NEW JERSEY STATE LEGISLATURE

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This report was prepared by the Environment, Agriculture, Energy and Natural Resources Section of the Office of Legislative Services under the direction of the Legislative Budget and Finance Officer. The primary author was Richard M. Handelman with contributions by Lucinda Tiajoloff.

Questions or comments may be directed to the OLS Environment, Agriculture, Energy and Natural Resources Section (609-292-7676) or the Legislative Budget and Finance Office (609-292-8030).
Fiscal Summary ($000)

<table>
<thead>
<tr>
<th></th>
<th>Expended FY 2005</th>
<th>Adjusted Appropriation FY 2006</th>
<th>Recommended FY 2007</th>
<th>Percent Change 2006-07</th>
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<tbody>
<tr>
<td>State Budgeted</td>
<td>$414,968</td>
<td>$355,828</td>
<td>$504,379</td>
<td>41.7%</td>
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<tr>
<td>Federal Funds</td>
<td>45,545</td>
<td>220,977</td>
<td>208,461</td>
<td>(5.7%)</td>
</tr>
<tr>
<td>Other</td>
<td>34,642</td>
<td>62,037</td>
<td>68,446</td>
<td>10.3%</td>
</tr>
<tr>
<td>Grand Total</td>
<td>$495,155</td>
<td>$638,842</td>
<td>$781,286</td>
<td>22.3%</td>
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</table>

Personnel Summary - Positions By Funding Source

<table>
<thead>
<tr>
<th></th>
<th>Actual FY 2005</th>
<th>Revised FY 2006</th>
<th>Funded FY 2007</th>
<th>Percent Change 2006-07</th>
</tr>
</thead>
<tbody>
<tr>
<td>State</td>
<td>2,425</td>
<td>2,460</td>
<td>2,608</td>
<td>6.0%</td>
</tr>
<tr>
<td>Federal</td>
<td>109</td>
<td>96</td>
<td>101</td>
<td>5.2%</td>
</tr>
<tr>
<td>Other</td>
<td>869</td>
<td>861</td>
<td>851</td>
<td>(1.2%)</td>
</tr>
<tr>
<td>Total Positions</td>
<td>3,403</td>
<td>3,417</td>
<td>3,560</td>
<td>4.2%</td>
</tr>
</tbody>
</table>

FY 2005 (as of December) and revised FY 2006 (as of September) personnel data reflect actual payroll counts. FY 2007 data reflect the number of positions funded.

Key Points

- The total State-funded appropriation, less Debt Service, is recommended at $439.7 million, a net increase of $108.6 million or 32.8 percent higher than the current adjusted funding level.

- $40 million in new Capital funding is recommended for maintenance and improvement projects for State parks, forests, wildlife management areas and historic sites.

- Constitutionally dedicated Corporation Business Tax (CBT) revenues are increased by $53.8 million, to $128.0 million or 72.5 percent over the FY 2006 adjusted funding level. The higher funding level is based on increased CBT collections in FY 2007 and readjusted levels in FY 2006.
Key Points (Cont’d)

- A new grant program, Watershed Restoration Projects, is recommended at $5 million and will be supported by dedicated CBT funds allocated from the Water Resources Monitoring and Planning account. Watershed projects recommended by Regional Stormwater Management Committees would be targeted for funding.

- The Diesel Risk Mitigation Fund, which supports the newly established Diesel Emissions Reduction Program, is recommended to receive $21.8 million from a dedicated CBT fund allocation that was authorized by a constitutional amendment approved by voters for this purpose in November, 2005.

- The CBT-funded Hazardous Substance Discharge Remediation Loans & Grants account, which primarily supports the Brownfields Site Remediation program, is recommended at $25.6 million, a $13.2 million increase.

- A new grant program, Water Resource Interconnection Projects, is recommended at $6 million and will support projects that facilitate the movement of water during droughts. Some funding would be used to leverage other types of financing plans for this purpose.

- Scheduled increases in Land Use Regulation fees are expected to generate over $2.9 million in “excess” appropriated revenue to the department to support program costs, pursuant to proposed budget language.

- A scheduled increase in Air Permitting Minor Source fees are expected to generate over $2.3 million in “excess” appropriated revenue to the department to support program expansion costs. It will also provide $1 million in additional inspection funds for county health agencies, pursuant to proposed budget language.

- A Special Purpose appropriation of $12 million is recommended for Passaic River Cleanup Litigation to support the State’s efforts in pursuing natural resource damages from Occidental Chemical for polluting the Passaic River and Newark Bay.

- The salary accounts of the department’s administrative and support units are reduced by $2.3 million, or 13 percent, due to mandated operating reductions taken to help reduce the budget deficit.

- Proposed budget language appropriates $5 million from the Sanitary Landfill Facility Contingency Fund to the General Fund as State revenue.

- Total debt service costs are expected to increase to $64.7 million, or nearly $40 million more than is currently budgeted, due to recent bond finance restructuring actions.

Background Paper

- Creation and Implementation of the Diesel Emissions Reduction Program ............. p. 22
### Fiscal and Personnel Summary

#### AGENCY FUNDING BY SOURCE OF FUNDS ($000)

<table>
<thead>
<tr>
<th></th>
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</thead>
<tbody>
<tr>
<td><strong>General Fund</strong></td>
<td></td>
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<td></td>
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<td></td>
</tr>
<tr>
<td>Direct State Services</td>
<td>$251,306</td>
<td>$226,918</td>
<td>$238,217</td>
<td>( 5.2%)</td>
<td>5.0%</td>
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<tr>
<td>Grants-In-Aid</td>
<td>13,491</td>
<td>750</td>
<td>33,165</td>
<td>145.8%</td>
<td>4322.0%</td>
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<tr>
<td>State Aid</td>
<td>12,162</td>
<td>10,222</td>
<td>11,066</td>
<td>( 9.0%)</td>
<td>8.3%</td>
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<tr>
<td>Capital Construction</td>
<td>89,837</td>
<td>84,263</td>
<td>147,767</td>
<td>64.5%</td>
<td>75.4%</td>
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<td>Debt Service</td>
<td>39,715</td>
<td>24,675</td>
<td>64,664</td>
<td>62.8%</td>
<td>162.1%</td>
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<td><strong>Sub-Total</strong></td>
<td>$406,511</td>
<td>$346,828</td>
<td>$494,879</td>
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<td><strong>Property Tax Relief Fund</strong></td>
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<tr>
<td>Direct State Services</td>
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<td>$0</td>
<td>$0</td>
<td>0.0%</td>
<td>0.0%</td>
</tr>
<tr>
<td>Grants-In-Aid</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0.0%</td>
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</tr>
<tr>
<td>State Aid</td>
<td>8,457</td>
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<tr>
<td><strong>Sub-Total</strong></td>
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<tr>
<td><strong>Casino Revenue Fund</strong></td>
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<tr>
<td></td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>0.0%</td>
<td>0.0%</td>
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<tr>
<td><strong>Casino Control Fund</strong></td>
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<tr>
<td></td>
<td>$0</td>
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</tr>
</tbody>
</table>

