

ANALYSIS OF THE NEW JERSEY BUDGET

**DEPARTMENT OF
THE TREASURY**

FISCAL YEAR

2014 - 2015

NEW JERSEY STATE LEGISLATURE

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This report was prepared by the Revenue, Finance and Appropriations Section of the Office of Legislative Services under the direction of the Legislative Budget and Finance Officer. The primary author was Thomas Koenig. Matthew T. Szudajski authored the background paper entitled "Regional Trends in Business Entity Tax Homes."

Questions or comments may be directed to the OLS Revenue, Finance and Appropriations Section (609-847-3835) or the Legislative Budget and Finance Office (609-847-3105).

DEPARTMENT OF THE TREASURY

Budget Pages..... C-6 to C-7; C-15 to C-16;
C-23 to C-24; C-25; D-363 to D-416;
E-7 to E-8; G-4 to G-8

Fiscal Summary (\$000)

	Expended FY 2013	Adjusted Appropriation FY 2014	Recommended FY 2015	Percent Change 2014-15
State Budgeted	\$2,101,607	\$2,151,071	\$2,310,112	7.4%
Federal Funds	14,004	11,671	11,620	(0.4%)
<u>Other</u>	<u>1,192,936</u>	<u>1,273,929</u>	<u>1,259,699</u>	<u>(1.1%)</u>
Grand Total	\$3,308,547	\$3,436,671	\$3,581,431	4.2%

Personnel Summary - Positions By Funding Source

	Actual FY 2013	Revised FY 2014	Funded FY 2015	Percent Change 2014-15
State	3,832	3,685	3,707	0.6%
Federal	41	52	56	7.7%
<u>Other</u>	<u>1,747</u>	<u>1,837</u>	<u>1,877</u>	<u>2.2%</u>
Total Positions	5,620	5,574	5,640	1.2%

FY 2013 (as of December) and revised FY 2014 (as of January) personnel data reflect actual payroll counts. FY 2015 data reflect the number of positions funded.

To be consistent with the data display in the Governor's FY 2015 Budget, the above table includes the funding data in the Department of the Treasury for Higher Educational Services. Other explanatory data for these programs are included in a separate booklet entitled "Higher Educational Services."

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

Highlights

PROPERTY TAX RELIEF: GRANTS-IN-AID AND STATE AID

- The Governor's FY 2015 Budget provides \$1.99 billion for **property tax relief** in the Department of the Treasury, which is \$19.5 million, or 1.0 percent, above the FY 2014 adjusted appropriation. Grants-in-Aid, which finance direct property tax relief to residents, account for \$598.3 million of the total (\$16.4 million, or 2.7 percent, less than in FY 2014) and State Aid to local subdivisions of State government accounts for the remaining \$1.39 billion (\$35.9 million, or 2.6 percent, more than in FY 2014). Table 1 on page 7 lists aggregated components of the recommended State Aid total.
- The Administration recommends a \$5.3 million funding decrease in FY 2015 for the New Jersey Homestead Property Tax Credit program, renamed the **Homestead Benefit Program**. The reduction is ascribable to the expected continuation of diminishing enrollments. Specifically, an estimated 829,000 homeowners would collect an average \$469 benefit in FY 2015, after 843,200 homeowners obtained an average \$469 rebate in FY 2014. The background paper entitled "The History of Homestead Rebates" begins on page 155 of this analysis.
- For FY 2015, the Administration recommends maintaining the FY 2014 parameters of the **Senior and Disabled Citizens' Property Tax Freeze program**, or Homestead Property Tax Reimbursement program. Specifically, the program would operate under its statutory provisions except that the income eligibility threshold would be \$70,000 for tax years 2012 and 2013 in lieu of the statutory \$82,880 for tax year 2012 and \$84,289 for tax year 2013. Overall, the Executive forecasts a \$1,099 average FY 2015 payment to 184,700 participants. In FY 2014, some 183,200 participants received an average \$1,169 payment. The anticipated lower average amount is mostly due to more recent cohorts of program participants with lower average benefits replacing long-time participants with larger average benefits.
- The Governor's FY 2015 Budget proposes that municipalities receive \$1.11 billion from the off-budget **Energy Tax Receipts Property Tax Relief Fund** in FY 2015, a \$5.5 million, or 0.5 percent, increase over FY 2014. Two funding sources comprise this appropriation: \$788.5 million from the Energy Tax Receipts Property Tax Relief Fund proper and an amount not to exceed \$325.2 million to be transferred to the fund from the Consolidated Municipal Property Tax Relief Aid (CMPTRA) account pursuant to budget language. The Administration also proposes that an additional \$250.7 million in CMPTRA be expended in FY 2015, thereby bringing total distributions from the State's two formula-driven municipal aid programs to an unchanged \$1.36 billion.
- The proposed FY 2015 appropriation to the public employee retirement funds equals \$2.25 billion, representing 4/7th of the actuarially determined full \$3.94 billion State pension contribution. The FY 2014 contribution was \$1.58 billion, or 3/7th of the full actuarially determined \$3.69 billion payment. Of the recommended \$2.25 billion total, the Governor's FY 2015 Budget allocates \$102.1 million to Treasury to make the State's required annual payment to the **Police and Firemen's Retirement System** on behalf of local governmental entities.

Highlights (Cont'd)

TREASURY OPERATIONS

- The Administration recommends an \$8.0 million reduction in the FY 2015 appropriation to the **New Jersey State Lottery** attributable to the outsourcing of the Lottery's sales and marketing operations to Northstar New Jersey Lottery Group, LLC. The contractor took control of the operations on October 1, 2013. Northstar's compensation is not included in the requested \$13.3 million FY 2015 State Lottery appropriation but deducted directly from Lottery revenues before the balance is transferred to the General Fund for the support of State institutions and State aid to education. The expected \$1.04 billion General Fund transfer in FY 2015 represents an increase of \$44 million, or 4.4 percent, from the amount anticipated in the current fiscal year. Page H-3 of the Governor's FY 2015 Budget lists the programs that Lottery proceeds would partially fund.
- The Administration proposes an unchanged \$12.9 million off-budget FY 2015 appropriation from the various State pension funds to the **Division of Investment to cover the expenses the division incurs in managing the funds' investment portfolios**. The total does not include compensation payments to outside money managers, as the division makes these payments directly from the assets placed with the investment firms and their earnings. In FY 2013, the division paid \$378.1 million in management and performance fees and expenses to private investment firms.
- The Administration recommends not renewing in FY 2015 the \$2.2 million appropriation the **New Jersey Public Broadcasting Authority** received in FY 2014. However, the Governor's FY 2015 Budget continues a language provision that would allow for supplemental appropriations of unspecified amounts to the authority without additional legislative approval. The Administration invoked this language provision in the course of FY 2012 and FY 2013 to appropriate \$2.0 million in each fiscal year to the authority and then \$2.2 million in FY 2014.
- According to the Division of Taxation, beginning in Tax Year 2011, the division implemented an **Earned Income Tax Credit (EITC) fraud screening process**. As a result of this initiative, although 577,039 tax filers claimed EITC benefits totaling \$251.6 million for Tax Year 2011, thus far only 468,359 have received credits (totaling \$192.8 million), while 19,412 tax filers (claiming \$14.0 million) have been denied an EITC, and another 89,268 tax filers (claiming \$44.7 million) still have claims pending for Tax Year 2011 as of March 2014. The division anticipates that a "very low" number of claims will convert from "pending" to "paid."
- In March 2014, the Division of Taxation released a **Request for Information (RFI) for the State of New Jersey Tax Systems Modernization Project**. The RFI solicits possible solutions for the replacement of the division's current separate tax administration and collection systems with a more versatile, integrated system. The division envisions a benefit-based procurement model, whereby the vendor would get paid a percentage of the incremental savings and revenues the vendor's solution generates.

Highlights (Cont'd)

- As in past years, the Governor's FY 2015 Budget includes broad language that would permit the appropriation of additional resources for the **Division of Taxation** and the **Division of Revenue and Enterprise Services** without further legislative action.

DEBT SERVICE

- The Governor's FY 2015 Budget includes \$3.12 billion in on-budget payments to service general obligation and appropriation-backed bonds. Based on the FY 2013 State of New Jersey Debt Report, the OLS estimates that an additional \$226.8 million in off-budget debt service payments bring total recommended FY 2015 State **debt service payments on bonded indebtedness** to approximately \$3.35 billion. In all, the State had \$34.97 billion in outstanding bonded indebtedness at the end of FY 2013 and \$8.27 billion in legislatively authorized but unissued bonding authority.
- The Administration recommends a \$404.8 million FY 2015 appropriation for the payment of **general obligation bond debt service**, of which \$370.1 million would be funded in the Department of the Treasury budget and \$34.7 million in the Department of Environmental Protection budget. The recommended FY 2015 appropriation reflects an \$85.1 million, or 26.6 percent, increase over FY 2014, driven by rising debt service payment requirements under the terms of existing bond covenants and new debt service payments on anticipated future bond sales.
- The Background Paper entitled "Budgetary Impact of the State's Bonded Debt" that commences on page 170 of this booklet provides additional information on the State's bonded indebtedness.

OFFICE OF INFORMATION TECHNOLOGY

- The Governor's FY 2015 Budget proposes to renew a language provision on page F-5 requiring that the Office of Information Technology (OIT) approve all departmental purchase requests for information technology and telecommunications equipment, maintenance, and consultant services. In its review, the OIT is to ascertain that purchase requests comply with statewide policies and standards as well as the department's approved Information Technology Strategic Plan. One of these policies is a **partial moratorium on the procurement of information technology equipment, maintenance, and consultant services** that has been in place since December 2006. The OIT approved \$126.7 million in such expenditures in FY 2012 and \$98.7 million in FY 2013 through April 9, 2013.
- The State Treasurer and the OIT's Chief Information Officer previously testified before the Senate Budget and Appropriations Committee that the OIT would embark on a **multiyear initiative to rebuild the State's core information technology infrastructure and begin to build the capability of developing new systems in-house**. The steady increase in the annual appropriation to the OIT's Services Other Than Personal and Additions, Improvements and Equipment accounts since FY 2012 suggests that the State

Highlights (Cont'd)

has increased its investments in its enterprise-wide information technology infrastructure. Notably, the recommended \$41.2 million combined FY 2015 appropriation to the two accounts exceeds the FY 2012 total of \$10.2 million by \$31.0 million, or 305.0 percent. The requested FY 2015 allocations to the two accounts are also \$15.8 million, or 62.0 percent, higher than their adjusted FY 2014 appropriations.

ECONOMIC DEVELOPMENT AUTHORITY

- The Administration recommends a \$14.3 million appropriation for the payment in FY 2015 of State **Economic Redevelopment and Growth (ERG) grants** for commercial redevelopment projects, some \$4.2 million, or 41.6 percent, more than the FY 2014 adjusted appropriation. However, the program's adjusted FY 2014 appropriation includes \$8.0 million that has been placed in reserve in anticipation of a year-end lapse to the General Fund, leaving \$2.1 million in FY 2014 budget authority. Accordingly, the recommended FY 2015 expenditure growth would actually be \$12.2 million, or 482.6 percent. The increased FY 2014 funding request is indicative of the Administration's expectation that additional commercial redevelopment projects will become eligible to receive their initial ERG grant payments. The OMB indicated that all anticipated FY 2015 payments would be made pursuant to grant agreements the EDA concluded under the terms of the ERG program as it existed before P.L.2013, c.161 restructured the program effective September 18, 2013. In addition to the recommended \$14.3 million appropriation, and in order to meet contractual payment obligations when they fall due, the Administration also proposes the continuation of contingency language that would allow for supplemental appropriations of unspecified amounts to the program in the course of the fiscal year and without additional legislative approval.
- The Administration proposes an unchanged FY 2015 appropriation of \$175.0 million for the payment of grants under the **Business Employment Incentive Program (BEIP)**. In a written reply to a follow-up question asked by the Senate Budget and Appropriations Committee during its April 10, 2013 budget hearing on the Department of the Treasury, the New Jersey Economic Development Authority stated that BEIP had a payment backlog of approximately \$500 million owed to roughly 280 businesses. P.L.2013, c.161 closed BEIP to new applicants effective on September 18, 2013.

BOARD OF PUBLIC UTILITIES

- The Governor's FY 2015 Budget recommends **diverting an additional \$117.4 million in Clean Energy Fund balances to the General Fund** in FY 2014 and FY 2015 combined: 1) \$42.5 million in FY 2015 to defray the cost of utilities in State facilities; 2) \$36.2 million for New Jersey Transit utility costs (\$23.3 million in FY 2014 and \$12.9 million in FY 2015); 3) \$25.0 million for energy efficiency projects in State facilities (\$15.8 million in FY 2014 and \$9.2 million in FY 2015); 4) \$10.0 million transferred in FY 2014 without a specified spending purpose; and 5) \$3.7 million to the Office of Sustainability and Green Energy in the Department of Environmental Protection. If the

Highlights (Cont'd)

recommended FY 2014 and FY 2015 resource diversions were to be executed, some \$966.6 million would have been transferred from the Clean Energy Fund into the General Fund from FY 2008 through FY 2015. The \$966.6 million does not include the amounts transferred annually to the General Fund to defray the administrative expenses related to State-funded positions of the BPU’s Office of Clean Energy (\$2.3 million in FY 2015). The office’s administrative costs do not capture the administrative expenses of the three contractors that operate the program on the BPU’s behalf (a revised \$41.2 million for the 18-month period from January 2012 through June 30, 2013).

- The BPU is looking to **restructure the Clean Energy Program**, which is the umbrella for the State’s various energy efficiency and renewable energy programs. The BPU’s long-term goal is to reduce the reliance of the Clean Energy Program on the societal benefits charge as the program’s funding mechanism and to inaugurate revolving loan funds as alternative funding vehicles.

Background Papers:

Regional Trends in Business Entity Tax Homes p. 149
 The History of Homestead Rebates p. 155
 Resource Diversions from Energy-Related Dedicated Funds p. 164
 The Budgetary Impact of the State’s Bonded Debt p. 170

Highlights (Cont'd)

Table 1
Department of the Treasury
State Aid to Local Governmental Entities
FY 2013 – FY 2015

STATE AID	Expended FY 2013	Adj. App. FY 2014	Recom. FY 2015
Energy Tax Receipts*	\$1,086,393	\$1,108,124	\$1,113,666
Police & Firemen's Retirement System State Contribution	48,790	73,181	102,122
Veterans' Property Tax Deductions	61,002	59,200	56,300
Police & Firemen's Retirement System – Post Retirement Medical	38,071	43,992	45,284
South Jersey Port Corporation Support	24,073	20,372	24,520
Debt Service – Pension Obligation Bonds	15,315	16,563	17,872
Senior and Disabled Citizens' Property Tax Deductions	14,389	14,800	13,200
Other Distributed Taxes	5,220	6,488	6,488
Highlands Protection Fund Aid	2,882	4,400	4,400
Public Library Project Fund	3,765	3,764	3,751
County Boards of Taxation	1,832	1,903	1,903
Consolidated Police & Firemen's Pension Fund State Contribution	897	864	0
Total State Aid	\$1,302,629	\$1,353,651	\$1,389,506

* Energy Tax Receipts totals include annual transfers of varying amounts to the Energy Tax Receipts Property Tax Relief Fund from the Consolidated Municipal Property Tax Relief Aid account (please see pages 38 and 39 of this analysis for an explanation of the transfer).

Fiscal and Personnel Summary

AGENCY FUNDING BY SOURCE OF FUNDS (\$000)

	Expended FY 2013	Adj. Approp. FY 2014	Recom. FY 2015	Percent Change	
				2013-15	2014-15
General Fund					
Direct State Services	\$466,537	\$457,522	\$461,912	(1.0%)	1.0%
Grants-In-Aid	287,997	334,873	397,769	38.1%	18.8%
State Aid	189,933	267,413	34,574	(81.8%)	(87.1%)
Capital Construction	2,998	0	0	(100.0%)	0.0%
Debt Service	411,761	298,204	370,134	(10.1%)	24.1%
Sub-Total	\$1,359,226	\$1,358,012	\$1,264,389	(7.0%)	(6.9%)
Property Tax Relief Fund					
Direct State Services	\$0	\$0	\$0	0.0%	0.0%
Grants-In-Aid	224,637	614,700	598,300	166.3%	(2.7%)
State Aid	509,828	170,154	439,218	(13.8%)	158.1%
Sub-Total	\$734,465	\$784,854	\$1,037,518	41.3%	32.2%
Casino Revenue Fund	\$0	\$0	\$0	0.0%	0.0%
Casino Control Fund	\$7,916	\$8,205	\$8,205	3.7%	0.0%
State Total	\$2,101,607	\$2,151,071	\$2,310,112	9.9%	7.4%
Federal Funds	\$14,004	\$11,671	\$11,620	(17.0%)	(0.4%)
Other Funds	\$1,192,936	\$1,273,929	\$1,259,699	5.6%	(1.1%)
Grand Total	\$3,308,547	\$3,436,671	\$3,581,431	8.2%	4.2%

PERSONNEL SUMMARY - POSITIONS BY FUNDING SOURCE

	Actual FY 2013	Revised FY 2014	Funded FY 2015	Percent Change	
				2013-15	2014-15
State	3,832	3,685	3,707	(3.3%)	0.6%
Federal	41	52	56	36.6%	7.7%
All Other	1,747	1,837	1,877	7.4%	2.2%
Total Positions	5,620	5,574	5,640	0.4%	1.2%

FY 2013 (as of December) and revised FY 2014 (as of January) personnel data reflect actual payroll counts. FY 2015 data reflect the number of positions funded.

AFFIRMATIVE ACTION DATA

Total Minority Percent	29.4%	29.8%	30.3%	---	---
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Significant Changes/New Programs (\$000)

<u>Budget Item</u>	<u>Adj. Approp. FY 2014</u>	<u>Recomm. FY 2015</u>	<u>Dollar Change</u>	<u>Percent Change</u>	<u>Budget Page</u>
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ECONOMIC PLANNING AND DEVELOPMENT

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

**General Fund,
Grants-in-Aid:**

Economic

Redevelopment and

Growth Grants, EDA

\$10,075

\$14,266

\$4,191

41.6%

D-376

This account provides for the payment of State Economic Redevelopment and Growth (ERG) grants for commercial redevelopment projects. The program’s adjusted FY 2014 appropriation includes \$8.0 million that has been placed in reserve in anticipation of a year-end lapse to the General Fund, leaving \$2.1 million in FY 2014 budget authority. Accordingly, the program’s recommended FY 2015 expenditure increase would actually be \$12.2 million, or 482.6 percent.

The increased FY 2015 recommendation is indicative of the Administration’s expectation that additional commercial redevelopment projects subject to State ERG grant agreements will be completed in FY 2015 and thus become eligible to receive their initial grant payments. Upon inquiry, the Office of Management and Budget indicated that the State anticipated four grant disbursements in FY 2014 and 13 in FY 2015 and that all anticipated payments would be made pursuant to grant agreements the New Jersey Economic Development Authority (EDA) concluded under the terms of the ERG program as it existed before P.L.2013, c.161, the “New Jersey Economic Opportunity Act of 2013,” restructured the program effective September 18, 2013. In addition to the recommended \$14.3 million appropriation, and in order to meet contractual payment obligations when they fall due, the Administration also proposes the continuation of contingency language that would allow for supplemental appropriations of unspecified amounts to the program in the course of the fiscal year and without additional legislative approval (page D-377).

P.L.2009, c.90 created the legacy ERG grant program as a tax-increment financing mechanism composed of a State and a municipal component. The law authorized the awarding of legacy State ERG grants to developers of commercial redevelopment projects that would yield net fiscal benefits to the State and would not occur absent the financial assistance. (Residential redevelopment projects, on the other hand, received ERG tax credits, which do not necessitate funding under the annual appropriations acts.) Legacy State ERG grants were available for eligible commercial redevelopment projects sited in certain areas only. Grant payments equaled up to 75 percent of the annual incremental State tax revenue attributable to a project and could be authorized for up to 20 years. But the combined amount of State and municipal ERG grant payments could not exceed 20 percent of a project’s total cost. Disbursements begin after a project’s completion. P.L.2013, c.161 expanded the program effective September 18, 2013. Since inception in 2009 through March 13, 2014, the EDA approved \$936.2 million in State ERG awards to 28 commercial and residential redevelopment projects under the legacy

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

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 2014</u>	<u>Recomm.</u> <u>FY 2015</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
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and revised programs that are expected to bring \$5.7 billion in capital investments and 23,299 new jobs to New Jersey. Of the 28 projects, 12 have been completed through March 13, 2014. All approved ERG grants are listed at http://www.njeda.com/web/pdf/ERG_Activity.pdf.

ECONOMIC REGULATION**BOARD OF PUBLIC UTILITIES****All Other Funds:****Energy Resource
Management**

\$2,023	\$2,322	\$299	14.8%	D-380
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According to the Office of Management and Budget, the recommended \$299,000 increase in this budget line for FY 2015 is needed to pay for higher salary and employee benefit costs ascribable to funding one additional full-time position, position backfills, and salaries and benefits for existing staff. The line reflects the administrative expenses related to State-funded positions of the BPU's Office of Clean Energy that are charged against the off-budget Clean Energy Fund pursuant to recurring budget language on page D-381 of the Governor's FY 2015 Budget. This account represents only a fraction of the total administrative costs of the New Jersey Clean Energy Program, as it does not capture the administrative expenses of the three contractors that operate the program on BPU's behalf. The contractors' revised administrative expenses for the 18-month period from January 1, 2012 through June 30, 2013 reached \$41.2 million out of a total Clean Energy Program budget of \$369.7 million, according to the BPU response to BPU Discussion Point #7 in the OLS FY 2013-2014 Department of the Treasury Budget Analysis.

New Jersey ratepayers finance the Clean Energy Program via the societal benefits charge included in their electric and natural gas bills. Operative since April 2001, the program was authorized as part of the "Electric Discount and Energy Competition Act," P.L.1999, c.23 (N.J.S.A.48:3-49 et seq.). Through the program the BPU seeks to promote increased energy efficiency and the use of renewable energy sources. The program no longer supports the installation of solar energy generation systems, as the State has adopted Solar Renewable Energy Certificates (SRECs) as the subsidy mechanism for solar power. The Offshore Renewable Energy Certificate (OREC) program attempts to do the same for offshore wind energy installations. The Governor's FY 2015 Budget anticipates \$450.9 million in available Clean Energy Fund resources in FY 2015; and \$305.9 million in expenditures, which is comprised of \$235.3 million in program expenditures and \$70.6 million in transfers to the State General Fund (see page 26 of the "Supplementary Information: Other Governmental Funds and Proprietary Funds" section of the Governor's FY 2015 Budget, available in the online version only).

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

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 2014</u>	<u>Recomm.</u> <u>FY 2015</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
All Other Funds: Administration and Support Services	\$900	\$0	(\$900)	(100.0%)	D-380

This budget line aggregates several off-budget accounts administered by the BPU’s Division of Administration. The adjusted \$900,000 appropriation for FY 2014 paid for professional services provided by outside vendors. The Office of Management and Budget (OMB) specified that \$630,000 of that amount funded three management and program audits that appraised the performance of the management and operations of regulated utility companies. The BPU selected and paid the audit firms, but the audited utility companies reimbursed the Board for the auditing expenditures. The OMB related that the Administration did not propose any FY 2015 appropriation for utility company audits because it was customary not to budget for these activities in advance.

The OMB indicated further that the remaining \$270,000 compensated consultants for services rendered within the confines of the “BPU Basic Generation Services Project.” As with the audits, the BPU selected and paid the consultants, but the electric utility companies reimbursed the State for the consultants’ charges. Specifically, the \$270,000 covered the costs of consultant services in connection with the establishment of the process for and the conducting of two February 2014 auctions for the procurement of electricity for the period beginning on June 1, 2014 for ratepayers who purchase their electricity supply from electric utilities rather than third-party suppliers. The first auction concerned residential and small business customers who will pay a blended rate for their electric supply starting on June 1, 2014 that represents in equal measures the prices secured at the 2012, 2013, and 2014 electricity auctions. The second auction set supply prices for large commercial and industrial customers for twelve months starting on June 1, 2014 without any blending of rates. The OMB related that the Administration did not propose any FY 2015 appropriation for the “BPU Basic Generation Services Project” because it was customary not to budget for that purpose in advance.

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

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 2014</u>	<u>Recomm.</u> <u>FY 2015</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
<u>GOVERNMENTAL REVIEW AND OVERSIGHT</u>					
EMPLOYEE RELATIONS AND COLLECTIVE NEGOTIATIONS					
General Fund, Direct State Services: Employee Relations and Collective Negotiations TOTAL:	<u>\$853</u>	<u>\$853</u>	<u>\$0</u>	<u>=</u>	D-382
Salaries and Wages	\$632	\$820	\$188	29.7%	
Services Other Than Personal	\$210	\$22	(\$188)	(89.5%)	
Other Direct State Services Accounts	\$11	\$11	\$0	—	

The Administration proposes continuation funding of \$853,000 to the Governor's Office of Employee Relations and Collective Negotiations in FY 2015. But the Governor's FY 2015 Budget proposes reallocating \$188,000 from the office's Services Other Than Personal account to its Salaries and Wages account. Upon inquiry, the Office of Management and Budget indicated that the shift primarily represented "a realignment of resources to the level of actual need and expenditures representative of the prior fiscal year." Actual FY 2013 Salaries and Wages expenses totaled \$817,000 and Services Other Than Personal outlays \$767,000.

Established by Executive Order No. 33 of 1995, the Office of Employee Relations and Collective Negotiations administers and interprets State labor agreements, negotiates with unions and other representatives of State employees, and generally assists the Governor in developing and implementing policies and decisions concerning employee relations and related matters involving State employees.

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

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 2014</u>	<u>Recomm.</u> <u>FY 2015</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
OFFICE OF MANAGEMENT AND BUDGET					
General Fund, Direct State Services: Office of Management and Budget TOTAL:	<u>\$15,021</u>	<u>\$15,021</u>	<u>\$0</u>	<u>=</u>	D-382
Salaries and Wages	\$12,047	\$11,149	(\$898)	(7.5%)	
Services Other Than Personal	\$1,584	\$2,482	\$898	56.7%	
Other Direct State Services Accounts	\$1,390	\$1,390	\$0	—	

The Administration proposes continuation funding of \$15.0 million to the Office of Management and Budget (OMB) in FY 2015. But the Governor's FY 2015 Budget proposes reallocating \$898,000 from the office's Salaries and Wages account to its Services Other Than Personal account, which pays for services provided by external parties. Upon inquiry, the OMB indicated that the realignment represented primarily a shift in FY 2015 in the allocation of Office of Treasury Technology (OTT) charges for services the OTT provides to the OMB. In FY 2014, these charges were coded as salary expenses, whereas they will be coded as information technology service expenses in FY 2015.

