



**ANALYSIS OF THE NEW JERSEY BUDGET**

**DEPARTMENT OF  
ENVIRONMENTAL  
PROTECTION**

**FISCAL YEAR**

**2010 - 2011**

# NEW JERSEY STATE LEGISLATURE

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# DEPARTMENT OF ENVIRONMENTAL PROTECTION

Budget Pages..... C-5 to C-6; C-12 to C-13; C-26; D-109  
to D-138; E-6 to E-8; F-9; H-9

## Fiscal Summary (\$000)

	Expended FY 2009	Adjusted Appropriation FY 2010	Recommended FY 2011	Percent Change 2010-11
State Budgeted	\$455,076	\$387,259	\$380,557	( 1.7%)
Federal Funds	\$42,953	\$385,759	\$239,705	( 37.9%)
<u>Other</u>	<u>\$58,155</u>	<u>\$95,839</u>	<u>\$107,493</u>	<u>12.2%</u>
Grand Total	\$556,184	\$868,857	\$727,755	( 16.2%)

### TO THE READER

The Office of Legislative Services presents its analysis of the New Jersey Budget for Fiscal Year 2010-2011 in truncated form due to extraordinary time constraints. Unlike those of previous years, this year's analysis is confined to a review of significant changes in appropriations and language provisions, respectively, recommended by the Governor. Discussion points, long a feature of annual OLS budget analyses, will be made available under separate cover and on the Internet, together with agency responses, from time to time as they are received.

Link to Website: <http://www.njleg.state.nj.us/legislativepub/finance.asp>

Office of Legislative Services  
Legislative Budget and Finance Office  
April 2010

**Significant Changes/New Programs (\$000)**

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 2010</u>	<u>Recomm.</u> <u>FY 2011</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
<u>NATURAL RESOURCE MANAGEMENT</u>					
<b>DIRECT STATE SERVICES</b>					
<b>Personal Services:</b>					
<b>Salaries and Wages</b>	<b>\$34,354</b>	<b>\$21,057</b>	<b>(\$13,297)</b>	<b>( 38.7%)</b>	
	<b>\$360S</b>	<b>\$0</b>	<b>(\$360)</b>	<b>(100.0%)</b>	<b>D-114</b>

This line item indicates total funding of all salary accounts within the Natural Resource Management Statewide Program. Of these totals, the salary account appropriation for the Parks Management program classification is reduced by \$11.2 million, from \$19.7 million to \$8.5 million. However, most of this change represents a shift of funding sources rather than an actual reduction. Specifically, new budget language is recommended (see **Significant Language Changes** section) which appropriates up to \$10 million from the Shade Tree and Community Forest Preservation License Plate Fund to support State parks and forest operations. This off-budget account receives revenues from the sale of specialty license plates (about \$75,000 annually) and from reforestation payments made by State entities pursuant to the so-called "No Net Loss Act" (P.L. 1993, c.106), which can vary widely from year to year.

Under this act, any trees destroyed during a capital project on State lands must be replaced by the responsible State entity. The State entity may also choose to make a compensatory payment to the DEP, which is deposited into the license plate fund cited above and ultimately spent on reforestation projects. The OLS believes that the availability of the \$10 million budget language appropriation cited above may largely be attributable to the N.J. Turnpike Authority's expansion project currently underway between Exits 8A and 6. During this project, the Authority is expected to provide substantial "no net loss" compensation to the license plate fund to cover the loss of trees. These payments are reflected in Schedule 2 of the Budget Recommendation (page C-13), under "New Jersey Shade Tree and Community Forestry Program," where appropriated revenues totaling \$10.6 million in FY 2010 and \$15.3 million in FY 2011 are listed. They are also evident under the **All Other Funds** funding category below.

In addition to Parks Management, the subject line item includes the salary account for the Forest Resource Management program classification, which is reduced by \$821,000, from \$4.3 million to \$3.5 million. However, this reduction is offset by the same type of funding shift applied to Parks, in that new budget language appropriates up to \$590,000 from the aforementioned license plate fund to support the Forest Resource Education Center and State Nursery. Further, another new language provision appropriates up to \$325,000 from the Global Warming Solutions Fund, which is capitalized by the sale of greenhouse gas emission credits, to support the Community Forestry Program. These two appropriations, totaling \$915,000, thereby offset the \$821,000 reduction in the forestry salary account plus a \$94,000 reduction in other non-salary accounts.

