

Vermont Legislative Joint Fiscal Office

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ISSUE BRIEF

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VW Settlement Funds in the State Budget

1 - VW Mitigation Trust Funds \$18.7M

\$1,800,000 budgeted in FY19 in Sec. B. 710 of Act 11 of 2018 (spec sess)

The notation in the budget documents from DEC “Initial portion (10%) of approximately \$18.7M that will be available in Vermont under the VW Settlement Trust for eligible mitigation actions that will electrify our transportation sector and reduce harmful air emissions”. The legislature included directive language in Sec. E.700 for these funds.

Sec. E.700 VOLKSWAGEN LITIGATION; ENVIRONMENTAL MITIGATION TRUST FOR STATE BENEFICIARIES

(a) *As used in this section:*

(1) *“Appendix D-2” means Appendix D-2 to the Environmental Mitigation Trust, entitled “Eligible Mitigation Actions and Mitigation Action Expenditures.”*

(2) *“Environmental Mitigation Trust” or “Trust” means the Environmental Mitigation Trust Agreement for State Beneficiaries filed on October 2, 2017 in In re: Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Liability Litigation, 3:16-CV-00295-CRB, MDL No. 2672 CRB (JSC) (N.D. Cal.).*

(3) *“Mobile source” means any vehicle, freight switcher, ferry, tug, vessel, or equipment that qualifies under an eligible mitigation action listed in Appendix D-2.*

(b) *The Secretary of Natural Resources shall administer Environmental Mitigation Trust monies pursuant to 10 V.S.A. § 554(15) and, in administering the Trust monies appropriated under Sec. B.710 of this act, shall:*

(1) *Dedicate at least 15 percent of those monies for the purchase of light duty electric supply equipment and associated allowable administrative costs in accordance with Appendix D-2.*

(2) *Dedicate the remainder of the monies to the replacement of mobile sources that consume fossil fuels with all-electric mobile sources or the repowering of mobile sources that consume fossil fuels with all-electric engines, or both, and associated allowable administrative costs. The expenditures shall be in accordance with the requirements of Appendix D-2.*

\$1,800,000 proposed to be budgeted in FY20 Sec. B. 710 by the Governor

2 - Consumer Settlement 2018 - \$3.6M

These are settlements funds the state has received as part of a total \$6.5m state specific VW case. Of these funds \$2.9m is directly allocated to vehicles owners. The remaining \$3.6 million has been deposited into the AG’s settlement special fund which is where most AG penalty funds are deposited.

Please note, the operations of the AG are partially funded by this special fund and there is an annual revenue estimate of \$2m of these special funds being available for transfer to the General Fund after AG operations appropriated amounts are covered.

The Governor has proposed the use of **\$1,500,000** of total AG settlement funds for incentives related to electric vehicles in his FY20 budget recommendation. Given the large VW settlement the capacity to cover this could be attributed to the VW settlement. This proposal is drafted as contingent in nature due to the funding flow structure of the AG special fund and budget assumptions regarding settlement revenue annually, but enough money has already been received to cover this and prior obligations.

3 - VW Multistate Settlement (environmental relief): \$4.2M

These settlement funds were received and have been fully allocated in FY18.

\$3.2M were deposited into the Environmental Contingency Fund (ECF) and \$1M was transferred to the general fund as instructed by the language authorized under Sec. C.102 (a) of Act 85 of 2017 (the FY 2018 Budget Bill).

These funds were legislatively authorized to be directed specifically to the ECF for two main purposes: 1) as an attempt to help temporarily address the long term funding needs within the ECF that we've been testifying about over the last several years; and 2) for any immediate financial needs involving the investigation and remediation of the release of perfluorooctanoic acid (PFOA) in the Town of Bennington and Village of North Bennington while we worked to seek cost recovery from potential responsible parties.