not apply to an owner or
20 operator or petroleum underground storage tank used to store heating
21 oil for onsite consumption in a residential building.

22 (cf: P.L.1997, c.235, s.5)

23

24 ¹2. Section 6 of P.L.1997, c.235 (C.58:10A-37.6) is amended to
25 read as follows:

26 6. An eligible owner or operator seeking financial assistance from
27 the fund shall file an application on a form to be developed by the
28 authority. The application form shall be submitted with the application
29 fee. The application fee per facility for residential petroleum
30 underground storage tanks shall be \$250. The authority may establish
31 the application fee per facility for nonresidential petroleum
32 underground storage tanks.

33 The authority shall adopt rules and regulations listing the filing
34 requirements for a complete application for financial assistance. If a
35 financial assistance application is determined to be incomplete by the
36 authority, an applicant shall have 30 days from the date of receipt of
37 written notification of incompleteness to file such additional
38 information as may be required by the authority for a completed
39 application. If an applicant fails to file the additional information
40 within the 30 days, the filing date for that application shall be the date
41 that such additional information is received by the authority. If the
42 additional information is filed within the 30 days and is satisfactory to
43 the authority, the filing date for that application shall be the initial date
44 of application with the authority. Notwithstanding the above, if a
45 completed application has been submitted and the applicant fails to
46 submit the filing fee, then the filing date for the application shall not

1 be established until the date on which the authority receives the
2 application fee. A change in the filing date resulting from failure to
3 submit a completed application or from failure to submit the
4 application fee in a timely fashion for applications filed for financial
5 assistance for a regulated tank to meet the upgrade or closure
6 requirements pursuant to 42 U.S.C. s.6991 et seq. or P.L.1986, c.102
7 (C.58:10A-21 et seq.) or for the remediation of a discharge from any
8 such regulated tank shall not render the application ineligible for
9 financial assistance as long as the initial date of application is prior to
10 January 1, 1999, or prior to August 31, 1999, as applicable.

11 An applicant shall have 120 days from receipt of notice of approval
12 of a financial assistance award to submit to the authority an executed
13 contract for the upgrade, closure, or remediation, or all three, as the
14 case may be, that is consistent with the terms and conditions of the
15 financial assistance approval. Failure to submit an executed contract
16 within the allotted time, without good cause, may result in an
17 alteration of an applicant's priority ranking.¹

18 (cf: P.L.1997, c.235, s.6)

19

20 ^{13.} Section 7 of P.L.1997, c.235 (C.58:10A-37.7) is amended to
21 read as follows:

22 7. a. The authority shall award financial assistance to an owner or
23 operator of a facility only if the facility is properly registered with the
24 department pursuant to section 3 of P.L.1986, c.102 (C.58:10A-23),
25 where applicable, and if all fees or penalties due and payable on the
26 facility to the department pursuant to P.L.1986, c.102 have either been
27 paid or the nature or the amount of the fee or penalty is being
28 contested in accordance with law.

29 b. The authority may deny an application for financial assistance,
30 and any award of financial assistance may be recoverable by the
31 authority, upon a finding that:

32 (1) in the case of financial assistance awarded for a remediation,
33 the discharge was proximately caused by the applicant's knowing
34 conduct;

35 (2) in the case of financial assistance awarded for a remediation,
36 the discharge was proximately caused or exacerbated by knowing
37 conduct by the applicant with regard to any lawful requirement
38 applicable to petroleum underground storage tanks intended to
39 prevent, or to facilitate the early detection of, the discharge;

40 (3) the applicant failed to commence or complete a remediation,
41 closure, or an upgrade for which an award of financial assistance was
42 made within the time required by the department in accordance with
43 the applicable rules and regulations, within the time prescribed in an
44 administrative order, an administrative consent agreement, a
45 memorandum of agreement, or a court order; or

46 (4) the applicant provided false information or withheld

1 information on a loan or grant application, or other relevant
2 information required to be submitted to the authority, on any matter
3 that would otherwise render the applicant ineligible for financial
4 assistance from the fund, that would alter the priority of the applicant
5 to receive financial assistance from the fund, that resulted in the
6 applicant receiving a larger grant or loan award than the applicant
7 would otherwise be eligible, or that resulted in payments from the fund
8 in excess of the actual eligible project costs incurred by the applicant
9 or the amount to which the applicant is legally eligible.

10 Nothing in this subsection shall be construed to require the
11 authority to undertake an investigation or make any findings
12 concerning the conduct described in this subsection.

13 c. An application for financial assistance from the fund for an
14 upgrade or closure of a regulated tank shall include all regulated tanks
15 at the facility for which the applicant is seeking financial assistance.
16 Once financial assistance for an upgrade, closure or a remediation is
17 awarded for a facility, no additional award of financial assistance may
18 be made for that facility. However, if an applicant discovers while
19 performing upgrade or closure activities that a remediation is
20 necessary at the site of a facility, and if financial assistance was
21 previously awarded for that site only for an upgrade or closure of a
22 regulated tank, the applicant may amend his application and apply for
23 financial assistance for the required remediation subject to the
24 limitations enumerated in section 5 of this act. An application for
25 financial assistance for an upgrade or closure of a regulated tank shall
26 be conditioned upon the applicant agreeing to perform, at the time of
27 the upgrade or closure, any remediation necessary as a result of a
28 discharge from the regulated tank and commencement of the
29 remediation within the time prescribed and in accordance with the
30 rules and regulations of the department.

31 d. Except as provided below, no financial assistance for upgrade
32 or closure shall be awarded for any regulated tank required to meet the
33 upgrade or closure requirements pursuant to 42 U.S.C. s.6991 et seq.
34 or P.L.1986, c.102 (C.58:10A-21 et seq.), or for the remediation of a
35 discharge from any such regulated tank except as provided in
36 subsection c. of this section, unless the application is filed with the
37 authority prior to January 1, 1999 and the application is complete and
38 the application fee is received by ~~[March 1, 1999]~~ August 1, 1999. No
39 financial assistance for upgrade or closure shall be awarded for any
40 underground storage tank with a capacity of over 2,000 gallons used
41 to store heating oil for onsite consumption in a nonresidential building
42 required to be upgraded pursuant to P.L.1986, c.102 (C.58:10A-21 et
43 seq.) but not pursuant to 42 U.S.C. s.6991 et seq. or for the
44 remediation of a discharge from any such regulated tank except as
45 provided in subsection c. of this section, unless the application is filed
46 with the authority prior to August 31, 1999 and the application is

1 complete and the application fee is received by [October 31, 1999]
2 March 31, 2000 .

3 e. The date of occurrence of a discharge shall not affect eligibility
4 for financial assistance from the fund. Except for a preliminary
5 assessment or a site investigation performed after the effective date of
6 P.L.1997, c.235 (C.58:10A-37.1 et seq.), and except as provided in
7 subsection g. of this section, no award of financial assistance shall be
8 made from the fund for the otherwise eligible project costs of a
9 remediation, closure, or an upgrade, or parts thereof, completed prior
10 to an award of financial assistance from the fund.

11 f. No financial assistance may be awarded from the fund for the
12 remediation of a discharge from a petroleum underground storage tank
13 if financial assistance from the Hazardous Discharge Site Remediation
14 Fund established pursuant to section 26 of P.L.1993, c.139
15 (C.58:10B-4) has previously been made for a remediation at that site
16 as a result of a discharge from that petroleum underground storage
17 tank. No financial assistance may be awarded from the fund for the
18 remediation of a discharge from a petroleum underground storage tank
19 if the discharge began subsequent to the completion of an upgrade of
20 that petroleum underground storage tank, which upgrade was intended
21 to meet all applicable upgrade regulations of the department, no matter
22 when the upgrade was performed.

