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RWH 4/29/08

P.L. 2007, CHAPTER 25, *approved January 26, 2007*  
Assembly, No. 3528 (*First Reprint*)

1 AN ACT concerning the allocation of grant moneys for hazardous  
2 site cleanup and amending P.L.1993, c.139.

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

6  
7 1. Section 28 of P.L.1993, c.139 (C.58:10B-6) is amended to  
8 read as follows:

9 28. a. Except for moneys deposited in the remediation fund for  
10 specific purposes, financial assistance and grants from the  
11 remediation fund shall be rendered for the following purposes. A  
12 written report shall be sent to the Senate Environment Committee,  
13 and the Assembly Environment and Solid Waste Committee, or  
14 their successors at the end of each calendar quarter detailing the  
15 allocation and expenditures related to the financial assistance and  
16 grants from the fund.

17 (1) Moneys shall be allocated for financial assistance to persons,  
18 for remediation of real property located in a qualifying municipality  
19 as defined in section 1 of P.L.1978, c.14 (C.52:27D-178);

20 (2) Moneys shall be allocated to: (a) municipalities, counties, or  
21 redevelopment entities authorized to exercise redevelopment  
22 powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4), for:

23 (i) projects in brownfield development areas pursuant to  
24 subsection f. of section 27 of P.L.1993, c.139 (C.58:10B-5),

25 (ii) matching grants up to a cumulative total amount from the  
26 fund of \$5,000,000 per year of up to 75% of the costs of the  
27 remedial action for projects involving the redevelopment of  
28 contaminated property for recreation and conservation purposes,  
29 provided that the use of the property for recreation and conservation  
30 purposes is included in the comprehensive plan for the development  
31 or redevelopment of contaminated property, or up to 50% of the  
32 costs of the remedial action for projects involving the  
33 redevelopment of contaminated property for affordable housing  
34 pursuant to P.L.1985, c.222 (C.52:27D-301 et seq.),

35 (iii) grants for preliminary assessment, site investigation or  
36 remedial investigation of a contaminated site,

37 (iv) financial assistance for the implementation of a remedial  
38 action, or

39 (v) financial assistance for remediation activities at sites that  
40 have been contaminated by a discharge of a hazardous substance or  
41 hazardous waste, or at which there is an imminent and significant  
42 threat of a discharge of a hazardous substance or hazardous waste,  
43 and the discharge or threatened discharge poses or would pose 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:

<sup>1</sup>Assembly floor amendments adopted December 11, 2006.

1 imminent and significant threat to a drinking water source, to  
2 human health, or to a sensitive or significant ecological area; or  
3 (b) persons for financial assistance for remediation activities at  
4 sites that have been contaminated by a discharge of a hazardous  
5 substance or hazardous waste, or at which there is an imminent and  
6 significant threat of a discharge of a hazardous substance or  
7 hazardous waste, and the discharge or threatened discharge poses or  
8 would pose an imminent and significant threat to a drinking water  
9 source, to human health, or to a sensitive or significant ecological  
10 area.

11 Except as provided in subsection f. of section 27 of P.L.1993,  
12 c.139 (C.58:10B-5), financial assistance and grants to  
13 municipalities, counties, or redevelopment entities authorized to  
14 exercise redevelopment powers pursuant to section 4 of P.L.1992,  
15 c.79 (C.40A:12A-4) may be made for real property: (1) on which  
16 they hold a tax sale certificate; (2) that they have acquired through  
17 foreclosure or other similar means; or (3) that they have acquired,  
18 or, in the case of a county governed by a board of chosen  
19 freeholders, have passed a resolution or, in the case of a  
20 municipality or a county operating under the "Optional County  
21 Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), have passed an  
22 ordinance or other appropriate document to acquire, by voluntary  
23 conveyance for the purpose of redevelopment, or for recreation and  
24 conservation purposes. Financial assistance and grants may only be  
25 awarded for real property on which there has been or on which there  
26 is suspected of being a discharge of a hazardous substance or a  
27 hazardous waste. Grants and financial assistance provided pursuant  
28 to this paragraph shall be used for performing preliminary  
29 assessments, site investigations, remedial investigations, and  
30 remedial actions on real property in order to determine the existence  
31 or extent of any hazardous substance or hazardous waste  
32 contamination, and to remediate the site in compliance with the  
33 applicable health risk and environmental standards on those  
34 properties. No financial assistance or grants for a remedial action  
35 shall be awarded until the municipality, county, or redevelopment  
36 entity authorized to exercise redevelopment powers pursuant to  
37 section 4 of P.L.1992, c.79 (C.40A:12A-4), actually owns the real  
38 property, provided that a matching grant for 75% of the costs of a  
39 remedial action for a project involving the redevelopment of  
40 contaminated property for recreation and conservation purposes, or  
41 a matching grant for 50% of the costs of a remedial action for a  
42 project involving the redevelopment of contaminated property for  
43 affordable housing pursuant to P.L.1985, c.222 (C.52:27D-301 et  
44 seq.) may be made to a municipality, county, or redevelopment  
45 entity authorized to exercise redevelopment powers pursuant to  
46 section 4 of P.L.1992, c.79 even if it does not own the real property  
47 and a grant may be made to a municipality, county, or  
48 redevelopment entity authorized to exercise redevelopment powers