#### PERSONNEL SUMMARY - POSITIONS BY FUNDING SOURCE

<table>
<thead>
<tr>
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<td>101</td>
<td>( 7.3%)</td>
<td>5.2%</td>
</tr>
<tr>
<td>All Other</td>
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<td>861</td>
<td>851</td>
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<td>( 1.2%)</td>
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</tr>
</tbody>
</table>

FY 2005 (as of December) and revised FY 2006 (as of September) personnel data reflect actual payroll counts. FY 2007 data reflect the number of positions funded.

#### AFFIRMATIVE ACTION DATA

| Total Minority Percent | 15.2% | 15.9% | 16.4% | —     | —     |
Significant Changes/New Programs ($000)

<table>
<thead>
<tr>
<th>Budget Item</th>
<th>Adj. Approp. FY 2006</th>
<th>Recomm. FY 2007</th>
<th>Dollar Change</th>
<th>Percent Change</th>
<th>Budget Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>NATURAL RESOURCE MANAGEMENT</td>
<td></td>
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<tr>
<td>GRANTS-IN-AID</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Waterloo Village</td>
<td>$250</td>
<td>$0</td>
<td>($250)</td>
<td>(100.0%)</td>
<td>D-124</td>
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</tbody>
</table>

This grant was included in the FY 2005 and FY 2006 budgets by the Legislature to help offset operating deficits of this historic site in Stanhope, Sussex County, which is run by the Waterloo Foundation for the Arts. Various State-owned structures are also located in this restored, colonial-era village.

CAPITAL CONSTRUCTION

| Capital Improvements for State Parks, Forests, Historic Sites, Wildlife Areas | $0 | $40,000 | $40,000 | —   | D-125 |

This is the first major capital funding initiative for parks, forests and wildlife areas since FY 2002. The recommended amount would begin to address the longstanding deferred maintenance and capital improvement needs of these facilities, which are conservatively estimated at $250 million. According to the DEP Budget Overview, the proposed appropriation would support projects involving renovation, health and safety improvements, demolition of unsafe structures, fire safety, dredging, campsite upgrades and other maintenance needs. Historic site improvements at the Batsto and Atsion Mansions, Rockingham, Waterloo Village, and Liberty State Park would also be addressed.

SCIENCE AND TECHNICAL PROGRAMS

DIRECT STATE SERVICES

| Special Purpose: Water Resources Monitoring and Planning – Constitutional Dedication | $12,363 | $16,338 | $3,975 | 32.2% | D-130 |

This account is supported by constitutionally dedicated Corporation Business Tax (CBT) revenues and funds various water-related activities managed by the department. The funding level is primarily determined by the amount of CBT revenues collected annually, from which the account is allocated a statutorily prescribed portion. Consequently, the recommended increase is due to an anticipated increase in FY 2007 CBT collections and a readjustment upward in FY 2006 collections. The higher funding level will be used in part to support a new $5 million funding initiative, “Watershed Restoration Projects”, which is described below.
## Significant Changes/New Programs ($000) (Cont’d)

<table>
<thead>
<tr>
<th>Budget Item</th>
<th>Adj. Approp. FY 2006</th>
<th>Recomm. FY 2007</th>
<th>Dollar Change</th>
<th>Percent Change</th>
<th>Budget Page</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>GRANTS-IN-AID</strong></td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Watershed Restoration Projects</td>
<td>$0</td>
<td>$5,000</td>
<td>$5,000</td>
<td>—</td>
<td>D-131</td>
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</tbody>
</table>

This initiative is proposed to support some of the watershed restoration projects recommended by the state’s Regional Stormwater Management Committees. In particular, the Budget In Brief identifies the following projects that could be funded under the program: Restoration of watersheds affecting Lake Hopatcong, Long Swamp Creek in the Barnegat Bay Estuary, Delaware & Raritan Canal Tributaries, Wreck Pond, and the Pequannock River. As noted above, proposed budget language authorizes this account to be funded by constitutionally dedicated Corporation Business Tax revenues allocated to the Water Resources Monitoring and Planning account.

| Water Resource Interconnection Projects | $0 | $6,000 | $6,000 | — | D-131 |

The recommended program would help finance water resource interconnection projects designed to facilitate the movement of water supplies during periods of drought. Projects would involve infrastructure construction as well as land acquisition. According to the DEP Budget Overview, a portion of this money would be used to leverage approximately $100 million to finance such projects, some of which are listed in the Overview. If bonds are sold for this purpose, debt service obligations would be backed by revenues from a new water supply surcharge, which is currently pending before the Legislature.

### ALL OTHER FUNDS

| Land Use Regulation | $1,723 | $4,883 | $3,160 | 183.4% | D-131 |

Of the recommended increase in this off-budget account, $2.9 million represents the projected sum of receipts collected “in excess of” the individual fee amounts anticipated (see explanation below) from the following regulatory programs: Coastal Area Facility Review Act, wetlands, freshwater wetlands, stream encroachment, and waterfront development. Pursuant to proposed budget language, these “excess” receipts would be appropriated to the department for administrative costs associated with Land Use Regulation activities.