The line item totals above also contain the salary account for the Shellfish and Marine Fisheries Management program classification, which is decreased by \$1.0 million, to \$627,000. Again, this represents a funding shift in which the General Fund reduction is replaced by up to \$1.1 million in appropriated receipts generated from assessments of electrical utility companies, which normally support the Nuclear Emergency Response program. The funding shift is

**Significant Changes/New Programs (\$000) (Cont'd)**

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 2010</u>	<u>Recomm.</u> <u>FY 2011</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
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authorized by new budget language and also covers \$100,000 in non-salary account reductions.

Last, the **\$360S** figure above indicates a supplemental appropriation (pursuant to P.L.1993, c.303) to the Division of Fish and Wildlife to offset revenue losses associated with free waterfowl stamps and hunting and fishing licenses given to active members of the State National Guard and disabled veterans. This reimbursement is not included in the FY 2011 totals because it will be added later in the fiscal year as a supplemental appropriation after the division certifies the proper amount to appropriate.

**Special Purpose:**

**Matching Grant for**

**Wildlife Habitat**

**Federal Grants**

<b>\$382</b>	<b>\$0</b>	<b>(\$382)</b>	<b>(100.0%)</b>	<b>D-115</b>
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Since FY 2006, this annual appropriation has provided the required State match to draw down federal funds under the national State Wildlife Grants Program. These funds support the functions and activities of the Division of Fish and Wildlife's Endangered and Nongame Species Program. The elimination of this appropriation is not expected to result in a loss of federal funds because, according to footnote (b) on page D-117 of the Budget Recommendation, State matching funds for this program will be allocated from unspecified "available resources" within various natural resource units of the department.

**Black Bear**

**Management**

<b>\$575</b>	<b>\$0</b>	<b>(\$575)</b>	<b>(100.0%)</b>	<b>D-115</b>
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This account was established in FY 2008 to support non-lethal methods of limiting black bear interactions with humans through research, public education, outreach and training programs. These methods were developed as an alternative for the December 2006 bear hunt season, which had been cancelled. It is unclear at this time how the elimination of this line item will affect this program. The OLS notes that the DEP Commissioner recently approved a comprehensive Black Bear Management Policy, which includes the reinstatement of a regulated bear hunting season.

**CAPITAL CONSTRUCTION**

**Shore Protection**

**Fund Projects**

<b>\$18,750</b>	<b>\$25,000</b>	<b>\$6,250</b>	<b>33.3%</b>	<b>D-116</b>
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The Shore Protection Fund is supported by a dedicated portion of Realty Transfer fees, pursuant to P.L.1992, c.148. These monies are used primarily with matching federal and local monies to finance beach replenishment and other shore protection projects. Although \$25 million is to be appropriated annually to the Fund (pursuant to the cited act), the FY 2010 appropriation was reduced to \$18.75 million. Budget language was also provided authorizing a contingent appropriation of the remaining \$6.25 million. Thus far, no intent to approve the language appropriation has been indicated by the Administration. The recommended budget amount

**Significant Changes/New Programs (\$000) (Cont'd)**

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 2010</u>	<u>Recomm.</u> <u>FY 2011</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
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restores this account's traditional funding level and also removes the related appropriation language. The OLS further notes that, in order not to invoke the "poison pill" provision of P.L.1992, c.148, which otherwise would have triggered a cessation of realty transfer tax collections as a result of reducing the Shore Protection appropriation, the current budget included General Provision language intended to override this provision. This language is also included in the recommended budget.

**ALL OTHER FUNDS**

<b>Forest Resource Management</b>	<b>\$14,860</b>	<b>\$19,575</b>	<b>\$4,715</b>	<b>31.7%</b>	<b>D-116</b>
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As previously explained for the Parks salary account, these totals include \$10.6 million in FY 2010 (not originally projected in the FY 2010 Budget) and \$15.3 million in FY 2011 in estimated reforestation payments from the Turnpike Authority to the Shade Tree and Community Forest Preservation License Plate Fund.