The reallocation of OTT service charges may be connected to the OTT's recent organizational changes. The OTT used to be housed within the Division of Administration, but the Division of Revenue and Enterprise Services assumed jurisdictional control of the office in FY 2011, according to page D-385 in the FY 2015 Governor's Budget. A footnote on page D-388 of the FY 2015 Governor's Budget, however, states that the Division of Revenue and Enterprise Services' FY 2014 position data newly reflect the transfer to the division of the OTT's functions. In addition, page C-25 shows for the first time a "Treasury Technology Services" revolving fund in FY 2014. A revolving fund finances the operations of an intragovernmental service agency that bills client agencies for the goods and services it provides to them.

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

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 2014</u>	<u>Recomm.</u> <u>FY 2015</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
All Other Funds: Office of Management and Budget	\$20,255	\$12,255	(\$8,000)	(39.5%)	D-382

This budget line represents the off-budget Office of Management and Budget (OMB) Indirect Cost Recoveries account. It captures payments State agencies make to the OMB out of federal and dedicated funds to reimburse Treasury for employee fringe benefit costs that Treasury incurred in performing administrative services on behalf of the State agencies within the scope of programs that are partially or wholly supported by federal and dedicated funds. Employee fringe benefits include retirement, social security, health and dental insurance, workers' compensation, unemployment, survivors', and disability insurance contributions. Upon inquiry, the OMB stated that the \$8.0 million decrease in this account reflected merely an accounting change. A corresponding \$8.0 million is newly displayed as an FY 2015 State General Fund revenue in Interdepartmental Accounts under the new "Indirect Cost Recovery – Federal and Other Funds" designation (page C-7).

FINANCIAL ADMINISTRATION**NEW JERSEY STATE LOTTERY**

General Fund, Direct State Services: Administration of State Lottery TOTAL:	<u>\$21,280</u>	<u>\$13,325</u>	<u>(\$7,955)</u>	<u>(37.4%)</u>	D-388
Salaries and Wages	\$7,947	\$7,141	(\$806)	(10.1%)	
Services Other Than Personal	\$11,667	\$4,518	(\$7,149)	(61.3%)	
Other Direct State Services Accounts	\$1,666	\$1,666	\$0	—	

The Administration recommends an \$8.0 million reduction in the FY 2015 appropriation to the New Jersey State Lottery attributable to the outsourcing of the Lottery's sales and marketing operations to Northstar New Jersey Lottery Group, LLC. Some \$7.1 million of the decrease would accrue to the Lottery's Services Other Than Personal account, which pays for services provided by external parties. Upon OLS inquiry, the Office of Management and Budget stated that the lower requested FY 2015 appropriation for Services Other Than Personal reflected

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

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 2014</u>	<u>Recomm.</u> <u>FY 2015</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
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outsourcing-related savings without specifying the professional services that would no longer have to be paid from the account. The OLS notes that the contractor’s compensation is not disbursed from the Lottery’s Services Other Than Personal account but deducted directly from State Lottery revenues before the balance is transferred to the State General Fund. In addition to the recommended \$13.3 million appropriation, the Administration also proposes the continuation of multiple contingency language provisions that would allow for supplemental appropriations of unspecified amounts for the Lottery’s administrative operations in the course of the fiscal year and without additional legislative approval (page D-390).

On June 20, 2013, the Division of Lottery entered into State Contract No. T-2884 for “Lottery Growth Management Services” that outsourced the sales and marketing operations of the New Jersey State Lottery to Northstar New Jersey from June 20, 2013 through June 30, 2029. The contractor took full control of the Lottery’s sales and marketing operations on October 1, 2013 but will work under the supervision of the Division of Lottery. Northstar is a tripartite consortium consisting of GTECH Corp., Scientific Games International Inc., and a subsidiary of the Ontario Municipal Employees Retirement System. It was the only vendor that responded to the August 2012 Request for Proposal (RFP) 13-X-22694 for “Lottery Growth Management Services.” According to the RFP, the outsourcing initiative is intended to maximize Lottery proceeds for the support of State institutions and State aid for education. The compensation model reflects the pay-for-performance principle and shifts a portion of the Lottery performance risk to the vendor.

The Governor’s FY 2015 Budget projects net lottery sales of \$3.2 billion to be generated by 6,800 agents and 2,133 drawings. In FY 2015, the State Lottery is expected to transfer \$1.04 billion to the General Fund, net of compensation payments to Northstar New Jersey, for the support of State institutions and State aid to education, an increase of \$44 million, or 4.4 percent, from the amount anticipated in the current fiscal year.

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

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 2014</u>	<u>Recomm.</u> <u>FY 2015</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
DIVISION OF TAXATION					
General Fund, Direct State Services: Taxation Services and Administration TOTAL:	<u>\$109,181</u>	<u>\$108,081</u>	<u>(\$1,100)</u>	<u>(1.0%)</u>	D-388
Services Other Than Personal	\$14,075	\$12,975	(\$1,100)	(7.8%)	
Maintenance and Fixed Charges	\$189	\$622	\$433	229.1%	
Salaries and Wages	\$93,072	\$92,639	(\$433)	(0.5%)	
Other Direct State Services Accounts	\$1,845	\$1,845	\$0	—	

The recommended \$1.1 million decline in the FY 2015 appropriation to the Division of Taxation is the net effect of a proposed \$1.1 million, or 7.8 percent, decrease in the division's Services Other Than Personal account, which pays for services provided by external parties, and a requested \$433,000 shift from the division's Salaries and Wages account to its Maintenance and Fixed Charges cost center.

The proposed \$1.1 million cut to the division's Services Other Than Personal appropriation stems from not renewing an FY 2014 supplemental appropriation for contracted debt collection services. Nevertheless, recurring budget language on page D-390 would allow for supplemental appropriations of unspecified amounts for tax and debt collection and processing activities in the course of the fiscal year and without additional legislative approval. The division has routinely exercised the supplemental spending authority to pay for recurring tax collection activities.

As to the requested \$433,000 shift from the division's Salaries and Wages account to its Maintenance and Fixed Charges cost center, the Office of Management and Budget explained, upon inquiry, that it primarily represented "a realignment of resources to the level of actual need and expenditures representative of the prior fiscal year." Actual FY 2013 Salaries and Wages expenditures totaled \$90.9 million and outlays for Maintenance and Fixed Charges \$614,000.

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

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 2014</u>	<u>Recomm.</u> <u>FY 2015</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
All Other Funds:					
Taxation Services and Administration	\$174,443	\$170,263	(\$4,180)	(2.4%)	D-389

This budget line aggregates several off-budget funds administered by the Division of Taxation and reflects the funds' administrative expenses and transfers to other State agencies. In FY 2015, three components account for \$170.1 million of the appropriation: (1) \$130.3 million in anticipated collections from that part of the cigarette tax whose proceeds are deposited in the Dedicated Cigarette Tax Revenue Fund and pledged for the payment of debt service on the Cigarette Tax Revenue Refunding Bonds, Series 2012, as authorized in P.L.2004, c.68; (2) \$23.7 million transferred from the New Jersey Domestic Security Account—which contains the proceeds from the first \$2 of the \$5 per day vehicle rental surcharge pursuant to section 54 of P.L.2002, c.34 (C.App.A:9-78), as amended by P.L.2006, c.42—to the Departments of Agriculture, Health, and Law and Public Safety for the Agro-Terrorism Program, Medical Emergency Disaster Preparedness for Bioterrorism program, State Police salaries related to Statewide security services, and counter-terrorism programs operated by the Office of Homeland Security and Preparedness; and (3) \$16.1 million for the cost of Division of Taxation Compliance and Enforcement Activities.

The projected \$4.2 million net decrease in this budget line is primarily attributable to the Administration's anticipated reduction in cigarette tax collections required to be deposited in the Dedicated Cigarette Tax Revenue Fund, as cigarette sales are projected to continue their long-term decline. Specifically, Dedicated Cigarette Tax Revenue Fund deposits are to fall by \$4.0 million, or 3.0 percent, from \$134.3 million in FY 2014 to \$130.3 million in FY 2015. But only \$111.4 million of the anticipated revenue will be needed to pay scheduled Cigarette Tax Revenue Refunding Bonds, Series 2012, debt service in FY 2015, or \$19.4 million more than the \$92.0 million required FY 2014 payment. The difference between the amount deposited in the Dedicated Cigarette Tax Revenue Fund and the required debt service payment, which the Administration pegs at \$18.9 million in FY 2015, will be appropriated to the General Fund in accordance with General Provision 66. on page F-8 of the Governor's FY 2015 Budget. The Administration includes the excess \$18.9 million in its anticipated FY 2015 on-budget cigarette tax collections of \$180.8 million on page C-3 of the Governor's FY 2015 Budget.

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

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 2014</u>	<u>Recomm.</u> <u>FY 2015</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
DIVISION OF INVESTMENT					
All Other Funds:					
Direct State Services:					
Management of					
State Investments					
TOTAL:	<u>\$12,926</u>	<u>\$12,926</u>	<u>\$0</u>	<u>=</u>	D-389
Personal Services	\$8,825	\$6,900	(\$1,925)	(21.8%)	
Services Other Than					
Personal	\$4,043	\$5,968	\$1,925	47.6%	
Other Direct State					
Services Accounts	\$58	\$58	\$0	—	

This off-budget account represents the expenses the Division of Investment charges directly to the various State pension funds for the management of the funds' investment portfolios. The OLS notes that the division's Services Other Than Personal account, which pays for services provided by external parties, does not include the compensation payments to outside money managers. According to the *New Jersey State Investment Council Annual Report For Fiscal and Calendar Year 2013*, the division paid \$378.1 million in management and performance fees and expenses in FY 2013 to private investment firms that handled \$20.3 billion of State pension fund assets on June 30, 2013. The division effectuates these payments directly from the assets placed with the investment firms and their earnings. On February 28, 2014, the division valued the total assets of the State pension funds at \$76.5 billion.

The Administration proposes continuation off-budget funding of \$12.9 million to the Division of Investment in FY 2015. But the Governor's FY 2015 Budget proposes reallocating \$1.9 million from the division's Personal Services accounts to its Services Other Than Personal account. Upon inquiry, the Office of Management and Budget indicated that the shift primarily represented "a realignment of resources to the level of actual need and expenditures representative of the prior fiscal year." Actual FY 2013 Personal Services expenditures were \$8.2 million and Services Other Than Personal outlays reached \$6.2 million.

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

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 2014</u>	<u>Recomm.</u> <u>FY 2015</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
UNCLAIMED PROPERTY ADMINISTRATION					
All Other Funds:					
Direct State Services:					
Unclaimed Property					
Trust Fund					
Administration					
TOTAL:	<u>\$6,920</u>	<u>\$6,920</u>	<u>\$0</u>	<u>=</u>	D-389
Personal Services	\$6,583	\$6,132	(\$451)	(6.9%)	
Services Other Than					
Personal	\$302	\$745	\$443	146.7%	
Other Direct State					
Services Accounts	\$35	\$43	\$8	22.9%	

The Governor proposes continuation funding of \$6.9 million to the Unclaimed Property Administration (UPA) in FY 2015. But the Governor's FY 2015 Budget proposes reallocating the amount among the several UPA accounts. Upon inquiry, the Office of Management and Budget indicated that the recommended \$451,000 reduction in the UPA's Salaries and Wages account was related to the recommended \$443,000 million increase in its Services Other Than Personal account, which pays for services provided by external parties. Notably, the changes represented predominantly a shift in FY 2015 in the allocation of Office of Treasury Technology (OTT) service charges. In FY 2014, these charges were coded as salary expenses, whereas they will be coded as information technology service expenses in FY 2015.

The reallocation of OTT service charges may be connected to the OTT's recent organizational changes. The OTT used to be housed within the Division of Administration, but the Division of Revenue and Enterprise Services assumed jurisdictional control of the office in FY 2011, according to page D-385 in the FY 2015 Governor's Budget. A footnote on page D-388 of the FY 2015 Governor's Budget, however, states that the Division of Revenue and Enterprise Services' FY 2014 position data newly reflect the transfer to the division of the OTT's functions. In addition, page C-25 shows for the first time a "Treasury Technology Services" revolving fund in FY 2014. A revolving fund finances the operations of an intragovernmental service agency that bills client agencies for the goods and services it provides to them.

The UPA administers New Jersey's unclaimed property laws under which the State deems certain properties abandoned by their rightful owners if no activity related thereto has been recorded during statutorily defined periods of time. Once the State deems property abandoned, the UPA takes custodial possession of the property, seeks to return the property to its rightful owner, and records a portion of its value as State revenue. Rightful owners, however, can always reclaim their property. The UPA is funded "off-budget," as its administrative expenses are charged to the dedicated Unclaimed Personal Property Trust Fund. In FY 2015, the

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

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 2014</u>	<u>Recomm.</u> <u>FY 2015</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
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Administration anticipates \$247.6 million in trust fund revenues and the return of \$100.0 million of its assets to their rightful owners. Of the remaining \$147.6 million, the Administration recommends transferring \$139.1 million into the State General Fund for general State purposes (page C-8), and using \$6.9 million to cover the UPA's administrative expenses (page C-16). The residual \$1.6 million would enhance the trust fund balance, which is estimated to stand at \$43.4 million on June 30, 2014.

GENERAL GOVERNMENT SERVICES**PUBLIC BROADCASTING SERVICES**

**General Fund,
Direct State Services:
Public Broadcasting
Services**

\$2,176	\$0	(\$2,176)	(100.0%)	D-394
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The Administration recommends not continuing in FY 2015 the \$2.2 million appropriation the New Jersey Public Broadcasting Authority received in FY 2014. However, the Governor's FY 2015 Budget continues a language provision on page F-9 that allows for supplemental midyear appropriations of unspecified amounts to the authority without additional legislative approval. The Administration invoked this language provision in the course of FY 2012 and FY 2013 to appropriate \$2.0 million in each fiscal year to the authority and then \$2.2 million in FY 2014.

Established pursuant to P.L.1968, c.405, the New Jersey Public Broadcasting Authority owned and operated New Jersey Network Public Television and Radio (NJN), which broadcast New Jersey public affairs and cultural programming. Effective as of July 1, 2011 and in accordance with P.L.2010, c.104, however, the State ceased to operate NJN. It divested NJN's radio assets and operating licenses for nine radio stations to two non-profit organizations. It also transferred the management of NJN's four-station television network to another non-profit organization, while holding on to its television operating licenses. The divestiture reduced the role of the authority to maintaining, and if necessary operating, the television stations and other broadcast equipment in accordance with Federal Communications Commission licensing standards. To that end, the authority continues to maintain a management and engineering staff.

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

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 2014</u>	<u>Recomm.</u> <u>FY 2015</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
DIVISION OF PURCHASE AND PROPERTY					
General Fund, Direct State Services: Purchasing and Inventory Management TOTAL:	<u>\$10,387</u>	<u>\$10,387</u>	<u>\$0</u>	<u>=</u>	D-394
Salaries and Wages	\$8,909	\$8,465	(\$444)	(5.0%)	
Services Other Than Personal	\$1,388	\$1,832	\$444	32.0%	
Other Direct State Services Accounts	\$90	\$90	\$0	—	

The Administration proposes continuation funding of \$10.4 million to the Division of Purchase and Property in FY 2015. But the Governor's FY 2015 Budget proposes reallocating \$444,000 from the division's Salaries and Wages account to its Services Other Than Personal account, which pays for services provided by external parties. Upon inquiry, the Office of Management and Budget indicated that the realignment represented primarily a shift in FY 2015 in the allocation of Office of Treasury Technology (OTT) service charges. In FY 2014, these charges were coded as salary expenses, whereas they will be coded as information technology service expenses in FY 2015.

The reallocation of OTT service charges may be connected to the OTT's recent organizational changes. The OTT used to be housed within the Division of Administration, but the Division of Revenue and Enterprise Services assumed jurisdictional control of the office in FY 2011, according to page D-385 in the FY 2015 Governor's Budget. A footnote on page D-388 of the FY 2015 Governor's Budget, however, states that the Division of Revenue and Enterprise Services' FY 2014 position data newly reflect the transfer to the division of the OTT's functions. In addition, page C-25 shows for the first time a "Treasury Technology Services" revolving fund in FY 2014. A revolving fund finances the operations of an intragovernmental service agency that bills client agencies for the goods and services it provides to them.

As the State's central procurement agency, the Division of Purchase and Property oversees the purchasing of goods and services (other than construction) necessary for the daily operation of State government. The division is to ensure that State agencies comply with State procurement guidelines and that vendors fulfill their contractual obligations. The division only runs the purchasing process; the responsibility for the development of contract terms and contract management resides with contracting agencies.

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

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 2014</u>	<u>Recomm.</u> <u>FY 2015</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
DIVISION OF PROPERTY MANAGEMENT AND CONSTRUCTION					
General Fund, Direct State Services: Property Management and Construction – Property Management Services					
TOTAL:	<u>\$20,591</u>	<u>\$19,981</u>	<u>(\$610)</u>	<u>(3.0%)</u>	D-394
Salaries and Wages	\$13,127	\$11,952	(\$1,175)	(9.0%)	
Materials and Supplies	\$160	\$500	\$340	212.5%	
Services Other Than Personal	\$1,988	\$1,500	(\$488)	(24.5%)	
Maintenance and Fixed Charges	\$5,236	\$5,949	\$713	13.6%	
Additions, Improvements, and Equipment	\$80	\$80	\$0	0.0%	

The recommended \$610,000 decline in the FY 2015 appropriation to the Division of Property Management and Construction is the aggregation of several countervailing changes.

First, the Governor recommends a \$1.2 million decrease in the division's FY 2015 Salaries and Wages appropriation. Upon inquiry, the Office of Management and Budget (OMB) indicated that the decrease represented primarily a shift in FY 2015 in the allocation of Office of Treasury Technology (OTT) service charges. In FY 2014, these charges were coded as salary expenses, whereas they will be coded as information technology service expenses in FY 2015. The reallocation of OTT service charges may be connected to the OTT's recent organizational changes. The OTT used to be housed within the Division of Administration, but the Division of Revenue and Enterprise Services assumed jurisdictional control of the office in FY 2011, according to page D-385 in the FY 2015 Governor's Budget. A footnote on page D-388 of the FY 2015 Governor's Budget, however, states that the Division of Revenue and Enterprise Services' FY 2014 position data newly reflect the transfer to the division of the OTT's functions. In addition, page C-25 shows for the first time a "Treasury Technology Services" revolving fund in FY 2014. A revolving fund finances the operations of an intragovernmental service agency that bills client agencies for the goods and services it provides to them.

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

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 2014</u>	<u>Recomm.</u> <u>FY 2015</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
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Second, the Administration proposes a \$488,000 decrease in the division’s FY 2015 Services Other Than Personal appropriation, which pays for services provided by external parties. The drop is the net effect of two countervailing factors. On the one side of the ledger, the Governor’s FY 2015 Budget does not renew the \$1.0 million FY 2014 supplemental appropriation for professional services purchased as part of the decommissioning of the former Department of Health laboratory facility in Trenton following the Public Health and Environmental Laboratories’ 2011 move into their new building on the grounds of the State Police headquarters in Ewing Township. On the other side of the ledger, the division’s Services Other Than Personal appropriation is recommended to grow as a result of the reallocation of OTT service charges in FY 2015 from the division’s Wages and Salaries account to its Services Other Than Personal account.

Thirdly, the Administration recommends a \$713,000 increase in the division’s FY 2015 Maintenance and Fixed Charges account and a \$340,000 increase in its FY 2015 Materials and Supplies account. Upon inquiry, the OMB indicated that the growth primarily represented “a realignment of resources to the level of actual need and expenditures representative of the prior fiscal year.” Actual FY 2013 Maintenance and Fixed Charges expenditures totaled \$3.4 million and Materials and Supplies outlays \$403,000.

The division manages the real estate needs of State government. In so doing, it purchases, sells, and leases office, warehouse, and other space for all State government entities, with certain exceptions. The division also provides full maintenance services for State-owned buildings in the Trenton area and manages building construction and renovation projects. It receives an on-budget appropriation to defray the costs of its building management services. In contrast, client agencies pay for the division’s construction management services through reimbursements to an off-budget revolving fund (pages G-7 and G-8 of the Governor’s FY 2015 Budget).

DIVISION OF RISK MANAGEMENT

**General Fund,
Direct State Services:
Risk Management**

TOTAL:	<u>\$3,716</u>	<u>\$3,716</u>	<u>\$0</u>	<u>=</u>	D-394
Salaries and Wages	\$2,734	\$2,290	(\$444)	(16.2%)	
Services Other Than Personal	\$908	\$1,338	\$430	47.4%	
Other Direct State Services Accounts	\$74	\$88	\$14	18.9%	

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

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 2014</u>	<u>Recomm.</u> <u>FY 2015</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
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The Administration proposes continuation funding of \$3.7 million to the Division of Risk Management in FY 2015. But the Governor's FY 2015 Budget proposes reallocating the amount among the several division accounts. Upon inquiry, the Office of Management and Budget indicated that the recommended \$444,000 reduction in the division's Salaries and Wages account was related to the recommended \$430,000 increase in its Services Other Than Personal account, which pays for services provided by external parties. Notably, the changes represented predominantly a shift in FY 2015 in the allocation of Office of Treasury Technology (OTT) service charges. In FY 2014, these charges were coded as salary expenses, whereas they will be coded as information technology service expenses in FY 2015.

The reallocation of OTT service charges may be connected to the OTT's recent organizational changes. The OTT used to be housed within the Division of Administration, but the Division of Revenue and Enterprise Services assumed jurisdictional control of the office in FY 2011, according to page D-385 in the FY 2015 Governor's Budget. A footnote on page D-388 of the FY 2015 Governor's Budget, however, states that the Division of Revenue and Enterprise Services' FY 2014 position data newly reflect the transfer to the division of the OTT's functions. In addition, page C-25 shows for the first time a "Treasury Technology Services" revolving fund in FY 2014. A revolving fund finances the operations of an intragovernmental service agency that bills client agencies for the goods and services it provides to them.

The Division of Risk Management is responsible for developing and implementing a Statewide risk management strategy to protect physical State assets from accidental loss or damage and to reduce the frequency and severity of on-the-job injuries to State employees. It also administers the State's self-insured Workers' Compensation and Sick Leave Injury programs.

OFFICE OF INFORMATION TECHNOLOGY**General Fund,****Direct State Services:****Special Purpose:****Office of Information****Technology****\$63,290****\$66,686****\$3,396****5.4%****D-400**

This budget line represents transfers of federal and dedicated funds from State agencies to the Office of Information Technology (OIT) for billable services performed by the OIT. According to the Office of Management and Budget, the requested \$3.4 million increase over the adjusted FY 2014 amount is mostly attributable to growing expenses for unspecified contractual maintenance services for new and existing software and hardware.

The OIT provides information technology services to State agencies and has a recommended FY 2015 budget of \$149.4 million for 739 funded positions. Excluding the proposed \$13.3 million for the Office of Emergency Telecommunication Services (Statewide 911 System), OIT's recommended FY 2015 appropriation is \$136.1 million. Of this amount, transfers of federal

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

<u>Budget Item</u>	<u>Adj. Approp. FY 2014</u>	<u>Recomm. FY 2015</u>	<u>Dollar Change</u>	<u>Percent Change</u>	<u>Budget Page</u>
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and dedicated funds from State agencies for billable OIT services account for \$66.7 million, or 49.0 percent, and General Fund appropriations for the remaining \$69.4 million, or 51.0 percent.

**General Fund,
Direct State Services:
Services Other Than
Personal**

\$19,255	\$23,628	\$4,373	22.7%	D-399
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The Administration recommends increasing the FY 2015 appropriation to OIT’s Services Other Than Personal account, which pays for services provided by outside vendors, by a net \$4.4 million, or 22.7 percent. The Office of Management and Budget relates that three countervailing components add up to the \$4.4 million net growth: a) a \$3.0 million appropriation for the Cyber Security and Data Protection Plan for the purchase of software, hardware, and professional services that would enhance data protection and network monitoring capabilities so as to better guard the State’s information technology assets against intrusion and attack; b) an additional \$2.5 million for the contractual maintenance of unspecified new and existing hardware and software assets that support the statewide information technology infrastructure; and c) a \$1.1 million reduction attributable to savings from the maturation of previous line of credit purchases, which are allocated to OIT’s Other Than Personal account although line of credit debt service payments are charged to the OIT’s Additions, Improvements and Equipment account (see following “significant change”).

The OLS notes that in the Governor’s FY 2012 Budget the Administration recommended a \$4.0 million expenditure for: a) the procurement of new equipment and software that would help improve the State’s information and data security under an “Information Security” initiative; and b) the first phase of a multi-year “IT Modernization” initiative that would replace the State’s legacy administrative information technology systems, including those in the areas of pensions, payroll, accounting, purchasing, and personnel. The Legislature did not fund the initiatives in the FY 2012 Appropriations Act. It is unclear if the proposed FY 2015 appropriation relates to the previously planned “Information Security” and “IT Modernization” initiatives.

Office of Information Technology Services Other Than Personal Account Expenditures from General State Resources FY 2011 to FY 2015					
Account	FY 2011	FY 2012	FY 2013	FY 2014 Budget Authority	FY 2015 Recommended
Services Other Than Personal	\$8,697,000	\$10,164,000	\$15,895,000	\$19,255,000	\$23,628,000

Furthermore, since FY 2013 there appears to have been a change in the way in which OIT projects that support the enterprise-wide information technology infrastructure have been

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

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 2014</u>	<u>Recomm.</u> <u>FY 2015</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
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displayed in the annual Governor’s Budgets and Appropriations Acts. Prior to FY 2013, such projects were routinely and distinctly identified as “special purpose” or capital projects. Since FY 2013, however, they have been folded into and funded out of the OIT’s Services Other Than Personal and Additions, Improvements and Equipment accounts. The table above illustrates the steep growth in the Services Other Than Personal account since FY 2012, exclusive of the amounts the OIT expended on Services Other Than Personal out of federal and dedicated funds that State agencies transferred to the OIT to pay for billable OIT services. The OIT’s Additions, Improvements and Equipment account mirrors this trend (see following “significant change”).

**General Fund,
Direct State Services:
Additions,
Improvements and
Equipment**

\$6,148 \$17,537 \$11,389 185.2% D-400

The Administration proposes a \$17.5 million appropriation to cover contractual line of credit debt service obligations in FY 2015. The Office of Management and Budget (OMB) reported to the OLS that the requested \$11.4 million increase represented line of credit payments for previously approved data storage and network equipment purchases, emergency power enhancements, and alternate data center expansions. The OMB stated further that the net increase in required FY 2015 line of credit payments was only \$10.3 million after the inclusion of \$1.1 million in savings from the maturation of previous line of credit purchases. The savings, however, are allocated to OIT’s Other Than Personal account (see previous “significant change”). In general, line of credit financing is available to State agencies to pay for their short-term (three years) equipment needs, such as computers, furniture, and vehicles purchases.