“Amounts anticipated,” as referred to above, are defined as the State Budget’s estimated level of receipts or fee revenues to be collected during a fiscal year. For FY 2007, these amounts are listed under the DEP by program activity in Schedule 1 State Revenues on pages C-12 and C-13 of the Budget Recommendation. Due to a 20% increase in land use regulation fee rates effective this spring and summer, revenue estimates for each of programs cited above are higher in FY 2007. Notwithstanding this increase, the department still anticipates revenue collections to be $2.9 million in excess of these projections. This figure appears in Schedule 2 Other Revenues (page C-19) under “Land Use Regulation.”
## Significant Changes/New Programs ($000) (Cont’d)

<table>
<thead>
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</thead>
<tbody>
<tr>
<td><strong>SITE REMEDIATION AND WASTE MANAGEMENT</strong></td>
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<tr>
<td><strong>DIRECT STATE SERVICES</strong></td>
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<tr>
<td>Special Purpose:</td>
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<tr>
<td>Passaic River</td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Cleanup Litigation</td>
<td>$0</td>
<td>$12,000</td>
<td>$12,000</td>
<td>—</td>
<td>D-134</td>
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</tbody>
</table>

The recommended appropriation would be used to pay investigative and litigation costs associated with the State’s pursuit of compensation from Occidental Chemical and its predecessors for polluting the Passaic River and Newark Bay for over 20 years with dioxin, pesticides and other chemicals.

## CAPITAL CONSTRUCTION

<table>
<thead>
<tr>
<th>Hazardous Substance Discharge Remediation- Constitutional Dedication</th>
<th>$30,431</th>
<th>$34,535</th>
<th>$4,104</th>
<th>13.5%</th>
<th>D-135</th>
</tr>
</thead>
<tbody>
<tr>
<td>Private Underground Tank Remediation- Constitutional Dedication</td>
<td>$12,363</td>
<td>$17,071</td>
<td>$4,708</td>
<td>38.1%</td>
<td>D-135</td>
</tr>
</tbody>
</table>

| Hazardous Substance Discharge Remediation Loans & Grants- Constitutional Dedication | $12,363 | $25,606 | $13,243 | 107.1% | D-135 |

These three accounts are supported by constitutionally dedicated Corporation Business Tax (CBT) revenues. The funding levels are determined by the amount of CBT revenues collected annually, from which each account is allocated a statutorily prescribed portion. Consequently, the recommended increases are due to an anticipated increase in FY 2007 CBT collections and a readjustment upward in FY 2006 collections.

The first program listed above provides State funding for hazardous site cleanups not generally supported by responsible parties. The second line item, for underground storage tank remediation, provides loans and grants to businesses, private individuals and local governments to upgrade, replace or remediate underground storage tanks and ground contaminations. The third account provides loans and grants primarily for brownfields redevelopment projects. The latter two programs are jointly administered by the N.J. Economic Development Authority and the department.
Significant Changes/New Programs ($000) (Cont’d)

<table>
<thead>
<tr>
<th>Budget Item</th>
<th>Adj. Approp. FY 2006</th>
<th>Recomm. FY 2007</th>
<th>Dollar Change</th>
<th>Percent Change</th>
<th>Budget Page</th>
</tr>
</thead>
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<tr>
<td><strong>ENIRONMENTAL REGULATION</strong></td>
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<tr>
<td><strong>GRANTS-IN-AID</strong></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Diesel Risk Mitigation</td>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fund-constitutional dedication</td>
<td>$0</td>
<td>$21,765</td>
<td>$21,765</td>
<td>—</td>
<td>D-140</td>
</tr>
</tbody>
</table>

This appropriation would fund a new Diesel Emissions Reduction Program, established by P.L.2005, c.219, to reduce diesel exhaust emissions over the next ten years. The program is designed to encourage the use of ultra-low sulfur diesel fuel, regulate vehicle idling, and provide grants to retrofit publicly-owned or contracted diesel powered vehicles. Its funding source, the Diesel Risk Mitigation Fund, is supported by an expansion of the use of constitutionally dedicated Corporation Business Tax (CBT) revenues. Approval of this measure was ratified through amendments to the State Constitution in November, 2005. Subsequent law also authorized the reallocation of $16.3 million from existing CBT accounts for program startup costs in FY 2006. The FY 2007 recommendation reflects the program’s first full year allocation of CBT funding.

**ALL OTHER FUNDS**

| Air Pollution Control                    | $2,872               | $6,113          | $3,241        | 112.8%         | D-140        |

Of the recommended increase in this off-budget account, $2.27 million represents projected receipts collected “in excess of” the amount anticipated for Air Permitting Minor Source fees. Pursuant to proposed budget language, these “excess” receipts would be appropriated to the department to expand its air pollution program and to provide $1 million to county health agencies to inspect non-major (air pollution) source facilities.

Due to a scheduled increase in this permit program’s fee rates this summer, its revenue level in FY 2007 is anticipated at $10 million, or $6.5 million higher than the FY 2006 anticipated amount. Notwithstanding this increase, the department still anticipates revenue collections to be $2.27 million in excess of the FY 2007 projection. This amount also represents the increase in fee revenues for FY 2007 in Schedule 2 Other Revenues (page C-19 of the Budget Recommendation) under “Air Pollution Control.”

| Public Wastewater Facilities             | $0                   | $1,200          | $1,200        | —              | D-140        |

This off-budget appropriation reflects an increase in administrative fee revenues appropriated to the department for costs incurred from working with the N.J. Environmental Infrastructure Financing Program. At present, $5 million from program loan fees are allocated to the department to cover administrative expenses, pursuant to P.L.2005, c.202. Proposed budget language authorizes this action, which would replace a reduction in federal grant monies previously awarded for administrative expenses.
Direct State Services

Personal Services:
Salaries and Wages  $17,322  $15,045  ($2,277)  (13.1%)  D-142

The recommended decrease in the salary accounts of the department's management and administrative support units reflects mandatory "management efficiencies," or budget reductions, taken to help alleviate the State Budget deficit. Although it is unclear at this time how these reductions will affect staffing levels, the Position Data segment on page D-142 of the Budget Recommendation does indicate a reduction of 24 positions in these operating areas.