23 g. Notwithstanding any provision of P.L.1997, c.235
24 (C.58:10A-37.1 et seq.), where an eligible owner or operator has filed
25 an application for financial assistance from the fund, and there are
26 either insufficient monies in the fund or the authority has not yet acted
27 upon the application or awarded the financial assistance, the eligible
28 owner or operator may expend its own funds for the upgrade, closure,
29 or remediation, and upon approval of the application, the authority
30 shall award the financial assistance as a reimbursement of the monies
31 expended for eligible project costs.¹

32 (cf: P.L.1998, c.59, s.3)

33

34 ¹[2.] 4.¹ Section 10 of P.L.1997, c.235 (C.58:10A-37.10) is
35 amended to read as follows:

36 10. a. All loans awarded from the fund shall be for a term not to
37 exceed ten years. Except as provided in subsection b. of section 5 of
38 P.L.1997, c.235 (C.58:10A-37.5), all loans shall be at a rate between
39 two percent and the prime rate at the time of approval, or at the time
40 of loan closing if the prime rate is lower at that time. The authority
41 shall determine the interest rate to be imposed based on the applicant's
42 ability to repay the loan.

43 b. Upon the sale of the facility for which the loan was made, the
44 unpaid balance of the loan shall become immediately payable in full.
45 Upon the sale of a facility for which a conditional hardship grant was
46 made pursuant to section 5 of P.L.1997, c.235 (C.58:10A-37.5), that

1 amount of the conditional hardship grant that must be repaid, as
2 calculated pursuant to section 16 of P.L.1997, c.235
3 (C.58:10A-37.16), shall become immediately payable in full. No
4 repayment of a conditional hardship grant awarded pursuant to
5 paragraph (1) of subsection c. of section 5 of P.L.1997, c.235
6 (C.58:10A-37.5) for a remediation necessitated by a discharge from a
7 petroleum underground storage tank used to store heating oil at the
8 applicant's primary residence shall be required.
9 (cf: P.L.1997, c.235, s.10)

10

11 ¹[3.] 5.¹ Section 16 of P.L.1997, c.235 (C.58:10A-37.16) is
12 amended to read as follows:

13 16. a. In addition to any other financial assistance requirements
14 imposed by the authority pursuant to P.L.1997, c.235 (C.58:10A-37.1
15 et seq.), any award of financial assistance from the fund except for any
16 grant awarded pursuant to paragraph (1) of subsection c. of section 5
17 of P.L.1997, c.235 (C.58:10A-37.5) for a remediation necessitated by
18 a discharge from a petroleum underground storage tank used to store
19 heating oil at the applicant's primary residence, shall constitute, in each
20 instance, a debt of the applicant to the fund. The debt shall constitute
21 a lien on the real property at which the subject facility is located. The
22 lien shall be in the amount of the financial assistance awarded the
23 applicant. The lien shall attach when a notice of lien, incorporating the
24 name of the property owner, a description of the real property on
25 which the subject facility is located and an identification of the amount
26 of the financial assurance awarded, is duly filed with the county
27 recording officer in the county in which the property is located.

28 Where financial assistance from the fund is awarded as a
29 combination of a loan and a grant, separate liens for the loan and the
30 grant shall be filed. No lien shall be placed on any real property of an
31 applicant based on a conditional hardship grant awarded pursuant to
32 paragraph (1) of subsection c. of section 5 of P.L.1997, c.235
33 (C.58:10A-37.5), for a remediation necessitated by a discharge from
34 a petroleum underground storage tank used to store heating oil at the
35 applicant's primary residence.

36 b. A lien that is filed on real property pursuant to a loan shall be
37 removed upon repayment of the loan.

38 c. The lien that is filed on real property pursuant to a conditional
39 hardship grant shall be removed upon repayment of the amount of the
40 grant that is unsatisfied or upon the end of a 15- year period in which
41 the site for which the financial assistance was awarded continued to be
42 operated in substantially the same manner as it was operated at the
43 time of the award of financial assistance. The period of operation need
44 not run consecutively. Beginning with the 11th year of operating in
45 substantially the same manner, 20% of the conditional hardship grant
46 shall be deemed satisfied with an additional 20% to be satisfied each

1 year until the entire amount of the conditional hardship grant is
2 satisfied at the end of the 15-year period. The owner or operator of
3 the facility claiming to have satisfied a conditional hardship grant due
4 to the 15-year period of operation, shall submit a certification of this
5 fact to the authority. Upon repayment of the unsatisfied grant award
6 or upon submittal of this certification, unless the authority has made
7 a finding that the certification is not correct, the authority shall remove
8 the lien from the property.

9 Where real property for which a conditional hardship grant was
10 awarded is not being operated in substantially the same manner, the
11 15-year period to satisfy the lien shall be tolled. If at any time prior to
12 the satisfaction of the lien the property is developed or operated for a
13 purpose that is not substantially the same as its operation at the time
14 of the award of the conditional hardship grant, the grant recipient shall
15 so certify to the authority upon the change in operation. Upon receipt
16 of this certification, the authority shall determine, based upon the new
17 operation of the property if the financial assistance shall continue as a
18 conditional hardship grant or if it shall be converted into a loan. In
19 making this determination, the authority shall base its decision on the
20 financial hardship factors used in determining the original eligibility for
21 the conditional hardship grant.

22 The authority may take whatever enforcement actions it deems
23 necessary to verify the operation of any property for which a
24 conditional hardship grant was made. The terms and conditions of any
25 loan converted from a grant pursuant to this subsection shall be the
26 same as those authorized pursuant to this act.

27 d. The provisions of this section do not apply to any real property
28 of an applicant who is a public entity.

29 (cf: P.L.1997, c.235, s.16)

30

31 ¹[4.] 6.¹ This act shall take effect immediately and shall be
32 retroactive to August 30, 1997.

33

34

35

36

37 _____
38 Concerns grants from the Petroleum Underground Storage Tank
Remediation, Upgrade and Closure Fund.

SENATE, No. 1679

STATE OF NEW JERSEY
208th LEGISLATURE

INTRODUCED FEBRUARY 18, 1999

Sponsored by:

Senator HENRY P. MCNAMARA

District 40 (Bergen and Passaic)

Senator JOSEPH F. VITALE

District 19 (Middlesex)

SYNOPSIS

Concerns grants from the Petroleum Underground Storage Tank Remediation, Upgrade and Closure Fund.

CURRENT VERSION OF TEXT

As introduced.



S1679 MCNAMARA, VITALE

2

1 AN ACT concerning financial assistance for petroleum underground
2 storage tanks and amending P.L.1997, c.235.

3

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

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7 1. Section 5 of P.L.1997, c.235 (C.58:10A-37.5) is amended to
8 read as follows:

9 5. a. The authority may award financial assistance from the fund to
10 an eligible owner or operator in the form of a loan or a conditional
11 hardship grant as provided in this section. An award of financial
12 assistance, either as a loan or a grant, or a combination of both, may,
13 upon application therefor, be for 100% of the eligible project costs.
14 However, a loan that any applicant may receive from the fund for an
15 upgrade, remediation, or closure, or any combination thereof, for any
16 one facility, may not exceed \$1,000,000 and a grant that any applicant
17 may receive from the fund for any one facility, may not exceed
18 \$250,000. The total amount of financial assistance awarded as grants
19 in any one year may not exceed **[10%]** one third of the total amount
20 of financial assistance awarded in that year.