The OLS notes that in FY 2012 the Administration first recommended a \$1.5 million appropriation that was intended to cover the first semi-annual line of credit debt service payment for a \$10.5 million investment in upgrades to the State’s information technology infrastructure. The Legislature did not fund the initiative in the FY 2012 Appropriations Act. It is not clear if the proposed FY 2015 appropriation relates to the previously planned \$10.5 million investment.

Office of Information Technology Additions, Improvements and Equipment Expenditures from General State Resources FY 2011 to FY 2015					
Account	FY 2011	FY 2012	FY 2013	FY 2014 Budget Authority	FY 2015 Recommended
Additions, Improvements and Equipment	\$6	\$0	\$1,500,000	\$6,148,000	\$17,537,000

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

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 2014</u>	<u>Recomm.</u> <u>FY 2015</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
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Moreover, since FY 2013 there appears to have been a change in the way in which OIT projects that support the enterprise-wide information technology infrastructure have been displayed in the annual Governor's Budgets and Appropriations Acts. Prior to FY 2013, such projects were routinely and distinctly identified as "special purpose" or capital projects. Since FY 2013, however, they have been folded into and funded out of the OIT's Services Other Than Personal and Additions, Improvements and Equipment accounts. The table above illustrates the steep rise in the Additions, Improvements and Equipment account since FY 2012, exclusive of the amounts the OIT expended on Additions, Improvements and Equipment out of federal and dedicated funds that State agencies transferred to the OIT to pay for billable OIT services. The OIT's Services Other Than Personal account mirrors this trend (see previous "significant change").

All Other Funds:**Office of Information**

Technology	\$7,000	\$5,500	(\$1,500)	(21.4%)	D-400
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This budget line represents the off-budget OIT Indirect Cost Recoveries account. It captures a portion of the payments that State agencies make to the OIT out of federal and dedicated funds for services performed by the OIT. Specifically, the account receives that component of the payments that reimburses the OIT for asset depreciation and fringe benefit costs, or the payments the State makes for OIT employees for retirement, social security, health and dental insurance contributions, workers' compensation, unemployment, survivors' and disability insurance. The expected \$5.5 million in FY 2015 account receipts equals the amount that was anticipated for FY 2014 in the Governor's FY 2014 Budget. Actual receipts have ranged from \$5.0 million to \$7.0 million between FY 2009 and FY 2013.

STATE SUBSIDIES AND FINANCIAL AID**Property Tax Relief****Fund,****Grants-in-Aid:****Homestead Benefit**

Program (PTRF)	\$400,500	\$395,200	(\$5,300)	(1.3%)	D-403
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The Administration recommends a \$5.3 million funding decrease in FY 2015 for the New Jersey Homestead Property Tax Credit program (N.J.S.A.54:4-8.57 et seq.), renamed the Homestead Benefit Program. An estimated 829,000 homeowners would collect an average \$469 benefit in FY 2015, after 843,200 homeowners obtained an average \$469 rebate in FY 2014. The background paper entitled "The History of Homestead Rebates" includes a table on page 162 that juxtaposes the benefit amounts individuals would receive under statutory provisions, the

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

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 2014</u>	<u>Recomm.</u> <u>FY 2015</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
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amounts they actually received in FY 2014, and the amounts they would collect in FY 2015 according to proposed language in the Governor's FY 2015 Budget.

The recommended reduction in the program's FY 2015 appropriation is ascribable to the Administration's expectation that the recent trend of diminishing enrollments will continue. Although the program's eligibility criteria have not changed since FY 2010, the number of claimants steadily fell by 148,800, or 15.0 percent, from 992,000 in FY 2010 to 843,200 in FY 2014. The Administration projects a further 1.7 percent contraction in FY 2015 to 829,000 participants. In response to OLS Discussion Point #17 in the FY 2012-2013 Department of the Treasury Budget Analysis, the Treasury related that bracket creep appeared to be the primary driver of the erosion, especially among former non-senior participants.

Statutory Program: Under the program's statutory structure, which proposed budget language would supersede, a homeowner's credit amount is based on the homeowner's gross income and the homeowner's property taxes paid in the last calendar year up to \$10,000. Credits equal 20 percent of allowable property taxes paid up to \$10,000 for incomes up to \$100,000, 15 percent of allowable property taxes paid up to \$10,000 for incomes over \$100,000 up to \$150,000, and 10 percent of allowable property taxes paid up to \$10,000 for incomes over \$150,000 up to \$250,000. A homeowner who is disabled, blind or 65 years of age or older receives the higher of the payment to which the homeowner is entitled under the above schedule or an amount equal to the amount by which property taxes paid in a tax year exceed five percent of the claimant's gross income subject to the following ranges: if the gross income is not over \$70,000 the claimant receives a \$1,000 to \$1,200 benefit, if the gross income over \$70,000 but not over \$125,000 the claimant receives a \$600 to \$800 benefit, and if the gross income is over \$125,000 but not over \$200,000 the claimant receives a \$500 benefit. Statutory tenant rebates in FY 2015 are \$150 for all tenants with incomes up to \$100,000, with tenants who are blind, disabled or 65 years of age or older with incomes not exceeding \$70,000 receiving up to \$850.

Governor's FY 2015 Budget as it Pertains to Senior Homeowners: The proposed FY 2015 language maintains the parameters of the budgeted FY 2014 program for homeowners who are blind, disabled or 65 years of age or older. Specifically, the Governor recommends: a) eliminating homestead benefits for homeowners with incomes above \$150,000; b) granting homestead benefits of 5.0 percent of property taxes paid up to \$10,000 for homeowners with incomes between \$100,000 and \$150,000 (in lieu of the statutory 15.0 percent); c) allowing homestead benefits of 10.0 percent of property taxes paid up to \$10,000 for homeowners with incomes not exceeding \$100,000 (instead of the statutory 20.0 percent); d) eliminating the alternative benefit computation under which claimants receive the higher of the payment to which they are entitled under the above schedule or an amount equal to the amount by which property taxes paid in a tax year exceed 5.0 percent of the claimant's gross income subject to the ranges indicated in the above paragraph; and e) maintaining 2006 property taxes, as opposed to tax year 2013 property taxes, as the basis for calculating homestead benefits.

Governor's FY 2015 Budget as it Pertains to Non-Senior Homeowners: The proposed FY 2015 language maintains the parameters of the budgeted FY 2014 program for all other homeowners.

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

<u>Budget Item</u>	<u>Adj. Approp. FY 2014</u>	<u>Recomm. FY 2015</u>	<u>Dollar Change</u>	<u>Percent Change</u>	<u>Budget Page</u>
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Specifically, the Governor recommends: a) eliminating homestead benefits for homeowners with incomes above \$75,000; b) granting homestead benefits of 6.67 percent of property taxes paid up to \$10,000 for homeowners with incomes between \$50,000 and \$75,000 (in lieu of the statutory 20.0 percent); c) allowing homestead benefits of 10.0 percent of property taxes paid up to \$10,000 for homeowners with incomes not exceeding \$50,000 (instead of the statutory 20.0 percent); and d) maintaining 2006 property taxes, as opposed to tax year 2013 property taxes, as the basis for calculating homestead benefits.

Governor’s FY 2015 Budget as it Pertains to Tenants: As in FY 2014, the Governor proposes eliminating the homestead property tax rebate program for tenants in FY 2015. Statutory FY 2015 tenant rebates would be \$150 for all tenants with incomes up to \$100,000, with tenants who are blind, disabled or 65 years of age or older with incomes not exceeding \$70,000 receiving up to \$850.

**Property Tax Relief
Fund,
Grants-in-Aid:
Senior and Disabled
Citizens’ Property Tax
Freeze (PTRF)**

\$214,200	\$203,100	(\$11,100)	(5.2%)	D-403
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For FY 2015, the Governor recommends maintaining the FY 2014 parameters of the Senior and Disabled Citizens' Property Tax Freeze program, or Homestead Property Tax Reimbursement program (N.J.S.A.54:4-8.67 et seq.). Specifically, the program would operate under its statutory provisions except that the income eligibility threshold would be \$70,000 for tax years 2012 and 2013 in lieu of the statutory \$82,880 for tax year 2012 and \$84,289 for tax year 2013. Overall, the Executive forecasts a \$1,099 average FY 2015 payment to 184,700 participants. In FY 2014, some 183,200 participants received an average \$1,169 payment. The anticipated lower average amount is mostly due to more recent cohorts of program participants with lower average benefits replacing long-time participants with larger average benefits.

Under the Governor’s proposal, the Senior and Disabled Citizens' Property Tax Freeze program would reimburse qualified homeowners for the difference between the amount of property taxes paid on a principal residence in tax year 2013 and the amount paid in the base year. Qualified homeowners in FY 2015 would have to be at least 65 years of age or disabled or both. They would also have to have a tax year 2012 and 2013 income not exceeding \$70,000 (as opposed to not exceeding \$82,880 in tax year 2012 and \$84,289 in tax year 2013 under statutory provisions), whether married or single. Moreover, they would have had to pay property taxes directly, or indirectly by means of rental payments, on any homestead or rental unit used as a principal residence in New Jersey for at least ten consecutive years, the last three of which must have been as owners of the homesteads for which they seek the reimbursement.

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

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 2014</u>	<u>Recomm.</u> <u>FY 2015</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
General Fund, State Aid: South Jersey Port Corporation Debt Service Reserve Fund	\$15,271	\$19,419	\$4,148	27.2%	D-403

Organized "in but not of" the Department of the Treasury, the South Jersey Port Corporation manages and operates the ports of Camden and Salem and is currently building a new marine terminal in Paulsboro, which is anticipated to open by the end of calendar year 2015.

The Governor recommends a \$24.5 million State appropriation to the corporation in FY 2015: an increase of \$4.1 million to \$19.4 million to the South Jersey Port Corporation Debt Service Reserve Fund and an unchanged \$5.1 million for payments in lieu of property taxes (PILOT) to counties and municipalities in which the corporation operates facilities. Moreover, the Governor also proposes retaining language in the FY 2015 Appropriations Act that would authorize the Office of Management and Budget to allocate additional amounts to the corporation for PILOT and debt service payments during the course of the fiscal year and without additional legislative approval.

The South Jersey Port Corporation pays the debt service it owes on its bond issuances out of its marine terminal revenues. If these revenues are insufficient to meet the annual payment obligations, resources in the South Jersey Port Corporation Debt Service Reserve Fund cover the remaining gap. The State has consistently had to replenish the reserve fund so as to ensure that the corporation can meet its obligations to bondholders.

The recommended \$4.1 million increase in the FY 2015 appropriation to the debt service reserve fund is predominantly a function of the corporation's larger debt service requirements under the terms of the Marine Terminal Revenue Refunding Bonds, Series 2012 R (AMT) and Series Q. The October 2012 refunding bonds lowered the corporation's required debt service obligation by \$14.8 million through January 1, 2040. But the savings are front-loaded: some \$4.7 million materialized in calendar year 2013 and \$488,000 will materialize in calendar year 2014. Accordingly, the corporation's calendar year 2014 debt service payments on all of its bonds (\$24.9 million) will exceed calendar year 2013's total (\$20.7 million) by \$4.2 million. In all, on January 1, 2014, the corporation had \$510.0 million in outstanding debt service payment obligations on all of its bonds through final maturity on January 1, 2040.

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

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 2014</u>	<u>Recomm.</u> <u>FY 2015</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
Property Tax Relief Fund, State Aid: Senior and Disabled Citizens' Property Tax Deductions (PTRF)	\$14,800	\$13,200	(\$1,600)	(10.8%)	D-403

The Governor recommends reducing the FY 2015 appropriation for the State reimbursement to municipalities for the cost of senior and disabled citizens' property tax deductions, as the Treasury anticipates the steady, long-term decline in the number of program participants to continue. In FY 1999, 121,000 claimants received deductions. In FY 2014, some 53,778 senior and disabled citizens did, and the department expects the number to decrease further to 51,600 in FY 2015.

Article VIII, Section I, Paragraph 4 of the New Jersey Constitution provides a \$250 property tax deduction to homeowners who are 65 years of age or older or disabled or both, if their annual income exclusive of Social Security benefits does not exceed \$10,000. The State reimburses municipalities for 102 percent of the resultant revenue loss to cover their administrative expenses.

Property Tax Relief Fund, State Aid: Veterans' Property Tax Deductions (PTRF)	\$59,200	\$56,300	(\$2,900)	(4.9%)	D-403
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The Governor recommends reducing the FY 2015 appropriation for the State reimbursement to municipalities for the cost of veterans' property tax deductions, as the Treasury anticipates the steady, long-term decline in the number of program participants to continue. In FY 1999, 344,000 claimants received deductions. In FY 2014, some 228,843 veterans did, and the department expects the number to decrease further to 220,800 in FY 2015.

Article VIII, Section I, Paragraph 3 of the New Jersey Constitution provides a \$250 property tax deduction to veteran homeowners who were honorably discharged or released under honorable circumstances from active service in time of war or other emergency. The State reimburses municipalities for 102 percent of the resultant revenue loss to cover their administrative expenses.

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

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 2014</u>	<u>Recomm.</u> <u>FY 2015</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
General Fund, State Aid: State Contribution to Consolidated Police and Firemen's Pension Fund	\$864	\$0	(\$864)	(100.0%)	D-403

No State pension contribution to the Consolidated Police and Firemen's Pension Fund (CPFPPF) is recommended in FY 2015 since the actuaries determined that the CPFPPF was fully funded and not in need of any additional State contributions. Specifically, *The Consolidated Police and Firemen's Pension Fund of New Jersey Annual Report of the Actuary Prepared as of July 1, 2013* for the New Jersey Division of Pensions and Benefits shows that the fund's actuarial value of assets (\$6.4 million) exceeded its accrued liabilities (\$6.1 million) by \$340,000.

The CPFPPF is a closed system without contributing members that provides pension coverage to municipal police officers and firemen who were appointed prior to July 1, 1944 and their spouses. Participating municipalities pay two-thirds of the fund's liabilities, while the State covers the remaining third. As of June 30, 2013, the fund had 185 beneficiaries who had received \$1.3 million in pension benefits in FY 2013, according to *The Consolidated Police and Firemen's Pension Fund of New Jersey Annual Report of the Actuary Prepared as of July 1, 2013*. A year prior, the fund had 241 beneficiaries who received \$1.7 million in pension benefits.

**Property Tax Relief
Fund,
State Aid:
Debt Service on
Pension Obligation
Bonds (PTRF)**

\$16,563	\$17,872	\$1,309	7.9%	D-404
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The recommended increase reflects changing contractual debt service payments for the *State Pension Funding Bonds* in FY 2015. The above budget line captures only that portion of total debt service payments that is allocated to the State as the employer contribution on behalf of local governmental entities for the Police and Firemen's Retirement System and the Consolidated Police and Firemen's Pension Fund.

In 1997, the New Jersey Economic Development Authority issued the \$2.8 billion appropriations-backed *State Pension Funding Bonds, Series 1997A – 1997C* pursuant to P.L.1997, c.114, the "Pension Bond Financing Act of 1997" (\$375 million of which were refinanced in 2003 as *State Pension Funding Variable Rate Refunding Bonds, Series 2003*). Their proceeds were intended to finance \$2.8 billion of the State's \$3.2 billion unfunded retirement systems liability in 1997. According to the *Fiscal Year 2013 State of New Jersey Debt Report*, the State had \$2.38 billion in outstanding principal payments at the end of FY

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

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 2014</u>	<u>Recomm.</u> <u>FY 2015</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
<p>2013 through the bonds' maturity in 2029. In FY 2015, the Governor recommends \$341.8 million in total pension bond debt service payments, which represents an increase of \$25.0 million, or 7.9 percent, over the \$316.7 million FY 2014 appropriation. The outlay is allocated as follows: (1) \$181.2 million in the Department of Education (page D-99), (2) \$142.5 million in Interdepartmental Accounts (pages D-432 and D-433), and (3) \$18.0 million in the Department of the Treasury (pages D-374 and D-404).</p> <p>Property Tax Relief Fund, State Aid: Police and Firemen's Retirement System – Post Retirement Medical (PTRF)</p>	\$43,992	\$45,284	\$1,292	2.9%	D-404

The recommended FY 2015 amount would cover the State's obligation to pay 80 percent of the medical and prescription drug claims for Police and Firemen's Retirement System (PFRS) members who retired on disability or with at least 25 years of creditable service in accordance with N.J.S.A.52:14-17.32i. In general, appropriation recommendations for each fiscal year reflect health benefit plan enrollment and claims projections for parts of two plan years, which run on a calendar year basis.

The growth in the requested FY 2015 appropriation is attributable to a projected increase in the number of retirees (2.8 percent in calendar year 2014 and 2.5 percent in calendar year 2015) and in the cost of medical and prescription drug claims. Based on actual claims experience, however, it appears that the FY 2014 adjusted appropriation might be larger than needed. If so, FY 2014 account expenditures would be lower than budgeted and the actual growth rate would exceed 2.9 percent to reach the \$45.3 million recommended FY 2015 appropriation. It is not clear, however, whether the Executive would lapse any uncommitted account balances into the General Fund at the end of the current fiscal year or carry them forward into FY 2015.

The OLS notes that because the State is self-insured for the provision of health care benefits for its employees and retirees as well as those of certain local governments, the budgeted appropriations are estimates of the claims costs that the State will incur in a given fiscal year. While the appropriations provide the source of funds to pay for claims costs, the actual expenditures are paid out of the State Health Benefits Fund. Balances carried in the State Health Benefits Fund from one fiscal year to the next are not reflected in the FY 2015 Governor's Budget.

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

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 2014</u>	<u>Recomm.</u> <u>FY 2015</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
General Fund, State Aid: Police and Firemen's Retirement System	\$42,594	\$0	(\$42,594)	(100.0%)	D-404
Police and Firemen's Retirement System (P.L.1979, c.109)	\$30,587	\$0	(\$30,587)	(100.0%)	D-404
Property Tax Relief Fund, State Aid: Police and Firemen's Retirement System (PTRF)	\$0	\$60,060	\$60,060	—	D-404
Police and Firemen's Retirement System (P.L.1979, c.109) (PTRF)	<u>\$0</u>	<u>\$42,062</u>	<u>\$42,062</u>	<u>—</u>	D-404
TOTAL	\$73,181	\$102,122	\$28,941	39.5%	

In accordance with P.L.2010, c.1, the recommended FY 2015 appropriation to this account represents 4/7th of the actuarially determined full \$178.7 million State pension contribution to the Police and Firemen's Retirement System (PFRS) for full-time county and municipal police officers and firefighters. The equivalent FY 2014 contribution was 3/7th of the full actuarially determined \$170.8 million State payment. The Administration also proposes a funding shift for the appropriation from the General Fund in FY 2014 to the Property Tax Relief Fund in FY 2015.

The total proposed FY 2015 State PFRS contribution is \$236.8 million allocated among three budget sections: (1) Direct State Services under Interdepartmental Accounts, \$125.5 million (page D-431); (2) Grants-in-Aid for State colleges' and universities' campus police, also under Interdepartmental Accounts, \$9.1 million (page D-432); and (3) State Aid on behalf of local governmental entities in the Department of the Treasury, \$102.1 million (pages D-404). The actuarially determined full State pension contribution to the PFRS in FY 2015 equals \$414.3 million. It was \$389.7 million in FY 2014. The State would therefore defer the payment of the unfunded portion of the FY 2015 accrued liability, or \$177.6 million, into the future.

PFRS provides pension coverage to all full-time county, municipal, and State police officers and firefighters (but not to State Police officers who are covered by the State Police Retirement System). Local employers and the State pay employer contributions. The Police and Firemen's

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

<u>Budget Item</u>	<u>Adj. Approp. FY 2014</u>	<u>Recomm. FY 2015</u>	<u>Dollar Change</u>	<u>Percent Change</u>	<u>Budget Page</u>
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Retirement System account pays for the State's basic pension contribution, whereas the Police and Firemen's Retirement System (P.L.1979, c.109) account covers, at 1.1 percent of covered salary, the State's liability for enhanced pension benefits consisting of a retirement allowance of 65 percent of final compensation for PFRS members who retire after 25 years of service. The system is projected to have 44,981 pensioners in FY 2015, as displayed in the evaluation data in the Governor's FY 2015 Budget (page D-430).

MANAGEMENT AND ADMINISTRATION**DIVISION OF ADMINISTRATION****General Fund,****Direct State Services:****Administration and
Support Services**

TOTAL:	<u>\$11,618</u>	<u>\$11,228</u>	<u>(\$390)</u>	<u>(3.4%)</u>	D-407
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Salaries and Wages	\$11,210	\$9,190	(\$2,020)	(18.0%)	D-407
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Services Other Than Personal	\$342	\$1,831	\$1,489	435.4%	D-407
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Other Direct State Services Accounts	\$66	\$207	\$141	213.6%	D-407
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The Governor proposes reducing the FY 2015 appropriation for the Treasury's Division of Administration by a net \$390,000. Recommended changes in several division accounts aggregate to the net decrease. Upon inquiry, the Office of Management and Budget indicated that the recommended \$2.0 million reduction in the division's Salaries and Wages account was related to the recommended \$1.5 million increase in its Services Other Than Personal account, which pays for services provided by external parties. Notably, the changes represented predominantly a shift in FY 2015 in the allocation of Office of Treasury Technology (OTT) service charges. In FY 2014, these charges were coded as salary expenses, whereas they will be coded as information technology service expenses in FY 2015.

The reallocation of OTT service charges may be connected to the OTT's recent organizational changes. The OTT used to be housed within the Division of Administration, but the Division of Revenue and Enterprise Services assumed jurisdictional control of the office in FY 2011, according to page D-385 in the FY 2015 Governor's Budget. A footnote on page D-388 of the FY 2015 Governor's Budget, however, states that the Division of Revenue and Enterprise Services' FY 2014 position data newly reflect the transfer to the division of the OTT's functions.

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

<u>Budget Item</u>	<u>Adj. Approp. FY 2014</u>	<u>Recomm. FY 2015</u>	<u>Dollar Change</u>	<u>Percent Change</u>	<u>Budget Page</u>
General Fund, Total Debt Service	\$298,204	\$370,134	\$71,930	24.1%	D-407, E-7, E-8

The Administration recommends a \$404.8 million FY 2015 appropriation for general obligation bond debt service payments, of which \$370.1 million would be funded in the Department of the Treasury budget and \$34.7 million in the Department of Environmental Protection budget (page D-132). The proposed FY 2015 appropriation reflects an \$85.1 million, or 26.6 percent, increase over FY 2014, driven by rising debt service payment requirements under the terms of existing bond covenants and new debt service payments on anticipated future bond sales.

Specifically, the \$85.1 million difference is ascribable to: a) \$46.2 million in additional debt service payments on existing refunding bonds; b) \$24.8 million in projected debt service payments on unspecified anticipated FY 2014 and FY 2015 general obligation bond sales; c) \$5.7 million in additional debt service payments on Green Acres, Farmland, Blue Acres, and Historic Preservation Bonds (P.L.2007, c.119), predominantly reflecting the FY 2013 sale of \$31.5 million in new bonds; d) \$2.4 million in debt service payments on FY 2013 bond sales that represented the first issuances under their respective bonding authorities, namely a \$169.5 million Green Acres, Water Supply and Floodplain Protection, and Farmland and Historic Preservation Bonds (P.L.2009, c.117) sale and a \$100.0 million Building Our Future Bonds (P.L.2012, c.41) issuance to finance higher educational capital projects; and e) \$6.0 million in miscellaneous changes. In general, in FY 2015, general State resources will for the first time pay for debt service on bonds issued in FY 2013. This is so because the Treasury applied to their FY 2014 payment a portion of the \$24.2 million in original issue premiums it had realized in prior bond sales.

The budgeted numbers, however, capture only general obligation bond debt service payments from budgeted resources. FY 2014 debt service payments are actually \$343.9 million instead of \$319.7 million after the inclusion of \$24.2 million in offsetting payments from bond premiums the State had received as part of prior bond issuances. Similarly, anticipated FY 2015 debt service payments are \$433.3 million, rather than the budgeted \$404.8 million, owing to the application towards required FY 2015 debt service payments of: a) \$23.0 million in bond premiums the State realized in prior bond sales; and b) \$5.5 million to be realized from a proposed general obligation bond cash defeasance. Defeasance is a method of liquidating debt whereby the issuer sets aside cash in an escrow account to pay off the bonds. Doing so allows the issuer to remove the bonded indebtedness from the issuer's balance sheet. Therefore, FY 2015 general obligation bond debt service payments are projected to grow by \$89.4 million, rather than \$85.1 million.

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

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 2014</u>	<u>Recomm.</u> <u>FY 2015</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
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As of June 30, 2013, some \$2.4 billion in principal payments on general obligation bonds remained outstanding, while \$1.29 billion of authorized general obligation borrowing authority had not yet been used. But general obligation bonds account only for a fraction of the State's bonded indebtedness. As the background paper entitled "The Budgetary Impact of the State's Bonded Debt," which starts on page 170 of this booklet, explains, estimated FY 2015 State debt service payments on bonded indebtedness approximate \$3.35 billion. General obligation bond debt service comprises \$404.8 million, or 12.1 percent, of that total.

DIVISION OF RATE COUNSEL**General Fund,****Direct State Services:****Services Other Than****Personal****\$2,400****\$3,500****\$1,100****45.8%****D-416**

The Administration recommends raising the FY 2015 appropriation to the Division of Rate Counsel's Services Other Than Personal account, which pays for services provided by outside vendors, by \$1.1 million, or 45.8 percent. The Office of Management and Budget (OMB) informed the OLS that the increase would finance the purchase of additional legal services primarily in connection with a growing caseload. Notably, the division was involved in a mounting number of rate proceedings before the Board of Public Utilities in which regulated utility companies sought to: a) recover the costs they incurred in restoring electric, gas, and water service in the wake of Hurricane Sandy; and b) gain approval for capital investments intended to fortify their electric and natural gas distribution infrastructure. Moreover, the OMB noted that the costs for rate cases had also been growing in recent years and that carryforward balances from prior years had been used to pay for a portion of those expenses but were no longer projected to be available in FY 2015.

N.J.S.A.52:27EE-46 et seq. established the Division of Rate Counsel as an independent State agency placed "in but not of" the Department of the Treasury. As a consumer advocate, the division represents the interests of utility customers whenever utilities seek changes in their rates for the delivery of natural gas, electric, water, wastewater, telephone or cable TV services. The division also advocates for consumers in certain insurance matters. In addition, it is a member of several state utility policy setting groups. Division expenses are ultimately charged to New Jersey's public utilities via an annual assessment.

Significant Language Changes

Office of Information Technology Non-State General Fund Resources

Revision

2014 Handbook: p. B-186

2015 Budget: p. D-400

In addition to the ~~\$64,896,000~~ \$66,686,000 attributable to OIT Other Resources, there are appropriated such amounts as may be received or receivable from any State agency, instrumentality or public authority for increases or changes in Office of Information Technology services, subject to the approval of the Director of the Division of Budget and Accounting.