SCIENCE AND TECHNICAL PROGRAMS**DIRECT STATE SERVICES**

<b>Special Purpose: Office of Climate Change and Energy</b>	<b>\$373</b>	<b>\$0</b>	<b>(\$373)</b>	<b>(100.0%)</b>	<b>D-121</b>
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This office, created from the reorganization of the Division of Science, Research and Technology in 2009, facilitates the department-wide effort to address mitigation and adaptation policies related to climate change. These efforts are directed in part by the provisions of the "Global Warming Response Act," P.L.2007, c.112, and the Global Warming Solutions Fund, established under P.L.2007, c.340. The Fund receives revenues from greenhouse gas emission credits sold by the State and provides fiscal support for the department's responsibilities under these acts. The elimination of this line item, and the reduction in the related off-budget account shown under **All Other Funds** below, is attributable to the Administration's proposal to reallocate \$65.2 million from the Fund to the General Fund to help alleviate the budget deficit. It is unclear at this time how this action will affect the department's continued efforts in this area.

**FEDERAL FUNDS**

<b>Water Supply</b>	<b>\$65,654</b>	<b>\$33,500</b>	<b>(\$32,154)</b>	<b>(49.0%)</b>	<b>D-121</b>
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Economic stimulus funds authorized under the federal American Recovery and Reinvestment Act (ARRA) of 2009, totaling \$43.2 million, were appropriated for the Drinking Water State Revolving Fund program in FY 2010. This program provides financing for most of the State's

**Significant Changes/New Programs (\$000) (Cont'd)**

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 2010</u>	<u>Recomm.</u> <u>FY 2011</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
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major water supply projects and related activities. As this appropriation was intended to be for one year only, it is not projected to recur in FY 2011. However, regular non-ARRA federal funds for this program are expected to increase by \$11 million, from \$20 million to \$31 million, in FY 2011.

**ALL OTHER FUNDS**

<b>Environmental Policy And Planning</b>	<b>\$1,800</b>	<b>\$700</b>	<b>(\$1,100)</b>	<b>( 61.1%)</b>	<b>D-122</b>
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This account is supported by revenues from the Global Warming Solutions Fund and is used to meet the department's administrative expenses in managing certain programs and activities financed by the Fund. As mentioned above, its projected decrease is consistent with the Administration's proposal to reallocate \$65.2 million from the Fund to the General Fund to help alleviate the budget deficit.

SITE REMEDIATION AND WASTE MANAGEMENT

**FEDERAL FUNDS**

<b>Publicly-Funded Site Remediation</b>	<b>\$40,450</b>	<b>\$25,450</b>	<b>(\$15,000)</b>	<b>( 37.1%)</b>	<b>D-126</b>
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This account represents federal Superfund monies. The current funding level includes a \$15 million grant for the Price's Pit remediation project, which does not recur in FY 2011.

ENVIRONMENTAL REGULATION

**DIRECT STATE SERVICES**

<b>Radiation Protection</b>	<b>\$7,619</b>	<b>\$6,034</b>	<b>(\$1,585)</b>	<b>( 20.8%)</b>	<b>D-130</b>
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The recommended reduction in this program classification reflects the exclusion of the current supplemental appropriation of \$685,000 in excess receipts for the Nuclear Emergency Response line item, plus a reduction of \$915,000, or 39 percent, in the Radiation Protection salary account. The salary account reduction is expected to be offset by off-budget fee revenues generated under a federal Nuclear Regulatory Commission agreement with the State concerning the assumption of additional regulatory functions (and fees) by the DEP.

**FEDERAL FUNDS**

<b>Public Wastewater Facilities</b>	<b>\$188,147</b>	<b>\$86,000</b>	<b>(\$102,147)</b>	<b>( 54.3%)</b>	<b>D-131</b>
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**Significant Changes/New Programs (\$000) (Cont'd)**

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 2010</u>	<u>Recomm.</u> <u>FY 2011</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
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This account contains federal monies received for the Clean Water State Revolving Fund (CWSRF), which supports the N.J. Environmental Infrastructure Financing Program. This program provides loans to local governments to improve or upgrade water and wastewater treatment plants, combined sewer overflow connections, brownfield remediation and other related projects. The FY 2010 amount includes a one-time allocation of \$160.1 million in ARRA economic stimulus funds and is therefore not reflected in the CWSRF's recommended appropriation. However, regular non-ARRA federal funds for this program is projected to increase by \$58 million, from \$28 million to \$86 million, in FY 2011.