1 pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) for a  
2 remediation in a brownfield development area pursuant to  
3 subsection f. of section 27 of P.L.1993, c.139 (C.58:10B-5) even if  
4 the entity does not own the real property. No grant shall be  
5 awarded for a remedial action for a project involving the  
6 redevelopment of contaminated property for recreation or  
7 conservation purposes unless the use of the property is preserved  
8 for recreation and conservation purposes by conveyance of a  
9 development easement, conservation restriction or easement, or  
10 other restriction or easement permanently restricting development,  
11 which shall be recorded and indexed with the deed in the registry of  
12 deeds for the county. A municipality that has performed, or on  
13 which there has been performed, a preliminary assessment, site  
14 investigation or remedial investigation on property may obtain a  
15 loan for the purpose of continuing the remediation on those  
16 properties as necessary to comply with the applicable remediation  
17 regulations adopted by the department. No grant shall be awarded  
18 pursuant to this paragraph to a municipality, a county, or a  
19 redevelopment entity authorized to exercise redevelopment powers  
20 pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) unless that  
21 entity has adopted by ordinance or resolution a comprehensive plan  
22 specifically for the development or redevelopment of contaminated  
23 or potentially contaminated real property in that municipality or the  
24 entity can demonstrate to the authority that a realistic opportunity  
25 exists that the subject real property will be developed or  
26 redeveloped within a three-year period from the completion of the  
27 remediation;

28 (3) Moneys shall be allocated for financial assistance to persons  
29 who voluntarily perform a remediation of a hazardous substance or  
30 hazardous waste discharge;

31 (4) Moneys shall be allocated for grants to persons who own  
32 real property on which there has been a discharge of a hazardous  
33 substance or a hazardous waste and that person qualifies for an  
34 innocent party grant. A person qualifies for an innocent party grant  
35 if that person acquired the property prior to December 31, 1983, the  
36 hazardous substance or hazardous waste that was discharged at the  
37 property was not used by the person at that site, and that person  
38 certifies that he did not discharge any hazardous substance or  
39 hazardous waste at an area where a discharge is discovered. A  
40 grant authorized pursuant to this paragraph may be for up to 50% of  
41 the remediation costs at the area of concern for which the person  
42 qualifies for an innocent party grant, except that no grant awarded  
43 pursuant to this paragraph to any person may exceed \$1,000,000;

44 (5) Moneys shall be allocated for (a) financial assistance to  
45 persons who own and plan to remediate an environmental  
46 opportunity zone for which an exemption from real property taxes  
47 has been granted pursuant to section 5 of P.L.1995, c.413 (C.54:4-  
48 3.154), or (b) matching grants for up to 25% of the project costs to

1 qualifying persons, municipalities, counties, and redevelopment  
2 entities authorized to exercise redevelopment powers pursuant to  
3 section 4 of P.L.1992, c.79 (C.40A:12A-4), who propose to perform  
4 a remedial action that uses an innovative technology, or for the  
5 implementation of a limited restricted use remedial action or an  
6 unrestricted use remedial action except that no grant awarded  
7 pursuant to this paragraph may exceed \$250,000; and

8 (6) Twenty percent of the moneys in the remediation fund shall  
9 be allocated for financial assistance or grants for any of the  
10 purposes enumerated in paragraphs (1) through (5) of this  
11 subsection.

12 For the purposes of paragraph (5) of this subsection, "qualifying  
13 persons" means any person who has a net worth of not more than  
14 \$2,000,000 and "project costs" means that portion of the total costs  
15 of a remediation that is specifically for the use of an innovative  
16 technology or to implement an unrestricted use remedial action or a  
17 limited restricted use remedial action, as applicable.

18 b. Loans issued from the remediation fund shall be for a term  
19 not to exceed ten years, except that upon the transfer of ownership  
20 of any real property for which the loan was made, the unpaid  
21 balance of the loan shall become immediately payable in full. The  
22 unpaid balance of a loan for the remediation of real property that is  
23 transferred by devise or succession shall not become immediately  
24 payable in full, and loan repayments shall be made by the person  
25 who acquires the property. Loans to municipalities, counties, and  
26 redevelopment entities authorized to exercise redevelopment  
27 powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4),  
28 shall bear an interest rate equal to 2 points below the Federal  
29 Discount Rate at the time of approval or at the time of loan closing,  
30 whichever is lower, except that the rate shall be no lower than 3  
31 percent. All other loans shall bear an interest rate equal to the  
32 Federal Discount Rate at the time of approval or at the time of the  
33 loan closing, whichever is lower, except that the rate on such loans  
34 shall be no lower than five percent. Financial assistance and grants  
35 may be issued for up to 100% of the estimated applicable  
36 remediation cost, except that the cumulative maximum amount of  
37 financial assistance which may be issued to a person, in any  
38 calendar year, for one or more properties, shall be \$1,000,000.  
39 Financial assistance and grants to any one municipality, county, or  
40 redevelopment entity authorized to exercise redevelopment powers  
41 pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) may not  
42 exceed \$3,000,000 in any calendar year except as provided in  
43 subsection f. of <sup>1</sup>section 27 of<sup>1</sup> P.L.1993, c.139 (C.58:10B-5).  
44 Grants to a municipality, county, or redevelopment entity  
45 authorized to exercise redevelopment powers pursuant to section 4  
46 of P.L.1992, c.79 may be for up to 100% of the total costs of the  
47 preliminary assessment, site investigation, or remedial investigation  
48 regardless of when the application was received by the department.