The recommended language concerns the appropriation to the Office of Information Technology (OIT) of federal and dedicated funds that State agencies use to pay for billable OIT services. Specifically, if State agencies were to consume more than the \$66.7 million in billable services that the Governor's FY 2015 Budget anticipates will be charged to federal and dedicated funds, the language would appropriate the excess sum to the OIT so as to cover its cost of service delivery. The adjusted FY 2014 appropriation of federal and dedicated funds is estimated to be \$63.3 million, rather than the \$64.9 million originally included in the FY 2014 Appropriations Act. Transfers of federal and dedicated funds from State agencies to OIT are therefore projected to increase by \$3.4 million in FY 2015 over the adjusted FY 2014 amount. According to the Office of Management and Budget, the requested increase is mostly attributable to growing expenses for unspecified contractual maintenance services for new and existing software and hardware.

The OIT provides information technology services to State agencies and has a recommended FY 2015 budget of \$149.4 million for 739 funded positions. Excluding the proposed \$13.3 million for the Office of Emergency Telecommunication Services (Statewide 911 System), OIT's recommended FY 2015 appropriation is \$136.1 million. Of this amount, transfers of federal and dedicated funds from State agencies for billable OIT services account for \$66.7 million, or 49.0 percent, and General Fund appropriations for the remaining \$69.4 million, or 51.0 percent.

Municipal Aid Payment out of Energy Tax Receipts Property Tax Relief Fund

Revision

2014 Handbook: p. B-190

2015 Budget: p. D-405

There is appropriated from the Energy Tax Receipts Property Tax Relief Fund the amount of \$788,492,000 and an amount not to exceed ~~\$319,632,000~~ \$325,174,000 from Consolidated Municipal Property Tax Relief Aid is appropriated and shall be allocated to municipalities in accordance with the provisions of subsection b. of section 2 of P.L.1997, c.167 (C.52:27D--

EXPLANATION: FY 2014 language not recommended for FY 2015 denoted by strikethrough.
Recommended FY 2015 language that did not appear in FY 2014 denoted by underlining.

Significant Language Changes (Cont'd)

439), provided further, however, that from the amounts hereinabove appropriated, each municipality shall also receive such additional amounts from the Energy Tax Receipts Property Tax Relief Fund as provided in the previous fiscal year. Each municipality that receives an allocation from the amount so transferred from the Consolidated Municipal Property Tax Relief Aid program shall have its allocation from the Consolidated Municipal Property Tax Relief Aid program reduced by the same amount.

The revised language concerns aid disbursements from the Energy Tax Receipts Property Tax Relief Fund (ETR Fund), which the State established in 1997 as an off-budget account through which it distributes receipts from the taxation of certain regulated utilities and telecommunications companies as aid to municipalities (N.J.S.A.52:27D-439). Amendatory legislation enacted in 1999 instituted a \$755 million funding requirement for FY 2002 and mandated that the amount be annually adjusted for inflation thereafter (P.L.1999, c.168). Failure in a given year to appropriate moneys in the prescribed amount would void taxpayers' corporation business tax liabilities for that tax year.

Since FY 2003, however, energy tax receipts allocated from the ETR Fund have been inadequate to cover statutorily required ETR Fund aid payments, as the annual excess of energy tax receipts above a set level (\$788,492,000 since FY 2006) has been used in the State General Fund. To fulfill the ETR funding requirement and avoid triggering the poison pill provision, language provisions similar to the one above have thus transferred moneys from the Consolidated Municipal Property Tax Relief Aid (CMPTRA) program account to the ETR Fund. For municipalities, the net effect of these reallocations has been zero, as increased ETR disbursements have fully corresponded to decreases in CMPTRA. For FY 2015, the Administration proposes increasing the transfer from CMPTRA to the ETR Fund by \$5.5 million from \$319.6 million to \$325.2 million, reflecting the required inflation adjustment.

In all, the Governor recommends distributing an unchanged \$1.36 billion to New Jersey's 565 municipalities from the State's two formula-driven municipal aid programs in FY 2015: an unchanged \$788.5 million from the ETR Fund program and an unchanged \$575.9 million from the CMPTRA program (page D-53 of the Governor's FY 2015 Budget). Every municipality would receive the same base CMPTRA and ETR Fund aid payment in FY 2015 that it received in FY 2014. The CMPTRA amounts for seven municipalities would continue to include a portion of the municipalities' awards from prior years under the discretionary Transitional Aid to Localities program: Asbury Park City (\$6 million), Camden City (\$52 million), Chesilhurst Borough (\$150,000), Harrison Town (\$1.5 million), Lawnside Borough (\$550,000), Maurice River Township (\$265,000), and Newark City (\$10 million).

EXPLANATION: FY 2014 language not recommended for FY 2015 denoted by strikethrough.
Recommended FY 2015 language that did not appear in FY 2014 denoted by underlining.

Significant Language Changes (Cont'd)

Compliance with "Best Practices Inventory" for Municipal Governments

Revision

2014 Handbook: p. B-190

2015 Budget: p. D-405

Notwithstanding the provisions of any law or regulation to the contrary, the release of the final 5% or \$500, whichever is greater, of the total annual amount due for the current fiscal year from the Energy Tax Receipts Property Tax Relief Fund to municipalities is subject to the following condition: the municipality shall submit to the Director of the Division of Local Government Services a report describing the municipality's compliance with the "Best Practices Inventory" established by the Director of the Division of Local Government Services and shall receive at least a minimum score on such inventory as determined by the Director of the Division of Local Government Services; provided, however, that the Director may take into account the particular circumstances of a municipality in computing such score. In preparing the Best Practices Inventory, the Director shall identify best municipal practices in the areas of general administration, fiscal management, and operational activities, as well as the particular circumstances of a municipality, in determining the minimum score acceptable for the release of the final 5% or \$500, whichever is greater, of the total annual amount due for the current fiscal year, but in no event shall amounts be withheld with respect to municipal practices occurring prior to the issuance of the Best Practices Inventory unless related to a municipal practice identified in the Best Practices Inventory established in the previous fiscal year or related to compliance with a statute, regulation, or Executive Order in effect prior to the commencement of the previous fiscal year.

The proposed language provision sets the terms and conditions for the "Best Practices Inventory" for municipal governments and, to encourage cooperation with the initiative, requires the withholding of the greater of \$500 or the final five percent payment of Energy Tax Receipts Property Tax Relief Aid to municipalities that do not attain an inventory score indicating compliance. The language revision would newly require the computation of a municipality's score to consider a municipality's adherence to statutes, regulations, and Executive Orders in effect prior to the commencement of the previous fiscal year. The Executive Branch has indicated that the revision clarifies that withholding penalties will be imposed for the failure to respect requirements in longstanding law, such as the filing of collective bargaining agreements with the Public Employment Relations Commission and deadlines related to the adoption of municipal budgets and financial reporting. Corresponding language in the Department of Community Affairs section of the Governor's FY 2015 Budget likewise directs the withholding of the greater of \$500 or the final five percent Consolidated Municipal Property Tax Relief Aid (CMPTRA) payment to noncompliant municipalities (page D-55). The CMPTRA and Energy Tax Receipts Property Tax Relief Aid programs are the State's two formula-driven municipal aid programs through which the Administration intends to disburse \$1.36 billion to municipalities in FY 2015.

EXPLANATION: FY 2014 language not recommended for FY 2015 denoted by strikethrough.
Recommended FY 2015 language that did not appear in FY 2014 denoted by underlining.

Significant Language Changes (Cont'd)

Initially established in the FY 2011 Appropriations Act, the “Best Practices Inventory” charges the Division of Local Government Services in the Department of Community Affairs with the identification of best municipal practices in the areas of general administration, financial management, and operational activities. Each year, municipalities must submit a completed inventory to the division, which will then assess each municipality’s observance of the identified best practices. Nevertheless, in computing each municipality’s compliance rating the division may take into account a municipality’s particular circumstances. Moreover, it may not penalize municipalities for engaging in practices occurring prior to the inventory’s issuance, unless a particular practice is either related to municipal practices identified in the “Best Practices Inventory” for the previous fiscal year or violates longstanding law.

The FY 2014 “Best Practices Inventory” was released on September 3, 2013 and featured 50 questions covering the areas of general management, financial standards and procurement, budget preparation and presentation, health insurance, personnel, and disaster preparedness and resiliency. Municipalities operating on a Calendar Year or Transition Fiscal Year were required to return their completed inventories to the division by October 15 2013, and municipalities operating on the State Fiscal Year calendar by April 1, 2014.

Use of Previously Appropriated Bond Funds to Pay Debt Service

Revision

2014 Handbook: p. C-4
 2015 Budget: p. E-8

Notwithstanding the provisions of any law or regulation to the contrary, such sums as may be needed for the payment of interest and principal due from the issuance of any bonds authorized under the several bond acts of the State, or bonds issued to refund such bonds, are appropriated and first shall ~~first~~ be charged to the earnings from the investments of such bond proceeds, or repayments of loans, or any other monies in the applicable bond funds, or all of these, established under such bond acts, and monies are appropriated from such bond funds for the purpose of paying interest and principal on the bonds issued pursuant to such bond acts. Where required by law, such sums shall be used to fund a reserve for the payment of interest and principal on the bonds authorized under the bond act. Furthermore, where required by law, the amounts hereinabove appropriated are allocated to the projects heretofore approved by the Legislature pursuant to those bond acts. The Director of the Division of Budget and Accounting is authorized to reallocate amounts hereinabove appropriated among the various debt service accounts to permit the proper debt service payments. Provided further however, that in the event monies in a bond fund are used to pay debt service pursuant to the proceeding sentences, any prior appropriation of such amounts, are hereby cancelled and the Director of the Division of Budget and Accounting shall provide to the Legislative Budget and Finance Officer a list of the bond funds which

EXPLANATION: FY 2014 language not recommended for FY 2015 denoted by strikethrough.
 Recommended FY 2015 language that did not appear in FY 2014 denoted by underlining.

Significant Language Changes (Cont'd)

were used to pay debt service and the amount in such bond funds which were used to pay debt service.

This language concerns the use of balances in funds established in accordance with various general obligation bond acts. The Office of Management and Budget (OMB) first charges required debt service payments against investment income and certain other balances in the bond funds before charging the remainder against amounts appropriated for that purpose in the FY 2015 Appropriations Act. The language also authorizes the OMB to transfer amounts among the various debt service appropriations to ensure that proper debt service payments are made.

In addition, the Administration recommends new language authorizing the OMB to cancel certain bond fund appropriations when it deems them unneeded for the original purpose and to apply those funds to pay debt service on the bonds. Notice of the cancellations and the amounts cancelled are to be provided to the Legislative Budget and Finance Officer. This new language would apply to bond proceeds for which the enabling legislation requires specific appropriations and does not grant discretion to use unexpended sums to pay down debt. In other cases, the OMB already has that authority. The Administration's recommended FY 2015 appropriation for the payment of general obligation bond debt service in the Department of the Treasury budget includes a \$5.5 million reduction attributable to a general obligation bond cash defeasance to be performed in application of the new language. The Administration first proposed the new language in the Governor's FY 2013 Budget. The Legislature, however, did not include it in the FY 2013 and FY 2014 Appropriations Acts.

Revised Accounting of Tobacco Master Settlement Agreement Payments	
Deletion	2014 Handbook: p. E-4 and p. E-6 2015 Budget: —

~~46. The Tobacco Settlement Fund, created and established in the Department of the Treasury as a separate non-lapsing fund pursuant to section 53 of P.L.1999, c.138, is reestablished and continued. The unexpended balances at the end of the preceding fiscal year in the Tobacco Settlement Fund are appropriated. The Tobacco Settlement Fund shall be the repository for payments made by the tobacco manufacturers pursuant to the settlement agreement entered into by the tobacco manufacturers and the State on November 23, 1998 that resolved the State's pending claims against the tobacco industry and all other monies, including interest earnings on balances in the fund, credited or transferred thereto from any other fund or source pursuant to law. Balances in the Tobacco Settlement Fund shall be deposited in such depositories as the State Treasurer may select. Amounts transferred from the Tobacco Settlement Fund to the General Fund as anticipated revenue shall be excluded when calculating deposits to the Surplus Revenue Fund pursuant to~~

EXPLANATION: FY 2014 language not recommended for FY 2015 denoted by strikethrough. Recommended FY 2015 language that did not appear in FY 2014 denoted by underlining.

Significant Language Changes (Cont'd)

~~P.L.1990, c.44 (C.52:9H-14 et seq.):~~

~~76. Notwithstanding the provisions of P.L.2000, c.12, or any other law or regulation to the contrary, funds may be transferred from the Tobacco Settlement Fund to the General Fund during this fiscal year, which transfer amount shall be based upon the available balances in the Tobacco Settlement Fund, subject to the approval of the Director of the Division of Budget and Accounting.~~

Explanation

The two language provisions re-established in FY 2014 the dedicated, off-budget Tobacco Settlement Fund as the depository of that portion of FY 2014 Tobacco Master Settlement Agreement (MSA) payments that the State uses for general State purposes, and provided for the transfer of Tobacco Settlement Fund balances to the State General Fund (page C-8 in the Governor's FY 2015 Budget). The Administration recommends discontinuing the language in FY 2015 because its planned changes to the accounting and reporting of those payments in FY 2015 will render the language functionally obsolete. Notably, since the Tobacco Settlement Fund served no function in recent years besides that of a conduit, the Administration plans to close the fund's bank account in FY 2015 and instead deposit and record the general purpose MSA payments directly into the State General Fund (page C-7 in the Governor's FY 2015 Budget).

In general, the State and leading United States tobacco product manufacturers entered into the multi-state MSA on November 23, 1998. The MSA settled New Jersey's claims for relief with respect to the costs it had incurred from residents' cigarette smoking in the year of payment and earlier years. As announced in the MSA, New Jersey was expected to receive approximately \$7.6 billion in payments through 2025 with unquantified payments continuing in perpetuity thereafter. In accordance with P.L.2002, c.32, the State sold its future MSA payment stream to the newly-established single purpose Tobacco Settlement Financing Corporation. The corporation then sold the payment stream to bondholders. Under the terms of the Tobacco Settlement Asset-Backed Bonds (Series 2007-1) the corporation subsequently refunded the outstanding bonds in such a manner that it pledged 76.26 percent of the State's future MSA payment stream to bondholders. The corporation transfers the residual, unsecuritized MSA payments, an anticipated \$56.0 million in FY 2015, to the State for general State purposes.

In a departure from that practice the unsecuritized portion of the MSA payments will no longer be available for general State purposes for several years starting in FY 2017. Instead, in return for a FY 2014 bond enhancement premium payment from certain bondholders, the current general purpose portion is pledged to pay off early two classes of the 2007 refunding bonds starting in FY 2017 in accordance with a March 7, 2014 pledge agreement between the corporation and certain

EXPLANATION: FY 2014 language not recommended for FY 2015 denoted by strikethrough.
Recommended FY 2015 language that did not appear in FY 2014 denoted by underlining.

Significant Language Changes (Cont'd)

bondholders. The bond classes' maturity is expected in FY 2023 after \$406.7 million in payments to bondholders. Afterwards, the 23.74 percent of the MSA payments will become available again for general State purposes.

Casino Simulcasting Fund Revenues

Revision	2014 Handbook:	p. E-4
	2015 Budget:	p. F-7

~~48.~~ 47. There is appropriated ~~\$350,000~~ \$300,000 from the Casino Simulcasting Fund for transfer to the Casino Revenue Fund.

Explanation

The recommended language provision would transfer an estimated \$300,000 in Casino Simulcasting Fund collections to the Casino Revenue Fund in FY 2015. While this amount is less than the \$350,000 appropriated for transfer in FY 2014, it recognizes the decline in annual collections in recent years. Specifically, actual collections were \$367,000 in FY 2011, \$338,000 in FY 2012, and \$263,000 in FY 2013. In anticipating a revised \$300,000 in FY 2014 revenues, however, the Executive expects a break in the long-term downward trend (page 24 of the "Supplementary Information" section in the Governor's FY 2015 Budget, available in the online version only).

P.L.1992, c.19 (N.J.S.A.5:12-191 et seq.) established the Casino Simulcasting Fund to hold a portion of the State revenue generated from the wagering in Atlantic City casinos on horse races that are broadcast live from race tracks to the casinos. Moneys deposited in the fund shall finance services for senior citizens. By means of a recurring language provision, Casino Simulcasting Fund revenues have been transferred to the Casino Revenue Fund, created pursuant to section 145 of P.L.1977, c.110 (N.J.S.A.5:12-145). The Casino Revenue Fund holds State revenues derived from casino gambling, which the New Jersey State Constitution dedicates to services for senior and disabled citizens (page H-5 of the Governor's FY 2015 Budget lists the programs supported through the fund).

Transfer of Clean Energy Fund Balances into the State General Fund

Deletion	2014 Handbook:	p. E-7
	2015 Budget:	—

~~85. Notwithstanding the provisions of any law or regulation to the contrary, there is appropriated an amount not to exceed \$152,185,000 from the Clean Energy Fund, including~~

EXPLANATION: FY 2014 language not recommended for FY 2015 denoted by strikethrough.
 Recommended FY 2015 language that did not appear in FY 2014 denoted by underlining.

Significant Language Changes (Cont'd)

~~Solar Alternative Compliance Payments attributable to fiscal 2010 and earlier, for transfer to the General Fund as State revenue, subject to the approval of the Director of the Division of Budget and Accounting.~~

Transfers in FY 2014 Appropriations Act: The FY 2014 Appropriations Act diverted \$196.7 million in Clean Energy Fund balances, inclusive of \$32.8 million in Solar Alternative Compliance Payments (SACPs), into the General Fund. This language provision accounted for the transfer of \$152.2 million in Clean Energy Fund balances, inclusive of \$32.8 million in SACPs, into the General Fund for general State purposes. Other language provisions in the FY 2014 Appropriations Act transferred an additional \$44.5 million in Clean Energy Fund balances into the General Fund for dedicated State purposes: \$42.5 million to defray the cost of utilities in State facilities and \$2.0 million to pay for the administrative expenses related to State-funded positions of the BPU's Office of Clean Energy.

The language also reallocated to the State General Fund \$32.8 million in SACPs that electric utilities had made to the BPU from FY 2006 through FY 2010. These payments were routinely deposited in the Clean Energy Fund. Statutory law, however, does not authorize the BPU to use the SACPs in support of the Clean Energy Program. Instead, the payments are to be used to reduce electric rates. SACPs are an element of the State's price support system that is intended to impel investments in solar power generation capacity. The system has three basic elements: a) annual solar quotas for electric power suppliers and providers that create a demand for solar energy; b) Solar Renewable Energy Certificates (SRECs), which are issued for every megawatt-hour of electricity generated by solar power installations and are sold separately from the generated electricity; and c) a trading platform on which electric power suppliers and providers can acquire from solar energy generators the SRECs they need to meet their annual solar quotas. To limit the price support system's cost to ratepayers, a gradually declining price ceiling applies to SRECs in the form of SACPs. Electric power suppliers and providers may opt to make such alternative payments to the BPU in lieu of purchasing SRECs to meet their solar quotas.

Proposed Supplemental FY 2014 Transfers: The Governor's FY 2015 Budget recommends diverting an additional \$49.1 million to the General Fund in FY 2014: a) an extra \$10 million for general State purposes (page C-8); b) \$23.3 million to pay for New Jersey Transit's utility costs (page C-15); and c) \$15.8 million to cover the cost of energy efficiency projects in State facilities (page C-16).

Proposed FY 2015 Transfers: The Administration recommends discontinuing the existing language provision in FY 2015, as the Governor's FY 2015 Budget does not make Clean Energy Fund balances available for general State purposes. However, the Governor's FY 2015 Budget includes the transfer of \$70.6 million in Clean Energy Fund balances into the State General Fund for several dedicated purposes:

EXPLANATION: FY 2014 language not recommended for FY 2015 denoted by strikethrough.
Recommended FY 2015 language that did not appear in FY 2014 denoted by underlining.

Significant Language Changes (Cont'd)

a) \$42.5 million to defray the cost of utilities in State facilities (page D-428); b) \$12.9 million to pay for New Jersey Transit's utility costs (page D-359); c) \$9.2 million to cover the cost of energy efficiency projects in State facilities (page D-430); d) \$3.7 million to support the Office of Sustainability and Green Energy in the Department of Environmental Protection (page D-121); and \$2.3 million to pay for the administrative expenses related to State-funded positions of the BPU's Office of Clean Energy (page D-380).

The background paper entitled "Resource Diversions from Energy-Related Dedicated Funds" starting on page 164 of this booklet provides more information on the Clean Energy Fund, its finances, and the history of balance transfers to the State General Fund.

Transfer of Global Warming Solutions Fund Balances into the State General Fund

Deletion

2014 Handbook: p. E-7
2015 Budget: —

~~86. Notwithstanding the provisions of any law or regulation to the contrary, there is appropriated the available balance from the Global Warming Solutions Fund for transfer to the General Fund as State revenue.~~

This language provision diverted into the State General Fund in FY 2013 some \$1.4 million in unexpended receipts in the off-budget Global Warming Solutions Fund and authorized a similar transfer of the residual \$12,000 fund balance in FY 2014. The Administration proposes not renewing the language in FY 2015 because no uncommitted balances are anticipated to remain in the functionally obsolete Global Warming Solutions Fund accounts after FY 2014.

The balance transfers were connected to the winding down of the statutory Global Warming Solutions Fund after it had lost its sole funding source with the State's withdrawal from the multistate Regional Greenhouse Gas Initiative (RGGI) at the end of 2011. Under RGGI, the fund held the \$113.3 million the State reaped from auctioning off carbon dioxide emission allowances to power plant owners. Cumulatively, some \$79.1 million of that total was used for general State purposes. The background paper entitled "Resource Diversions from Energy-Related Dedicated Funds" starting on page 164 of this booklet provides more information on the Global Warming Solutions Fund and the history of balance transfers to the State General Fund.

EXPLANATION: FY 2014 language not recommended for FY 2015 denoted by strikethrough.
Recommended FY 2015 language that did not appear in FY 2014 denoted by underlining.

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ECONOMIC DEVELOPMENT AUTHORITY

1. Established in accordance with P.L.1974, c.80, the New Jersey Economic Development Authority (EDA) is an independent public authority located "in, but not of," the Department of the Treasury. Its primary mission is to assist in the creation of employment opportunities through the provision of financial assistance to for-profit and not-for-profit enterprises. To that end the authority runs a myriad of financial assistance programs that it pays for out of its own financial resources. But the EDA also administers several economic development incentive programs that rely on the State's general financial resources as their funding mechanism. For example, the authority operates the Economic Redevelopment and Growth grant program under which developers receive multi-year grant payments from the State in support of qualifying projects. Other EDA-administered programs, such as the Grow New Jersey Assistance Program, reduce State revenue collections by granting incentive tax credits to eligible enterprises. The **accrued liabilities of the EDA-administered incentive programs that rely on general State resources**, however, do not appear to be aggregated and published; which, if true, would complicate the formulation of effective budgetary and fiscal policies.

- **Questions:** Please delineate, by program, the current dollar amount of all accrued liabilities under EDA-administered economic development programs that are financed with general State resources, as opposed to the EDA's own financial resources. What dollar amount of the total represents: a) outstanding, unpaid liabilities that have accrued in the past; and b) liabilities that will become payable in the future under concluded agreements? Please detail, by program, the size of capital investments and the number of jobs the incentive agreements support.

2. P.L.2013, c.161, the "New Jersey Economic Opportunity Act of 2013," restructured the State's economic development incentive programs effective September 18, 2013. The law discontinued the EDA-administered Business Employment Incentive Program (BEIP), Business Retention and Relocation Assistance Grant (BRRAG) program, and Urban Transit Hub Tax Credit program by closing them to new applicants. In contrast, the law retained and expanded the EDA-administered Economic Redevelopment and Growth Grant (ERG) and Grow New Jersey Assistance (GROW NJ) programs. Both now have lower eligibility thresholds than before and a greater geographic reach. Applications for the two revised programs became available on November 19, 2013.

N.J.S.A.52:27D-489c et seq. provides the statutory authority for the **ERG program**. The tax-increment financing mechanism for redevelopment projects in eligible geographic areas has a State and a municipal component. State ERG reimbursements are available for **commercial redevelopment projects** that meet two financial criteria. First, the financial assistance must close a project financing gap that otherwise would prevent a project's realization. Second, the project must yield fiscal benefits to the State over a period of up to 20 years that equal or exceed 110 percent of the tax credit amount. There are no capital investment and job creation or retention thresholds. State ERG awards: a) equal up to 75 percent of the annual incremental State tax revenue attributable to a project (or up to 85 percent in a Garden State Growth Zone,

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a designation comprising the cities of Camden, Passaic, Paterson, and Trenton); b) cannot exceed 30 percent of total project cost in conjunction with any municipal ERG award (or 40 percent in a Garden State Growth Zone municipality); and c) are paid in up to 20 annual installments. Aggregate State ERG reimbursement payments for commercial redevelopment projects are uncapped, but the EDA may only consider applications received prior to July 1, 2019. All ERG recipients obtain their reimbursements only after project completion.

A separate \$600 million State ERG tax credit program applies to **residential redevelopment projects** in eligible geographic areas. Because these projects do not tend to create or retain permanent full-time jobs, they are unlikely to generate fiscal benefits to the State at a level that would allow ERG reimbursements to close project financing gaps. Thus this separate tax credit program waived the requirement that residential redevelopment projects must generate fiscal benefits to the State in excess of the incentive amount. Under the program, projects may receive State ERG tax credits if they meet two financial conditions. First, the financial assistance must close a project financing gap that otherwise would be likely to prevent a project's realization. Second, the project must have minimum project costs ranging from \$5.0 million to \$17.5 million, depending on its specific location. Tax credit awards are authorized for taxpayer use in up to ten annual installments following project completion and cannot exceed 30 percent of total project cost in conjunction with any municipal ERG award (or 40 percent in a Garden State Growth Zone municipality). The application deadline for residential redevelopment projects is July 1, 2015. All approved grants are listed at http://www.njeda.com/web/pdf/ERG_Activity.pdf.