ENVIRONMENTAL PLANNING AND ADMINISTRATION

**STATE AID**

<b>Payment in Lieu of Taxes (PTRF)</b>	<b>\$10,000</b>	<b>\$0</b>	<b>(\$10,000)</b>	<b>(100.0%)</b>	<b>D-133</b>
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This account funds the statutory payments annually made to municipalities that contain tax-exempt State-owned lands managed by the department, such as State parks, forests or wildlife management areas. As noted by "PTRF" in the line item title, this account is supported by the Property Tax Relief Fund rather than by the General Fund.

The recommended budget transfers this line item, and the administration of these payments, to the Department of Community Affairs (DCA). The DCA's recommended budget indicates that \$6.5 million is recommended for this program, which represents a reduction of all payments by one-third, the elimination of all payments currently under \$5,000, and no funding of new payments that would otherwise commence on new State acquisitions.

<b>Administration and Operations of the Highlands Council</b>	<b>\$2,315</b>	<b>\$1,852</b>	<b>(\$463)</b>	<b>( 20.0%)</b>	<b>D-134</b>
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<b>Administration, Planning and Development Activities of the Pinelands Commission</b>	<b>\$2,592</b>	<b>\$2,169</b>	<b>(\$423)</b>	<b>( 16.3%)</b>	<b>D-134</b>
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Both accounts support the operating budgets of the respective agencies. According to the Administration, the Highlands Council reduction reflects savings from non-recurring Master Plan costs, while the Pinelands Commission reduction represents savings from unspecified management efficiencies.

**Significant Language Changes**

**Forest Resource Management – Funding Shifts**

Additions

2010 Handbook: –  
2011 Budget: p. D-117

In addition to the amount hereinabove appropriated for Forest Resource Management, an amount not to exceed \$590,000 is appropriated from the Shade Tree and Community Forest Preservation License Plate Fund, established pursuant to section 12 of P.L.1996, c.135 (C.39:3-27.81), for the operation and maintenance of the Forest Resource Education Center and State Nursery.

In addition to the amount hereinabove appropriated for Forest Resource Management, an amount not to exceed \$325,000 is appropriated from the Global Warming Solutions Fund, established pursuant to section 6 of P.L.2007, c.340 (C.26:2C-50), for the Community Forestry program, subject to the approval of the Director of the Division of Budget and Accounting.

**Explanation**

*These two language provisions authorize a combined shift of \$915,000 in funding sources by appropriating off-budget revenues to replace General Fund reductions of \$821,000 in the State Forestry salary account and \$94,000 in non-salary forestry accounts. The first language provision above refers to the Shade Tree and Community Forest Preservation License Plate Fund, an off-budget funding source supported by the sale of specialty license plates (about \$75,000 annually) and reforestation payments made by State entities pursuant to the so-called "No Net Loss Act" (P.L. 1993, c.106). Under this act, any trees destroyed during a capital project on State lands must be replaced by the responsible State entity. The State entity may also choose to make a compensatory payment to the DEP, which goes into the license plate fund and is ultimately spent on reforestation projects. The funding source cited in the second language provision, the Global Warming Solutions Fund, is capitalized by the sale of greenhouse gas emission credits.*

**Parks Management – Funding Shift**

Addition

2010 Handbook: –  
2011 Budget: p. D-117

In addition to the amount hereinabove appropriated for Parks Management, an amount not to exceed \$10,000,000 is appropriated from the Shade Tree and Community Forest Preservation License Plate Fund, established pursuant to section 12 of P.L.1996, c.135 (C.39:3-27.81), for the operation and maintenance of State parks and forests.

EXPLANATION: FY 2010 language not recommended for FY 2011 denoted by strikethrough.  
Recommended FY 2011 language that did not appear in FY 2010 denoted by underlining.