1 Grants to a municipality, a county, or a redevelopment entity  
2 authorized to exercise redevelopment powers pursuant to section 4  
3 of P.L.1992, c.79 (C.40A:12A-4) may not exceed 75% of the total  
4 costs of the remedial action at any one site for any application  
5 received by the department on or after September 15, 2005.  
6 Repayments of principal and interest on the loans issued from the  
7 remediation fund shall be paid to the authority and shall be  
8 deposited into the remediation fund.

9 【The total amount of grant moneys awarded in any one year may  
10 not exceed 70 percent of the total amount of financial assistance  
11 and grants awarded in that year.】

12 c. No person, other than a qualified person planning to use an  
13 innovative technology for the cost of that technology, a qualified  
14 person planning to use a limited restricted use remedial action or an  
15 unrestricted use remedial action for the cost of the remedial action,  
16 a person performing a remediation in an environmental opportunity  
17 zone, or a person voluntarily performing a remediation, shall be  
18 eligible for financial assistance from the remediation fund to the  
19 extent that person is capable of establishing a remediation funding  
20 source for the remediation as required pursuant to section 25 of  
21 P.L.1993, c.139 (C.58:10B-3).

22 d. The authority may use a sum that represents up to 2% of the  
23 moneys issued as financial assistance or grants from the  
24 remediation fund each year for administrative expenses incurred in  
25 connection with the operation of the fund and the issuance of  
26 financial assistance and grants.

27 e. Prior to March 1 of each year, the authority shall submit to  
28 the Senate Environment Committee and the Assembly Environment  
29 and Solid Waste Committee, or their successors, a report detailing  
30 the amount of money that was available for financial assistance and  
31 grants from the remediation fund for the previous calendar year, the  
32 amount of money estimated to be available for financial assistance  
33 and grants for the current calendar year, the amount of financial  
34 assistance and grants issued for the previous calendar year and the  
35 category for which each financial assistance and grant was  
36 rendered, and any suggestions for legislative action the authority  
37 deems advisable to further the legislative intent to facilitate  
38 remediation and promote the redevelopment and use of existing  
39 industrial sites.

40 (cf: P.L. 2006, c.89, s.1)

41  
42 2. This act shall take effect immediately <sup>1</sup>and be retroactive to  
43 September 1, 2006<sup>1</sup>.

44  
45  
46  
47 Removes limitation on amount of grant money that may be  
48 allocated from Hazardous Discharge Site Remediation Fund.

# ASSEMBLY, No. 3528

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED OCTOBER 19, 2006

**Sponsored by:**

**Assemblyman JOHN F. MCKEON**

**District 27 (Essex)**

**Assemblyman JOHN E. ROONEY**

**District 39 (Bergen)**

**Assemblyman ROBERT M. GORDON**

**District 38 (Bergen)**

**SYNOPSIS**

Removes limitation on amount of grant money that may be allocated from Hazardous Discharge Site Remediation Fund.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 11/13/2006)**



1 AN ACT concerning the allocation of grant moneys for hazardous  
2 site cleanup and amending P.L.1993, c.139.

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 28 of P.L.1993, c.139 (C.58:10B-6) is amended to  
8 read as follows:

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10 specific purposes, financial assistance and grants from the  
11 remediation fund shall be rendered for the following purposes. A  
12 written report shall be sent to the Senate Environment Committee,  
13 and the Assembly Environment and Solid Waste Committee, or  
14 their successors at the end of each calendar quarter detailing the  
15 allocation and expenditures related to the financial assistance and  
16 grants from the fund.

17 (1) Moneys shall be allocated for financial assistance to persons,  
18 for remediation of real property located in a qualifying municipality  
19 as defined in section 1 of P.L.1978, c.14 (C.52:27D-178);

20 (2) Moneys shall be allocated to: (a) municipalities, counties, or  
21 redevelopment entities authorized to exercise redevelopment  
22 powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4), for:

23 (i) projects in brownfield development areas pursuant to  
24 subsection f. of section 27 of P.L.1993, c.139 (C.58:10B-5),

25 (ii) matching grants up to a cumulative total amount from the  
26 fund of \$5,000,000 per year of up to 75% of the costs of the  
27 remedial action for projects involving the redevelopment of  
28 contaminated property for recreation and conservation purposes,  
29 provided that the use of the property for recreation and conservation  
30 purposes is included in the comprehensive plan for the development  
31 or redevelopment of contaminated property, or up to 50% of the  
32 costs of the remedial action for projects involving the  
33 redevelopment of contaminated property for affordable housing  
34 pursuant to P.L.1985, c.222 (C.52:27D-301 et seq.),

35 (iii) grants for preliminary assessment, site investigation or  
36 remedial investigation of a contaminated site,

37 (iv) financial assistance for the implementation of a remedial  
38 action, or

39 (v) financial assistance for remediation activities at sites that  
40 have been contaminated by a discharge of a hazardous substance or  
41 hazardous waste, or at which there is an imminent and significant  
42 threat of a discharge of a hazardous substance or hazardous waste,  
43 and the discharge or threatened discharge poses or would pose an  
44 imminent and significant threat to a drinking water source, to  
45 human health, or to a sensitive or significant ecological area; or

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

Matter underlined thus is new matter.