State Aid

Administration and Operations of the Highlands Council  $2,000  $3,000  $1,000  50.0%  D-143

Pursuant to the Highlands Act, the Highlands Council is required to prepare and complete a regional master plan within 18 months of enactment, or by this June. This deadline has recently been extended to December, 2006. Since the act did not provide specific funding for this task, the Council requested and received an additional $1 million for this purpose in November, 2005 from funds transferred from the Higher Education Capital Improvement Program-Debt Service account. The recommended increase therefore continues the Council's current adjusted funding level at $3 million in FY 2007.

Debt Service

Total Debt Service  $24,675  $64,664  $39,989  162.1%  D-143

The projected increase is due to higher general obligation bond redemption costs for many of the bond programs managed by the department. The higher costs are the result of recent debt restructuring that provided short term budget relief in FY 2005 and FY 2006.
Language Provisions

SCIENCE AND TECHNICAL PROGRAMS

2006 Appropriations Handbook

Notwithstanding any law to the contrary, funds shall be made available from the Water Resources Monitoring and Planning—Constitutional Dedication special purpose account to support nonpoint source pollution and watershed management programs, consistent with the constitutional dedication, within the Department of Environmental Protection in the amounts of $1,536,000 for Water Monitoring and Standards, $1,392,000 for New Jersey Geological Survey, $157,000 for Watershed Management, $500,000 for Forestry Management, [and $900,000 for Water Quality—Stormwater Management Grants,] and $540,000 transferred to support the Conservation Cost Share program in the Department of Agriculture on or before September 1, 2005.

2007 Budget Recommendations

Notwithstanding any law to the contrary, funds appropriated in the Water Resources Monitoring and Planning—Constitutional Dedication special purpose account shall be made available to support nonpoint source pollution and watershed management programs, consistent with the constitutional dedication, within the Department of Environmental Protection in the amounts of $1,536,000 for Water Monitoring and Standards, $1,392,000 for New Jersey Geological Survey, $157,000 for Watershed Management, $500,000 for Forestry Management, and $790,000 transferred to the Department of Agriculture to support the Conservation Cost Share program, at a level of $540,000, and the Conservation Assistance Program, at a level of $250,000, on or before September 1, 2006.

Explanation

The amended language reflects the allocation of $250,000 from constitutionally dedicated Corporation Business Tax (CBT) revenues for the Conservation Assistance Program in the Department of Agriculture (DOA). The allocation offsets a recommended reduction of $250,000 in the program's State-funded line-item appropriation. Proposed budget language in the DOA's recommended budget also authorizes this allocation and specifies that it be used for Animal Waste Management activities. The Conservation Assistance Program works with the DOA's Conservation Cost Share Program to provide grants and technical assistance to farmers who implement conservation practices that control non-point source pollution.

The amended language deletes the $900,000 CBT allocation used for stormwater management administrative costs. This grant program, which also received $12 million in CBT funds over the past two years, was initiated to help municipalities comply with new federal mandates for stormwater management. No additional program funding is recommended in FY 2007.
Language Provisions (Cont'd)

2006 Appropriations Handbook

No comparable language.

2007 Budget Recommendations

p. D-132

Receipts in excess of the individual amounts anticipated for Coastal Area Facility Review Act, Freshwater Wetlands, Stream Encroachment, Waterfront Development, and Wetlands fees are appropriated for administrative costs associated with Land Use Regulation, subject to the approval of the Director of the Division of Budget and Accounting.

Explanation

The proposed language appropriates “excess” receipts from the cited fee programs to the department for administrative costs associated with Land Use Regulation activities. “Excess receipts” are generally defined as fee revenues collected in excess of the individual amounts anticipated to be generated during a fiscal year. In FY 2007, such anticipated amounts are listed under the DEP in Schedule 1 State Revenues on pages C-12 and C-13 of the Budget Recommendation.

Due to a 20% increase in land use fee regulation rates effective this spring and summer, revenue estimates for each of the programs cited in the language are higher in FY 2007. Notwithstanding this increase, the department still anticipates revenue collections to be $2.9 million in excess of these projections. In the Budget Recommendation, this sum is included in the FY 2007 “Land Use Regulation” appropriation under All Other Funds on page D-131, as well as an off-budget appropriation in Schedule 2 Other Revenues (page C-19) under the same designation.

2006 Appropriations Handbook

No comparable language.

2007 Budget Recommendations

p. D-132

The amount hereinabove appropriated for Watershed Restoration Projects shall be provided from revenue received from the Corporation Business Tax, pursuant to the “Corporation Business Tax Act (1945),” P.L.1945, c.162 (C.54:10A-1 et seq.), as dedicated by Article VIII, Section II, paragraph 6 of the State Constitution.
Language Provisions (Cont'd)

Explanation

The proposed language authorizes constitutionally dedicated Corporation Business Tax (CBT) revenues to support the new Watershed Restoration Projects account, a grant program recommended at $5 million. Although the language does not specify the CBT source account, it is reasonable to assume that the allocation will come from the CBT Water Resources Monitoring and Planning account.

SITE REMEDIATION AND WASTE MANAGEMENT

2006 Appropriations Handbook

No comparable language.

2007 Budget Recommendations

p. D-136

Notwithstanding any other law to the contrary, there is appropriated $5,000,000 from the Sanitary Landfill Facility Contingency Fund to the General Fund as State revenue.

Explanation

The recommended language allows $5 million from the subject fund to be deposited in the General Fund as State revenue in order to help relieve the State Budget deficit. The Sanitary Landfill Facility Contingency Fund collects receipts from taxes and penalties levied upon each owner or operator of a sanitary landfill facility. The fund pays all direct and indirect damages resulting from the operations or closure of any sanitary landfill. As of July, 2005, the fund’s balance was $16.2 million.

2006 Appropriations Handbook

No comparable language.