N.J.S.A.34:1B-243 et seq. establishes the statutory authority for the **GROW NJ tax credit program**, which is intended to encourage job creation and retention. There is no cap on the aggregate dollar amount of tax credit awards, but the EDA may only consider applications submitted prior to July 1, 2019. GROW NJ tax credits are available for eligible projects located in certain geographic areas that meet two financial conditions. First, the financial assistance must be a material factor in a project's realization. Second, the project must yield fiscal benefits to the State over a period of up to 20 years (or up to 30 years in the case of a "mega project" or a project in a Garden State Growth Zone, or up to 35 years if a project is located in the city of Camden) that equal or exceed 110 percent of the tax credit amount (or 100 percent in the case of the city of Camden). Minimum capital investment and full-time employment requirements vary depending on project characteristics. The EDA may grant individual tax credits for up to ten years in amounts ranging from \$500 to \$15,000 per year for each job created, depending on project attributes. Credit amounts for retained jobs are generally 50 percent of those for new jobs (except that certain limited projects earn job retention tax credits equal to the 100-percent rate of new full-time positions). Tax credit recipients must maintain the project and related employment for 1.5 times the period in which they receive tax credits. Businesses forfeit outstanding tax credit amounts if their full-time workforce falls below certain thresholds. Tax credits are only certified for taxpayer use after project completion. All approved tax credits are listed at http://www.njeda.com/web/pdf/Approved_Grow.pdf.

- **Questions:** Has the EDA ruled on all Economic Redevelopment and Growth Grant (ERG) and Grow New Jersey Assistance (GROW NJ) program applications that the authority has received under pre-P.L.2013, c.161 program specifications? Please provide the following data for each of the ERG and GROW NJ programs under their pre-P.L.2013, c.161 permutations: a) the number and nominal dollar value of

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incentive awards approved; b) the number and nominal dollar value of incentive awards finalized; c) the nominal dollar value of incentive awards that taxpayers have used to date; and d) the nominal dollar value of approved and finalized incentive awards that taxpayers have not yet used.

- Please list all ERG and GROW NJ incentive awards the EDA has approved in accordance with P.L.2013, c.161's program revisions. Would any of the projects not have qualified for incentives previously? Has the EDA noticed an uptick in ERG and GROW NJ incentive applications following the enactment of P.L.2013, c.161? How many ERG and GROW NJ applications is the EDA currently evaluating? Considering the applications and inquiries the EDA has received to date, does the authority project that the \$600 million cap on aggregate ERG tax credit awards for residential redevelopment projects will suffice to meet demand? What is the EDA's projected range of the cumulative dollar value of the revised GROW NJ program through its July 1, 2019 application deadline?

3. P.L.2013, c.161 declared the cities of Camden, Passaic, Paterson, and Trenton blighted areas in need of rehabilitation and designated them as New Jersey's first and only **Garden State Growth Zones (GSGZ)**. This designation provides businesses that invest in the four municipalities with reduced eligibility requirements and higher incentive payments under the EDA-administered Economic Redevelopment and Growth Grant (ERG) and Grow New Jersey Assistance (GROW NJ) programs. For example, under the GROW NJ job creation and retention tax credit program, companies' minimum capital investment requirements are one-third lower and minimum full-time employment requirements one-fourth lower in GSGZs than in other eligible areas. Under ERG, for example, the maximum amount of any redevelopment incentive grant in GSGZs is 40 percent of total project costs instead of 30 percent in other eligible areas.

Furthermore, the law authorizes the four GSGZ municipalities to opt into a property tax exemption program within 90 days of September 18, 2013. A participating municipality may confer a 20-year property tax abatement on any new construction, improvement, and substantial rehabilitation of structures on real property that is undertaken by redevelopers qualifying as Garden State Growth Zone Development Entities. The exemption equals 100 percent of the value of the improvement for the first ten years after the issuance of a certificate of occupancy. Over the next ten years the exemption percentage declines gradually. Anyone who does not qualify as a Garden State Growth Zone Development Entity can still receive a five-year property tax exemption equal to 100 percent of the value of any new construction, improvement, and substantial rehabilitation of structures on real property.

- **Questions:** Please indicate whether Camden, Passaic, Paterson, and Trenton have opted into the property tax abatement program for real estate improvements that P.L.2013, c.161 authorized for the four Garden State Growth Zone (GSGZ) municipalities. If applicable, for each of the four municipalities, please set forth the aggregate value of all real property improvements that have obtained property tax abatements pursuant to P.L.2013, c.161 and the ensuing property tax savings to the taxpayers owning those improvements.

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- **Please list any incentive awards the EDA has made in accordance with P.L.2013, c.161 under the Economic Redevelopment and Growth Grant and Grow New Jersey Assistance programs to businesses investing in the four GSGZ municipalities. Would any of the projects not have qualified for the incentives under the programs' standard terms? How many applications for incentive awards under the GSGZ designation is the EDA currently evaluating?**

4. P.L.2013, c.161 recalibrated the EDA-administered **Grow New Jersey Assistance (GROW NJ) program** effective as of September 18, 2013. One of the revisions created a “**mega project**” category that allows for enhanced tax credit amounts. Notably, along with projects in the Garden State Growth Zone municipalities of Camden, Passaic, Paterson, and Trenton; “mega projects” qualify for the program’s largest annual tax credit amounts of up to \$15,000 per new full-time job for a period of up to ten years. Depending on project type, all other projects may earn maximum credits ranging from \$2,000 to \$12,000 per new full-time position for a period of up to ten years. In addition, full-time jobs retained at a project site are typically eligible for 50 percent of the tax credit amount for new full-time positions. However, retained full-time positions qualify for 100 percent of the new full-time position tax credit amount if they are part of a “mega project” in a Garden State Growth Zone municipality or of a “mega project” involving the United States headquarters of an automobile manufacturer located in a priority area. (Full-time jobs retained at a new facility that replaces a facility that has been substantially damaged in a federally-declared disaster also qualify for the 100-percent rate). Lastly, “mega projects” also benefit from relaxed net benefit test requirements. Specifically, to qualify for a GROW NJ tax credit, a project must typically yield fiscal benefits to the State over a period of up to 20 years that equal or exceed 110 percent of the tax credit amount. For “mega projects,” however, the calculation considers 30 years of benefits. (The only other easing of the net benefit test concerns projects in Garden State Growth Zones for which the EDA shall also consider 30 years of fiscal benefits and projects in the City of Camden for which the EDA shall consider 35 years of fiscal benefits against a lower threshold of at least 100 percent of the tax credit amount).

A business must apply for a GROW NJ tax credit by September 18, 2017 to attain “mega project” status. A “mega project” is an eligible business facility project located in an “urban transit hub” whose capital investment exceeds \$50 million and whose count of new and retained full-time positions exceeds 250. In addition, “mega projects” are eligible business facility projects whose count of new and retained full-time positions exceeds 1,000, or whose capital investment exceeds \$20 million and whose count of new and retained full-time positions exceeds 250 if the business facility is located in either: a) a port district and houses a business in the logistics, manufacturing, energy, defense or maritime industries; or b) an aviation district and houses a business in the aviation industry; or c) a Garden State Growth Zone; or d) a priority area and houses the United States headquarters and related facilities of an automobile manufacturer. News reports have identified Subaru of America, Inc., as a potential beneficiary of “mega project” status. Currently headquartered in Cherry Hill, the company has reportedly been looking to expand its headquarters and to possibly relocate.

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- **Questions:** Please list all GROW NJ tax credit awards the EDA has approved in accordance with P.L.2013, c.161 to: a) "mega projects" and b) projects whose retained jobs have earned 100 percent, instead of the standard 50 percent, of the new full-time position tax credit amount. How many GROW NJ applications is the EDA currently evaluating for: a) "mega project" status; and b) tax credits for retained full-time positions that equal the 100-percent rate for new full-time positions? Has Subaru of America, Inc applied for a GROW NJ tax credit?

5. Since opening on April 2, 2012, the **Revel Casino in Atlantic City** reportedly has failed to turn a profit. After casino owners wound up filing for Chapter 11 bankruptcy protection on March 27, 2013, the United States Bankruptcy Court for the District of New Jersey approved a reorganization plan on May 12, 2013. Revel's outstanding debt was slashed from \$1.52 billion to \$272 million. In return, its creditors took an 82 percent ownership interest in the company. Yet even after the offloading of the bulk of the debt service payments, the casino reportedly continued to accumulate losses of such magnitude that the creditors-turned-owners, of whom Chatham Asset Management, LLC is the most significant, were actively considering selling the casino or initiating a second bankruptcy proceeding.

New Jersey has a vested financial interest in the project. On February 1, 2011, the EDA approved an Economic Redevelopment and Growth Grant (ERG) of up to \$261.4 million to Revel Atlantic City, LLC and Revel Entertainment Group, LLC to support the completion of the construction of the then-unfinished casino. The February 1, 2011 EDA Board Memo on the grant award shows that the EDA anticipated the project to represent a \$1.6 billion capital investment, create 5,500 full-time jobs, and generate \$650 million of incremental direct State and local tax revenues over the grant's 20-year period. The project's actual performance, though, has trailed expectations. As of February 3, 2014, it had only 2,748 employees, of whom 1,762 were in full-time positions.

The State, however, has not yet been obligated to make any grant payment because the final grant agreement had not yet been closed, as the EDA related in reply to EDA Discussion Point #5 in the OLS FY 2013-2014 Department of the Treasury Budget Analysis. Even if the agreement were finalized, the nature of the grant program means that the State would not be making a one-time upfront payment of the full grant amount. Under the performance-based tax-increment financing program, the final grant amount will instead equal 75 percent of certain State tax collections the casino *actually* generates over 20 years. The original agreement also granted the EDA a cash distribution interest of 20 percent of the management's initial 10 percent ownership. While not absorbing any of the casino's losses, the authority would share in any profits until it recoups its full investment.

The EDA approved the Revel grant under the terms of the ERG program as it existed prior to the revisions of P.L.2013, c.161, the "New Jersey Economic Opportunity Act of 2013." P.L.2009, c.90 created the program as a tax-increment financing mechanism with a State and a municipal component (N.J.S.A.52:27D-489a et seq.). The law authorized, but did not require, the awarding of State ERG payments for eligible redevelopment projects in certain areas of New Jersey that would yield fiscal net benefits to the State and that would not occur absent the financial assistance. State ERG payments could equal up to 75 percent of the annual

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incremental State tax revenue attributable to a project and could be authorized for up to 20 years. But the combined amount of State and municipal ERG grant payments could not exceed 20 percent of a project's total cost. Disbursements commence after a project's completion. All approved State ERG grants are listed at http://www.njeda.com/web/pdf/ERG_Activity.pdf.

- **Questions:** Please indicate whether the EDA has closed the Economic Redevelopment and Growth Grant (ERG) agreement for the Revel Casino. If not, please share the reason(s) for not closing the agreement. If the agreement has been closed, please specify the amount of State tax revenues collected to date from the casino and the ERG reimbursements actually made to the casino's owners. According to the projections used in the original award calculation, what amount of State tax revenues and ERG payments should the project have generated to date? What is the financial impact of the casino's bankruptcy-induced reorganization on the State? Did the conversion of the casino's debt into equity dilute the EDA's cash distribution interest of 20 percent of the management's initial 10 percent ownership? Please provide an up-to-date assessment of the project's viability.
- Given the \$1.6 billion in capital investments, the creation of 5,500 full-time jobs, and the generation of \$650 million of incremental direct State and local tax revenues over the grant's 20-year period that were anticipated in the EDA grant award for the Revel Casino project; does the EDA still deem such economic performance realistically attainable? If not, what factor(s) account for any errors in the forecast and what lessons has the EDA learned from the Revel experience regarding the method the authority uses in analyzing the economic, financial, and fiscal implications of proposed projects? To what extent do Revel's troubles raise concerns about the accuracy and reliability of the EDA's net benefit model?

6. P.L.2013, c.161 closed the EDA-administered **Business Employment Incentive Program (BEIP)** to new applicants effective on September 18, 2013. The law did not cancel the future disbursement of any previously approved BEIP grant payment and instructed the EDA to rule by December 31, 2013 on all BEIP grant applications it had received prior to September 18, 2013.

N.J.S.A.34:1B-124 et seq. established the statutory authority for the BEIP program under which the EDA provided grants to businesses that create jobs in New Jersey. BEIP grants could be awarded for up to ten years and could equal between 10% and 80% of the total amount of State income taxes withheld by the grant receiving business from wages of new employees subject to the grant agreement. To qualify for a grant, an applicant had to certify that receipt of the grant was a "material factor" in the business' decision to invest in New Jersey. As of December 31, 2013, the EDA had executed 499 BEIP grant agreements with a cumulative grant amount of \$1.59 billion (of which \$1.51 billion was disbursed) since the program's inception in 1996. In all, executed BEIP grants covered 105,800 new jobs and capital investments totaling \$12.6 billion. According to the Fiscal Year 2012 Annual Report for BEIP, in FY 2012, the EDA executed 41 BEIP agreements representing a State commitment of \$71.9 million over the terms of the grants. The authority expects the projects to create 3,892 new jobs over the next two years and the grantees' total capital investment to reach \$349.0 million. The comprehensive

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list of executed BEIP agreements can be found at http://www.njeda.com/web/pdf/BEIP_Activity_Alphabetical.pdf.

The FY 2015 Governor's Budget includes \$175.0 million for BEIP grants, the same amount as is appropriated for the program in FY 2014 (page D-376). Responding to EDA Discussion Point #5 in the OLS FY 2012-2013 Department of the Treasury Budget Analysis, the EDA related that it had \$672.0 million in outstanding BEIP grant payment obligations dating as far back as calendar year 2008. In a written reply to a follow-up question asked by the Senate Budget and Appropriations Committee during its April 10, 2013 budget hearing on the Department of the Treasury, the EDA stated that a year later the payment backlog approximated \$500 million owed to roughly 280 businesses. In its answer to EDA Discussion Point #2 in the OLS FY 2013-2014 Department of the Treasury Budget Analysis, the EDA specified that it had met most of its BEIP payment requirements dating from 2008 and 2009, and some of the 2010 payment requirements. The OLS notes that the amount of outstanding BEIP payment obligations does not include required future debt service payments on bonds the EDA issued in 2004 and 2005 to finance BEIP grants. According to the State of New Jersey Fiscal Year 2013 Debt Report, as of June 30, 2013, some \$70.4 million in debt service payments remained outstanding on the bonds through final maturity on November 1, 2015.

- **Questions:** Please specify the current dollar value of all accrued payment obligations under existing BEIP agreements. What dollar amount of the total represents: a) outstanding payment obligations that have become payable in the past; and b) outstanding payment obligations that will come due in the future under concluded grant agreements? What is the number of businesses that are owed BEIP payments that have become payable in the past? Have all FY 2008, 2009, 2010, 2011, and 2012 obligations been paid? Please provide a projection of the year in which the last BEIP payment will be due. Has the EDA ruled on all BEIP grant applications that have been submitted? What is the number of new BEIP grants the EDA approved from January 1, 2013 through December 31, 2013 and their aggregate dollar amount?

7. P.L.2013, c.161 closed the EDA-administered **Business Retention and Relocation Assistance Grant (BRRAG)** tax credit program to new applicants effective on September 18, 2013. The law did not cancel any previously approved but not yet used tax credit awards and instructed the EDA to rule by December 31, 2013 on all BRRAG applications it had received prior to September 18, 2013.

The BRRAG program had a \$20 million aggregate cap on the total dollar value of tax credits that taxpayers may apply against tax liabilities in a given tax period with a requirement that tax credits may only be used in the tax periods for which they are issued. Tax credits were available under the corporation business and insurance premiums taxes to businesses that relocated operations within New Jersey and retained jobs or that maintained jobs at a current location and made a qualified capital investment (N.J.S.A.34:1B-112 et seq.). The per-employee tax credit ranged from \$1,500 to \$9,000 depending on the number of full-time positions retained. Businesses earned a tax credit bonus of 50 percent of the base amount if they relocated at least 2,000 jobs from a location in New Jersey into a designated urban area.

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They could earn another 50 percent bonus if their capital investment was at least twice the amount of tax credits granted prior to the application of a bonus. In addition to the receipt of the tax credit being a material factor in the business' decision to retain full-time positions in New Jersey, an applicant business had to demonstrate that the tax credit would yield a net fiscal benefit to the State. Tax credit awards were only certified for use upon project completion. Since inception in 2005 through January 10, 2014, the EDA signed BRRAG agreements totaling an estimated \$123.9 million in tax credits for 82 projects representing an estimated \$2.07 billion in capital investments and 31,162 in retained jobs. The EDA lists all BRRAG agreements at http://www.njeda.com/web/pdf/BRRAG_activity.pdf.

In its answer to EDA Discussion Point #3 in the OLS FY 2013-2014 Department of the Treasury Budget Analysis, the EDA displayed the schedule of BRRAG tax credits authorized for each tax period. In the aggregate, the EDA had awarded \$110.4 million in tax credits that had to be taken from tax period 2012 through tax period 2021. The total cap for the ten-year period was \$200.0 million and unallocated cap space of at least \$3.4 million remained in every tax period.

- **Questions:** What cumulative BRRAG tax credit amounts has the EDA awarded to date for tax period 2013 and every tax period thereafter? What tax credit amount did taxpayers apply against their tax liabilities in tax period 2013? Have taxpayers used the full amount of their approved BRRAG tax credits in tax periods 2012 and 2013? If not, what amount of approved tax period 2012 and 2013 tax credits was forfeited and what amount did the EDA authorize for carryover to future tax periods? Has the EDA ruled on all BRRAG applications that have been submitted? What is the number of new BRRAG tax credits the EDA approved from January 1, 2013 through December 31, 2013 and their aggregate dollar amount?

8. P.L.2013, c.161 closed the EDA-administered **Urban Transit Hub Tax Credit program** to new applicants effective on September 18, 2013. The law, however, honors any previously approved but not yet used tax credit awards. It also instructed the EDA to rule by December 31, 2013 on all tax credit applications for commercial projects it had received prior to September 18, 2013 and within 120 days of September 18, 2013 on all tax credit applications for residential projects the EDA had received as part of the 2012 Urban Transit Hub Tax Credit Residential Competitive Solicitation. The law also authorized the EDA to raise the program's \$1.75 billion lifetime cap so as to accommodate all credit-eligible applications received under the competitive solicitation. (The authority had also replied previously to EDA Discussion Point #6 in the OLS FY 2013-2014 Department of the Treasury Budget Analysis that it had turned away potential applicants because of the limited availability of cap space.) Lastly, the law removed the \$100 million offshore wind project dedication from the \$1.75 billion cap, thereby freezing up another \$100 million in tax credit capacity for other programs subject to the cap.

P.L.2007, c.346 originally established the Urban Transit Hub Tax Credit program (N.J.S.A.34:1B-207 et seq.), under which the EDA was authorized to award tax credits to taxpayers who invested at least \$50 million in real property situated in urban transit hubs. Subject to certain qualifying criteria, capital investments in business facilities could earn tax credits of up to 100 percent of the investment, residential investments of up to 35 percent of the investment, and mixed use projects either of up to 35 percent for the entire investment or of up

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to 35 percent for the project's residential component if it represented at least a \$17.5 million capital investment and of up to 100 percent for the project's business facility component if it represented at least a \$17.5 million capital investment. But taxpayers will receive their finalized tax credit awards only after project completion. Urban transit hubs were the area within a one-half mile radius around a rail or light rail station in Camden, East Orange, Elizabeth, Hoboken, Jersey City, Newark, New Brunswick, Paterson, and Trenton, with the Camden urban transit hub covering the area within a one-mile radius around a rail or light rail station. In addition, there was an urban transit hub in the area within a one-mile radius of a rail or light rail station that was subject to a Choice Neighborhoods Transformation Plan. (The only New Jersey Choice Neighborhood is currently in Jersey City at the McGinley Square – Montgomery Corridor.) Acute care medical facilities and closed hospitals located within a one-mile radius of a rail or light rail station also qualified for tax credits.

The tax credit program had a \$1.75 billion lifetime cap, which the EDA could raise if it wished to approve all responsive tax credit applications for residential construction projects submitted under the 2012 Urban Transit Hub Tax Credit Residential Competitive Solicitation. As of January 10, 2014, the authority had awarded \$1.95 billion in tax credits under the following subcomponents of the cap: \$834 million for commercial construction projects, \$486 million for residential construction projects, and \$635 million for the Grow New Jersey Assistance Program. In February 2012, Daily News L.P. became the first certified Urban Transit Hub Tax Credit recipient when it received a \$41.65 million credit, which will be divided into ten annual installments. In response to EDA Discussion Point #6, the EDA anticipated certifying approximately \$25 million in tax credits for five applicants in FY 2014. For a listing of approved Urban Transit Hub Tax Credit agreements please consult http://www.njeda.com/web/pdf/HUB_Activity.pdf.

- **Questions:** Please provide an accounting of the Urban Transit Hub Tax Credit program cap. Has the EDA ruled on all tax credit applications that will be counted against the cap? If so, what are the final cap amount and its distribution among its subcomponents: commercial construction, residential construction, and the Grow New Jersey Assistance Program? Please list the residential projects, and the associated approved tax credit amounts, that benefitted from P.L.2013, c.161 authorizing the EDA to raise the program's \$1.75 billion lifetime cap so as to accommodate all meritorious tax credit applications for residential construction projects under the 2012 Urban Transit Hub Tax Credit Residential Competitive Solicitation. Are all 24 projects receiving Grow New Jersey Assistance tax credits, as of January 10, 2014, counted against the \$1.75 billion cap or has the EDA already awarded some tax credits under the revised program pursuant to P.L.2013, c.161?
- Please indicate the number and nominal dollar value of Urban Transit Hub Tax Credit awards the EDA expects to have finalized for taxpayer use by the end of FY 2015. What is the total tax credit amount that has been applied against tax liabilities to date relative to the tax credit amount that the EDA has approved but that has not yet been applied against tax liabilities?

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9. On December 12, 2013, the EDA approved a \$105.6 million commercial **Urban Transit Hub Tax Credit for MMC-DB Group, LLC** in support of the group's mixed use construction project on the campus of St. Joseph's Regional Medical Center in Paterson. The group is a joint venture between Medical Missions for Children, Inc., a non-profit organization headquartered at St. Joseph's Children Hospital, and HPF VIII Paterson, LLC, which is controlled by The Hampshire Companies, LLC, a real estate firm headquartered in Morristown, NJ. The project has two components, namely the construction of a first tower that will house a medical teaching and office facility and of a second tower that will house a Hilton Garden Inn hotel and conference center with a parking facility. The project's estimated capital investments total \$138.6 million, of which the State will ultimately assume \$105.6 million by means of the tax credit. The project is forecast to create 321 new jobs by April 26, 2017. If all goes according to plan, the State will thus support each job created with a \$328,845 tax credit.

The project is the second largest tax credit recipient among the 12 projects approved for commercial Urban Transit Hub Tax Credits, according to the January 10, 2014 activity report. It is also one of three projects that have received the highest possible tax credit rate of 100 percent of credit-eligible capital investments. The MMC-DB Group, LLC project is unique among the 12 projects in two aspects that relate to the tax credit program's requirement that a project's fiscal benefits to State and local governments must be at least 110 percent of its tax credit amount. Notably, the Paterson project is the only project whose net benefit calculation considers 30 years of fiscal benefits to the State and local governments in accordance with a provision in P.L.2013, c.161 mandating that the time horizon be 30 years, as opposed to the usual maximum of 20 years, if a commercial project is located on or adjacent to the campus of an acute care medical facility and if the capital investment exceeds \$100 million. This provision effectively increases the project's permissible tax credit amount. In addition, the project stands alone in showing an estimated aggregate fiscal benefit to the State and local governments (\$80.0 million) on the tax credit program's January 10, 2014 activity report that is less than the tax credit award (\$105.6 million). These numbers suggest a violation of the statutory net benefit requirement. But the EDA memorandum on the tax credit award, dated December 10, 2013, affirms that the project passed the net benefit test; and clarifies that the tax credit amount is a nominal amount, whereas the benefit amount is a time-adjusted present value amount that was discounted by six percent annually over 30 years.

The table on the next page displays each project's approved tax credit, tax credit-eligible capital investment, and tax credit rate, which is the quotient of dividing a project's approved tax credit by its eligible capital investment. The table combines the tax credit awards to Newark Farmers Market, LLC and Wakefern Food Corp., which the EDA shows as two different credit recipients under one Newark project.

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Urban Transit Hub Tax Credit Program: Commercial Projects				
Project	Municipality	Approved Tax Credit	Eligible Capital Investment	Tax Credit Rate
MMC-DB Group LLC	Paterson	\$105,559,214	\$105,559,214	100.0%
Panasonic Corporation of North America	Newark	\$102,408,062	\$102,408,062	100.0%
Pearson Inc.	Hoboken	\$82,548,489	\$82,548,489	100.0%
Wakefern Food Corp.	Elizabeth	\$58,000,000	\$65,385,000	88.7%
Newark Farmers Market, LLC and Wakefern Food Corp.	Newark	\$45,000,000	\$55,000,000	81.8%
Goya Foods, Inc.	Jersey City	\$81,901,205	\$100,441,239	81.5%
CSC TKR, LLC	Newark	\$37,451,378	\$46,814,223	80.0%
Campbell Soup Company	Camden	\$34,191,809	\$51,998,000	65.8%
Prudential Financial Inc.	Newark	\$210,828,357	\$393,000,000	53.6%
Daily News, L.P.	Jersey City	\$41,650,000	\$100,695,000	41.4%
Ahold eCommerce Sales Company LLC	Jersey City	\$34,561,347	\$90,706,585	38.1%
TOTAL		\$834,099,861	\$1,194,555,812	69.8%

- **Questions:** In light of tax credit rates ranging from 38.1 percent to 100.0 percent of tax credit eligible capital investments under the commercial Urban Transit Hub Tax Credit program, please describe the method the EDA employed in determining a specific project's tax credit rate. Did the EDA use a formulaic approach or did it have some degree of discretion? What principles guided the EDA's use of any discretion?
- Please set forth the reason(s) for which the MMC-DB Group, LLC project in Paterson received the highest possible tax credit rate of 100 percent of eligible capital investments. Given that the project is the only one showing an estimated aggregate fiscal benefit to the State and local governments (\$80.0 million) that is less than the tax credit award (\$105.6 million) on the tax credit program's January 10, 2014 activity report, is it fair to perceive the project as having the highest risk of all tax credit projects of not generating fiscal benefits to the State and local governments in excess of the tax credit amount? If so, why did the EDA take the highest risk, relative to all approved projects, of awarding a tax credit at the limit of the net benefit test to the MMC-DB Group, LLC project?
- In evaluating individual applications, does the EDA typically calculate a project's fiscal benefits to the State on a present value basis and the cost of tax credits on a nominal basis?