1 (b) persons for financial assistance for remediation activities at  
2 sites that have been contaminated by a discharge of a hazardous  
3 substance or hazardous waste, or at which there is an imminent and  
4 significant threat of a discharge of a hazardous substance or  
5 hazardous waste, and the discharge or threatened discharge poses or  
6 would pose an imminent and significant threat to a drinking water  
7 source, to human health, or to a sensitive or significant ecological  
8 area.

9 Except as provided in subsection f. of section 27 of P.L.1993,  
10 c.139 (C.58:10B-5), financial assistance and grants to  
11 municipalities, counties, or redevelopment entities authorized to  
12 exercise redevelopment powers pursuant to section 4 of P.L.1992,  
13 c.79 (C.40A:12A-4) may be made for real property: (1) on which  
14 they hold a tax sale certificate; (2) that they have acquired through  
15 foreclosure or other similar means; or (3) that they have acquired,  
16 or, in the case of a county governed by a board of chosen  
17 freeholders, have passed a resolution or, in the case of a  
18 municipality or a county operating under the "Optional County  
19 Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), have passed an  
20 ordinance or other appropriate document to acquire, by voluntary  
21 conveyance for the purpose of redevelopment, or for recreation and  
22 conservation purposes. Financial assistance and grants may only be  
23 awarded for real property on which there has been or on which there  
24 is suspected of being a discharge of a hazardous substance or a  
25 hazardous waste. Grants and financial assistance provided pursuant  
26 to this paragraph shall be used for performing preliminary  
27 assessments, site investigations, remedial investigations, and  
28 remedial actions on real property in order to determine the existence  
29 or extent of any hazardous substance or hazardous waste  
30 contamination, and to remediate the site in compliance with the  
31 applicable health risk and environmental standards on those  
32 properties. No financial assistance or grants for a remedial action  
33 shall be awarded until the municipality, county, or redevelopment  
34 entity authorized to exercise redevelopment powers pursuant to  
35 section 4 of P.L.1992, c.79 (C.40A:12A-4), actually owns the real  
36 property, provided that a matching grant for 75% of the costs of a  
37 remedial action for a project involving the redevelopment of  
38 contaminated property for recreation and conservation purposes, or  
39 a matching grant for 50% of the costs of a remedial action for a  
40 project involving the redevelopment of contaminated property for  
41 affordable housing pursuant to P.L.1985, c.222 (C.52:27D-301 et  
42 seq.) may be made to a municipality, county, or redevelopment  
43 entity authorized to exercise redevelopment powers pursuant to  
44 section 4 of P.L.1992, c.79 even if it does not own the real property  
45 and a grant may be made to a municipality, county, or  
46 redevelopment entity authorized to exercise redevelopment powers  
47 pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) for a  
48 remediation in a brownfield development area pursuant to

1 subsection f. of section 27 of P.L.1993, c.139 (C.58:10B-5) even if  
2 the entity does not own the real property. No grant shall be  
3 awarded for a remedial action for a project involving the  
4 redevelopment of contaminated property for recreation or  
5 conservation purposes unless the use of the property is preserved  
6 for recreation and conservation purposes by conveyance of a  
7 development easement, conservation restriction or easement, or  
8 other restriction or easement permanently restricting development,  
9 which shall be recorded and indexed with the deed in the registry of  
10 deeds for the county. A municipality that has performed, or on  
11 which there has been performed, a preliminary assessment, site  
12 investigation or remedial investigation on property may obtain a  
13 loan for the purpose of continuing the remediation on those  
14 properties as necessary to comply with the applicable remediation  
15 regulations adopted by the department. No grant shall be awarded  
16 pursuant to this paragraph to a municipality, a county, or a  
17 redevelopment entity authorized to exercise redevelopment powers  
18 pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) unless that  
19 entity has adopted by ordinance or resolution a comprehensive plan  
20 specifically for the development or redevelopment of contaminated  
21 or potentially contaminated real property in that municipality or the  
22 entity can demonstrate to the authority that a realistic opportunity  
23 exists that the subject real property will be developed or  
24 redeveloped within a three-year period from the completion of the  
25 remediation;

26 (3) Moneys shall be allocated for financial assistance to persons  
27 who voluntarily perform a remediation of a hazardous substance or  
28 hazardous waste discharge;

29 (4) Moneys shall be allocated for grants to persons who own  
30 real property on which there has been a discharge of a hazardous  
31 substance or a hazardous waste and that person qualifies for an  
32 innocent party grant. A person qualifies for an innocent party grant  
33 if that person acquired the property prior to December 31, 1983, the  
34 hazardous substance or hazardous waste that was discharged at the  
35 property was not used by the person at that site, and that person  
36 certifies that he did not discharge any hazardous substance or  
37 hazardous waste at an area where a discharge is discovered. A  
38 grant authorized pursuant to this paragraph may be for up to 50% of  
39 the remediation costs at the area of concern for which the person  
40 qualifies for an innocent party grant, except that no grant awarded  
41 pursuant to this paragraph to any person may exceed \$1,000,000;

42 (5) Moneys shall be allocated for (a) financial assistance to  
43 persons who own and plan to remediate an environmental  
44 opportunity zone for which an exemption from real property taxes  
45 has been granted pursuant to section 5 of P.L.1995, c.413 (C.54:4-  
46 3.154), or (b) matching grants for up to 25% of the project costs to  
47 qualifying persons, municipalities, counties, and redevelopment  
48 entities authorized to exercise redevelopment powers pursuant to

1 section 4 of P.L.1992, c.79 (C.40A:12A-4), who propose to perform  
2 a remedial action that uses an innovative technology, or for the  
3 implementation of a limited restricted use remedial action or an  
4 unrestricted use remedial action except that no grant awarded  
5 pursuant to this paragraph may exceed \$250,000; and

6 (6) Twenty percent of the moneys in the remediation fund shall  
7 be allocated for financial assistance or grants for any of the  
8 purposes enumerated in paragraphs (1) through (5) of this  
9 subsection.