### Significant Language Changes (Cont'd)

#### Explanation

*This provision authorizes a shift in funding sources by appropriating off-budget revenues to largely replace a General Fund reduction of \$11.2 million in the Parks Management salary account. The OLS believes that the availability of the cited \$10 million is attributable to the N.J. Turnpike Authority's expansion project that is currently underway between Exits 8A and 6. Under this project, the Authority is expected to provide substantial "no net loss" compensation to the license plate fund to cover the loss of trees. These payments are reflected in Schedule 2 of the Budget In Brief (page 127), under "New Jersey Shade Tree and Community Forestry Program," where appropriated revenues totaling \$10.6 million in FY 2010 and \$15.3 million in FY 2011 are listed.*

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#### **Shellfish and Marine Fisheries Management – Funding Shift**

Addition

2010 Handbook: —  
2011 Budget: p. D-117

In addition to the amount hereinabove appropriated for Shellfish and Marine Fisheries Management, an amount not to exceed \$1,100,000 is appropriated from balances in the Nuclear Emergency Response account for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

#### Explanation

*This provision authorizes a shift in funding sources by appropriating off-budget revenues to replace General Fund reductions of \$1.1 million in the Shellfish and Marine Fisheries Management salary account and \$100,000 in non-salary accounts. The cited funding source is supported by assessments of electrical utility companies, which are normally used to support the State's Nuclear Emergency Response programs. Excess revenues, i.e. revenues collected in excess of the amount anticipated in the State Budget, are regularly appropriated to the Nuclear Emergency Response account through recurring budget language. It appears that a surplus of funds has been carried forward in this account over the last several years, thereby making funds available to carry out the proposed funding shift.*

EXPLANATION: FY 2010 language not recommended for FY 2011 denoted by strikethrough.  
Recommended FY 2011 language that did not appear in FY 2010 denoted by underlining.

**Significant Language Changes (Cont'd)**

<b>Shore Protection Fund Projects</b>	
Deletion	2010 Handbook: p. 8-62 2011 Budget: –

~~In addition to the amount hereinabove appropriated for Shore Protection Fund Projects, there is appropriated an amount not to exceed \$6,250,000, subject to the approval of the Director of the Division of Budget and Accounting.~~

**Explanation**

*This language was added to the FY 2010 State Budget by the Legislature to ensure that the Shore Protection Fund Projects appropriation of \$18.75 million could be increased to \$25 million, as is statutorily mandated. The Shore Protection Fund is supported by a dedicated portion of Realty Transfer fees, pursuant to P.L.1992, c.148. Since the proposed budget restores this account to \$25 million, this language is no longer needed.*

<b>Palisades Interstate Park Commission – Capital Funding</b>	
Addition	2010 Handbook: – 2011 Budget: p. D-118

Of the amount hereinabove appropriated for the Recreational Land Development and Conservation - Constitutional Dedication account, an amount not to exceed \$310,000 is appropriated to the Palisades Interstate Park Commission for costs associated with the capital improvement of recreational land, subject to the approval of the Director of the Division of Budget and Accounting.

**Explanation**

*This provision provides capital funds to the Palisades Interstate Park Commission from the department's annual appropriation of constitutionally dedicated Corporation Business Tax (CBT) revenues that supports natural resources projects. The cited amount is identical to a Direct State Services reduction recommended in the Commission's budget. The full CBT allocation for this funding category is recommended at \$15.3 million.*

EXPLANATION: FY 2010 language not recommended for FY 2011 denoted by strikethrough.  
Recommended FY 2011 language that did not appear in FY 2010 denoted by underlining.

## Significant Language Changes (Cont'd)

## Global Warming Solutions Fund

Deletion

2010 Handbook: p. B-64  
2011 Budget: --

~~There is appropriated pursuant to section 9 of P.L.2007, c.340 (C.26:2C-53), from the Global Warming Solutions Fund, established pursuant to section 6 of P.L.2007, c.340 (C.26:2C-50), such sums as may be deposited to the fund to carry out the provisions of the Global Warming Solutions Fund and the "Global Warming Response Act," P.L.2007, c.112, (C.26:2C-37 et seq.).~~

Explanation

*This language appropriated available funds derived from the cited acts and Fund to facilitate the department-wide effort to address mitigation and adaptation policies related to climate change. The Fund receives revenues from greenhouse gas emission credits sold by the State, thereby providing fiscal support for the department's responsibilities under these acts. The elimination of this language is recommended in conjunction with the Administration's proposal to reallocate \$65.2 million from the Fund to the General Fund to help alleviate the budget deficit. Other examples of this policy are the elimination of line item funding for the Office of Climate Change and Energy and the reduction of appropriated revenues in the Fund's off-budget administration account.*