21 b. A public entity applying for financial assistance from the fund
22 may only be awarded financial assistance in the form of an interest free
23 loan.

24 c. An applicant, other than a public entity, may apply for and
25 receive a conditional hardship grant as provided in paragraph (1) of
26 this subsection, or a loan for an upgrade, closure, or remediation as
27 provided in paragraph (2) of this subsection. Financial assistance
28 awarded an applicant pursuant to this subsection may consist entirely
29 of a conditional hardship grant, a loan for an upgrade, or loan for a
30 closure, or a loan for a remediation, or any combination thereof,
31 except that the total amount of the award of financial assistance shall
32 be subject to the per facility dollar limitation enumerated in subsection
33 a. of this section. Notwithstanding any other provision of this
34 subsection to the contrary, no tax exempt, nonprofit organization,
35 corporation, or association shall be awarded a conditional hardship
36 grant pursuant to paragraph (1) of this subsection.

37 (1) A conditional hardship grant for eligible project costs of an
38 upgrade, closure or remediation shall be awarded by the authority
39 based upon a finding of eligibility and financial hardship and upon a
40 finding that the applicant meets the criteria set forth in this act.

41 In order to be eligible for a conditional hardship grant, the applicant
42 shall have owned or operated the subject petroleum underground
43 storage tank as of December 1, 1996 and continually thereafter or shall

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 have inherited the property from a person who owned the petroleum
2 underground storage tank as of that date. No applicant shall be
3 eligible for a conditional hardship grant if the applicant has a taxable
4 income of more than \$100,000 or a net worth, exclusive of the
5 applicant's primary residence, of over \$100,000.

6 A finding of financial hardship by the authority shall be based upon
7 a determination that an applicant cannot reasonably be expected to
8 repay all or a portion of the eligible project costs if the financial
9 assistance were to be awarded as a loan. The amount of an award of
10 a conditional hardship grant shall be the amount of that portion of the
11 eligible project costs the authority determines the applicant cannot
12 reasonably be expected to repay.

13 In making a finding of financial hardship for an application for the
14 upgrade, closure, or remediation of a petroleum underground storage
15 tank, where the petroleum underground storage tank is a part of the
16 business property of the owner, the authority shall base its finding
17 upon the cash flow of the applicant's business, whether or not any part
18 of the applicant's business is related to the ownership or operation of
19 that petroleum underground storage tank. In making a finding of
20 financial hardship for an application for the upgrade or remediation of
21 a petroleum underground storage tank, where the petroleum
22 underground storage tank is not a part of the business property of the
23 owner, the authority shall base its finding upon the applicant's taxable
24 income in the year prior to the date of the application being submitted.

25 If the authority awards a conditional hardship grant in combination
26 with a loan pursuant to this subsection, the authority shall release to
27 the applicant the loan monies prior to the release of the conditional
28 hardship grant monies.

29 Conditional hardship grants awarded to an applicant shall be subject
30 to the lien provisions enumerated in section 16 of P.L.1997, c.235
31 (C.58:10A-37.16).

32 (2) A loan to an eligible owner or operator for the eligible project
33 costs of an upgrade, closure, or remediation shall be awarded by the
34 authority only upon a finding that the applicant other than a public
35 entity is able to repay the amount of the loan.

36 In making a finding of an applicant's ability to repay a loan for the
37 upgrade, closure, and remediation of a regulated tank, or for the
38 remediation of a discharge from a petroleum underground storage
39 tank, the authority shall base its finding, as applicable, upon the cash
40 flow of the applicant's business, the applicant's taxable income and the
41 applicant's personal and business assets, except that the authority may
42 not consider the applicant's primary residence as collateral, except that
43 the authority may consider the applicant's primary residence as
44 collateral with the permission of the applicant or where the subject
45 petroleum underground storage tank or regulated tank is located at the
46 primary residence.

1 d. The authority shall, where applicable, require an applicant
2 applying for financial assistance from the fund to submit to the
3 authority the financial statements of the applicant's business for three
4 years prior to the date of the application, the most recent interim
5 financial statement for the year of the application, the applicant's
6 federal income tax returns, or other relevant documentation.

7 e. Nothing in this section is intended to alter the priority or criteria
8 for awarding financial assistance established pursuant to section 4 of
9 P.L.1997, c.235 (C.58:10A-37.4).

10 f. An eligible owner or operator may only be awarded that amount
11 of financial assistance issued as a loan for which the applicant
12 demonstrates he could not qualify for and obtain as a commercial loan.
13 The provisions of this subsection shall not apply to an owner or
14 operator or petroleum underground storage tank used to store heating
15 oil for onsite consumption in a residential building.

16 (cf: P.L.1997, c.235, s.5)

17
18 2. Section 10 of P.L.1997, c.235 (C.58:10A-37.10) is amended to
19 read as follows:

20 10. a. All loans awarded from the fund shall be for a term not to
21 exceed ten years. Except as provided in subsection b. of section 5 of
22 P.L.1997, c.235 (C.58:10A-37.5), all loans shall be at a rate between
23 two percent and the prime rate at the time of approval, or at the time
24 of loan closing if the prime rate is lower at that time. The authority
25 shall determine the interest rate to be imposed based on the applicant's
26 ability to repay the loan.

27 b. Upon the sale of the facility for which the loan was made, the
28 unpaid balance of the loan shall become immediately payable in full.
29 Upon the sale of a facility for which a conditional hardship grant was
30 made pursuant to section 5 of P.L.1997, c.235 (C.58:10A-37.5), that
31 amount of the conditional hardship grant that must be repaid, as
32 calculated pursuant to section 16 of P.L.1997, c.235
33 (C.58:10A-37.16), shall become immediately payable in full. No
34 repayment of a conditional hardship grant awarded pursuant to
35 paragraph (1) of subsection c. of section 5 of P.L.1997, c.235
36 (C.58:10A-37.5) for a remediation necessitated by a discharge from a
37 petroleum underground storage tank used to store heating oil at the
38 applicant's primary residence shall be required.

39 (cf: P.L.1997, c.235, s.10)

40
41 3. Section 16 of P.L.1997, c.235 (C.58:10A-37.16) is amended to
42 read as follows:

43 16. a. In addition to any other financial assistance requirements
44 imposed by the authority pursuant to P.L.1997, c.235 (C.58:10A-37.1
45 et seq.), any award of financial assistance from the fund except for any
46 grant awarded pursuant to paragraph (1) of subsection c. of section 5

1 of P.L.1997, c.235 (C.58:10A-37.5) for a remediation necessitated by
2 a discharge from a petroleum underground storage tank used to store
3 heating oil at the applicant's primary residence, shall constitute, in each
4 instance, a debt of the applicant to the fund. The debt shall constitute
5 a lien on the real property at which the subject facility is located. The
6 lien shall be in the amount of the financial assistance awarded the
7 applicant. The lien shall attach when a notice of lien, incorporating the
8 name of the property owner, a description of the real property on
9 which the subject facility is located and an identification of the amount
10 of the financial assurance awarded, is duly filed with the county
11 recording officer in the county in which the property is located.

12 Where financial assistance from the fund is awarded as a
13 combination of a loan and a grant, separate liens for the loan and the
14 grant shall be filed. No lien shall be placed on any real property of an
15 applicant based on a conditional hardship grant awarded pursuant to
16 paragraph (1) of subsection c. of section 5 of P.L.1997, c.235
17 (C.58:10A-37.5), for a remediation necessitated by a discharge from
18 a petroleum underground storage tank used to store heating oil at the
19 applicant's primary residence.