10 For the purposes of paragraph (5) of this subsection, "qualifying  
11 persons" means any person who has a net worth of not more than  
12 \$2,000,000 and "project costs" means that portion of the total costs  
13 of a remediation that is specifically for the use of an innovative  
14 technology or to implement an unrestricted use remedial action or a  
15 limited restricted use remedial action, as applicable.

16 b. Loans issued from the remediation fund shall be for a term  
17 not to exceed ten years, except that upon the transfer of ownership  
18 of any real property for which the loan was made, the unpaid  
19 balance of the loan shall become immediately payable in full. The  
20 unpaid balance of a loan for the remediation of real property that is  
21 transferred by devise or succession shall not become immediately  
22 payable in full, and loan repayments shall be made by the person  
23 who acquires the property. Loans to municipalities, counties, and  
24 redevelopment entities authorized to exercise redevelopment  
25 powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4),  
26 shall bear an interest rate equal to 2 points below the Federal  
27 Discount Rate at the time of approval or at the time of loan closing,  
28 whichever is lower, except that the rate shall be no lower than 3  
29 percent. All other loans shall bear an interest rate equal to the  
30 Federal Discount Rate at the time of approval or at the time of the  
31 loan closing, whichever is lower, except that the rate on such loans  
32 shall be no lower than five percent. Financial assistance and grants  
33 may be issued for up to 100% of the estimated applicable  
34 remediation cost, except that the cumulative maximum amount of  
35 financial assistance which may be issued to a person, in any  
36 calendar year, for one or more properties, shall be \$1,000,000.  
37 Financial assistance and grants to any one municipality, county, or  
38 redevelopment entity authorized to exercise redevelopment powers  
39 pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) may not  
40 exceed \$3,000,000 in any calendar year except as provided in  
41 subsection f. of P.L.1993, c.139 (C.58:10B-5). Grants to a  
42 municipality, county, or redevelopment entity authorized to exercise  
43 redevelopment powers pursuant to section 4 of P.L.1992, c.79 may  
44 be for up to 100% of the total costs of the preliminary assessment,  
45 site investigation, or remedial investigation regardless of when the  
46 application was received by the department. Grants to a  
47 municipality, a county, or a redevelopment entity authorized to  
48 exercise redevelopment powers pursuant to section 4 of P.L.1992,

1 c.79 (C.40A:12A-4) may not exceed 75% of the total costs of the  
2 remedial action at any one site for any application received by the  
3 department on or after September 15, 2005. Repayments of  
4 principal and interest on the loans issued from the remediation fund  
5 shall be paid to the authority and shall be deposited into the  
6 remediation fund.

7 【The total amount of grant moneys awarded in any one year may  
8 not exceed 70 percent of the total amount of financial assistance  
9 and grants awarded in that year.】

10 c. No person, other than a qualified person planning to use an  
11 innovative technology for the cost of that technology, a qualified  
12 person planning to use a limited restricted use remedial action or an  
13 unrestricted use remedial action for the cost of the remedial action,  
14 a person performing a remediation in an environmental opportunity  
15 zone, or a person voluntarily performing a remediation, shall be  
16 eligible for financial assistance from the remediation fund to the  
17 extent that person is capable of establishing a remediation funding  
18 source for the remediation as required pursuant to section 25 of  
19 P.L.1993, c.139 (C.58:10B-3).

20 d. The authority may use a sum that represents up to 2% of the  
21 moneys issued as financial assistance or grants from the  
22 remediation fund each year for administrative expenses incurred in  
23 connection with the operation of the fund and the issuance of  
24 financial assistance and grants.

25 e. Prior to March 1 of each year, the authority shall submit to  
26 the Senate Environment Committee and the Assembly Environment  
27 and Solid Waste Committee, or their successors, a report detailing  
28 the amount of money that was available for financial assistance and  
29 grants from the remediation fund for the previous calendar year, the  
30 amount of money estimated to be available for financial assistance  
31 and grants for the current calendar year, the amount of financial  
32 assistance and grants issued for the previous calendar year and the  
33 category for which each financial assistance and grant was  
34 rendered, and any suggestions for legislative action the authority  
35 deems advisable to further the legislative intent to facilitate  
36 remediation and promote the redevelopment and use of existing  
37 industrial sites.

38 (cf: P.L. 2006, c.89, s.1)

39

40 2. This act shall take effect immediately.

41

42

43

STATEMENT

44

45 Current law limits the amount of grant money that may be  
46 awarded from the Hazardous Discharge Site Remediation Fund  
47 (HDSRF) to 70% of the total amount of financial assistance and

**A3528 MCKEON, ROONEY**

7

- 1 grants awarded annually. This bill would remove the limitation on
- 2 total grant awards from the HDSRF in any given year.