2007 Budget Recommendations

p. D-136

Notwithstanding the provisions of P.L. 1954, c.48 (C.52:34–6 et seq.), monies appropriated to the Department of Environmental Protection from the Clean Communities Fund shall be provided by the Department to the Clean Communities Council pursuant to a contract between the Department and the Clean Communities Council to implement the requirements of the Clean Communities Program pursuant to subsection d of section 6 of P.L. 2002, c.128 (C:13:1E–218).
Language Provisions (Cont’d)

Explanation

This language serves to clarify and expedite the process by which the Clean Communities Council is contracted to perform public information and education services concerning litter abatement under the Clean Communities Program, pursuant to the cited provision of P.L.2002, c.128. The act and other budget language authorize a $300,000 grant annually for these services. According to the department, the Council, an advisory body to the State Clean Communities Program, is awarded the grant through a waiver or no-bid contract process. Since this process involves time-consuming oversight by various State agencies, the proposed language is intended to expedite or bypass the process by identifying the Council as the grant recipient.

2006 Appropriations Handbook

No comparable language.

2007 Budget Recommendations

p. D-136

Of the amount hereinabove for the Private Underground Storage Tank Remediation - Constitutional Dedication account, an amount not to exceed $1,000,000 shall be allocated for costs associated with the Department’s administration of the loan and grant program for the upgrade, replacement or closure of underground storage tanks that store or were used to store hazardous substances pursuant to the amendments effective December 8, 2005 to Article VIII, Section II, paragraph 6 of the State Constitution. The unexpended balance at the end of the preceding fiscal year in the Underground Storage Tank Remediation account is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Explanation

This language implements a provision of the cited amendments to the State Constitution that authorizes $1 million to the department for administrative costs incurred in co-managing, along with the N.J. Economic Development Authority, the Petroleum Underground Storage Tank Remediation, Upgrade and Closure Program. This program provides loans and grants funded from constitutionally dedicated Corporation Business Tax revenues to repair, remove or upgrade underground storage tanks.
Language Provisions (Cont'd)

ENVIRONMENTAL REGULATION

2006 Appropriations Handbook

No comparable language.

2007 Budget Recommendations

p. D-141

Receipts in excess of those anticipated from Air Permitting Minor Source Fees are appropriated to the Department of Environmental Protection for expansion of the Air Pollution Control program, of which $1,000,000 shall be made available for County Environmental Health Act agencies to inspect non-major source facilities, subject to the approval of the Director of the Division of Budget and Accounting.

Explanation

The recommended language appropriates off-budget funds to the department from any "excess" Air Permitting Minor Source fees that may be collected. "Excess receipts" are generally defined as program revenues collected in excess of the amount anticipated to be generated during a fiscal year. The proposed language authorizes such receipts to support the expansion of the department's air pollution program and to provide $1 million to county health agencies to inspect non-major (air pollution) source facilities. County health agencies currently receive $3.45 million under the County Environmental Health Act to conduct various regulatory inspections on behalf of the State.

Due to a scheduled increase in this permit program's fee rates this summer, its revenue level in FY 2007 is anticipated at $10 million, or $6.5 million higher the FY 2006 anticipated amount. Notwithstanding this increase, the department still anticipates revenue collections to be $2.27 million in excess of the FY 2007 projection. In the Budget Recommendation, this amount is included in the FY 2007 "Air Pollution Control" appropriation under All Other Funds on page D-140, as well as in Schedule 2 Other Revenues (page C-19) under the same designation.
Language Provisions (Cont'd)

2006 Appropriations Handbook

No comparable language.

2007 Budget Recommendations

p. D-141

Notwithstanding the provision of subsection b of section 1 of P.L. 2005, c.202 (C58:11B-10.2) or any other law to the contrary, in addition to the amount anticipated to the General Fund from the Environmental Infrastructure Financing Program Administrative Fee, there is appropriated $1,200,000 to the Department of Environmental Protection for associated administrative and operating expenses, subject to the approval of the Director of the Division of Budget and Accounting.

Explanation

This language authorizes an off-budget appropriation of administrative fee revenues to the department for costs incurred from working with the N.J. Environmental Infrastructure Financing Program. At present, $5 million from program loan fees are allocated to the department to cover administrative expenses, pursuant to P.L.2005, c.202. According to the department, this additional funding is needed to replace a reduction in federal grant monies that previously covered such expenses. In the Budget Recommendation, the $1.2 million appropriation appears as the "Public Wastewater Facilities" line-item under All Other Funds on page D-140, as well as in Schedule 2 Other Revenues (page C-19) under "Environmental Infrastructure Trust Loan Fund".

2006 Appropriations Handbook

No comparable language.

2007 Budget Recommendations

p. D-141

Of the amount hereinabove for the Diesel Risk Mitigation Fund – Constitutional Dedication, $900,000 shall be appropriated for costs associated with the administration of the program pursuant to the amendments effective December 8, 2005, to Article VIII, Section II, paragraph 6 of the State Constitution. The unexpended balance at the end of the preceding fiscal year in the Diesel Risk Mitigation Fund Administrative Costs – Constitutional Dedication account is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.
Language Provisions (Cont'd)

Explanation

The proposed language implements a provision of the cited amendments to the State Constitution that authorizes up to $1.15 million to the department for administrative costs incurred in managing the newly established Diesel Emissions Reduction program. The program, as established by P.L.2005, c.219, is designed to reduce diesel exhaust emissions over the next ten years by encouraging the use of ultra-low sulfur diesel fuel, regulating vehicle idling, and providing grants to retrofit publicly-owned or contracted diesel powered vehicles. Its funding source, the Diesel Risk Mitigation Fund, is supported by an expansion of the use of constitutionally dedicated Corporation Business Tax (CBT) revenues.