20 b. A lien that is filed on real property pursuant to a loan shall be
21 removed upon repayment of the loan.

22 c. The lien that is filed on real property pursuant to a conditional
23 hardship grant shall be removed upon repayment of the amount of the
24 grant that is unsatisfied or upon the end of a 15- year period in which
25 the site for which the financial assistance was awarded continued to be
26 operated in substantially the same manner as it was operated at the
27 time of the award of financial assistance. The period of operation need
28 not run consecutively. Beginning with the 11th year of operating in
29 substantially the same manner, 20% of the conditional hardship grant
30 shall be deemed satisfied with an additional 20% to be satisfied each
31 year until the entire amount of the conditional hardship grant is
32 satisfied at the end of the 15-year period. The owner or operator of
33 the facility claiming to have satisfied a conditional hardship grant due
34 to the 15-year period of operation, shall submit a certification of this
35 fact to the authority. Upon repayment of the unsatisfied grant award
36 or upon submittal of this certification, unless the authority has made
37 a finding that the certification is not correct, the authority shall remove
38 the lien from the property.

39 Where real property for which a conditional hardship grant was
40 awarded is not being operated in substantially the same manner, the
41 15-year period to satisfy the lien shall be tolled. If at any time prior to
42 the satisfaction of the lien the property is developed or operated for a
43 purpose that is not substantially the same as its operation at the time
44 of the award of the conditional hardship grant, the grant recipient shall
45 so certify to the authority upon the change in operation. Upon receipt
46 of this certification, the authority shall determine, based upon the new

1 operation of the property if the financial assistance shall continue as a
2 conditional hardship grant or if it shall be converted into a loan. In
3 making this determination, the authority shall base its decision on the
4 financial hardship factors used in determining the original eligibility for
5 the conditional hardship grant.

6 The authority may take whatever enforcement actions it deems
7 necessary to verify the operation of any property for which a
8 conditional hardship grant was made. The terms and conditions of any
9 loan converted from a grant pursuant to this subsection shall be the
10 same as those authorized pursuant to this act.

11 d. The provisions of this section do not apply to any real property
12 of an applicant who is a public entity.

13 (cf: P.L.1997, c.235, s.16)

14

15 4. This act shall take effect immediately and shall be retroactive to
16 August 30, 1997.

17

18

19

STATEMENT

20

21 This bill would increase the amount of moneys that could be made
22 available for grants from the Petroleum Underground Storage Tank
23 Remediation, Upgrade and Closure Fund from 10 percent of the total
24 annual amount of financial assistance awarded to one third of the total
25 annual amount of financial assistance awarded. As of January 1999,
26 \$49.7 million has been constitutionally dedicated to the fund but only
27 \$18 million in financial assistance has been approved. However,
28 because of the 10 percent limitation on grants, in spite of the
29 availability of funds, the New Jersey Economic Development Authority
30 has not been able to award a portion of the approved grant moneys.

31 This bill also would clarify that grants to remediate homeowner's
32 fuel oil tanks do not need to be repaid upon sale of the home and
33 would enable a qualifying homeowner to receive the grant award even
34 if the person's home is sold.

ASSEMBLY SOLID AND HAZARDOUS WASTE COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 1679

STATE OF NEW JERSEY

DATED: MARCH 25, 1999

The Assembly Solid and Hazardous Waste Committee favorably reports Senate Bill No. 1679 (1R).

Senate Bill No. 1679 (1R) would increase the amount of moneys that could be made available for grants from the Petroleum Underground Storage Tank Remediation, Upgrade and Closure Fund from 10 percent of the total annual amount of financial assistance awarded to one third of the total annual amount of financial assistance awarded. The bill also would remove the limitation on the total amount of financial assistance to be awarded as grants between January 1, 1999 and March 31, 2000. As of January 1999, \$49.7 million has been constitutionally dedicated to the fund but only \$18 million in financial assistance has been approved. However, because of the 10 percent limitation on grants, in spite of the availability of funds, the New Jersey Economic Development Authority has not been able to award a portion of the approved grant moneys.

In addition, this bill would clarify that grants to remediate homeowner's fuel oil tanks do not need to be repaid upon sale of the home and would enable a qualifying homeowner to receive the grant award even if the person's home is sold.

Finally, the bill would extend the deadline for the completion of an application and receipt of the application fee for financial assistance for a regulated tank from March 1, 1999 to August 1, 1999 and for fuel oil tanks that are regulated pursuant to State law only from October 31, 1999 to March 31, 2000, and provide that a change in the filing date if an applicant fails to complete the application or submit the application fee as required, would not render the application ineligible for financial assistance as long as the initial application is filed prior to January 1, 1999, or August 31, 1999, as applicable.

Senate Bill No. 1679 (1R) is identical to Assembly Bill No. 2962.

SENATE ENVIRONMENT COMMITTEE

STATEMENT TO

SENATE, No. 1679

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 18, 1999

The Senate Environment Committee favorably reports Senate Bill No. 1679 with committee amendments.

This bill would increase the amount of moneys that could be made available for grants from the Petroleum Underground Storage Tank Remediation, Upgrade and Closure Fund from 10 percent of the total annual amount of financial assistance awarded to one third of the total annual amount of financial assistance awarded. As of January 1999, \$49.7 million has been constitutionally dedicated to the fund but only \$18 million in financial assistance has been approved. However, because of the 10 percent limitation on grants, in spite of the availability of funds, the New Jersey Economic Development Authority has not been able to award a portion of the approved grant moneys.

This bill also would clarify that grants to remediate homeowner's fuel oil tanks do not need to be repaid upon sale of the home and would enable a qualifying homeowner to receive the grant award even if the person's home is sold.

The committee amendments would: (1) remove the limitation on the total amount of financial assistance to be awarded as grants between January 1, 1999 and March 31, 2000; (2) extend the deadline for the completion of an application and receipt of the application fee for financial assistance for a regulated tank from March 1, 1999 to August 1, 1999 and for fuel oil tanks that are regulated pursuant to State law only from October 31, 1999 to March 31, 2000; and (3) provide that a change in the filing date if an applicant fails to complete the application or submit the application fee as required, would not render the application ineligible for financial assistance as long as the initial application is filed prior to January 1, 1999, or August 31, 1999, as applicable.

ASSEMBLY, No. 2962

STATE OF NEW JERSEY
208th LEGISLATURE

INTRODUCED MARCH 15, 1999

Sponsored by:

Assemblyman STEVE CORODEMUS

District 11 (Monmouth)

SYNOPSIS

Concerns grants from the Petroleum Underground Storage Tank Remediation, Upgrade and Closure Fund.

CURRENT VERSION OF TEXT

As introduced.



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2

1 AN ACT concerning financial assistance for petroleum underground
2 storage tanks and amending P.L.1997, c.235.

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

6
7 1. Section 5 of P.L.1997, c.235 (C.58:10A-37.5) is amended to
8 read as follows:

9 5. a. The authority may award financial assistance from the fund to
10 an eligible owner or operator in the form of a loan or a conditional
11 hardship grant as provided in this section. An award of financial
12 assistance, either as a loan or a grant, or a combination of both, may,
13 upon application therefor, be for 100% of the eligible project costs.
14 However, a loan that any applicant may receive from the fund for an
15 upgrade, remediation, or closure, or any combination thereof, for any
16 one facility, may not exceed \$1,000,000 and a grant that any applicant
17 may receive from the fund for any one facility, may not exceed
18 \$250,000. The total amount of financial assistance awarded as grants
19 in any one year may not exceed **[10%]** one third of the total amount
20 of financial assistance awarded in that year except that this limitation
21 upon the award of grants shall not apply to financial assistance
22 awarded between January 1, 1999 and March 31, 2000.