10. On May 30, 2012, the Governor announced that the State had entered into an agreement with Amazon.com. The online retailer would begin constructing two warehousing and shipping facilities in New Jersey in 2013. The projects would represent an estimated capital investment of \$130 million and would result in the creation of 1,500 permanent full-time jobs and thousands of temporary full-time seasonal and construction jobs. Moreover, since the warehousing and shipping facilities would establish nexus to New Jersey,

Discussion Points (Cont'd)

Amazon.com reportedly agreed to begin collecting sales and use tax on taxable purchases by New Jersey residents on July 1, 2013. In return, the EDA would at a later date provide unspecified financial incentives to Amazon.com from among its economic development programs. On January 8, 2013, Amazon.com announced that it had selected Robbinsville, Mercer County, as the site of one of its fulfillment centers and that the facility would be operational by March 2014. News reports detailed that the company would pay more than \$22 million in property taxes and intended to invest more than \$200 million in the facility and create 700 full-time jobs. In its answer to EDA Discussion Point #9 in the OLS FY 2013-2014 Department of the Treasury Budget Analysis, the EDA stated that it was not a party to the formal agreement between Amazon.com and the State of New Jersey and that it could therefore not discuss any of the agreement's parameters. Moreover, the EDA noted that the online retailer had not yet applied for any financial assistance.

- **Questions:** Has the EDA approved Amazon.com for any financial incentives in connection with the May 30, 2012 announcement of an agreement between the online retailer and the State of New Jersey? If so, please outline the financial incentives. Do the incentive agreements specify any recapture provisions that require the company to maintain a certain number of full-time jobs for a certain period of time in order to receive and keep its full financial assistance? In evaluating Amazon.com's applications for financial incentives, has the EDA performed a material factor and net benefit test? If so, please share the EDA's findings. If the EDA has not yet approved Amazon.com for any incentives, please indicate whether the company has applied for any incentives and by what date the EDA intends to make a decision on the application. Would it be possible for Amazon.com to secure financial assistance under any of the EDA's incentive programs for its Robbinsville distribution center if it submitted an application after: a) the construction's start; and b) the construction's completion? To the best of the EDA's knowledge, is Amazon.com on schedule to complete the construction of its Robbinsville warehouse by March 2014, as originally planned, and has Amazon.com decided on the site of its second New Jersey warehousing and shipping facility?

11. P.L.1997, c.278 created the Brownfield Site Reimbursement Fund whose balances finance the **Brownfields and Contaminated Site Remediation Program** (N.J.S.A.58:10B-30). The program reimburses qualified developers for up to 75 percent of the costs they incurred in remediating abandoned or underused, contaminated, commercial and industrial properties. To be eligible, a project must generate incremental State tax revenues in excess of the State reimbursement. Statutes require the deposit into the Brownfield Site Reimbursement Fund of State tax revenue generated by redeveloped sites. In actuality, however, the fund receives its resources from direct General Fund appropriations and, pursuant to budget language, from that portion of the constitutional dedication of four percent of annual corporation business tax collections for environmental purposes that supports the remediation of the discharges of hazardous substances. Annual budget language also authorizes the Office of Management and Budget to appropriate additional amounts to the fund if necessary to meet payment obligations.

Discussion Points (Cont'd)

Imperfect information has hampered annual budget projections for the Brownfields and Contaminated Site Remediation Program to the point that the EDA could not provide any estimate of required program disbursements for FY 2014, FY 2015, and FY 2016 in its answer to EDA Discussion Point #10 in the OLS FY 2013-2014 Department of the Treasury Budget Analysis. To gain a better understanding of the program's future budgetary needs the EDA has commenced the implementation of a monitoring system for approved remediation and redevelopment projects, according to the authority's reply to EDA Discussion Point #10. The system's site visits and field reports would allow the EDA to better gauge each project's status, timeline, and finances; which, in turn, would enable the authority to determine required program disbursements in any given fiscal year. The EDA also expected the improved monitoring to result in the expungement from its records of long-standing, inactive projects which were once approved for financial assistance but have not reached completion. Doing so would reduce the program's total outstanding obligations. In reply to EDA Discussion Point #7 in the OLS FY 2012-2013 Department of the Treasury Budget Analysis, the EDA had conveyed that the State's aggregated program liability under memoranda of agreement with developers approximated \$350 million over a 20-year repayment term. A year later, the EDA pegged the number at over \$100 million in its response to EDA Discussion Point #10 in the OLS FY 2013-2014 Department of the Treasury Budget Analysis.

The FY 2015 program budget for payments to developers of brownfield sites is unclear. The Governor proposes a direct \$18.2 million General Fund appropriation in FY 2015 for that purpose, the same amount as is appropriated for the program in FY 2014 (page D-376). But this number may only reflect a portion of total expected FY 2015 program disbursements. Additional funding may materialize from unexpended account balances carried forward from prior fiscal years and amounts received from the constitutional dedication to environmental programs of four percent of annual corporation business tax collections. Through FY 2011 these alternative funding sources financed the entire program. Beginning in FY 2012, however, the State ceased to allocate collections from the constitutional dedication to the Brownfields and Contaminated Site Remediation Program and replaced them with annual General Fund appropriations. In general, in response to EDA Discussion Point #10 in the OLS FY 2013-2014 Department of the Treasury Budget Analysis, the EDA indicated that 11 applicants received \$7.3 million in reimbursements in FY 2012 and 23 applicants \$7.6 million in FY 2013. The authority also estimated that 25 projects would receive reimbursements in FY 2014 and related that no new reimbursement agreements were signed in FY 2013.

- **Questions:** For each of FY 2013 and FY 2014, please provide the number of projects that received or are anticipated to receive reimbursements under the Brownfields and Contaminated Site Remediation Program as well as the aggregated disbursement amount. What amount of each year's funding originated in direct General Fund appropriations, the constitutional dedication of four percent of annual corporation business tax collections for environmental purposes, and unexpended account balances carried forward from prior fiscal years? Has the State concluded any new reimbursement agreements in FY 2014? What is the total outstanding program liability, as measured in reimbursement amounts that would eventually come due under memoranda of agreement that developers have signed with the State?
- How many brownfield remediation and redevelopment projects does the EDA anticipate will receive reimbursements in FY 2015 and what is the total FY 2015

Discussion Points (Cont'd)

- program budget? What amount of the FY 2015 funding is anticipated to originate from each of the following: direct General Fund appropriations, the constitutional dedication of four percent of annual corporation business tax collections for environmental purposes, and unexpended account balances carried forward from prior fiscal years? Does the State anticipate signing any new reimbursement agreements in FY 2015? What are the program's anticipated funding requirements for FY 2016 and FY 2017?**
- **Has the EDA fully implemented its monitoring system composed of site visits and field reports to better gauge current business activities on approved remediation and redevelopment project sites and the program's future budgetary demands? If not, please comment on the impediments to the monitoring system's full implementation. If applicable, please specify any expungement of outstanding program obligations that resulted from the enhanced monitoring. Would it be possible for terminated projects to become active again under previous memoranda of agreement or would new applications have to be submitted therefor if activity on the projects resumed?**

12. The EDA operates the **Edison Innovation Clean Energy Manufacturing Fund (CEMF)** and the **Edison Innovation Green Growth Fund (GGF)**. The CEMF provides up to \$3.3 million in financial assistance to an eligible company that manufactures renewable energy and energy-efficiency products in New Jersey. Up to \$300,000 is available as a grant to assist with manufacturing site identification and procurement, design, as well as permits; and up to \$3 million as a low-interest loan to support equipment purchases and facility construction and improvements. The GGF, in turn, offers up to \$2 million in low-interest loans as growth capital to emerging companies that seek to develop competitive renewable energy and energy-efficiency products in New Jersey. The two programs receive their funding from the dedicated, off-budget Clean Energy Program, which New Jersey ratepayers finance via the societal benefits charge included in their electric and natural gas bills. Authorized as part of the "Electric Discount and Energy Competition Act," P.L.1999, c.23 (N.J.S.A.48:3-49 et seq.), the Clean Energy Program seeks to promote increased energy efficiency and the use of renewable energy sources, including wind, geothermal, and sustainable biomass.

CEMF program participation has not met initial expectations. The program's original \$31.1 million budget for the 18-month period from January 2012 through June 2013 was reduced mid-period to \$8.4 million (BPU Board Order dated November 20, 2012 Docket numbers EO07030203 and EO11100631V). At \$2.4 million, actual program expenditures wound up significantly lower still. Responding to EDA Discussion Point #11 in the OLS FY 2013-2014 Department of the Treasury Budget Analysis, the EDA attributed the program's low pick-up rate to a downturn in New Jersey's solar market related to plunging Solar Renewable Energy Certificates (SRECs) prices and foreign competition in the renewable energy industry from China. For FY 2014, the Board adopted a \$9.3 million revised program allocation (Board Order dated December 19, 2013, Docket number EO13050376V).

As to the GGF, the Board adopted a \$5.7 million revised FY 2014 program allocation, some \$3.7 million more than the \$2.0 million actually expended in the 18-month period from January 2012 through June 2013 (Board Order dated December 19, 2013, Docket number

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EO13050376V). Originally, the program had a \$3.9 million budget in the 18-month period, which was lowered mid-period to \$3.4 million (BPU Board Order dated November 20, 2012 Docket numbers EO07030203 and EO11100631V).

- **Questions:** For each of the Energy Manufacturing Fund (CEMF) and the Edison Innovation Green Growth Fund (GGF), please set forth: a) the number of applicants in each fiscal year; b) the number of businesses that received financial assistance awards in each fiscal year; c) the total dollar amount of financial assistance awarded in each fiscal year; d) the amount of financial assistance that has already been disbursed and is committed to be disbursed in the future; and e) the size of capital investments and the number of jobs the financial assistance is expected to create and retain in New Jersey.
- Given that the EDA responded to last year's EDA Discussion Point #11 that interest in the CEMF was lower than anticipated because of, in part, foreign competition in the renewable energy industry, what is the EDA's assessment of the prospects for growing New Jersey's clean energy manufacturing sector in general? Is the international marketplace too competitive and advanced for that industry to develop in New Jersey? Are more aggressive financial assistance programs than the CEMF and GGF needed to buoy the State's clean energy manufacturing sector?

13. A former 1,126 acre federal military installation bordering the Monmouth County municipalities of Eatontown, Oceanport, and Tinton Falls, Fort Monmouth closed in September 2011. P.L.2010, c.51 established the **Fort Monmouth Economic Revitalization Authority (FMERA)** under EDA's supervision to implement the "Fort Monmouth Reuse and Redevelopment Plan," crafted by FMERA's predecessor authority, the Fort Monmouth Economic Revitalization Planning Authority. In redeveloping the fort for civilian use FMERA is to promote economic development, conserve natural resources, provide housing, and advance the overall quality of life in the affected communities and the State. FMERA expects to have the majority of the property conveyed to end-users within ten years, according to its reply to EDA Discussion Point #13 in the OLS FY 2013-2014 Department of the Treasury Budget Analysis.

A June 2012 Economic Development Conveyance agreement with the United States Army establishes a two-phased transfer process for the fort's premises to FMERA. The authority replied to EDA Discussion Point #13 that a first conveyance of 568 acres was to be completed by the end of 2013. Of the proceeds that will be realized over 20 years from selling and leasing those parcels to end-users, the United States Army would receive 60 percent and FMERA 40 percent. As of the writing of FMERA's response, negotiations on the modalities of transferring the remaining 558 acres to FMERA were ongoing but the authority anticipated taking possession thereof before the end of 2016. Instead of a revenue-sharing model FMERA considered offering the United States Army structured payments for second-phase properties.

FMERA has already sold or leased several properties to end-users. In September 2012, it approved a \$2.7 million purchase agreement with AcuteCare Health Systems, LLC for the fort's former Paterson Army Health Clinic in Oceanport. The company will refurbish the property and use it to provide medical services to the elderly, veterans, and other patients in need. In

Discussion Points (Cont'd)

January 2013, the Administration then announced that CommVault acquired a 55-acre parcel in Tinton Falls on which the company intended to build a corporate campus that would include its headquarters. In March 2012, the EDA awarded the project a Business Employment Incentive Program grant of up to \$7.2 million for creating 250 new jobs and a \$1.35 million Business Retention and Relocation Assistance Grant for retaining 300 employees in New Jersey.

Furthermore, in addressing EDA Discussion Point #13, FMERA related that it had approved the lease and sale of several properties to Tinton Falls and Monmouth County and that it had issued five pending Requests for Offers to Purchase (RFOTPs). One request concerned the renovation of 117 units of Officers Housing. Another RFOTP concluded with FMERA approving a purchase and redevelopment agreement with HovWest Land Acquisition LLC at its January 15, 2014 board meeting for the demolition of the 486 vacant housing units and a general purpose building in the 64-acre Howard Commons Area and their replacement with 275 townhomes for sale, a retail development, and 20.4 acres of open space and public recreation amenities. According to news reports, the developer will pay \$7.23 million for the property. In addition, in its May 2013 newsletter, FMERA announced that it had issued an RFOTP to build a veterans community on the ten-acre Parcel V-I with a focus on providing permanent housing and community lifestyle for homeless veterans.

The Federal Emergency Management Agency complicated the implementation of the redevelopment plan by making 115 housing units on the former military installation available through April 1, 2014 to residents displaced by Superstorm Sandy. Replying to EDA Discussion Point #13, FMERA stated that the temporary housing in Buildings #360 and #365 did not affect redevelopment plans, as the structures were part of the prospective second-phase land transfer to FMERA. The temporary housing on the Suneagles Golf Course, however, takes place on a phase-one property, which has led FMERA to postpone the expected release of RFOTPs for the golf course and the attendant Megill Housing by one year to the spring of 2014.

- **Questions:** Please report on the progress of Fort Monmouth's repurposing since March 2013. Has the Fort Monmouth Economic Revitalization Authority (FMERA) taken possession of all Phase 1 properties? If not, by what date is FMERA scheduled to do so? Has FMERA sold, leased or issued Requests for Offers to Purchase (RFOTP) for all Phase 1 properties? What amount has FMERA collected to date from the sale or lease of Phase 1 properties? Has FMERA reached an agreement with the United States Army as to the conveyance of Phase 2 properties? If so, what is the transfer's current timetable and the distribution formula between the United States Army and FMERA for sale and lease proceeds to be realized from Phase 2 parcels? If the United States Army has agreed to structured payments for the Phase 2 parcels, please detail the payment schedule.
- Please provide a status update for CommVault's corporate campus project and AcuteCare Health Systems' healthcare facility project. When are the capital projects forecast to be completed? What is the status of the RFOTP to build a veterans community on the ten-acre Parcel V-I with a focus on providing permanent housing and community lifestyle for homeless veterans? How many veterans is the facility expected to house?

Discussion Points (Cont'd)

- **Did the temporary housing provided to residents displaced by Superstorm Sandy end on March 31, 2014? How many households, if any, still live in the temporary housing units today? Has FMERA already issued an RFOTP for the golf course and the attendant Megill Housing? If not, by what date does FMERA envision issuing such RFOTPs? What are FMERA's plans for Megill Housing?**

14. On October 29, 2012, Superstorm Sandy made landfall in New Jersey. According to the preliminary damage assessment that the New Jersey Governor's Office released on November 28, 2012, the superstorm caused \$29.4 billion in repair, response, and restoration expenses plus \$7.4 billion in mitigation and prevention costs. Businesses in the 113 most impacted municipalities incurred an estimated \$382 million in commercial property losses and \$64 million in business interruption losses, as related in the "Community Development Block Grant Disaster Recovery Action Plan" published by the New Jersey Department of Community Affairs on March 12, 2013.

In support of the State's storm recovery efforts the federal Disaster Relief Appropriations Act of 2013 (Pub.L. 113-2) allocated \$1.8 billion in Community Development Block Grant – Disaster Recovery Funds to New Jersey. On April 29, 2013, the United States Department of Housing and Urban Development approved the Administration's "Community Development Block Grant Disaster Recovery Action Plan" for use of the funds. The plan assigned \$460 million to the EDA for the creation and administration of four **Superstorm Sandy-related relief programs for impacted businesses**. The total may still rise pending additional funding rounds.

- 1) **Stronger NJ Business Grant Program** (\$260 Million): The program extends grants and forgivable loans of up to \$50,000 to small businesses and non-profit organizations to alleviate storm damage costs they could not recover from other sources. The financial assistance may be used to pay for costs related to rehabilitation, new construction, equipment, inventory, and working capital, but not to recover financial losses from the storm. The application deadline was December 31, 2013. The Sandy Transparency Portal run by the New Jersey Office of the State Comptroller indicates that, as of December 11, 2013, the EDA had approved \$10.3 million in financial assistance to 160 recipients and disbursed \$5.6 million.
- 2) **Stronger NJ Business Loan Program** (\$100 Million): Creditworthy businesses and non-profit organizations may apply for no-cost loans of up to \$5 million for a 24-month period to redress the uncompensated costs they incur in improving their storm-damaged properties and to expand existing and form new businesses in impacted areas. Loans can be used for renovation, new construction, equipment, and working capital. They may have a maturity period exceeding 24 months, but the EDA will charge interest after two years. On its website the EDA notes that on account of the high volume of applications the review process may take several months. The Sandy Transparency Portal does not yet show any program activity.
- 3) **Stronger NJ Neighborhood and Community Revitalization Program** (\$75 Million): Three long-term economic revitalization programs support physical improvement projects in Sandy-affected communities and other activities that

Discussion Points (Cont'd)

restore and strengthen local economies. The Sandy Transparency Portal does not yet show any activity for the programs. A \$62.5 million program provides grants and loans of up to \$10 million for physical improvements that have commercial, mixed, recreational or cultural uses. Eligible projects must be public improvement projects or must benefit a diversity of occupants in the same location. Single business projects are ineligible. The EDA reports on its website that the program is oversubscribed. Another program sets aside \$10.0 million for grants to municipalities impacted by Superstorm Sandy for streetscape revitalization projects in established traditional business districts. Grants range from \$125,000 to \$1.5 million. The application deadline was January 21, 2014. A third program allocates \$2.5 million to Community Development Financial Institutions (CDFI) to fund loans to small businesses through currently existing lending programs. An individual CDFI may receive up to \$500,000 in grant funds.

- 4) **Tourism Marketing Campaign** (\$25 Million): The "Stronger than the Storm" tourism marketing campaign promoted the Jersey Shore in 2013. MWW Group received the \$4.7 million contract to produce the advertisements. According to the Sandy Transparency Portal, some \$21.75 million was spent through December 11, 2013.

- **Questions:** Please provide the following data for each of the Stronger NJ Business Grant Program, Stronger NJ Business Loan Program, and the three subprograms of the Stronger NJ Neighborhood and Community Revitalization Program: a) the number of applicants approved for financial assistance; b) the dollar value of the approved financial assistance; and c) the dollar value of the financial assistance that has already been disbursed.
- Given that the Stronger NJ Business Grant Program's application deadline passed, by what date does the EDA expect to have ruled on all applications? Does the \$260 million program allocation permit the awarding of grants to all eligible applicants? If not, what method does the EDA employ to prioritize applications? Given that the Sandy Transparency Portal indicates that, as of December 11, 2013, the EDA had approved \$10.3 million in financial assistance, what factors account for the delay in disbursing the funds? Please update the dollar amount of Stronger NJ Business Grant awards made to date, the dollar amount that has been disbursed, and the number of grant recipients.
- When does the EDA anticipate completing the application review process for the Stronger NJ Business Loan Program and issuing the first loans? Is the \$100 million program allocation sufficient to issue loans to all eligible applicants? If not, what method does the EDA employ to prioritize applications? By what date does the EDA anticipate concluding the application review process for the three subprograms of the Stronger NJ Neighborhood and Community Revitalization Program and making the first financial assistance awards? Are the subprograms' allocations sufficient to meet the demands of all eligible applicants? If not, what method does the EDA employ to prioritize applications?

Discussion Points (Cont'd)

- **Has the tourism marketing campaign been concluded? Does the EDA anticipate the receipt of additional funding for the Sandy-related relief programs?**

15. Power outages following Superstorm Sandy rendered fuel pumps and point-of-sale systems at many retail gas stations inoperable for days. Especially along evacuation routes such inoperability can impede the evacuation of endangered citizens and emergency operations. Under the Hazard Mitigation Grant Program, the Federal Emergency Management Agency therefore extended approximately \$7 million to New Jersey for an initiative that would keep more gas stations located within one-quarter of a mile of evacuation routes running during future power outages. The EDA will disburse the federal funds through the nonpermanent **Retail Fuel Station – Energy Resiliency Program**. The application deadline was March 4, 2014.

Under the program the EDA awards grants of up to \$65,000 for the permanent installation of back-up electric generator units at eligible retail fuel stations with a gasoline fuel storage capacity greater than 35,000 gallons. In addition, grant awards of up to \$15,000 are available for eligible retail fuel stations with a gasoline fuel storage capacity ranging from 30,000 to 35,000 gallons for the permanent installation of back-up electric generators or the purchase of “quick connect” technology that allows for the ready connection of a portable generator to a gas station’s emergency electrical panel. “Quick connect” technology and permanent back-up electric generators can only be acquired and installed after the signing of a grant agreement with the EDA. Upon receipt of the grant agreement a gas station owner has six months to purchase and install the “quick connect” technology and nine months to purchase and install a permanent back-up electric generator. If a station sustained verifiable physical damage as a result of Superstorm Sandy, the owner has 12 months to complete the work.

- **Questions:** Please provide a status update on the Retail Fuel Station – Energy Resiliency Program. How many grant applications has the EDA received? By what date does the EDA expect to complete its application review process? What total dollar amount of financial assistance has the EDA awarded to date and to how many applicants? Please provide a distribution of grant recipients by county. Does the \$7 million program budget satisfy all eligible grant applications? If not, what method does the EDA employ to prioritize applications?

16. The EDA administers the **Edison Innovation Angel Growth Fund** and the **Angel Investor Tax Credit Program**. Both incentive programs are intended to encourage high net worth individuals to make equity placements into high-risk start-up ventures in New Jersey, or “angel investments.”

In August 2011, the EDA announced the creation of three programs that provide financing to emerging technology and life science companies that have attracted angel and venture capital investments: the Edison Innovation Angel Growth Fund, the Edison Innovation Venture Fund, and the Edison Innovation Growth Stars Fund. Their combined allocation approximated \$13 million. Under the Edison Innovation Angel Growth Fund eligible companies can receive up to \$250,000 in subordinated convertible loans at a fixed annual interest rate of four to ten percent

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for a five-year term. Put differently, the EDA's claim to loan repayment will be subordinate to any senior bank debt. In return, the EDA obtains the right to convert the debt into equity in a future financing round and ten-year warrants that allow the EDA to acquire company shares at a determined strike price. To qualify for a loan a C-corporation must: a) have annual commercial revenues of \$500,000; b) employ 75 percent of its employees in New Jersey or commit to growing ten jobs over two years with a minimum salary of \$75,000; c) develop or own protected proprietary technology; and d) have attracted twice the loan amount from angel investors within 90 days prior to its loan application. In addressing EDA Discussion Point #14 in the OLS FY 2013-2014 Department of the Treasury Budget Analysis, the EDA related that the Edison Innovation Angel Growth Fund had not yet received any applications for assistance. But the authority believed that program demand might accelerate following the launch of the "highly complementary" Angel Investor Tax Credit Program on July 1, 2013.

P.L.2013, c.14 created the Angel Investor Tax Credit Program under which the EDA grants corporation business and gross income tax credits for investing in New Jersey emerging technology businesses. Subject to certain limitations, the credits equal ten percent of a taxpayer's qualified investment in an emerging technology company with fewer than 225 employees, of whom at least 75 percent are filling a position in New Jersey. Purchase, production, and research agreements qualify as creditable investments. The permanent program is subject to a \$25 million annual cap. In addition, tax credit recipients cannot claim tax credits for that part of an investment in a single company that exceeds \$500,000.

- **Questions: Please indicate for the Edison Innovation Angel Growth Fund: a) the number of loan applications the EDA has received to date; b) the number of approved loans to date; c) the total dollar amount of the approved loans; and d) the percentage of loan payments that is either late by 30 days or more. What is the unexpended and uncommitted portion of the roughly \$13 million allocation to the Edison Innovation Angel Growth Fund, the Edison Innovation Venture Fund, and the Edison Innovation Growth Stars Fund combined? Are available balances sufficient to operate the Edison Innovation Angel Growth Fund in FY 2014 and FY 2015? Please explain the rationale for limiting program participation to C-Corporations, given that an ever increasing number of business founders prefer different forms of incorporation. Is the EDA considering eliminating or revamping the program in light of the enactment of the "New Jersey Angel Investor Tax Credit Act?"**
- **Please provide for the Angel Investor Tax Credit Program to date: a) the number of applicants; b) the number of tax credit awards; c) the number of tax credit recipients; d) the total dollar amount of the tax credit awards ; and e) the size of capital investments and the number of jobs the capital investments support in New Jersey. Does the early tax credit pick-up rate meet EDA expectations? If not, what factors hamper tax credit demand? Does the \$25 million annual program cap satisfy tax credit demand? Has the EDA had to turn away or waitlist otherwise eligible applicants?**

17. The federal Small Business Jobs Act of 2010, Pub.L. 111-240, created the \$1.5 billion **State Small Business Credit Initiative**. Participating states must use the federal funds for

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programs that leverage private lending to help finance capital investments of creditworthy small businesses and manufacturers that have been denied access to the loans they need to expand and create jobs.

In September 2011, the United States Department of the Treasury issued a \$33.8 million State Small Business Credit Initiative award to the State of New Jersey and released the first \$11.1 million thereof. A second \$11.1 million tranche followed in April 2013. The third and final installment will be made once New Jersey will have expended or obligated 80 percent of its previously received funds. Federal law requires that the State expend the full \$33.8 million allocation by March 31, 2017. Any funds available after that date will revert to the federal government. As part of the allocation agreement, the State must file annual reports on its fund usage with the United States Department of the Treasury. The latter's Office of Inspector General found in its February 2013 audit report that New Jersey had complied with all federal requirements in administering the first \$2.9 million in program funds it had disbursed as of June 30, 2012.

According to the allocation agreement, the EDA will use the federal moneys in support of four existing programs: a) \$13.5 million for EDA's participation in small businesses' bank loans for investments in fixed assets and permanent working capital; b) \$9.8 million for EDA's provision of direct loans to small business for investments in fixed assets and permanent working capital; c) \$5.5 million for the EDA to guarantee up to 50 percent of bank loans of eligible small businesses for investments in fixed assets and permanent working capital; and d) \$5.0 million for the New Jersey Venture Capital Fund Program under which the EDA would invest in early-stage New Jersey technology businesses with less than \$3.0 million in annual revenue.

In addressing EDA Discussion Point #10 in the OLS FY 2012-2013 Department of the Treasury Budget Analysis, the EDA indicated that it had approved \$9.6 million in project financing utilizing the first \$11.1 million tranche received from the federal government. Of that amount, it allocated \$5.0 million to the New Jersey Venture Capital Fund Program and selected two venture capital firms to invest that sum in an estimated 15 early-stage technology businesses. The EDA approved another \$4.1 million for loans as well as loan and line of credit guarantees to small businesses under the Main Street Business Assistance Program and the Statewide Loan Pool. The EDA set aside the remaining \$500,000 as a long-term, low-interest loan under the Loans to Lenders component of the Fund for Community Economic Development to the Greater Newark Enterprise Corporation, a non-profit organization issuing loans to small businesses in the greater Newark area. In replying to EDA Discussion Point #15 in the OLS FY 2013-2014 Department of the Treasury Budget Analysis a year later, the EDA noted that it had already expended \$6.4 million and that the approved first-tranche spending was anticipated to create 312 full-time jobs and 103 construction jobs in New Jersey.