2006 Appropriations Handbook
No comparable language.

2007 Budget Recommendations
p. D-141

The amount hereinabove appropriated for the Diesel Risk Mitigation Fund – Constitutional Dedication shall be provided from revenue received from the Corporation Business Tax, pursuant to the "Corporation Business Tax Act (1945)," P.L. 1945, c.162 (C.54:10A-1 et seq.), as dedicated by Article VIII, Section II, paragraph 6 of the State Constitution. The unexpended balance at the end of the preceding fiscal year in the Diesel Risk Mitigation Fund – Constitutional Dedication account is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Explanation

This language implements a provision of the recently approved amendments to the State Constitution that authorizes a percentage of dedicated revenues from the Corporation Business Tax to support the newly established Diesel Emissions Reduction program. The amount the language refers to is the program's FY 2007 recommended appropriation of $21.765 million for grants and other mandated activities.
Notwithstanding any other law to the contrary, any grants awarded during the fiscal year ending June 30, 2005, or during any preceding fiscal year, by the Department of Environmental Protection, or its predecessors, from the proceeds of bonds issued pursuant to P.L.1969, c.127; P.L.1976, c.92; P.L.1980, c.70; P.L.1981, c.261; P.L.1985, c.329; P.L.1989 c.181 or P.L.1992, c.88, or other grants awarded pursuant to other grant programs administered by the department, shall not be considered to be impaired by a structured financing transaction undertaken by a governmental entity which is authorized by section 10 of P.L.1999, c.157 (C.52:31C-10) as amended by section 1 of P.L.2000, c.54, to undertake such transactions, nor shall any State interest created by the award of any such grant be determined to be so impaired by a structured financing transaction undertaken by any local governmental entity pursuant to section 10 of P.L.1999, c.157.

Any such grant, and any provisions, covenants and conditions contained in the award thereof, shall not (i) limit, restrict or impair the rights of the local governmental entity to transfer or encumber its facilities or assets for purposes of entering into a structured financing transaction pursuant to that section, (ii) be violated by the completion of a structured financing transaction undertaken pursuant to that section and (iii) cause the Department of Environmental Protection to rescind or annul any grant, or undertake any other enforcement actions, including the revocation of any permit or license granted, in response to a structured financing transaction undertaken pursuant to that section.
Language Provisions (Cont'd)

Explanations

This provision was included by the Legislature in the FY 2002 State Budget in response to concerns about the Structured Lease Law as it pertains to grants received by municipal utility authorities and compliance with certain bond covenants. At that time, the authorities were concerned about jeopardizing bond covenants (under which State grant monies were awarded) by renegotiating certain lease arrangements with private entities. The subject language was intended to alleviate this concern by clarifying the intentions of the Structured Lease Law. Recent litigation and other related factors negate the continued need for the language.
Discussion Points

1. Green Acres funding provided through the Garden State Preservation Trust is almost exhausted. Since the approval of the Highlands Act, property owners in that region have been concerned by the future availability of Green Acres funds or the lack of an alternative stable funding source to compensate those residents adversely affected by the act.

   • **Question:** What is the balance of available Green Acres funds and how much of this amount (in percentage and actual sums) is expected to be spent in both the preservation and planning areas of the Highlands Region? Please estimate the number of acres in both areas these remaining funds will preserve, as well as the number of acres already preserved in each area through the Green acres program since August 10, 2004 (the date of enactment of the Highlands Act).

2. According to the Budget in Brief, the department’s operating budget will be reduced by $2.87 million as a result of “management efficiencies.” Most of these efficiencies, or mandated reductions in operating expenses, are manifested in salary and other operating accounts throughout the department.

   • **Question:** What impacts will the recommended reductions have on the department’s operations? Please describe how these reductions will affect staffing levels and where such reductions will occur. Will the proposed reductions be offset by federal or other nonstate funding sources and, if so, where? If applicable, please identify any such efficiencies taken in the current fiscal year by amount and funding source.

3. The Budget Recommendation proposes $40 million for long-neglected capital improvements and maintenance projects in State parks and forests, historic sites and wildlife management areas under the department’s jurisdiction. No such funding is included in the current capital budget, nor has there been any significant capital funding for this purpose since FY 2002.

   • **Question:** Please provide a detailed listing of the projects to be funded from this appropriation, including the cost and completion date for each. What criteria were used to prioritize the designation of these projects? How much in administrative costs will be charged to this appropriation? How will these funds affect the availability of federal funds or other nonstate funding sources? If applicable, please identify any parks or facilities that are in danger of being closed if this appropriation is not provided or is significantly reduced.

4. A new $6 million grant program is recommended to help finance water resource interconnection projects that would facilitate the movement of water supplies during periods of drought. According to the DEP Budget Overview, a portion of this money would be used to leverage approximately $100 million in debt to finance such projects, some of which are listed in the Overview. If bonds are sold for this purpose, they would be backed by revenues from a new water supply surcharge, which is currently pending before the Legislature. This surcharge is expected to generate $12 million annually from assessments to owners of public water supply systems and applicants for water diversion permits.
Discussion Points (Cont'd)

- **Question:** Over what time period will the $100 million plan be expended, and what is its annual debt service projection? What are the costs of each project cited in the Budget Overview and how were they selected? Please describe other projects being considered for program funding, particularly land acquisition projects in the Highlands. What agencies are being considered to manage the program’s financing? What are the anticipated first year administrative costs to the department and the financing agency? In addition to covering debt service, how else will water supply surcharge revenues be used? What will happen to this initiative if the water surcharge bill is not enacted?

5. A new grant program is proposed that appropriates $5 million from dedicated Corporation Business Tax revenues for watershed restoration projects. According to the Budget in Brief, Regional Stormwater Management Committees have identified over $13 million for such projects statewide.

- **Question:** Please identify potential grant recipients, maximum grant or loan amounts, matching shares, and administrative costs to the department. What types of projects will be undertaken in the Highlands and how will they be prioritized within the program? If applicable, how will this allocation be used to leverage funding from other funding sources?

6. Pursuant to amendments to the State Constitution approved by voters in November, 2005, the use of Corporation Business Tax (CBT) revenue dedicated for environmental purposes was expanded to fund a new diesel air pollution control program primarily designed to retrofit diesel powered vehicles. The program was established by P.L.2005, c.219, which also authorized $16.3 million from existing CBT accounts for program startup costs in FY 2006. In January, 2006, the transfer of these funds was effectuated. The recommended budget includes $21.8 million in CBT funds for the Diesel Risk Mitigation Fund in FY 2007.

- **Question:** Why aren’t the monies transferred to the diesel program accounts in FY 2006 displayed or footnoted in the Budget Recommendation? What is the current implementation status of the program, including the disposition of the $16.3 million budgeted thus far in FY 2006? Please provide an expense budget for FY 2007 detailing the program’s projected staff level, operating costs, and other expenses.