ASSEMBLY ENVIRONMENT AND SOLID WASTE  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 3528**

**STATE OF NEW JERSEY**

DATED: OCTOBER 23, 2006

The Assembly Environment and Solid Waste Committee reports favorably Assembly Bill No. 3528.

Current law limits the amount of grant money that may be awarded from the Hazardous Discharge Site Remediation Fund (HDSRF) to 70% of the total amount of financial assistance and grants awarded annually. This bill would remove the limitation on total grant awards from the HDSRF in any given year.

STATEMENT TO  
**ASSEMBLY, No. 3528**

with Assembly Floor Amendments  
(Proposed By Assemblyman MCKEON)

ADOPTED: DECEMBER 11, 2006

These floor amendments would make the bill retroactive to September 1, 2006. In addition, the floor amendments would make a technical correction to a statutory citation in the first section of the bill.



# SENATE, No. 2259

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED OCTOBER 12, 2006

**Sponsored by:**

**Senator JOHN H. ADLER**

**District 6 (Camden)**

**Senator FRED H. MADDEN, JR.**

**District 4 (Camden and Gloucester)**

**SYNOPSIS**

Removes limitation on amount of grant money that may be allocated from Hazardous Discharge Site Remediation Fund.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 11/28/2006)**

1 AN ACT concerning the allocation of grant moneys for hazardous  
2 site cleanup and amending P.L.1993, c.139.

3

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

6

7 1. Section 28 of P.L.1993, c.139 (C.58:10B-6) is amended to  
8 read as follows:

9 28. a. Except for moneys deposited in the remediation fund for  
10 specific purposes, financial assistance and grants from the  
11 remediation fund shall be rendered for the following purposes. A  
12 written report shall be sent to the Senate Environment Committee,  
13 and the Assembly Environment and Solid Waste Committee, or  
14 their successors at the end of each calendar quarter detailing the  
15 allocation and expenditures related to the financial assistance and  
16 grants from the fund.

17 (1) Moneys shall be allocated for financial assistance to persons,  
18 for remediation of real property located in a qualifying municipality  
19 as defined in section 1 of P.L.1978, c.14 (C.52:27D-178);

20 (2) Moneys shall be allocated to: (a) municipalities, counties, or  
21 redevelopment entities authorized to exercise redevelopment  
22 powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4), for:

23 (i) projects in brownfield development areas pursuant to  
24 subsection f. of section 27 of P.L.1993, c.139 (C.58:10B-5),

25 (ii) matching grants up to a cumulative total amount from the  
26 fund of \$5,000,000 per year of up to 75% of the costs of the  
27 remedial action for projects involving the redevelopment of  
28 contaminated property for recreation and conservation purposes,  
29 provided that the use of the property for recreation and conservation  
30 purposes is included in the comprehensive plan for the development  
31 or redevelopment of contaminated property, or up to 50% of the  
32 costs of the remedial action for projects involving the  
33 redevelopment of contaminated property for affordable housing  
34 pursuant to P.L.1985, c.222 (C.52:27D-301 et seq.),

35 (iii) grants for preliminary assessment, site investigation or  
36 remedial investigation of a contaminated site,

37 (iv) financial assistance for the implementation of a remedial  
38 action, or

39 (v) financial assistance for remediation activities at sites that  
40 have been contaminated by a discharge of a hazardous substance or  
41 hazardous waste, or at which there is an imminent and significant  
42 threat of a discharge of a hazardous substance or hazardous waste,  
43 and the discharge or threatened discharge poses or would pose an  
44 imminent and significant threat to a drinking water source, to  
45 human health, or to a sensitive or significant ecological area; or

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

**Matter underlined thus is new matter.**

1 (b) persons for financial assistance for remediation activities at  
2 sites that have been contaminated by a discharge of a hazardous  
3 substance or hazardous waste, or at which there is an imminent and  
4 significant threat of a discharge of a hazardous substance or  
5 hazardous waste, and the discharge or threatened discharge poses or  
6 would pose an imminent and significant threat to a drinking water  
7 source, to human health, or to a sensitive or significant ecological  
8 area.