23 b. A public entity applying for financial assistance from the fund
24 may only be awarded financial assistance in the form of an interest free
25 loan.

26 c. An applicant, other than a public entity, may apply for and
27 receive a conditional hardship grant as provided in paragraph (1) of
28 this subsection, or a loan for an upgrade, closure, or remediation as
29 provided in paragraph (2) of this subsection. Financial assistance
30 awarded an applicant pursuant to this subsection may consist entirely
31 of a conditional hardship grant, a loan for an upgrade, or loan for a
32 closure, or a loan for a remediation, or any combination thereof,
33 except that the total amount of the award of financial assistance shall
34 be subject to the per facility dollar limitation enumerated in subsection
35 a. of this section. Notwithstanding any other provision of this
36 subsection to the contrary, no tax exempt, nonprofit organization,
37 corporation, or association shall be awarded a conditional hardship
38 grant pursuant to paragraph (1) of this subsection.

39 (1) A conditional hardship grant for eligible project costs of an
40 upgrade, closure or remediation shall be awarded by the authority
41 based upon a finding of eligibility and financial hardship and upon a
42 finding that the applicant meets the criteria set forth in this act.

43 In order to be eligible for a conditional hardship grant, the applicant

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

Matter underlined thus is new matter.

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1 shall have owned or operated the subject petroleum underground
2 storage tank as of December 1, 1996 and continually thereafter or shall
3 have inherited the property from a person who owned the petroleum
4 underground storage tank as of that date. No applicant shall be
5 eligible for a conditional hardship grant if the applicant has a taxable
6 income of more than \$100,000 or a net worth, exclusive of the
7 applicant's primary residence, of over \$100,000.

8 A finding of financial hardship by the authority shall be based upon
9 a determination that an applicant cannot reasonably be expected to
10 repay all or a portion of the eligible project costs if the financial
11 assistance were to be awarded as a loan. The amount of an award of
12 a conditional hardship grant shall be the amount of that portion of the
13 eligible project costs the authority determines the applicant cannot
14 reasonably be expected to repay.

15 In making a finding of financial hardship for an application for the
16 upgrade, closure, or remediation of a petroleum underground storage
17 tank, where the petroleum underground storage tank is a part of the
18 business property of the owner, the authority shall base its finding
19 upon the cash flow of the applicant's business, whether or not any part
20 of the applicant's business is related to the ownership or operation of
21 that petroleum underground storage tank. In making a finding of
22 financial hardship for an application for the upgrade or remediation of
23 a petroleum underground storage tank, where the petroleum
24 underground storage tank is not a part of the business property of the
25 owner, the authority shall base its finding upon the applicant's taxable
26 income in the year prior to the date of the application being submitted.

27 If the authority awards a conditional hardship grant in combination
28 with a loan pursuant to this subsection, the authority shall release to
29 the applicant the loan monies prior to the release of the conditional
30 hardship grant monies.

31 Conditional hardship grants awarded to an applicant shall be subject
32 to the lien provisions enumerated in section 16 of P.L.1997, c.235
33 (C.58:10A-37.16).

34 (2) A loan to an eligible owner or operator for the eligible project
35 costs of an upgrade, closure, or remediation shall be awarded by the
36 authority only upon a finding that the applicant other than a public
37 entity is able to repay the amount of the loan.

38 In making a finding of an applicant's ability to repay a loan for the
39 upgrade, closure, and remediation of a regulated tank, or for the
40 remediation of a discharge from a petroleum underground storage
41 tank, the authority shall base its finding, as applicable, upon the cash
42 flow of the applicant's business, the applicant's taxable income and the
43 applicant's personal and business assets, except that the authority may
44 not consider the applicant's primary residence as collateral, except that
45 the authority may consider the applicant's primary residence as
46 collateral with the permission of the applicant or where the subject

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1 petroleum underground storage tank or regulated tank is located at the
2 primary residence.

3 d. The authority shall, where applicable, require an applicant
4 applying for financial assistance from the fund to submit to the
5 authority the financial statements of the applicant's business for three
6 years prior to the date of the application, the most recent interim
7 financial statement for the year of the application, the applicant's
8 federal income tax returns, or other relevant documentation.

9 e. Nothing in this section is intended to alter the priority or criteria
10 for awarding financial assistance established pursuant to section 4 of
11 P.L.1997, c.235 (C.58:10A-37.4).

12 f. An eligible owner or operator may only be awarded that amount
13 of financial assistance issued as a loan for which the applicant
14 demonstrates he could not qualify for and obtain as a commercial loan.
15 The provisions of this subsection shall not apply to an owner or
16 operator or petroleum underground storage tank used to store heating
17 oil for onsite consumption in a residential building.

18 (cf: P.L.1997, c.235, s.5)

19

20 2. Section 6 of P.L.1997, c.235 (C.58:10A-37.6) is amended to
21 read as follows:

22 6. An eligible owner or operator seeking financial assistance from
23 the fund shall file an application on a form to be developed by the
24 authority. The application form shall be submitted with the application
25 fee. The application fee per facility for residential petroleum
26 underground storage tanks shall be \$250. The authority may establish
27 the application fee per facility for nonresidential petroleum
28 underground storage tanks.

29 The authority shall adopt rules and regulations listing the filing
30 requirements for a complete application for financial assistance. If a
31 financial assistance application is determined to be incomplete by the
32 authority, an applicant shall have 30 days from the date of receipt of
33 written notification of incompleteness to file such additional
34 information as may be required by the authority for a completed
35 application. If an applicant fails to file the additional information
36 within the 30 days, the filing date for that application shall be the date
37 that such additional information is received by the authority. If the
38 additional information is filed within the 30 days and is satisfactory to
39 the authority, the filing date for that application shall be the initial date
40 of application with the authority. Notwithstanding the above, if a
41 completed application has been submitted and the applicant fails to
42 submit the filing fee, then the filing date for the application shall not
43 be established until the date on which the authority receives the
44 application fee. A change in the filing date resulting from failure to
45 submit a completed application or from failure to submit the
46 application fee in a timely fashion for applications filed for financial

1 assistance for a regulated tank to meet the upgrade or closure
2 requirements pursuant to 42 U.S.C. s.6991 et seq. or P.L.1986, c.102
3 (C.58:10A-21 et seq.) or for the remediation of a discharge from any
4 such regulated tank shall not render the application ineligible for
5 financial assistance as long as the initial date of application is prior to
6 January 1, 1999, or prior to August 31, 1999, as applicable.

7 An applicant shall have 120 days from receipt of notice of approval
8 of a financial assistance award to submit to the authority an executed
9 contract for the upgrade, closure, or remediation, or all three, as the
10 case may be, that is consistent with the terms and conditions of the
11 financial assistance approval. Failure to submit an executed contract
12 within the allotted time, without good cause, may result in an
13 alteration of an applicant's priority ranking.

14 (cf: P.L.1997, c.235, s.6)

15
16 3. Section 7 of P.L.1997, c.235 (C.58:10A-37.7) is amended to
17 read as follows:

18 7. a. The authority shall award financial assistance to an owner or
19 operator of a facility only if the facility is properly registered with the
20 department pursuant to section 3 of P.L.1986, c.102 (C.58:10A-23),
21 where applicable, and if all fees or penalties due and payable on the
22 facility to the department pursuant to P.L.1986, c.102 have either been
23 paid or the nature or the amount of the fee or penalty is being
24 contested in accordance with law.