7. An appropriation of $12 million is recommended to pay litigation costs associated with the State’s pursuit of compensation from Occidental Chemical and its predecessors for polluting the Passaic River and Newark Bay.

- **Question:** Please provide a brief history of this situation, including the current status of litigation and copies of pertinent documents that have already been filed. How was the proposed appropriation level calculated? Please provide an expense budget for this appropriation, including a spending timetable, prospective counsel fees, expert witness fees, departmental or State costs, and other pertinent expenses. How will law firms be chosen for this litigation? How will the federal government and the State Attorney General’s Office be involved in this case? What are the expected or hoped for outcomes of this effort?
Discussion Points (Cont’d)

8. The Division of Smart Growth, created pursuant to P.L.2004, c.89, has yet to be fully operational due to two Executive Orders that have delayed indefinitely the promulgation of “fast track” rules and regulations. The Division received an initial appropriation of $3.3 million in FY 2005, of which all but $1.2 million was later lapsed to the General Fund. In FY 2006, the Division is budgeted at $1 million, which appears as two supplemental appropriations ($698,000 under “Salaries and Wages” and $302,000 under “Services Other Than Personal”) on page D-130 of the Budget Recommendation. In both years, budget language authorized funding from permit fees and the General Fund. No budget language or line item appropriations are indicated for FY 2007 in the Budget Recommendation.

- Question: In light of the continuing delay in implementing the so-called “Smart Growth Act,” what functions have the Division of Smart Growth performed over the past year? What is the Division’s current funding source, staff level and organizational location? What is its FY 2007 budget, staff level and mission? If and when implementation issues become resolved, how soon will the Division be able to fully implement the provisions of the act?

9. The Division of Fish and Wildlife has been traditionally supported by dedicated revenues from hunting and fishing licenses and permits. Due to declining revenues and rising costs, the Legislature added $4.2 million from the General Fund to the Division’s FY 2006 budget. This amount is also included in its FY 2007 budget proposal. The Budget Recommendation indicates a revised, lower hunting and fishing license revenue projection of $11 million for FY 2006, with the same amount estimated for FY 2007. The original FY 2006 projection was $12.5 million.

- Question: If the current General Fund subsidy remains constant, how will the revised FY 2006 and projected FY 2007 revenue projection of $11 million affect the Division’s operations in both years? Why wasn’t the FY 2006 Adjusted Appropriation for the Hunters’ and Anglers’ License Fund adjusted downward accordingly, as was its FY 2007 recommended appropriation? What steps, if any, are being taken to address this projected shortfall in the Division’s operating budget?

10. During last year’s Assembly Budget Committee hearing on the DEP’s FY 2006 budget, the department was asked to comment on a State Audit report that noted the existence of many outdated leases and unpaid rents from companies and tenants who live in or utilize State parks or forests. It responded by outlining a series of steps it had taken or planned to take to address these concerns. Meanwhile, several environmental groups testified before the Committee in February, 2006 that millions of dollars could still be accrued by the department through lease renegotiation or back rent collection from the aforementioned companies and tenants.

- Question: Please provide a status report of the actions taken by the department since its response to last year’s Assembly budget hearing questions. Have any leases been renegotiated or back rent collected during the past year and, if so, how much more revenue is anticipated as a result of these actions in FY 2006 and FY 2007?
Discussion Points (Cont'd)

11. Pursuant to the Highlands Act, the Highlands Council is required to prepare and complete a regional master plan within 18 months of enactment, or by this June. This deadline has since been extended by six months to December 2006. As the act did not provide specific funding for this task, the Council requested and received an additional $1 million for this purpose through a transfer of funds from the Higher Education Capital Improvement Program-Debt Service account. This action was approved by the Joint Budget Oversight Committee in November, 2005. The Council is recommended to receive an increase of $1 million in operating funds in FY 2007.

*Question:* What is the current status regarding the completion of the regional master plan? Once completed, will additional staff or resources be needed to carry out the Council's responsibilities relative to the plan's implementation or acceptance process? How will the recommended funding increase be utilized?
Background Paper: Creation and Implementation of the Diesel Emissions Reduction Program

Overview

A major new effort to reduce air pollution, the Diesel Emissions Reduction Program, was initiated in January 2006 pursuant to the enactment of P.L.2005, c.219 (C.26:2C-8.26 et seq.). This law established a program to reduce fine particle emissions from certain diesel-powered vehicles and off-road equipment by requiring them to be retrofitted with emission reduction devices, to begin using special fuels, or both (called “the use of the best available retrofit technologies” in the law). The law specifies a timetable by vehicle type for submitting compliance documents. It also specifies that no retrofits can be required or used unless there is funding available to cover the cost of purchase and installation of the retrofit.

The vehicles regulated under the law are diesel-powered school buses, publicly owned or contracted diesel-powered garbage trucks, diesel-powered commercial buses, any publicly owned diesel-powered vehicles, and off-road diesel-powered equipment. Except for school buses, the deadline for the submittals of compliance documents are timed from the effective date of the program regulations, which the law requires be adopted by June 4, 2006.

Funding

The law provides for State funding of the retrofit requirements by constitutionally dedicated monies from the Corporation Business Tax (CBT). The State Constitution was amended in November 2005 to expand the authorized uses of dedicated CBT revenue by allocating 17% of these funds annually over 10 years to reimburse owners of regulated vehicles or equipment for 100% of their compliance costs, not including special fuel requirements. P.L.2005, c.219 and the constitutional amendment also allow up to $1.15 million of these monies to be used for annual administrative costs. Last, the November 2005 constitutional amendment authorized a one-time CBT allocation of $10 million to the program from unexpended underground storage tank monies.

P.L.2005, c.219 provides that vehicle owners are not required to comply with retrofit requirements in a given year unless two State certifications ensuring the availability of sufficient CBT funding are first made. Except for the initial retrofits required for school buses (see “School Buses” below for more detail), no retrofit can be required or used in any year unless: 1) the State Treasurer certifies for that year that the dedicated CBT funds have been deposited in the Diesel Risk Mitigation Fund, as established by P.L.2005, c.219; and 2) the DEP certifies that sufficient monies are available in the Fund to pay the total cost of purchase and installation of the retrofit devices required to be installed and used in that year.