## Hazardous Discharge Site Cleanup Fund – Responsible Party Cost Recovery

Addition

2010 Handbook: --  
2011 Budget: p. D-127

In addition to the amount hereinabove, there is appropriated to the Hazardous Discharge Site Cleanup Fund - Responsible Party account such additional sums, as necessary, received from cost recoveries and from the Licensed Site Remediation Professionals fees and deposited in the Hazardous Discharge Site Cleanup Fund, for the cleanup of hazardous waste sites and the costs associated with the Site Remediation Reform Act, subject to the approval of the Director of the Division of Budget and Accounting.

Explanation

*This provision is added to clarify the disposition of Licensed Site Remediation Professional (LSRP) fees, as established under the recently enacted "Site Remediation Reform Act" (P.L.2009, c.60). The LSRP program is designed to license qualified professionals to manage responsible party remediations of*

EXPLANATION: FY 2010 language not recommended for FY 2011 denoted by strikethrough.  
Recommended FY 2011 language that did not appear in FY 2010 denoted by underlining.

**Significant Language Changes (Cont'd)**

*contaminated sites that would otherwise be directly managed by department personnel. The subject fees are collected when the LSRP submits Remediation Investigation Reports to the department for review. In the past, these fees were billed directly to the responsible party and calculated by the time spent by the DEP to review them. Under the LSRP program, the responsible party is charged a flat fee that is submitted and paid to the department through the LSRP.*

*Hence, the referenced fee revenues are not new. They are simply being submitted to the department differently in order to streamline the billing process. According to the department, approximately \$14 million in fee revenues are anticipated through the LSRP process in FY 2011. As currently provided, the proposed language directs these revenues to be deposited into the Hazardous Discharge Site Cleanup Fund to support the responsible party account, which finances the administration of the department's Site Remediation Program.*

**Underground Storage Tanks Administration – Funding Shift**

Addition

2010 Handbook: –  
2011 Budget: p. D-127

The amount hereinabove appropriated for the Underground Storage Tanks account shall be credited against responsible party cost recoveries deposited in the Hazardous Discharge Site Cleanup Fund for administration of the Underground Storage Tanks program, subject to the approval of the Director of the Division of Budget and Accounting.

**Explanation**

*This provision shifts the cited account's funding source from general State revenues to responsible party cost recovery monies. The recommended appropriation for this administrative account is \$909,000. This funding shift is also reflected in the corresponding increase in budgeted State revenues transferred from the Hazardous Discharge Site Cleanup Fund, as indicated under **Interfund Transfers** on page C-9 of the Budget Recommendation.*

**Passaic River Cleanup Litigation**

Deletion  
Revision  
Addition

2010 Handbook: p. B-66  
2011 Budget: p. D-127

EXPLANATION: FY 2010 language not recommended for FY 2011 denoted by strikethrough.  
Recommended FY 2011 language that did not appear in FY 2010 denoted by underlining.

**Significant Language Changes (Cont'd)**

~~The unexpended balance at the end of the preceding fiscal year in the Passaic River Cleanup Litigation account is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.~~

~~Notwithstanding the provisions of any other law or regulation to the contrary, there is appropriated from the New Jersey Spill Compensation Fund an amount of \$6,000,000 for the direct and indirect costs of legal and consulting services associated with litigation related to the Passaic River Cleanup; future cost recoveries from this litigation, not to exceed \$12,000,000, shall be reimbursed to the New Jersey Spill Compensation Fund, subject to the approval of the Director of the Division of Budget and Accounting.~~

Notwithstanding the provisions of any other law or regulation to the contrary, there is appropriated from the Hazardous Discharge Site Cleanup Fund an amount of \$6,000,000 for the direct and indirect costs of legal and consulting services associated with litigation related to the Passaic River Cleanup, subject to the approval of the Director of the Division of Budget and Accounting.