25 b. The authority may deny an application for financial assistance,
26 and any award of financial assistance may be recoverable by the
27 authority, upon a finding that:

28 (1) in the case of financial assistance awarded for a remediation,
29 the discharge was proximately caused by the applicant's knowing
30 conduct;

31 (2) in the case of financial assistance awarded for a remediation,
32 the discharge was proximately caused or exacerbated by knowing
33 conduct by the applicant with regard to any lawful requirement
34 applicable to petroleum underground storage tanks intended to
35 prevent, or to facilitate the early detection of, the discharge;

36 (3) the applicant failed to commence or complete a remediation,
37 closure, or an upgrade for which an award of financial assistance was
38 made within the time required by the department in accordance with
39 the applicable rules and regulations, within the time prescribed in an
40 administrative order, an administrative consent agreement, a
41 memorandum of agreement, or a court order; or

42 (4) the applicant provided false information or withheld
43 information on a loan or grant application, or other relevant
44 information required to be submitted to the authority, on any matter
45 that would otherwise render the applicant ineligible for financial
46 assistance from the fund, that would alter the priority of the applicant

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1 to receive financial assistance from the fund, that resulted in the
2 applicant receiving a larger grant or loan award than the applicant
3 would otherwise be eligible, or that resulted in payments from the fund
4 in excess of the actual eligible project costs incurred by the applicant
5 or the amount to which the applicant is legally eligible.

6 Nothing in this subsection shall be construed to require the
7 authority to undertake an investigation or make any findings
8 concerning the conduct described in this subsection.

9 c. An application for financial assistance from the fund for an
10 upgrade or closure of a regulated tank shall include all regulated tanks
11 at the facility for which the applicant is seeking financial assistance.
12 Once financial assistance for an upgrade, closure or a remediation is
13 awarded for a facility, no additional award of financial assistance may
14 be made for that facility. However, if an applicant discovers while
15 performing upgrade or closure activities that a remediation is
16 necessary at the site of a facility, and if financial assistance was
17 previously awarded for that site only for an upgrade or closure of a
18 regulated tank, the applicant may amend his application and apply for
19 financial assistance for the required remediation subject to the
20 limitations enumerated in section 5 of this act. An application for
21 financial assistance for an upgrade or closure of a regulated tank shall
22 be conditioned upon the applicant agreeing to perform, at the time of
23 the upgrade or closure, any remediation necessary as a result of a
24 discharge from the regulated tank and commencement of the
25 remediation within the time prescribed and in accordance with the
26 rules and regulations of the department.

27 d. Except as provided below, no financial assistance for upgrade
28 or closure shall be awarded for any regulated tank required to meet the
29 upgrade or closure requirements pursuant to 42 U.S.C. s.6991 et seq.
30 or P.L.1986, c.102 (C.58:10A-21 et seq.), or for the remediation of a
31 discharge from any such regulated tank except as provided in
32 subsection c. of this section, unless the application is filed with the
33 authority prior to January 1, 1999 and the application is complete and
34 the application fee is received by ~~【March 1, 1999】~~ August 1, 1999.
35 No financial assistance for upgrade or closure shall be awarded for any
36 underground storage tank with a capacity of over 2,000 gallons used
37 to store heating oil for onsite consumption in a nonresidential building
38 required to be upgraded pursuant to P.L.1986, c.102 (C.58:10A-21 et
39 seq.) but not pursuant to 42 U.S.C. s.6991 et seq. or for the
40 remediation of a discharge from any such regulated tank except as
41 provided in subsection c. of this section, unless the application is filed
42 with the authority prior to August 31, 1999 and the application is
43 complete and the application fee is received by ~~【October 31, 1999】~~
44 March 31, 2000 .

45 e. The date of occurrence of a discharge shall not affect eligibility
46 for financial assistance from the fund. Except for a preliminary

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1 assessment or a site investigation performed after the effective date of
2 P.L.1997, c.235 (C.58:10A-37.1 et seq.), and except as provided in
3 subsection g. of this section, no award of financial assistance shall be
4 made from the fund for the otherwise eligible project costs of a
5 remediation, closure, or an upgrade, or parts thereof, completed prior
6 to an award of financial assistance from the fund.

7 f. No financial assistance may be awarded from the fund for the
8 remediation of a discharge from a petroleum underground storage tank
9 if financial assistance from the Hazardous Discharge Site Remediation
10 Fund established pursuant to section 26 of P.L.1993, c.139
11 (C.58:10B-4) has previously been made for a remediation at that site
12 as a result of a discharge from that petroleum underground storage
13 tank. No financial assistance may be awarded from the fund for the
14 remediation of a discharge from a petroleum underground storage tank
15 if the discharge began subsequent to the completion of an upgrade of
16 that petroleum underground storage tank, which upgrade was intended
17 to meet all applicable upgrade regulations of the department, no matter
18 when the upgrade was performed.

19 g. Notwithstanding any provision of P.L.1997, c.235
20 (C.58:10A-37.1 et seq.), where an eligible owner or operator has filed
21 an application for financial assistance from the fund, and there are
22 either insufficient monies in the fund or the authority has not yet acted
23 upon the application or awarded the financial assistance, the eligible
24 owner or operator may expend its own funds for the upgrade, closure,
25 or remediation, and upon approval of the application, the authority
26 shall award the financial assistance as a reimbursement of the monies
27 expended for eligible project costs.
28 (cf: P.L.1998, c.59, s.3)

29
30 4. Section 10 of P.L.1997, c.235 (C.58:10A-37.10) is amended to
31 read as follows:

32 10. a. All loans awarded from the fund shall be for a term not to
33 exceed ten years. Except as provided in subsection b. of section 5 of
34 P.L.1997, c.235 (C.58:10A-37.5), all loans shall be at a rate between
35 two percent and the prime rate at the time of approval, or at the time
36 of loan closing if the prime rate is lower at that time. The authority
37 shall determine the interest rate to be imposed based on the applicant's
38 ability to repay the loan.

39 b. Upon the sale of the facility for which the loan was made, the
40 unpaid balance of the loan shall become immediately payable in full.
41 Upon the sale of a facility for which a conditional hardship grant was
42 made pursuant to section 5 of P.L.1997, c.235 (C.58:10A-37.5), that
43 amount of the conditional hardship grant that must be repaid, as
44 calculated pursuant to section 16 of P.L.1997, c.235
45 (C.58:10A-37.16), shall become immediately payable in full. No
46 repayment of a conditional hardship grant awarded pursuant to

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1 paragraph (1) of subsection c. of section 5 of P.L.1997, c.235
2 (C.58:10A-37.5) for a remediation necessitated by a discharge from a
3 petroleum underground storage tank used to store heating oil at the
4 applicant's primary residence shall be required.

5 (cf: P.L.1997, c.235, s.10)

6
7 5. Section 16 of P.L.1997, c.235 (C.58:10A-37.16) is amended to
8 read as follows:

9 16. a. In addition to any other financial assistance requirements
10 imposed by the authority pursuant to P.L.1997, c.235 (C.58:10A-37.1
11 et seq.), any award of financial assistance from the fund except for any
12 grant awarded pursuant to paragraph (1) of subsection c. of section 5
13 of P.L.1997, c.235 (C.58:10A-37.5) for a remediation necessitated by
14 a discharge from a petroleum underground storage tank used to store
15 heating oil at the applicant's primary residence, shall constitute, in each
16 instance, a debt of the applicant to the fund. The debt shall constitute
17 a lien on the real property at which the subject facility is located. The
18 lien shall be in the amount of the financial assistance awarded the
19 applicant. The lien shall attach when a notice of lien, incorporating the
20 name of the property owner, a description of the real property on
21 which the subject facility is located and an identification of the amount
22 of the financial assurance awarded, is duly filed with the county
23 recording officer in the county in which the property is located.