- **Questions:** Please report on the EDA's progress in using the federal \$33.8 million State Small Business Credit Initiative award. Please identify the specific EDA programs receiving funding, and for each program delineate the amount allocated, the amount that has already been expended or committed, and any metrics on the expected economic benefits to New Jersey resulting from the investments receiving financial assistance. What are the EDA's intended uses of the second \$11.1 million tranche? By what date does the EDA expect to receive the third tranche of its State Small Business Credit Initiative award?

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18. Replying to EDA Discussion Point #5 in the OLS FY 2012-2013 Department of the Treasury Budget Analysis, the EDA noted that it launched the first phase of the **Incentives Data Management System (iDMS) portal** in February 2012. After completion of the project's first phase Business Employment Incentive Program (BEIP) grant recipients would be able to securely file and validate required annual compliance documents online. This web-based tool would reduce the need for nearly 400 BEIP recipients to send paper copies to the EDA and increase EDA processing efficiencies by ensuring that all necessary documents have been received and are in order prior to EDA review. Future project phases would expand the portal to all other incentive programs; allow for the automated review of compliance documentation; and facilitate data collection, validation, and reporting.

According to the EDA's response the following year to EDA Discussion Point #16 in the OLS FY 2013-2014 Department of the Treasury Budget Analysis, the iDMS' annual reporting module for BEIP was operational and 275 BEIP grant recipients filed their 2012 annual reports successfully on the new system. Work continued on the supplemental BEIP reporting module and the reporting module for the other incentive programs with the authority expecting the project to be completed within 12 months. Moreover, the EDA reported that the project's original cost estimate was \$305,000, that its updated cost estimate equaled \$289,000, and that any problems with the new program up to that point had been resolved under the original contract.

- **Questions:** Please provide an update on the status of the Incentives Data Management System portal. Has the project been completed? If not, at which development stage is the project currently and by which date does the EDA expect its completion? If the project has been completed, please comment on the EDA's experiences with the new technology. Has staff productivity improved? What problems has the EDA encountered with the new technology, if any, and what amount would have to be expended to correct the problems? What is the current cost estimate or, if the project is already completed, its actual cost? If applicable, what factors account for any cost overrun?

Discussion Points

BOARD OF PUBLIC UTILITIES

1. The FY 2014 Appropriations Act **redirected** some \$194.7 million **from the dedicated, off-budget Clean Energy Fund into the State General Fund**. In addressing BPU Discussion Point #5 in the OLS FY 2013-2014 Department of the Treasury Budget Analysis the Board stated that the then anticipated \$194.7 million lapse (of which \$33.0 million was to come from the account holding Solar Alternative Compliance Payments) would not affect the FY 2014 Clean Energy Program. It did, however, keep BPU staff from recommending that fewer funds be raised from electric and natural gas ratepayers in support of the program.

The Governor's FY 2015 Budget now includes a proposal to lapse another \$117.4 million into the State General Fund in FY 2014 and FY 2015 combined. The table below shows the transfers authorized under the FY 2014 Appropriations Act and the Executive's proposed additional FY 2014 and FY 2015 redirections of funds as State revenue. The table excludes the annual transfers to the State General Fund to defray the administrative expenses related to State-funded positions of the BPU's Office of Clean Energy (\$2.0 million in FY 2014 and \$2.3 million in FY 2015), given that these expenses fall directly within the scope of the statutorily authorized spending purposes of the Clean Energy Program.

Fund Usage	FY 2014 Approp. Act (June 2013)	FY 2014 Proposed (Feb. 2014)	FY 2015 Proposed
State General Fund (unspecified)	\$152,185,000	\$162,185,000	\$0
State Utility Costs	\$42,500,000	\$42,500,000	\$42,500,000
NJ Transit Utility Costs	\$0	\$23,280,000	\$12,889,000
State Energy Efficiency Projects	\$0	\$15,820,000	\$9,200,000
Office of Sustainability and Green Energy (DEP)	\$0	\$0	\$3,700,000
TOTAL	\$194,685,000	\$243,785,000	\$68,289,000
Fund Diversions Proposed in FY 2015 Governor's Budget		\$49,100,000	\$68,289,000

The table below, in turn, shows the actual or estimated amounts of financial resources, program expenditures, General Fund transfers, and year-end fund balances for FY 2008 to FY 2015, as they are displayed in the pertinent annual Governor's Budget proposals. (Page 26 of the "Supplementary Information" section in the Governor's FY 2015 Budget, available in the online version only, exhibits the data for FY 2013, FY 2014, and FY 2015.)

Fiscal Year	Resources	Clean Energy Program Expenditures	General Fund Transfers	Year-End Fund Balance
2008	\$378,224,000	\$147,063,000	\$15,305,000	\$215,856,000
2009	\$463,600,000	\$154,658,000	\$10,932,000	\$298,010,000
2010	\$595,641,000	\$202,974,000	\$198,830,000	\$193,837,000
2011	\$497,330,000	\$226,174,000	\$53,689,000	\$217,467,000
2012	\$633,735,000	\$266,086,000	\$255,097,000	\$112,552,000
2013	\$112,552,000	\$193,908,000	\$133,441,000	\$165,895,000
2014 est.	\$165,895,000	\$191,614,000	\$245,808,000	\$106,094,000
2015 est.	\$106,094,000	\$235,278,000	\$70,611,000	\$144,990,000

Discussion Points (Cont'd)

As can be seen in the table, the Clean Energy Program has consistently produced significant surplus balances in recent years. BPU staff explain the technical reasons therefor in Section 2.3 of the "2nd Revised CRA Straw Proposal: Proposed Funding Levels FY14 - FY17," dated June 3, 2013. On the macro level, the BPU allocates specific amounts to new programs that may take months or years to develop and implement. On the micro level, the BPU sets aside funding for 100 percent of financing commitments made to individual projects. Experience suggests, however, that project completion rates for many programs are inferior to 100 percent. The routine accumulation of significant excess balances prompted the BPU to include as a Clean Energy Program goal for FY 2014 that the BPU "[c]oordinate with Treasury to develop appropriate procedures to better match the collection of funds from ratepayers to actual program needs ..." (page 35 of the Board Order dated June 21, 2013, Docket number EO11050324V). It remains unclear how this initiative relates to the Board's goal of reducing the Clean Energy Program's reliance on the societal benefits charge as the program's funding mechanism and to inaugurate revolving loan funds as alternative funding vehicles (see Discussion Point #3).

New Jersey ratepayers finance the Clean Energy Program via the societal benefits charge included in their electric and natural gas bills. Operative since April 2001, the program was authorized as part of the "Electric Discount and Energy Competition Act," P.L.1999, c.23 (N.J.S.A.48:3-49 et seq.). Through the program the BPU seeks to promote increased energy efficiency and the use of renewable energy sources. The program no longer supports the installation of solar energy generation systems, as the State has adopted Solar Renewable Energy Certificates (SRECs) as the subsidy mechanism for solar power (see Discussion Point #16). The Offshore Renewable Energy Certificate (OREC) program attempts to do the same for offshore wind energy installations (see Discussion Point #18).

- **Questions:** Please comment on the likely impact on the Clean Energy Program of the Executive's proposed lapse of another \$117.4 million in fund balances into the State General Fund in FY 2014 and FY 2015 combined. Has the BPU raised or will it raise the Clean Energy Fund component of the societal benefits charge for FY 2015 to cover this additional expense? Absent the proposed FY 2015 diversion, how would the BPU expend the \$117.4 million? Will alternative resources be allocated for these purposes? To what extent will any shift in moneys among BPU programs, prompted by the proposed lapse, reprioritize energy efficiency and renewable energy programs? If the BPU did not anticipate expending the \$117.4 million on specific spending purposes, was it contemplating drawing the sum down to temporarily lower the Clean Energy Fund component of the societal benefits charge?
- Please comment on the BPU's progress in meeting the FY 2014 Clean Energy Program goal of "[c]oordinat[ing] with Treasury to develop appropriate procedures to better match the collection of funds from ratepayers to actual program needs." Has the Department of the Treasury been receptive? If so, what financial management changes does the BPU expect to incorporate in the program budget for FY 2015 to FY 2017 to reduce the accumulation of excess balances? How does the initiative to better align program resources with expenditures relate to the long-term objective of reducing the program's reliance on the societal benefits charge as its funding source and inaugurating revolving loan funds as alternative funding vehicles?

Discussion Points (Cont'd)

2. In addressing BPU Discussion Point #5 in the OLS FY 2013-2014 Department of the Treasury Budget Analysis the Board stated that the then anticipated **\$196.2 million lapse of Clean Energy Program balances into the State General Fund in FY 2014** (of which \$33.0 million was to come from the Solar Alternative Compliance Payments account) prevented BPU staff from recommending that fewer funds be raised in support of the Clean Energy Program from electric and natural gas ratepayers through the societal benefits charge. The FY 2014 Appropriations Act enacted the lapse.

According to Section 5.6 of the "2nd Revised CRA Straw Proposal: Proposed Funding Levels FY14 - FY17," dated June 3, 2013, BPU staff proposed on April 17, 2013 that \$227.7 million be raised in FY 2014 through the societal benefits charge to finance the Clean Energy Program. Two months later, the BPU adopted a budget that raised that figure to \$344.7 million, marking a \$117.0 million, or 51.4 percent, increase over the BPU staff recommendation from two months prior (page 39 of the Board Order dated June 21, 2013, Docket number EO11050324V). In Section 5.7 of the "2nd Revised CRA Straw Proposal: Proposed Funding Levels FY14 - FY17" BPU staff identify nine components of the \$117.0 million increase. The table below lists them and indicates whether the spending categories are new to the Clean Energy Program or represent additional resources for program accounts that had already been included in the April 17, 2013 funding proposal.

Additional Clean Energy Program Funding Authorizations over April 17, 2013 Proposal	
New Program: Transfer to New Jersey Environmental Infrastructure Trust (NJEIT) as Contribution towards Meeting 20 Percent State Match Requirement for \$229.3 Million in Federal Disaster Relief Appropriations Act Funds for New Jersey's Clean Water State Revolving Fund and Clean Drinking Water State Revolving Fund: the Super Storm Sandy-Related Funding Will Fund Energy Efficiency Upgrades and Combined Heat and Power Projects at Wastewater and Water Treatment Plants	\$30,000,000
Additional Funding: Combined Heat and Power (CHP) and Fuel Cell Program	\$20,000,000
New Programs: Multi-Family Finance and Retro-Commissioning Programs	\$15,000,000
Additional Funding: Unspecified Energy Efficiency Programs	\$10,000,000
Additional Funding: Renewable Energy Incentive Program (REIP)	\$10,000,000
Additional Funding: Marketing for Energy Efficiency Programs	\$3,600,000
Additional Funding: Expected Increase in Participation in Energy Efficiency Programs due to Increased Marketing Activities	\$16,300,000
Additional Funding: Program Evaluation	\$7,100,000
Additional Funding: Transition to New, Single Program Administrator	\$5,000,000
TOTAL	\$117,000,000

- Questions:** On June 21, 2013, the BPU adopted a FY 2014 Clean Energy Program budget that represented a \$117.0 million increase in the amount to be raised from electricity and natural gas ratepayers through the societal benefits charge over the amount BPU staff had proposed on April 17, 2013. Is the increase connected to the \$196.2 million lapse of Clean Energy Program balances into the State General Fund in FY 2014? Absent the lapse would the BPU not have recommended the \$117.0 million

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increase from April 2013 to June 2013? If the lapse is unrelated to the increase, please explain the factors that changed the assessment of the BPU between April 2013 and June 2013 as to the total amount that ratepayers should newly pay in support of the FY 2014 Clean Energy Program.

3. Taking up recommendations presented in the 2011 Energy Master Plan, the BPU is looking to **restructure the Clean Energy Program**, which is the umbrella for the State's energy efficiency and renewable energy programs. In its reply to BPU Discussion Point #8 in the OLS FY 2012-2013 Department of the Treasury Budget Analysis the Board stated that its long-term goal was to reduce the reliance of the Clean Energy Program on the societal benefits charge as the program's funding mechanism and to inaugurate revolving loan funds as alternative funding vehicles. Societal benefits charge collections would initially fund the revolving loan funds, however. Moreover, the BPU envisaged operating Clean Energy Program incentives more on a performance basis so as to reduce the incentives' costs and improve their effectiveness.

The restructuring initiative has been held up by a delay in the contract award to a single program administrator who would replace three existing administrators. On June 11, 2012, the Division of Purchase and Property in the Department of the Treasury had issued Request for Proposal 13-X-22546 for "Management Consulting – Program Administrator New Jersey Clean Energy Program (NJCEP)." The Board noted in its response to BPU Discussion Point #6 in the OLS FY 2013-2014 Department of the Treasury Budget Analysis that the Treasury had issued Letters of Intent to Award the contract to Applied Energy Group Inc. on February 22, 2013. But two of the five rival bidders filed protests that the Treasury still has to adjudicate. The BPU anticipates the protests' resolution during FY 2014.

Upon contract award the selected contractor will have three months to develop a multi-year strategic plan for the Clean Energy Program in collaboration with the BPU that includes program funding levels from FY 2015 through FY 2017 and the aforementioned transition in the program's financing method. The BPU will perform program evaluations in FY 2014 so as to assist the program administrator in crafting the strategic plan. (BPU Discussion Point #6 in the OLS FY 2013-2014 Department of the Treasury Budget and pages 19 and 20 of the Board Order dated June 21, 2013, Docket number EO13050376V)

- **Questions:** Please provide a status report on the Request for Proposal 13-X-22546 for "Management Consulting – Program Administrator New Jersey Clean Energy Program (NJCEP)." Has the Department of the Treasury resolved the protests against and finalized the contract award? If so, is Applied Energy Group Inc. the contractor? If not, by what date does the BPU expect the contract award to be finalized?
- Has the multi-year strategic plan for the Clean Energy Program been completed and adopted? If so, please a) provide a paper copy of the strategic plan or a link thereto on the Internet; b) describe the anticipated timetable for phasing in any new financing mechanism, such as revolving loan funds, and transitioning out of the societal benefits charge as a funding source; c) list all energy efficiency and renewable energy programs the BPU intends to end and provide a brief justification for the cull; and d) set forth any revisions to the performance metrics and targets for

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the Clean Energy Program. If no strategic plan has been approved, by what date does the BPU anticipate the adoption thereof?

4. The delays in the awarding of the single program administrator contract and the development of a strategic plan for the Clean Energy Program (see previous Discussion Point) have in turn held up the adoption of a **Clean Energy Program budget for FY 2015 through FY 2017**. Subsection (3) of section a. of N.J.S.A.48:3-60 requires that the BPU set the program's funding levels for a four-year period. A budget for FY 2014 through FY 2017 was due by July 1, 2013. The BPU, however, only approved a budget for FY 2014 that continued the program under the existing framework and did not commence the envisioned restructuring (Board Order dated June 21, 2013, Docket number EO13050376V). The Board deferred the production of a spending plan for FY 2015 to FY 2017 in the expectation that the envisioned strategic plan would be adopted in FY 2014 and guide program allocations from FY 2015 onward.

- **Questions:** Please indicate whether the new program administrator has had a sufficient amount of time to formulate the Clean Energy Program budget for FY 2015 through FY 2017. If not, does the BPU intend to only adopt a FY 2015 spending plan? Is the BPU using the FY 2015 program budget as the vehicle through which to implement the first phase of the envisioned restructuring of the Clean Energy Program irrespective of the awarding of the program administrator contract? Please summarize the planned programmatic changes in FY 2015 and provide a brief justification for each change. If applicable, please provide a paper copy of or Internet link to the program budget for either FY 2015 or the period from FY 2015 to FY 2017. If unavailable, please indicate the date by which the BPU intends to adopt a new spending plan.

5. Taking up a 2011 Energy Master Plan recommendation, the BPU is significantly **expanding the evaluation of the performance of the Clean Energy Program** in FY 2014. The Board adopted an \$8.8 million FY 2014 allocation in support of that objective, some \$8.0 million more than the \$800,000 available for program evaluation in the 18-month period from January 2012 through June 2013 (Page 30 of Board Order dated June 21, 2013, Docket number EO13050376V). The BPU intended to use the resources to first form a working group charged with the development of a three-year evaluation plan by the end of 2013 and led by the Center for Energy, Economic and Environmental Policy (CEEEP) at Rutgers, the State University of New Jersey. In early 2014, the BPU would then commence evaluation activities, including cost-benefit analyses. The FY 2014 budget also includes funding for an audit of energy efficiency and renewable energy programs that electric and natural gas utilities administer independent of the Clean Energy Program. The audit may wind up informing the deliberations of the working group the BPU intended to convene to evaluate the effectiveness of the utility-run programs (page 34 of the Board Order dated June 21, 2013, Docket number EO11050324V).

The June 11, 2012 "Evaluation of New Jersey's Clean Energy Programs" benchmark study prepared by Applied Energy Group also added to the BPU's interest in program evaluation. In analyzing the benchmark data, the BPU noted an "apparent under-performance" of the Clean

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Energy Program in comparison to 25 electric and natural gas energy efficiency programs operated in nine reference states (Section 4.4 of the "2nd Revised CRA Straw Proposal: Proposed Funding Levels FY14 - FY17," dated June 3, 2013). Notably, the BPU calculates that while the Clean Energy Program's electric energy efficiency programs are relatively efficient by spending \$0.20 per kilowatt-hour of electricity saved (\$0.19 for the benchmark reference class), they are relatively ineffective in delivering electricity consumption savings of only 0.5 percent of total electricity sales (1.0 percent for the benchmark reference class). The Clean Energy Program's natural gas energy efficiency programs, in turn, are relatively inefficient and ineffective. While the Clean Energy Program spent \$5.03 per therm of natural gas saved (\$2.67 for the benchmark reference class), total consumption savings delivered by the suite of natural gas energy efficiency programs represent only 0.2 percent of total natural gas sales (0.6 percent for the benchmark reference class). Unable to explain the comparatively weak results of the Clean Energy Program, the BPU recommended a thorough review to determine their origins.

- **Questions:** Please provide an update on the BPU's program evaluation initiative for the Clean Energy Program. Has the three-year evaluation plan been completed? If so, please present the timeline of planned evaluation activities and explain the extent to which the evaluation strategy differs from the one employed previously. If evaluation activities have already begun, please indicate the programs being evaluated, the performance metrics being assessed, as well as any available results. If the three-year evaluation plan has not yet been completed, please indicate by what date the BPU expects its completion. Does the BPU intend to post evaluation results on the Clean Energy Program website? How much does the BPU anticipate spending annually on program evaluation in the future?
- Have the audits of energy efficiency and renewable energy programs that electric and natural gas utilities administer independent of the Clean Energy Program been completed? If so, what are the findings? Has the BPU working group to evaluate the effectiveness of the utility-run programs concluded its task? If so, what are the group's findings and recommendations? Has the BPU begun to implement, or intends to implement, any of the recommendations? If the BPU is rejecting the implementation of any recommendations, please justify the rejection. If the working group has not yet completed its mission, please indicate by what date the BPU expects to receive the group's findings and recommendations.
- Has the BPU determined the reasons for the "apparent under-performance" of the Clean Energy Program's suite of electricity and natural gas energy efficiency programs relative to similar programs in the nine reference states that Applied Energy Group analyzed in its June 2012 benchmark study? If so, what are they? Is the Clean Energy Program's comparatively lower rate of energy consumption savings as a percentage of total energy sales primarily evidence of relative underfunding? Specifically, what factors account for the Clean Energy Program's natural gas energy efficiency programs expending \$5.03 per therm of natural gas saved, whereas the reference class averages \$2.67 per therm?

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6. The BPU Board Order dated June 21, 2013 Docket number EO13050376V shows that the Clean Energy Program's total budget for FY 2014 is \$568.0 million. The allocation for oversight of the BPU's Office of Clean Energy accounts for \$21.3 million, or 3.7 percent, of the total. But it appears that the amount only includes the administrative costs incurred by the Office of Clean Energy (\$19.3 million) and its contracted program coordinator, Applied Energy Group Inc (\$2.0 million). **Total management costs of the Clean Energy Program**, however, are substantially higher once the administrative expenses of the two contracted program administrators are included: Honeywell International Inc and TRC Environmental Corporation.

For example, the BPU estimated that the contractors' administrative expenses, including those of Applied Energy Group Inc, would approach \$41.2 million, or 11.14 percent of a total program budget of \$369.7 million, in the 18-month period from January 2012 through June 2013. The equivalent administrative expenses were \$32.2 million, or 9.77 percent of the \$330.0 million total program budget, in calendar year 2011; and \$53.2 million, or 12.86 percent of the \$413.5 million program budget, in calendar year 2010. (This paragraph's data are based on BPU answers to BPU Discussion Point #2 in the OLS FY 2010-2011 Department of the Treasury Budget Analysis and BPU Discussion Point #7 in the OLS FY 2013-2014 Department of the Treasury Budget Analysis.)

Replying to BPU Discussion Point #7 in the OLS FY 2013-2014 Department of the Treasury Budget Analysis, the BPU stated that the impending transition of the Clean Energy Program to a single program administrator would reduce annual administrative expenses by approximately \$8.5 million. (Discussion Point #3 addresses the single program administrator contract.)

BPU's Estimated New Jersey Clean Energy Program 2012-13 Revised Budget				
Program	Contractor	Total Budget	Direct Rebates	Administrative Cost
Residential Energy Efficiency Programs	Honeywell	\$125,996,892	\$108,081,752	\$17,915,140
Commercial and Industrial Energy Efficiency Programs	TRC	\$217,490,135	\$201,937,093	\$15,553,042
Renewable Energy Programs	Honeywell	\$23,224,184	\$18,506,384	\$4,717,800
Program Coordinator	AEG	\$2,985,499	\$0	\$2,985,499
Total		\$369,696,710	\$328,525,229	\$41,171,481

- **Questions:** For the 18-month period from January 2012 through June 2013, please update the above table showing for each program class under the Clean Energy Program the actual total budget, the actual amount of benefits paid out, and the actual contracted program manager's administrative cost. For FY 2014, please update the above table showing for each program class the estimated total budget, the estimated amount of benefits paid out, and the contracted program manager's estimated administrative cost. Is last year's projection that the new single program administrator contract will reduce annual administrative costs by \$8.5 million still the current estimate?

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7. The BPU lists ten goals for the FY 2014 Clean Energy Program on pages 33 through 35 of the Board Order dated June 21, 2013, Docket number EO11050324V. Among them is the **promotion of Combined Heat and Power (CHP) systems and other types of distributed generation as a means to strengthen the resilience of the electric infrastructure of critical facilities during power outages**. BPU staff explain in Section 1.4 of the "2nd Revised CRA Straw Proposal: Proposed Funding Levels FY14 - FY17," dated June 3, 2013, that this objective represents a lesson learned from the extensive damage caused by Hurricane Sandy's landfall in New Jersey on October 29, 2012. BPU staff point out that within swaths afflicted by widespread power outages entities with CHP systems continued their operations after isolating their co-generation units from the electric grid. To assist other critical facilities in acquiring CHP systems as a reliable source of backup power the BPU convened a work group to inform the development of future CHP programs and budgets. (Discussion Point #8 addresses specifics of the State's CHP incentive programs.)

It is not clear, however, whether the hardening of the electric infrastructure of critical facilities complies with the Clean Energy Program's statutory mandate. Notably, subsection (3) of N.J.S.A.48:3-60 mentions only two uses of program resources: "demand side management" (i.e. energy efficiency) and renewable energy programs.

- **Questions:** Please indicate whether and in which manner the FY 2014 Clean Energy Program goal of hardening the electric infrastructure of critical facilities falls within the statutory mandate that Clean Energy Program resources be used for demand side management and renewable energy programs. Does the BPU need, and is it seeking, the enactment of legislation authorizing the use of Clean Energy Program resources for the strengthening of the resilience of the electric infrastructure at critical facilities before it can implement programs in pursuit of that objective?

8. The BPU deems effective **incentive programs for Combined Heat and Power and Fuel Cell (CHP-FC) systems** an important tool in: a) attaining the 2011 Energy Master Plan goal of developing 1,500 megawatts of CHP generation capacity over the next ten years; and b) strengthening the resilience of the electric infrastructure of critical facilities during power outages. The lack of a steady, sustainable funding source, however, has limited the State to devising a series of one-off CHP-FC incentive programs. (The setup for Economic Development Authority (EDA) Discussion Point #12 in the OLS FY 2013-2014 Department of the Treasury Budget Analysis traces the programs' aleatory history.) The FY 2014 CHP-FC program is emblematic of the funding uncertainty. Although the program has \$65.6 million in resources from the Clean Energy Fund in FY 2014 (Board Order dated June 21, 2013, Docket number EO13050376V), the latter has been subject to repeated resource diversions to balance the State budget in recent years, affecting the CHP-FC program accounts.

To infuse stability and predictability into the CHP-FC incentive programs, the BPU has convened a working group whose findings and recommendations are to inform the development of future programs and budgets (Section 1.4 of the "2nd Revised CRA Straw Proposal: Proposed Funding Levels FY14 - FY17," dated June 3, 2013). To that effect the BPU is considering an energy efficiency portfolio standard for CHP-FC projects (Section 1.4 of the

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"2nd Revised CRA Straw Proposal: Proposed Funding Levels FY14 - FY17," dated June 3, 2013). The portfolio standard mechanism is already in use to impel solar energy capacity investments. The price support policy has three basic elements: a) the creation of demand for CHP-generated energy by obligating electric power suppliers and providers to meet specific quotas for CHP-generated energy; b) the issuance of certificates for every megawatt-hour of electricity generated by CHP installations, which are then sold separately from the generated electricity; and c) a trading platform on which electric power suppliers and providers can acquire from CHP energy generators the certificates they need to meet their annual CHP targets.

The BPU also intends to merge the two existing CHP-FC programs for New Jersey-based commercial and industrial ratepayers in FY 2014. Previously, the EDA and the BPU co-administered the Large-Scale CHP-FC program for projects involving at least one megawatt of CHP generation capacity. TRC, a contracted program administrator, in turn, managed the Small-Scale CHP-FC program for smaller projects. Starting in FY 2014, the two programs would meld into one under TRC's operational control. Available materials do not provide a justification for the consolidation. But in response to EDA Discussion Point #12 in the OLS FY 2013-2014 Department of the Treasury Budget Analysis the EDA stated that the Large-Scale CHP-FC program's first solicitation round experienced a "lack of demand." Of the \$37.0 million available through the program from January 2012 through June 2013, only \$14.8 million was committed to specific projects. (Board Order dated June 21, 2013, Docket number EO13050376V).