9 Except as provided in subsection f. of section 27 of P.L.1993,  
10 c.139 (C.58:10B-5), financial assistance and grants to  
11 municipalities, counties, or redevelopment entities authorized to  
12 exercise redevelopment powers pursuant to section 4 of P.L.1992,  
13 c.79 (C.40A:12A-4) may be made for real property: (1) on which  
14 they hold a tax sale certificate; (2) that they have acquired through  
15 foreclosure or other similar means; or (3) that they have acquired,  
16 or, in the case of a county governed by a board of chosen  
17 freeholders, have passed a resolution or, in the case of a  
18 municipality or a county operating under the "Optional County  
19 Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), have passed an  
20 ordinance or other appropriate document to acquire, by voluntary  
21 conveyance for the purpose of redevelopment, or for recreation and  
22 conservation purposes. Financial assistance and grants may only be  
23 awarded for real property on which there has been or on which there  
24 is suspected of being a discharge of a hazardous substance or a  
25 hazardous waste. Grants and financial assistance provided pursuant  
26 to this paragraph shall be used for performing preliminary  
27 assessments, site investigations, remedial investigations, and  
28 remedial actions on real property in order to determine the existence  
29 or extent of any hazardous substance or hazardous waste  
30 contamination, and to remediate the site in compliance with the  
31 applicable health risk and environmental standards on those  
32 properties. No financial assistance or grants for a remedial action  
33 shall be awarded until the municipality, county, or redevelopment  
34 entity authorized to exercise redevelopment powers pursuant to  
35 section 4 of P.L.1992, c.79 (C.40A:12A-4), actually owns the real  
36 property, provided that a matching grant for 75% of the costs of a  
37 remedial action for a project involving the redevelopment of  
38 contaminated property for recreation and conservation purposes, or  
39 a matching grant for 50% of the costs of a remedial action for a  
40 project involving the redevelopment of contaminated property for  
41 affordable housing pursuant to P.L.1985, c.222 (C.52:27D-301 et  
42 seq.) may be made to a municipality, county, or redevelopment  
43 entity authorized to exercise redevelopment powers pursuant to  
44 section 4 of P.L.1992, c.79 even if it does not own the real property  
45 and a grant may be made to a municipality, county, or  
46 redevelopment entity authorized to exercise redevelopment powers  
47 pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) for a  
48 remediation in a brownfield development area pursuant to

1 subsection f. of section 27 of P.L.1993, c.139 (C.58:10B-5) even if  
2 the entity does not own the real property. No grant shall be  
3 awarded for a remedial action for a project involving the  
4 redevelopment of contaminated property for recreation or  
5 conservation purposes unless the use of the property is preserved  
6 for recreation and conservation purposes by conveyance of a  
7 development easement, conservation restriction or easement, or  
8 other restriction or easement permanently restricting development,  
9 which shall be recorded and indexed with the deed in the registry of  
10 deeds for the county. A municipality that has performed, or on  
11 which there has been performed, a preliminary assessment, site  
12 investigation or remedial investigation on property may obtain a  
13 loan for the purpose of continuing the remediation on those  
14 properties as necessary to comply with the applicable remediation  
15 regulations adopted by the department. No grant shall be awarded  
16 pursuant to this paragraph to a municipality, a county, or a  
17 redevelopment entity authorized to exercise redevelopment powers  
18 pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) unless that  
19 entity has adopted by ordinance or resolution a comprehensive plan  
20 specifically for the development or redevelopment of contaminated  
21 or potentially contaminated real property in that municipality or the  
22 entity can demonstrate to the authority that a realistic opportunity  
23 exists that the subject real property will be developed or  
24 redeveloped within a three-year period from the completion of the  
25 remediation;

26 (3) Moneys shall be allocated for financial assistance to persons  
27 who voluntarily perform a remediation of a hazardous substance or  
28 hazardous waste discharge;

29 (4) Moneys shall be allocated for grants to persons who own  
30 real property on which there has been a discharge of a hazardous  
31 substance or a hazardous waste and that person qualifies for an  
32 innocent party grant. A person qualifies for an innocent party grant  
33 if that person acquired the property prior to December 31, 1983, the  
34 hazardous substance or hazardous waste that was discharged at the  
35 property was not used by the person at that site, and that person  
36 certifies that he did not discharge any hazardous substance or  
37 hazardous waste at an area where a discharge is discovered. A  
38 grant authorized pursuant to this paragraph may be for up to 50% of  
39 the remediation costs at the area of concern for which the person  
40 qualifies for an innocent party grant, except that no grant awarded  
41 pursuant to this paragraph to any person may exceed \$1,000,000;

42 (5) Moneys shall be allocated for (a) financial assistance to  
43 persons who own and plan to remediate an environmental  
44 opportunity zone for which an exemption from real property taxes  
45 has been granted pursuant to section 5 of P.L.1995, c.413 (C.54:4-  
46 3.154), or (b) matching grants for up to 25% of the project costs to  
47 qualifying persons, municipalities, counties, and redevelopment  
48 entities authorized to exercise redevelopment powers pursuant to

1 section 4 of P.L.1992, c.79 (C.40A:12A-4), who propose to perform  
2 a remedial action that uses an innovative technology, or for the  
3 implementation of a limited restricted use remedial action or an  
4 unrestricted use remedial action except that no grant awarded  
5 pursuant to this paragraph may exceed \$250,000; and

6 (6) Twenty percent of the moneys in the remediation fund shall  
7 be allocated for financial assistance or grants for any of the  
8 purposes enumerated in paragraphs (1) through (5) of this  
9 subsection.

10 For the purposes of paragraph (5) of this subsection, "qualifying  
11 persons" means any person who has a net worth of not more than  
12 \$2,000,000 and "project costs" means that portion of the total costs  
13 of a remediation that is specifically for the use of an innovative  
14 technology or to implement an unrestricted use remedial action or a  
15 limited restricted use remedial action, as applicable.