In January 2006, $16.3 million was transferred from dedicated CBT accounts to the program pursuant to P.L.2005, c.358. This sum included the one-time $10 million allocation mentioned above plus one-half year’s worth of grant and administrative funding. The Budget Recommendation includes $21.8 million in CBT funds for the program’s FY 2007 operations. Of this amount, $900,000 is for program administration. All CBT allocations are deposited in the Diesel Risk Mitigation Fund. The Fund is administered by the State Treasurer, in consultation with the DEP. Based on 2005 CBT revenue projections, the DEP has estimated deposits of $16 million per year into the Diesel Risk Mitigation Fund. This projection will change according to the annual level of actual CBT collections.
Background Paper: Creation and Implementation of the Diesel Emissions Reduction Program (Cont’d)

School Buses

Under P.L.2005, c.219, every regulated school bus is required to be equipped with (i.e. retrofitted) closed crankcase technology no later than September 7, 2008, or two years after the date that the required State funding certifications have been made, whichever is later. The law requires the DEP to promulgate regulation specifying the parameters of this technology and its installation requirements. The funding information required in the two State certifications that were detailed earlier will also have to be made for this time specific period.

In May 2005, the DEP estimated that 17,000 school buses would require the crankcase retrofit at a cost of $7 million. As previously mentioned, the DEP estimated that, at 2005 tax levels, two years of dedicated CBT appropriations would provide about $32 million to the Fund. Of this sum, $2.3 million would be spent on administrative costs, pursuant to P.L.2005, c.219. The balance, $29.7 million, would be available for retrofits, of which $7 million would be designated for school buses. During this same time period, the owners or operators of other regulated vehicles and equipment will be required to submit their compliance documents (see below for more detail), thereby setting the stage for subsequent funding obligations.

Pending the outcome of a school bus study required under P.L.2005, c.219, additional retrofit costs for school buses may be needed. The DEP is required to complete the study by September 7, 2007 and adopt rules and regulations if additional retrofit requirements are justified. While two State funding certifications are required if additional retrofits are needed, the law allows the DEP to determine, in this case, the amount of available funds and which school buses can be retrofitted. In May 2005, the DEP estimated such additional retrofit costs for school buses at $49 million.

Other On-Road Vehicles and Off-Road Equipment

The owners of vehicles and equipment, other than school buses, regulated under P.L.2005, c.219 are required to submit the following compliance documents: 1) an inventory of all on-road diesel vehicles and off-road diesel equipment owned, operated, or leased by the owner; 2) notice of intent to comply with retrofitting or fuel use requirements pursuant to P.L.2005, c.219, as provided under the DEP regulations or to comply by submitting a fleet retrofit plan, combined fleet retrofit plan, or fleet averaging plan; and 3) if complying by submitting a plan, the fleet retrofit plan, combined fleet retrofit plan, or fleet averaging plan by which the owner is complying.

The schedule for submitting these compliance documents are as follows:

1) For diesel-powered garbage trucks, 180 days after the effective date of the DEP regulations (December 2, 2006, if the regulations are adopted on June 4, 2006 and become effective the same day);

2) For diesel-powered commercial buses owned and operated by NJ Transit (called “public regulated commercial buses” in the law), one year after the effective date of the DEP regulations (June 4, 2007 if the regulations are adopted on June 4, 2006 and become effective the same day);
Background Paper: Creation and Implementation of the Diesel Emissions Reduction Program (Cont'd)

3) For diesel-powered commercial buses not owned by NJ Transit, or owned by NJ Transit but leased or operated by a commercial bus service (called “private regulated commercial buses” in the law), one year and 180 days after the effective date of the DEP regulations (December 2, 2007 if the regulations are adopted on June 4, 2006 and become effective the same day). No owner, however, of a private regulated commercial bus can be required to submit these documents until the owners of public regulated commercial buses have submitted their compliance documents, and

4) For publicly owned, diesel-powered on-road vehicles or off-road equipment, other than garbage trucks or commercial buses, two years after the effective date of the DEP regulations (June 4, 2008 if the regulations are adopted on June 4, 2006 and become effective the same day).

Owners of vehicles or equipment regulated under the law that began operations after the effective date of the DEP regulations can submit their documents 180 days after the date they began operations or, in keeping with the schedule above, whichever date is later. No owner of a private regulated commercial bus can be required to install or use a retrofit device on a private regulated commercial bus until 180 days after the owners of public regulated commercial buses have been required to install retrofit devices and have begun to use retrofit devices on public regulated commercial buses.

Other Potential Funding Requirements

In May 2005, the DEP estimated that 2,200 garbage trucks would require retrofits at a cost of $7.7 million; 2,000 NJ Transit buses at a cost of $11 million; and 7,000 private regulated commercial buses at a cost of $49 million. The number of publicly owned on-road vehicles and off-road equipment was estimated at 2,200 vehicles with a total retrofit cost of $11 million. The DEP acknowledged at that time that the inventory of regulated off-road diesel equipment might have been incomplete.

If these estimates prove to be reliable, and program regulations are adopted on time and become effective immediately, there would be a potential need to certify $78.7 million for retrofits as follows: $7.7 million in December 2006; $11 million in June 2007; $49 million in December 2007; and $11 million in June 2008. Further demand on the Fund comes from the $7 million requirement for school bus retrofits possibly as early as September 2007, plus up to $49 million in additional requirements as may be determined by the school bus study.

As previously noted, P.L.2005, c.358 allocated $16.3 million to the Fund in FY 2006 and $21.8 million is recommended in FY 2007. While sufficient funds appear to be available to support retrofit requirements through June 2007, it remains to be seen whether sufficient funding for all the retrofits to be identified in compliance documents submitted from September 2007 through September 2008 will be available. Program costs and total CBT collections will be the determining factors in answering this question. However, because no retrofits can be required unless the funding is available for those retrofits, implementation of retrofit mandates, and hence the demand for appropriate funding, will be postponed until such funding is available.
OFFICE OF LEGISLATIVE SERVICES

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Individuals wishing information and committee schedules on the FY 2007 budget are encouraged to contact:

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