24 Where financial assistance from the fund is awarded as a
25 combination of a loan and a grant, separate liens for the loan and the
26 grant shall be filed. No lien shall be placed on any real property of an
27 applicant based on a conditional hardship grant awarded pursuant to
28 paragraph (1) of subsection c. of section 5 of P.L.1997, c.235
29 (C.58:10A-37.5), for a remediation necessitated by a discharge from
30 a petroleum underground storage tank used to store heating oil at the
31 applicant's primary residence.

32 b. A lien that is filed on real property pursuant to a loan shall be
33 removed upon repayment of the loan.

34 c. The lien that is filed on real property pursuant to a conditional
35 hardship grant shall be removed upon repayment of the amount of the
36 grant that is unsatisfied or upon the end of a 15- year period in which
37 the site for which the financial assistance was awarded continued to be
38 operated in substantially the same manner as it was operated at the
39 time of the award of financial assistance. The period of operation need
40 not run consecutively. Beginning with the 11th year of operating in
41 substantially the same manner, 20% of the conditional hardship grant
42 shall be deemed satisfied with an additional 20% to be satisfied each
43 year until the entire amount of the conditional hardship grant is
44 satisfied at the end of the 15-year period. The owner or operator of
45 the facility claiming to have satisfied a conditional hardship grant due
46 to the 15-year period of operation, shall submit a certification of this

1 fact to the authority. Upon repayment of the unsatisfied grant award
2 or upon submittal of this certification, unless the authority has made
3 a finding that the certification is not correct, the authority shall remove
4 the lien from the property.

5 Where real property for which a conditional hardship grant was
6 awarded is not being operated in substantially the same manner, the
7 15-year period to satisfy the lien shall be tolled. If at any time prior to
8 the satisfaction of the lien the property is developed or operated for a
9 purpose that is not substantially the same as its operation at the time
10 of the award of the conditional hardship grant, the grant recipient shall
11 so certify to the authority upon the change in operation. Upon receipt
12 of this certification, the authority shall determine, based upon the new
13 operation of the property if the financial assistance shall continue as a
14 conditional hardship grant or if it shall be converted into a loan. In
15 making this determination, the authority shall base its decision on the
16 financial hardship factors used in determining the original eligibility for
17 the conditional hardship grant.

18 The authority may take whatever enforcement actions it deems
19 necessary to verify the operation of any property for which a
20 conditional hardship grant was made. The terms and conditions of any
21 loan converted from a grant pursuant to this subsection shall be the
22 same as those authorized pursuant to this act.

23 d. The provisions of this section do not apply to any real property
24 of an applicant who is a public entity.

25 (cf: P.L.1997, c.235, s.16)

26
27 6. This act shall take effect immediately and shall be retroactive to
28 August 30, 1997.

29
30
31 STATEMENT

32
33 This bill would increase the amount of moneys that could be made
34 available for grants from the Petroleum Underground Storage Tank
35 Remediation, Upgrade and Closure Fund from 10 percent of the total
36 annual amount of financial assistance awarded to one third of the total
37 annual amount of financial assistance awarded. However, the bill also
38 would remove the limitation on the total amount of financial assistance
39 to be awarded as grants between January 1, 1999 and March 31, 2000.

40 As of January 1999, \$49.7 million has been constitutionally dedicated
41 to the fund but only \$18 million in financial assistance has been
42 approved. However, because of the 10 percent limitation on grants,
43 in spite of the availability of funds, the New Jersey Economic
44 Development Authority has not been able to award a portion of the
45 approved grant moneys.

A2962 CORODEMUS

10

1 This bill also would clarify that grants to remediate homeowner's
2 fuel oil tanks do not need to be repaid upon sale of the home and
3 would enable a qualifying homeowner to receive the grant award even
4 if the person's home is sold.

5 The bill would also extend the deadline for the completion of an
6 application and receipt of the application fee for financial assistance
7 for a regulated tank from March 1, 1999 to August 1, 1999 and for
8 fuel oil tanks that are regulated pursuant to State law only from
9 October 31, 1999 to March 31, 2000, and provide that a change in the
10 filing date if an applicant fails to complete the application or submit
11 the application fee as required, would not render the application
12 ineligible for financial assistance as long as the initial application is
13 filed prior to January 1, 1999, or August 31, 1999, as applicable.

ASSEMBLY SOLID AND HAZARDOUS WASTE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2962

STATE OF NEW JERSEY

DATED: MARCH 25, 1999

The Assembly Solid and Hazardous Waste Committee favorably reports Assembly Bill No. 2962.

This bill would increase the amount of moneys that could be made available for grants from the Petroleum Underground Storage Tank Remediation, Upgrade and Closure Fund from 10 percent of the total annual amount of financial assistance awarded to one third of the total annual amount of financial assistance awarded. The bill also would remove the limitation on the total amount of financial assistance to be awarded as grants between January 1, 1999 and March 31, 2000. As of January 1999, \$49.7 million has been constitutionally dedicated to the fund but only \$18 million in financial assistance has been approved. However, because of the 10 percent limitation on grants, in spite of the availability of funds, the New Jersey Economic Development Authority has not been able to award a portion of the approved grant moneys.

In addition, this bill would clarify that grants to remediate homeowner's fuel oil tanks do not need to be repaid upon sale of the home and would enable a qualifying homeowner to receive the grant award even if the person's home is sold.

Finally, the bill would extend the deadline for the completion of an application and receipt of the application fee for financial assistance for a regulated tank from March 1, 1999 to August 1, 1999 and for fuel oil tanks that are regulated pursuant to State law only from October 31, 1999 to March 31, 2000, and provide that a change in the filing date if an applicant fails to complete the application or submit the application fee as required, would not render the application ineligible for financial assistance as long as the initial application is filed prior to January 1, 1999, or August 31, 1999, as applicable.

Assembly Bill No. 2962 is identical to Senate Bill No. 1679 (1R).

PO BOX 004
TRENTON, NJ 08625

Office of the Governor
NEWS RELEASE

CONTACT: Jayne O'Connor
Gene Herman
609-777-2600

RELEASE: January 25, 1999

Gov. Christie Whitman today signed the following pieces of legislation:

S-452, sponsored by Senators Wynona M. Lipman (D-Essex/Union) and Donald T. DiFrancesco (R-Middlesex/Morris/Somerset/Union) and Assembly Members Tom Smith (R-Monmouth) and John E. Rooney (R-Bergen), appropriates \$90,000 and establishes a "Fost-Adopt Demonstration Program for Boarder Babies and Children" in the Division of Youth and Family Services in the Department of Human Services. Initially, the program will be established in Essex County to support the DHS existing efforts with federal funding in that county, and expire two years after its enactment. Within six months of the expiration of the program, the commissioner of DHS must report to the Governor regarding the effectiveness of the demonstration program and make recommendations for a state-wide expansion, as appropriate.

S-1176, sponsored by Senators Robert J. Martin (R-Essex/Morris/Passaic) and Byron M. Baer (D-Bergen), provides for the certification of public school athletic trainers by the Department of Education. The bill grandfatheres school athletic trainers appointed prior to the effective date of the act from the certification requirements. The bill also provides that school athletic trainers are teaching staff members and that as such are entitled to tenure protection under current statute.