**Explanation**

*The first provision above authorized the carryforward or reappropriation of any available monies in this account to the next fiscal year. The deleted portion of the second provision above appropriated money from the Spill Compensation Fund to support litigation costs. This deletion is proposed in conjunction with the addition of the third provision, which changes the funding source of the litigation costs to the Hazardous Discharge Site Cleanup Fund, which is largely supported by cost recovery monies from parties responsible for polluting a site.*

**Sanitary Landfill Facility Contingency Fund – Special Projects**

Deletion

2010 Handbook: p. B-67  
2011 Budget: –

~~Notwithstanding any other law to the contrary, there is appropriated from the Sanitary Landfill Facility Contingency Fund \$3,000,000 to the Department of Human Services for sewer and water plant upgrades at the Senator Garrett W. Hagedorn Gero Psychiatric Hospital, \$500,000 to the Department of Human Services for the closure of a sewage plant and wells at the North Jersey Development Center, and \$1,200,000 to the Division of Juvenile Justice within the Department of Law and Public Safety for septic system improvements at the Regional Community Home in the Pinelands, subject to the approval of the Director of the Division of Budget and Accounting.~~

EXPLANATION: FY 2010 language not recommended for FY 2011 denoted by strikethrough.  
Recommended FY 2011 language that did not appear in FY 2010 denoted by underlining.

**Significant Language Changes (Cont'd)**

**Explanation**

*This language was included in the current budget to fund the cited State facility projects. The Sanitary Landfill Facility Contingency Fund is supported by receipts from taxes and penalties levied upon owners or operators of sanitary landfill facilities. The fund is liable for all direct and indirect damages resulting from the operations or closure of any sanitary landfill. As of this writing, no funds have been pre-encumbered or committed for these projects. The reason for eliminating this language is unclear at this time.*

**Diesel Risk Mitigation Fund – School Bus Retrofitting**

Deletion

2010 Handbook: p. B-69  
2011 Budget: –

~~Funds appropriated from the Diesel Risk Mitigation Fund—Constitutional Dedication account, not to exceed a total of \$5,000,000 may be used to reimburse the owner of a regulated school bus as defined by section 2 of P.L.2005, c.219 (C.26:2C-8.27) for the cost of installing Best Available Retrofit Technology, as approved by the Department of Environmental Protection and in advance of regulations requiring Best Available Retrofit Technology on school buses, in accordance with reimbursement conditions and limitations provided in P.L.2005, c.219 (C.26:2C-8.26 et seq.) and rules adopted pursuant thereto.~~

**Explanation**

*This language was included in the current budget to facilitate the retrofitting of regulated school buses on a temporary basis during the period prior to the adoption of this program’s final regulations. These regulations have since been adopted, thereby eliminating the need to continue this language.*

EXPLANATION: FY 2010 language not recommended for FY 2011 denoted by strikethrough.  
Recommended FY 2011 language that did not appear in FY 2010 denoted by underlining.

## Significant Language Changes (Cont'd)

### Payment in Lieu of Taxes (PILOT) – Recreation and Conservation Lands

#### Deletions

2010 Handbook: p. B-70  
2011 Budget: –

~~If the amount hereinabove appropriated for Payment in Lieu of Taxes is insufficient to compensate municipalities for land owned by the State for recreation and conservation purposes, as determined according to the formula for payments in lieu of taxes in the "Garden State Preservation Trust Act," P.L.1999, c.152 (C.13:8C-1 et seq.), such additional sums as are necessary are appropriated for the program, subject to the approval of the Director of the Division of Budget and Accounting.~~

~~Notwithstanding the provisions of subsection d. of section 29 of P.L.1999, c.152 (C.13:8C-29) or subsection d. of section 30 of P.L.1999, c.152 (C.13:8C-30), or any law or regulation to the contrary, all payments to municipalities in lieu of taxes for lands acquired by the State for recreation and conservation purposes shall be retained by the municipality and not apportioned in the same manner as the general tax rate of the municipality.~~

#### Explanation

*As previously explained in the **Significant Changes** section, the referenced account will be transferred in FY 2011, along with its administrative functions, to the Department of Community Affairs (DCA). The PILOT program, as supported by the Property Tax Relief Fund, provides the statutory payments annually made to municipalities that contain tax-exempt State-owned lands such as State parks, forests or wildlife management areas.*

*While the second language provision above is continued in the DCA's recommended budget, the first provision is not. Its elimination reflects the budget constraints being applied to this program, which are also evidenced by its line item reduction of \$3.5 million in the DCA budget. The PILOT reduction is further clarified in new budget language in the DCA budget, which states that all PILOT payments are to be reduced by one-third, and all payments currently under \$5,000 are to be eliminated.*

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EXPLANATION: FY 2010 language not recommended for FY 2011 denoted by strikethrough.  
Recommended FY 2011 language that did not appear in FY 2010 denoted by underlining.