16 b. Loans issued from the remediation fund shall be for a term  
17 not to exceed ten years, except that upon the transfer of ownership  
18 of any real property for which the loan was made, the unpaid  
19 balance of the loan shall become immediately payable in full. The  
20 unpaid balance of a loan for the remediation of real property that is  
21 transferred by devise or succession shall not become immediately  
22 payable in full, and loan repayments shall be made by the person  
23 who acquires the property. Loans to municipalities, counties, and  
24 redevelopment entities authorized to exercise redevelopment  
25 powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4),  
26 shall bear an interest rate equal to 2 points below the Federal  
27 Discount Rate at the time of approval or at the time of loan closing,  
28 whichever is lower, except that the rate shall be no lower than 3  
29 percent. All other loans shall bear an interest rate equal to the  
30 Federal Discount Rate at the time of approval or at the time of the  
31 loan closing, whichever is lower, except that the rate on such loans  
32 shall be no lower than five percent. Financial assistance and grants  
33 may be issued for up to 100% of the estimated applicable  
34 remediation cost, except that the cumulative maximum amount of  
35 financial assistance which may be issued to a person, in any  
36 calendar year, for one or more properties, shall be \$1,000,000.  
37 Financial assistance and grants to any one municipality, county, or  
38 redevelopment entity authorized to exercise redevelopment powers  
39 pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) may not  
40 exceed \$3,000,000 in any calendar year except as provided in  
41 subsection f. of P.L.1993, c.139 (C.58:10B-5). Grants to a  
42 municipality, county, or redevelopment entity authorized to exercise  
43 redevelopment powers pursuant to section 4 of P.L.1992, c.79 may  
44 be for up to 100% of the total costs of the preliminary assessment,  
45 site investigation, or remedial investigation regardless of when the  
46 application was received by the department. Grants to a  
47 municipality, a county, or a redevelopment entity authorized to  
48 exercise redevelopment powers pursuant to section 4 of P.L.1992,

1 c.79 (C.40A:12A-4) may not exceed 75% of the total costs of the  
2 remedial action at any one site for any application received by the  
3 department on or after September 15, 2005. Repayments of  
4 principal and interest on the loans issued from the remediation fund  
5 shall be paid to the authority and shall be deposited into the  
6 remediation fund.

7 【The total amount of grant moneys awarded in any one year may  
8 not exceed 70 percent of the total amount of financial assistance  
9 and grants awarded in that year.】

10 c. No person, other than a qualified person planning to use an  
11 innovative technology for the cost of that technology, a qualified  
12 person planning to use a limited restricted use remedial action or an  
13 unrestricted use remedial action for the cost of the remedial action,  
14 a person performing a remediation in an environmental opportunity  
15 zone, or a person voluntarily performing a remediation, shall be  
16 eligible for financial assistance from the remediation fund to the  
17 extent that person is capable of establishing a remediation funding  
18 source for the remediation as required pursuant to section 25 of  
19 P.L.1993, c.139 (C.58:10B-3).

20 d. The authority may use a sum that represents up to 2% of the  
21 moneys issued as financial assistance or grants from the  
22 remediation fund each year for administrative expenses incurred in  
23 connection with the operation of the fund and the issuance of  
24 financial assistance and grants.

25 e. Prior to March 1 of each year, the authority shall submit to  
26 the Senate Environment Committee and the Assembly Environment  
27 and Solid Waste Committee, or their successors, a report detailing  
28 the amount of money that was available for financial assistance and  
29 grants from the remediation fund for the previous calendar year, the  
30 amount of money estimated to be available for financial assistance  
31 and grants for the current calendar year, the amount of financial  
32 assistance and grants issued for the previous calendar year and the  
33 category for which each financial assistance and grant was  
34 rendered, and any suggestions for legislative action the authority  
35 deems advisable to further the legislative intent to facilitate  
36 remediation and promote the redevelopment and use of existing  
37 industrial sites.

38 (cf: P.L. 2006, c.89, s.1)

39

40 2. This act shall take effect immediately.

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#### STATEMENT

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45 Current law limits the amount of grant money that may be  
46 awarded from the Hazardous Discharge Site Remediation Fund  
47 (HDSRF) to 70% of the total amount of financial assistance and

**S2259 ADLER, MADDEN**

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- 1 grants awarded annually. This bill would remove the limitation on
- 2 total grant awards from the HDSRF in any given year.

SENATE ENVIRONMENT COMMITTEE

STATEMENT TO

**SENATE, No. 2259**

**STATE OF NEW JERSEY**

DATED: OCTOBER 23, 2006

The Senate Environment Committee favorably reports Senate Bill No. 2259.

This bill would remove the existing limitation on total grant awards from the Hazardous Discharge Site Remediation Fund (HDSRF) in any given year. Current law limits the annual amount of grant money that may be awarded from the HDSRF to 70% of the total amount of financial assistance and grants awarded annually.



# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **SENATE, No. 2259**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: NOVEMBER 27, 2006

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2259, with committee amendments.

This bill, as amended, removes the existing limitation on total grant awards from the Hazardous Discharge Site Remediation Fund (HDSRF) in any given year. Current law limits the annual amount of grant money that may be awarded from the HDSRF to 70% of the total amount of financial assistance and grants awarded annually. The bill makes removal of this restriction retroactive to September 1, 2006.

#### COMMITTEE AMENDMENTS:

The committee amendments make the bill retroactive to September 1, 2006. This will allow certain municipal applications for projects that must now be approved as loans for the 2006 calendar year award cycle to be allowed as grants since the lifting of the restriction on total grant awards from the HDSRF will be retroactive and allow their project applications to be considered as grant applications. The committee amendments also make a technical correction to a statutory citation in the first section of the bill.

#### FISCAL IMPACT:

This bill was not certified for a Fiscal Note.