S-1543, sponsored by Senators William L. Gormley (R-Atlantic) and John A. Lynch (D-Middlesex/Somerset/Union) and Assembly Member David C. Russo (R-Bergen/Passaic), amends current law to provide that all employees of the of the State Commission of Investigation (SCI) shall be confidential employees for the purposes of the New Jersey Employer-Employe Relations Act. Under the provisions of that act, confidential employees are not eligible to organize into collective bargaining units.

S-1679, sponsored by Senators Henry P. McNamara (R-Bergen/Passaic) and Joseph F. Vitale (D-Middlesex) and Assembly Member Steve Corodemus (R-Monmouth), amends the Underground Storage Tank Financing Act to clarify that conditional hardship grants for owners or operators of underground storage tanks used to store heating oil at the applicant's primary residence shall not be repaid. The act currently requires that residential homeowners obtaining conditional hardship grants pay them back to the Economic Development Authority. The bill also increases the amount of the Corporate Business Tax allocated for underground storage tank remediation from 10 percent to one-third. Furthermore, there would be no limitation on the percentage of funds to be used as grants between January 1, 1999 and March 31, 2000.

A-148, sponsored Assembly Members Christopher "Kip" Bateman (R- Morris) and Wilfredo Caraballo (D-Essex), revises and codifies certain criminal laws. The bill implements a number of recommendations made by the New Jersey Law Revision Commission, which was established to review New Jersey laws to correct inconsistent statutes, and to update obsolete statutes. The bill addresses anomalies left in the law following the enactment of the Criminal Code in 1979 and the Comprehensive Drug Reform Act in 1986. Specifically, the legislation places various criminal provisions, which were previously found in Titles 2A and 24 of the New Jersey Statutes, in Title 2 C, thereby making them part of the New Jersey Criminal Code. It also repeals sections of the Sunday closing laws and recodifies those provisions in Title 40A of the New Jersey Statutes, which deals with counties and municipalities. Lastly, the bill repeals various provisions that are obsolete or superseded by other provisions in the law.

A-808, sponsored by Assembly Members Charlotte Vandervalk (R- Bergen) and John E. Rooney (R-Bergen) and Senator William E. Schluter (R-Warren/Hunterdon), establishes the Office of Disability Services (ODS) in the Department of Human Services (DHS). Specifically, the office shall: (1) operate a toll-free telephone service to provide a comprehensive information and referral system; (2) operate as the state-level coordinating body between all state agencies providing services to persons with disabilities; (3) serve as the primary liaison within state government to the county offices for the disabled; (4) work with those counties which do not maintain an office for the disabled to establish such an office; and (5) administer the personal assistance services program in DHS and seek to coordinate all publicly-funded programs which provide personal assistance or other home-based services to persons with disabilities. The bill further requires the commissioner of the DHS to establish an advisory and policy development board to make recommendations to the director of the ODS.

A-974, sponsored by Assembly Members Kenneth C. LeFevre (R- Atlantic) and Francis J. Blee (R-Atlantic) and Senator Robert W. Singer (R-Burlington/Monmouth/Ocean) and Martha W. Bark (R-Atlantic/Burlington/Camden), requires the Division of Taxation to allow income tax filers to make voluntary contributions to the Korean Veterans' Memorial Fund. Revenue generated by these contributions will be used to help finance the construction and maintenance of a memorial to Korean War veterans, which will be built in Atlantic City.

A-1441, sponsored by Assembly Members Jack Collins (R-Salem/Cumberland/Gloucester) and Gary W. Stuhltrager (R- Salem/Cumberland/Gloucester), defines who may qualify as a farmer for the purpose of obtaining a fee exemption provided to farmers and their close relatives for deer-hunting permits. The bill extends the permit fee exemption to both resident and non-resident farmers who own or lease their farms, as well as their spouses and children who reside in their households. No more than five permits in total shall be issued for each household. The bill defines a farmer eligible for the permit fee exemption as one who owns or leases a farm on which that person resides that is valued, assessed and taxed as land actively devoted to agricultural or horticultural use pursuant to the Farmland Assessment Act of 1964. If the farmer does not reside

on the farm he owns or leases, to qualify for the exemption, the bill requires that the person actively farm at least 30 tilled, non-woodland acres and the farm.

A-1635, sponsored by Assembly Members Joel M. Weingarten (R- Essex/Union) and Kevin J. O'Toole (R-Essex/Union) and Senator Anthony R. Bucco (R-Morris), simplifies employer reporting and payment of gross income tax withholding and wages for household workers. The bill streamlines the process by allowing employers to report and remit annually to the Division of Revenue, on a combined basis, both (1) gross income tax withheld, and (2) wage taxes. The annual reporting and payment requirement will replace the current more burdensome law which required several reports and payments each year for both gross income tax withheld and wage taxes.

A-1773, sponsored by Assembly Member Paul DiGaetano (R- Bergen/Essex/Passaic), amends the criminal statute concerning theft and criminal mischief to make the offense of tampering with a grave, crypt, mausoleum or other site where human remains are stored a third-degree crime punishable by a three-to-five-year term of imprisonment or a fine of \$15,000 or both. The bill also amends the theft statute to include the theft of human remains as a crime of the second degree. A second-degree crime is punishable by a term of imprisonment of five to ten years or a fine of \$10,000 or both.

A-2306, sponsored by Assembly Members Paul DiGaetano (R- Bergen/Essex/Passaic) and Joseph V. Doria (D-Hudson) and Senator Donald T. DiFrancesco (R-Middlesex/Morris/Somerset/Union), allows elected officials to retire from the Police and Firemen's Retirement System (PFRS) and remain in office if retirement allowance is not based solely on that service. Under current law, elected officials who are members of Public Employees' Retirement System (PERS) are allowed to retire from PERS and remain in the office to which they are elected so long as the PERS retirement allowance is not based solely on service in that elected office. This means that the elected official is entitled to retire from PERS and collect a pension while receiving a salary as an elected official as long as the pension is not based solely on service in that elected office. On the other hand, elected officials enrolled in PFRS are not allowed to retire from PFRS and collect a pension while receiving a salary in that elected office. This bill addresses the disparity by offering elected officials enrolled in PFRS the same option currently provided to elected officials enrolled in PERS.

A-2536, sponsored by Assembly Members Francis J. Blee (R-Atlantic) and Kenneth C. LeFevre (R-Atlantic) and Senator William L. Gormley (R-Atlantic), authorizes the state treasurer to sell certain surplus property in Galloway Township, Atlantic County and to grant certain easements for access to such property. The bill authorizes the treasurer, on behalf of Richard Stockton College of New Jersey to (1) sell land and improvements used as the colleges' potable water supply, treatment, storage and distribution system (specifically including five-plus acres of land, two wells, the treatment and pumping plant, the storage tank and distribution system); (2) grant permanent easements for the operation, maintenance and repair of the land and property and for any future system expansion; and (3) provide for the transfer of the water allocation diversion permit issued by the Department of Environmental Protection and held by the college for the operation

of the two wells. The sale, easements and transfer will be made to the New Jersey American Water Company. The anticipated \$2 million in proceeds will be retained in a special account for allocation to Stockton College.

A-2921, sponsored by Assembly Members Richard H. Bagger (R- Middlesex/Morris/Somerset /Union) and Joseph Charles, Jr. (D-Hudson) and Senators Robert E. Littell (R-Sussex/Hunterdon/Morris) and Bernard F. Kenny, Jr. (D- Hudson), permits informational displays of appropriations within the annual appropriations act. The bill will allow the act to incorporate charts or displays summarizing the various appropriations. It is anticipated that such a chart would be included along with each department's budget section.