## Significant Language Changes (Cont'd)

### Hazardous Discharge Site Cleanup Fund – Administrative Support

Addition

2010 Handbook: –  
2011 Budget: p. D-138

Of the amounts hereinabove appropriated for the Quality Assurance - Lab Certification Programs account, Administration and Support Services, Environmental Policy and Planning, and Office of Science Support, the first \$5,000,000 is payable out of the Hazardous Discharge Site Cleanup Fund, subject to the approval of the Director of the Division of Budget and Accounting.

#### Explanation

*This provision earmarks \$5 million from the Hazardous Discharge Site Cleanup Fund to support appropriations for the cited accounts and operating units. This fund, created in 1985 by P.L.1985, c.247, is primarily supported by monies recovered from parties responsible for polluting sites that require remediation. The recommended allocation is also reflected in the corresponding increase in budgeted State revenues transferred from the Hazardous Discharge Site Cleanup Fund, as indicated under **Interfund Transfers** on page C-9 of the Budget Recommendation.*

### Information Technology Enhancements

Addition

2010 Handbook: –  
2011 Budget: p. D-138

Receipts in excess of a total of \$7,600,000 anticipated for Solid Waste Utility Regulation, Water Allocation, New Jersey Pollutant Discharge Elimination System/Stormwater Permits, Coastal Area Facility Review Act, Freshwater Wetlands, Stream Encroachment, Waterfront Development, Wetlands, Well Permits/Well Drillers/Pump Installers Licenses, Water and Wastewater Operators Licensing Program, Air Permitting Minor Source, and Pesticide fees are appropriated for information technology enhancements in the Department of Environmental Protection, subject to the approval of the Director of the Division of Budget and Accounting.

#### Explanation

*This language appropriates "excess" revenues, i.e. any revenues collected from the cited programs that exceed the anticipated collection levels in the State Budget, to support information technology (IT) enhancements. Anticipated revenue amounts are listed under **Schedule 1–State Revenues** on page C-4 of the Budget*

EXPLANATION: FY 2010 language not recommended for FY 2011 denoted by strikethrough.  
Recommended FY 2011 language that did not appear in FY 2010 denoted by underlining.

## Significant Language Changes (Cont'd)

*Recommendation. Excess revenues, as evidenced by the proposed budget language, are usually appropriated to the programs or regulatory functions that generate them, and are enumerated in the Budget Recommendation under **Schedule 2 – Other Revenues** (page C-11). While this display does not correspond precisely to the revenue sources listed in the proposed language, the OLS estimates that at least \$7.2 million could be directed to IT activities by this provision.*



### General Fund Provisions – State Recycling Fund

Addition

2010 Handbook: –  
2011 Budget: p. F-9

Notwithstanding the provisions of any law or regulation to the contrary, there is appropriated \$7,000,000 from the State Recycling Fund to the General Fund as State revenue.

#### Explanation

*This provision appropriates \$7 million from the State Recycling Fund to the General Fund to help alleviate the budget deficit. This fund is supported by the State recycling tax and is used to provide annual recycling tonnage grants to qualified counties and municipalities. The recycling tax generates approximately \$25 million annually. The OLS notes that State Recycling Fund revenues are protected by a “poison pill” provision which, unless negated, would lead to a loss of all recycling tax revenues if this proposed diversion of funds is effectuated. As previously mentioned in the **Significant Changes** section, the current budget included General Provision language intended to override this provision. This language is also included in the recommended budget.*

EXPLANATION: FY 2010 language not recommended for FY 2011 denoted by strikethrough.  
Recommended FY 2011 language that did not appear in FY 2010 denoted by underlining.

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Individuals wishing information and committee schedules on the FY 2011 budget are encouraged to contact:

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