- **Questions:** Please provide an update on the strategy the Administration intends to employ to reach the 2011 Energy Master Plan target of developing 1,500 megawatts of Combined Heat and Power generation capacity over the ten years through the end of 2021. Has the working group whose findings and recommendations are to inform the development of future Combined Heat and Power and Fuel Cell (CHP-FC) programs and budgets completed its task? If not, by what date does the BPU anticipate its report? If the group has already submitted its recommendations, please outline them and indicate whether the BPU has taken any steps to implement them or is intending to implement them. Have the recommendations guided the formulation of the FY 2015 CHP-FC program budget? Will the financing source for CHP-FC project incentives be shifted to a portfolio standard mechanism or any other funding stream?
- Were the Large-Scale CHP-FC Program and Small-Scale CHP-FC Program merged? What was the rationale for the consolidation? For each of the two programs, please indicate the original program budget, the number of projects having qualified for incentives, the total amount of financial commitments the BPU has made, and the number of megawatt of CHP and fuel cell generation capacity created. For the merged CHP-FC Program, please set forth the number of applications received, the number of projects the BPU has approved for incentives, the total pecuniary amount of incentives approved, and the amount of megawatts of CHP and fuel cell generation capacity to be created by those projects. Is the \$65.6 million FY 2014 program budget sufficient to meet demand? What is the program's anticipated FY 2015 budget and spending level?

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- **Is the Administration's proposed lapse of an additional \$117.4 million in Clean Energy Fund balances into the State General Fund in FY 2014 and FY 2015 combined affecting the CHP-FC incentive program account? If so, please set forth the amount of the reduction in the CHP-FC incentive program account. Does the lapse: a) jeopardize the State's ability to reach its target of developing 1,500 megawatts of CHP generation capacity over the ten years through the end of 2021; and b) impede the BPU from planning and implementing CHP-FC incentive program operations and specifications? How many awards for what amount of CHP-FC generation capacity does the BPU project: a) will it make in FY 2014 and FY 2015; and b) would it have made absent the proposed funding cut? Have previously awarded payments been deferred, scaled back or rescinded because of the proposed lapse? Has the BPU ceased accepting new applications or making new awards because of the proposed lapse? How long is any: a) wait list for program admittance; and b) backlog in disbursing approved assistance? Has the BPU tightened eligibility criteria or lowered assistance payments because of the proposed lapse?**

9. In section 5.3 of the "2nd Revised CRA Straw Proposal: Proposed Funding Levels FY14 - FY17," dated June 3, 2013, the BPU reported that it would develop or explore the **development of new Clean Energy Program incentives in FY 2014 for three renewable energy technologies: energy storage systems, on-shore wind systems, and marine hydrokinetic renewable energy projects.**

The promotion of **energy storage systems** is one of ten enumerated FY 2014 Clean Energy Program goals (pages 33 to 35 of the Board Order dated June 21, 2013, Docket number EO11050324V). This is so because the systems turn renewable energy into a more reliable power source by alleviating the mismatch between electricity demand and the intermittent supply of solar and wind energy. In addition, energy storage technology temporarily enables critical facilities to continue operating during electric grid outages. In light of these benefits the BPU anticipated designing a new incentive program for energy storage systems in the second half of 2013, opening up a competitive solicitation in the first quarter of 2014, and awarding the first incentive in mid-2014 (Board Order dated June 21, 2013, Docket number EO13050376V). Although the FY 2014 Clean Energy Program budget does not specify the funding level for the new program in FY 2014, sections 5.3 and 5.7 of the "2nd Revised CRA Straw Proposal" suggest that it falls somewhere between \$2.5 million and \$12.5 million.

The BPU suspended the previous incentive program for **on-shore wind energy** installations in March 2011 over safety concerns regarding small-scale wind systems. In FY 2014, however, the BPU intends to develop a new incentive program for on-shore wind energy projects with a generation capacity of at least one megawatt. The Board did not provide any funding for the program in FY 2014, as it did not expect making any incentive awards that year. But the BPU anticipates that funding would be required in FY 2015.

The BPU also did not provide any funding for an envisioned incentive program for **marine hydrokinetic renewable energy** projects in FY 2014. Nevertheless, it planned to explore potential program options to support such projects in FY 2014. A form of hydropower, marine

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hydrokinetic renewable energy is generated from waves, currents, and tides in the ocean, an estuary or a tidal area as well as from the free-flowing water in a river, lake or stream.

- **Questions:** Please provide the following information for each of the incentive programs the BPU envisioned developing in FY 2014 for energy storage systems, on-shore wind systems, and marine hydrokinetic renewable energy projects: a) has the BPU adopted an inaugural program design (if not, by what date does the BPU expect doing so); b) what are the eligibility criteria and the sizes of individual incentives; c) by what date does the BPU anticipate accepting applications; d) by what date does the BPU anticipate making the first incentive awards; e) by what date does the BPU anticipate paying out the first incentive award; and f) what are the program's annual budgetary allocations from FY 2014 to FY 2017?

10. In June 2011, the Administration established the **State Energy Office** in the BPU's Division of Economic Development and Energy Policy as the successor to the Office of Energy Savings in the Department of the Treasury. The State Energy Office is to identify opportunities for reducing the energy consumption in State facilities. Since inception the office implemented energy audits, negotiated lower prices on the State's electricity and natural gas supply contracts, assisted State agencies with the determination of their energy-related needs and capital budget requests, and reviewed energy funding requests with the Office of Management and Budget in the Department of the Treasury. The BPU replied to BPU Discussion Point #15 in the OLS FY 2012-2013 Department of the Treasury Budget that the office performed these tasks with three full-time employees who availed themselves of other Division of Economic Development and Energy Policy staff, as needed.

As part of its mission to identify opportunities for reducing the energy consumption in State buildings, the State Energy Office manages the **energy savings improvement program for State-owned and -operated buildings** in accordance with P.L.2009, c.4. The law strives to increase the number of energy conservation projects the State undertakes by allowing two financing mechanisms to defray the projects' up-front cost over a period not exceeding 15 years (or 20 years in certain cases). First, the State may contract with energy service companies that assume the up-front cost of infrastructure improvements with the State repaying its debt over time out of the energy cost savings it realizes from the investments. Alternatively, the State may enter into a lease-purchase financing agreement, whereby the State engages a contractor who will purchase certain energy conservation equipments on behalf of the State and lease them to the State in return for lease payments over a predetermined term. At the end of the term the State will assume ownership of the equipments. The BPU responded to BPU Discussion Point #10 in the OLS FY 2013-2014 Department of the Treasury Budget Analysis that the State had not signed a single energy savings improvement contract with an energy service company, as the Department of the Treasury deemed lease-purchase financing more cost-effective. Accordingly, on October 7, 2013, the State awarded contract T-2872 to Banc of America Public Capital Corp. in response to Request for Proposal (RFP) 14-X-22599 for "Financial Services: Energy Master Lease Purchase Financing." Under the State's first ever lease-purchase financing agreement for energy conservation projects, the contractor will provide up to \$100 million for the State to draw down over a three-year period to finance energy conservation projects. In return, the contractor will receive fixed payments for twelve or fifteen years depending on the

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specific project. The RFP sets forth \$87.4 million worth of projects for which the State intends to use the raised capital:

1) Bayside Prison/Southern State Prison:	\$25.0 Million
2) Hunterdon Developmental Center/Edna Mahan Prison:	\$20.0 Million
3) Department of Transportation Headquarters:	\$12.0 Million
4) Trenton State Prison:	\$11.0 Million
5) Katzenbach School:	\$9.1 Million
6) Vineland Developmental Center:	\$5.3 Million
7) New Jersey State Police Headquarters:	\$5.0 Million

- Questions:** Please describe the State Energy Office's activities since its response to BPU Discussion Point #10 in the OLS FY 2013-2014 Department of the Treasury Budget Analysis. Please provide an updated estimate of the aggregate and annual cost savings the State Energy Office has negotiated since its inception under the State's electricity and natural gas supply contracts.
- Please provide a progress report on the State's energy savings improvement program for State-owned and -operated buildings. What is the amount of energy cost savings that each energy conservation project listed in RFP 14-X-22599 for "Financial Services: Energy Master Lease Purchase Financing" is projected to achieve annually and cumulatively over the project amortization period? What is each project's estimated outlay inclusive of financing costs? Is the State Energy Office developing a project list for a second energy master lease-purchase agreement or energy savings improvement contracts? If so, what projects are on the list and by what date does the office anticipate seeking the additional financing? If the State has changed its policy regarding energy savings improvement contracts, please detail for each contract signed the State building benefitting from energy-savings infrastructure improvements, the improvements being undertaken, their capital cost, the amortization period, the projected amount of energy cost savings over the amortization period, and the debt service payments the State is anticipated to make out of the projects' energy savings.

11. Imposed pursuant to N.J.S.A. 48:3-60 as a component of the "Electric Discount and Energy Competition Act" (P.L.1999, c.23), the **societal benefits charge** is embedded in, but separately delineated on, electric and natural gas ratepayers' monthly utility bills. Proceeds finance nuclear plant decommissioning, manufactured gas plant remediation, utilities' uncollectible debts, energy consumer education, energy assistance programs to low-income utility customers via the Universal Services Fund (page 39 of the "Supplementary Information" section in the Governor's FY 2015 Budget, available in the online version only), and energy demand management programs including BPU's Clean Energy Program (page 26 of the "Supplementary Information" section in the Governor's FY 2015 Budget, available in the online version only). From calendar year 2009 to calendar year 2012, societal benefits charge collections fluctuated between a lower bound of \$776.6 million generated in calendar year 2011 and an upper bound of \$792.3 million generated in calendar year 2010. Depending on the utility, the charge represented between 3.59 percent (\$45.84) and 5.56 percent (\$68.15) of the annual bill of the average electric residential ratepayer as of April 2013 and between 5.82

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percent (\$63.30) and 7.07 percent (\$83.70) of the annual bill of the average residential natural gas ratepayer.

- **Questions:** Please indicate the amount the societal benefits charge raised in calendar year 2013, as well as the amount of societal benefits charge collections that financed each program supported by the charge. Please list, by utility and by societal benefits charge component, the 2013 and 2014 rates of the charge and present the reasons for any increase. The charge represented what percentage of an average residential ratepayer's annual electricity and natural gas bills in calendar year 2013 and represents what estimated percentage in calendar year 2014?

12. New Jersey ratepayers fund the **Universal Service Fund (USF)** via the societal benefits charge included in their electric and natural gas bills. The USF finances several State energy assistance programs: the USF, the "Fresh Start", and Lifeline credit programs, the Tenants' Assistance Rebate Program, as well as energy assistance payments under the Temporary Assistance for Needy Family (TANF) program. The Governor's FY 2015 Budget anticipates \$277.8 million in USF expenditures for FY 2015 (page 39, available in the online version of the Governor's FY 2015 Budget only). Of this amount, the Governor proposes \$196.7 million in direct fund expenditures as well as a transfer of \$81.2 million to other funds, of which \$63.8 million would finance the "Lifeline Credit Program" (N.J.S.A.48:2-29.15 et seq.) and the "Tenants' Lifeline Assistance Program" (N.J.S.A.48:2-29.31 et seq.), under which 308,781 low-income households would receive up to \$225 in electric and gas utility credits in FY 2015. An additional \$6.9 million would finance energy assistance payments for Work First New Jersey recipients (Work First New Jersey is the State's TANF program) and the Department of Community Affairs would receive another \$8.6 million to administer the USF and "Fresh Start" credit programs.

The USF credit program is an energy assistance program seeking to ensure that eligible utility customers pay no more than six percent of their annual income for their natural gas and electric service. The "Fresh Start" credit program, on the other hand, allows first-time USF credit recipients with at least \$60 in arrears on their energy bills to retire their outstanding balances by paying their USF-adjusted affordable energy bill in full for 12 consecutive months following program admittance. The BPU carries the financial responsibility for the programs, the Department of Community Affairs administers them, and the electric and natural gas utilities credit the benefits to customer accounts. In program year 2012, the two programs disbursed \$209.3 million in benefits and incurred \$7.9 million in administrative expenses, as related by the BPU in response to BPU Discussion Point #14 in the OLS FY 2013-2014 Department of the Treasury Budget Analysis. For program years 2010, 2011, and 2012 the tables on the following page display for each of the two credit programs the number of beneficiary households, total credit expenditures, and the average benefit per household. The timing of the program year was changed effective for program year 2012. The 2010 and 2011 program years started on November 1 and ended on October 31 the following year. Program year 2012, however, began on November 1, 2011 and ended on September 30, 2012, resulting in a one-time eleven-month program year. The 2013 program year then ran a full twelve months from October 1, 2012 to September 30, 2013. The average electric residential ratepayer paid \$16.01 in program year 2011 to support the USF, \$20.02 in program year 2012, and \$18.94 in

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program year 2013. In turn, the average natural gas residential ratepayer paid \$17.04 in program year 2011, \$16.08 in program year 2012, and \$16.32 in program year 2013.

Universal Service Fund Credit Program Metrics for 2010, 2011, and 2012 Program Years			
Program Year	Households Enrolled	Total Credit Cost	Average Benefit per Household
2009 - 2010	194,660	\$193,477,000	\$993.92
2010 - 2011	223,088	\$200,956,254	\$900.79
2011 - 2012	221,451	\$196,935,385	\$889.30

"Fresh Start" Credit Program Metrics for 2010, 2011, and 2012 Program Years			
Program Year	Households Enrolled	Total Credit Cost	Average Benefit per Household
2009 - 2010	23,359	\$13,447,945	\$575.71
2010 - 2011	26,770	\$15,299,127	\$571.50
2011 - 2012	24,360	\$12,411,258	\$509.49

- Questions:** For each of the USF credit and "Fresh Start" programs, please provide actual expenditures for the 2012-2013 program year and estimated expenditures for the 2013-2014 program year. What are the USF rates built into the societal benefits charge for those years and what does the program cost the average residential and non-residential energy utility customer? What is the number of USF credit and "Fresh Start" beneficiaries in program years 2012-2013 and 2013-2014? Did the shift in program year timing in program year 2012, which ran from November 1, 2011 through September 30, 2012 (instead of October 31, 2012) have the effect of lowering program year 2012 USF and "Fresh Start" expenditures and average benefit amounts by roughly $\frac{1}{12}$ over program year 2011 levels? Did the return to a twelve-month program year cycle mean that program year 2013 expenditures and average benefit amounts were roughly $\frac{1}{12}$ higher than in program year 2012? Has the BPU seen a drop in USF and "Fresh Start" participation rates and average benefit amounts that corresponds to the decline in electricity and natural gas prices in recent years?

13. P.L.2009, c.207 directs the BPU to make a one-time \$25 million allocation out of unexpended and uncommitted societal benefits charge balances to an electric and gas utility assistance grant program for households experiencing a temporary financial crisis. The program has to be operated by a non-profit organization, which must submit a report to the Board detailing program statistics and other administrative information within one year of receiving the final tranche of the \$25 million program budget. In application of the law, the BPU established the **Temporary Relief for Utility Expenses (TRUE) program** and, in March 2011, selected the non-profit Affordable Housing Alliance (AHA) as the program administrator. For State budgeting purposes, the TRUE program has been placed under the banner of the Clean Energy Program.

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According to the AHA website, the TRUE program is an assistance program designed to help low- and moderate-income households who newly face financial hardship. In order to qualify, applicants must meet income guidelines. For example, a three-person household must have an annual income ranging from \$38,196 to \$85,391. In addition, applicants must not have received energy assistance under the Universal Service Fund credit program and the Low Income Home Energy Assistance Program in the past 12 months. They must also demonstrate that balances in their electric and gas accounts are at least 45 days overdue or that they have received a disconnection notice for their electric or gas service. Lastly, they must demonstrate that they have made four electric or gas bill payments of at least \$25 each within the past six months. Replying to BPU Discussion Point #15 in the OLS FY 2013-2014 Department of the Treasury Budget Analysis, the BPU noted that 10,319 households had received one or more TRUE grants as of March 28, 2013 and that \$13.6 million of the \$25.0 million program budget had been released to AHA through October 2012.

- **Questions: For the Temporary Relief for Utility Expenses (TRUE) program, please indicate, by program year, the number of beneficiary households, the average benefit amount, and the total budgetary outlay. Has the BPU transferred the full \$25 million to the Affordable Housing Alliance (AHA)? If so, by what date must the alliance submit the program report required by P.L.2009, c.207? If not, what amount has the BPU already transferred to the program administrator and by what date does the BPU expect to transfer the final tranche? In what year does the BPU project the AHA to exhaust the \$25 million? Does the BPU intend to make the program permanent and find a permanent funding source?**

14. N.J.S.A.46:30B-74 created the off-budget Unclaimed Utility Deposits Trust Fund to hold unclaimed electric and natural gas utility customer deposits that escheat to the State. A contracted statewide non-profit energy assistance organization receives 75 percent of the fund's annual balances to provide assistance to utility ratepayers who have fallen behind on their electricity or natural gas bills. New Jersey Statewide Heating Assistance and Referral for Energy Services (NJ SHARES) had been the contractor since 2001 and had used the moneys in support of its general energy assistance program (Board Order dated February 2, 2001, Docket number EO00120976U). According to NJ SHARES' annual reports, it received \$1.4 million in calendar year 2012 for this purpose, \$2.5 million in calendar year 2011, and \$2.9 million in calendar year 2010. In March 2013, however, the Board opened a competitive bid process for the new **Payment Assistance for Gas and Electric (PAGE) program** that was to be funded out of the Unclaimed Utility Deposits Trust Fund. In July 2013, the BPU awarded the contract to the non-profit Affordable Housing Alliance (AHA) for FY 2014 to FY 2018 (Board Order dated July 19, 2013, Docket number EG13030195). NJ SHARES had submitted a rival bid but was not selected.

According to the Notice of Availability of Grants, the PAGE program is to help pay the electric and natural gas bills of low- and moderate-income households whose incomes are too high to qualify for federal and State energy assistance programs. Applicants must be behind on their energy and natural gas bills and must otherwise have a history of regular payments to their energy provider. NJ SHARES' similar energy assistance program, in turn, helps the same demographic pay their electric and heating fuel bills: up to \$700 for heating fuel and \$300 for

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electricity. NJ SHARES' applicants must be experiencing a temporary financial crisis, such as a job loss or illness, must be behind on their energy bill or in need of a heating fuel delivery, and must have a history of good-faith payments to their energy provider.

- **Questions:** Please enumerate the PAGE program's eligibility criteria and benefit levels. Is the program operational? If not, please indicate by what date the Affordable Housing Alliance (AHA) plans to have it up and running. Is the number of benefit applications roughly stable following the transition of Unclaimed Utility Deposits Trust Fund funding from NJ SHARES' energy assistance program to the PAGE program? Please share the number of applications in FY 2013 (NJ SHARES) and FY 2014 (AHA). Is the impression accurate from the Notice of Availability of Grants that the PAGE program allows applicants to seek assistance for the payment of their electric and natural gas bills but not for the purchase of heating oil, as they can under NJ SHARES' energy assistance program? Does the BPU offer any program to assist low- and moderate-income households with the purchase of heating oil?

15. The 2011 Energy Master Plan reaffirmed the State's commitment to sourcing 22.5 percent of the electricity used in New Jersey from renewable energy sources by 2021. That percentage reflects the pre-existing objective under the State's **Renewable Portfolio Standards (RPS)**. P.L.1999, c.23 (N.J.S.A.48:3-49 et seq.) established the RPS, which prescribe a minimum percentage of total kilowatt-hours sold in New Jersey by each electric power supplier and basic generation service provider that must be generated from renewable energy sources. While the law prescribes specific minimum RPS targets for some years and forms of alternative energy, it leaves the formulation of the overall RPS schedule to the BPU's discretion (subsection d. of N.J.S.A.48:3-87). Current RPS targets are outlined in N.J.A.C.14:8-2.3. The regulatory RPS schedule does not specify solar energy targets, however, as they are set forth in permanent statutes in accordance with P.L.2012, c.24. In energy years 2010, 2011, and 2012 all electric power suppliers and basic generation service providers complied with the RPS requirements, according to the BPU's answer to BPU Discussion Point #2 in the OLS FY 2013-2014 Department of the Treasury Budget Analysis. Had they not, they would have been subject to penalties, such as license suspension or revocation, fines, the disallowance of cost recoveries, and a prohibition on accepting new customers.

For energy years 2010 through 2021, the table on the following page lists the percentages of energy supplied in New Jersey that must be either from Class I or Class II renewable energy, with solar energy being a carve-out of the Class I percentage. The Class I and Class II targets reflect the RPS as delineated in N.J.A.C.14:8-2.3. The solar energy figures represent the RPS for energy year 2010; the gigawatthours-based (Gwhrs) targets for energy years 2011, 2012, and 2013 in accordance with P.L.2009, c.289; and starting in energy 2014 the percentage targets set forth in the superseding P.L.2012, c.24. Class I energy sources are solar technologies, wind energy, photovoltaic technologies, geothermal technologies, fuel cells, wave or tidal action, the combustion of methane gas captured from landfills or biomass facilities, and hydropower facilities with a capacity not exceeding three megawatts. Electricity from hydroelectric facilities with a capacity exceeding three megawatts constitutes a Class II energy source. As to the nomenclature for an energy year, energy year 2010, for example, started on June 1, 2009 and ended on May 31, 2010.

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Renewable Portfolio Standards: Percentage of Energy Sold in New Jersey that Must Be from Renewable Energy Sources				
Energy Year	Class I Energy	Solar Energy's Share of Class I Energy Targets	Class II Energy	Total Renewable Energy
2010	4.685%	0.221%	2.50%	7.185%
2011	5.492%	306 Gwhrs	2.50%	7.992%
2012	6.320%	442 Gwhrs	2.50%	8.820%
2013	7.143%	596 Gwhrs	2.50%	9.643%
2014	7.977%	2.050%	2.50%	10.477%
2015	8.807%	2.450%	2.50%	11.307%
2016	9.649%	2.750%	2.50%	12.149%
2017	10.485%	3.000%	2.50%	12.985%
2018	12.325%	3.200%	2.50%	14.825%
2019	14.175%	3.290%	2.50%	16.675%
2020	16.029%	3.380%	2.50%	18.529%
2021	17.880%	3.470%	2.50%	20.380%

In addressing last year's BPU Discussion Point #2, the Board estimated that the RPS requirements for energy year 2021 are likely to be attained and stated that it would help develop cost-competitive renewable energy markets at the least cost to ratepayers. Moreover, the BPU shared that the average residential ratepayer paid \$15.3 in energy year 2010 to meet the RPS targets, \$24.3 in energy year 2011, and \$19.3 in energy year 2012, assuming an average annual energy consumption of 10,000 kilowatt-hours. All ratepayers combined paid \$118.4 million in energy year 2010 to comply with the RPS targets, \$197.5 million in energy year 2011, and \$148.6 million in energy year 2012.

- **Questions:** For energy year 2013, please indicate: a) the actual percentage of electricity sold in New Jersey that was generated from renewable energy sources; b) whether the electric power suppliers and basic generation service providers complied with the Class I, Class II, and solar energy targets of the Renewable Portfolio Standards (RPS); c) the breakout of the creditable components that electric power suppliers and basic generation service providers used to meet the Class I, Class II, and solar energy RPS requirements; and d) the RPS' total cost to ratepayers, and average cost per ratepayer. Has the BPU revised its estimate from last year that the attainment of the energy year 2021 RPS targets is likely?

16. New Jersey must expand its solar energy generation capacity substantially to meet the gradually rising solar targets of the statutory Renewable Portfolio Standards (subsection d. of N.J.S.A.48:3-87): solar energy must comprise 2.05 percent of electricity sales in New Jersey in energy year 2014 (June 2013 through May 2014) and 4.1 percent by energy year 2028.

The State has set up a price-support system to impel the solar capacity investments needed to meet its solar targets. The system has three basic elements: a) solar targets, which create a

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demand for solar energy by obligating electric power suppliers and providers to meet specific solar quotas; b) **Solar Renewable Energy Certificates (SRECs)**, which are issued for every megawatt-hour (MWh) of electricity generated by solar power installations and are sold separately from the generated electricity; and c) a trading platform on which electric power suppliers and providers can acquire from solar energy generators the SRECs they need to meet their annual solar targets. To limit the cost of the price-support system to ratepayers, a gradually declining price ceiling applies to SRECs in the form of Solar Alternative Compliance Payments (SACP). Electric power suppliers and providers may make such alternative payments to the BPU in lieu of purchasing SRECs to meet their solar quotas. In reply to BPU Discussion Point #3 in the OLS FY 2013-2014 Department of the Treasury Budget Analysis, the Board estimated that the solar targets would cost ratepayers \$164 million in energy year 2014, \$196 million in energy year 2015, and \$220 million in energy year 2016, assuming an SREC price of \$100 per MWh.

SREC prices have tumbled in recent years to the point that the authors of the 2011 Energy Master Plan expressed concern that the depressed price levels might deter the creation of additional solar capacity and thereby jeopardize compliance with the State's long-run solar targets. In fact, the weighted average monthly SREC price for December was \$612 per MWh in 2010, \$369 in 2011, \$215 in 2012, and \$176 in 2013. Prices have dropped in reaction to a significant oversupply of SRECs. The BPU estimated in response to last year's BPU Discussion Point #3 that the entire energy year 2013 demand for SRECs was fulfilled in the first three months of the energy year. Moreover, the Board projected that at the end of energy year 2013, there would be more unsold SRECs carried forward to energy year 2014 (787,779 MWh) than would be sold in that energy year (596,000 MWh). The unanticipated surge in solar energy supply has arisen from market responses to previously high SREC prices, the federal Business Energy Investment Tax Credit of 30 percent of a business' investment in solar facilities, and declining prices for photovoltaic panels.

P.L.2012, c.24 was then enacted to forestall a slowdown in the installation of additional solar energy generation capacity. The law imposed more aggressive solar targets starting in energy year 2014 that are supposed to increase the demand for, and prices of, SRECs. But the law also sought to control the solar targets' cost effect on ratepayers by replacing the previous regulatory ceilings on SREC prices with significantly lower statutory caps. Notwithstanding the enactment of P.L.2012, c.24, the BPU did not anticipate in its reply to last year's BPU Discussion Point #3 that the SREC oversupply would clear until energy year 2016, given the estimated growth in solar power generation capacity and the significant estimated overhang of unsold SRECs. As of the writing of its response, however, the BPU did not yet detect "any appreciable slowdown in the solar market that could hamper the creation of new solar capacity."

- **Questions: Please comment on the current state of the Solar Renewable Energy Certificates (SRECs) market. How many SRECs have and have not been traded in energy year 2014? By what month were all the SRECs sold that are required to meet the energy year 2014 solar quota? How much solar energy generation capacity has been added to the market in energy year 2014? Does the BPU detect a slowdown in the construction of new solar energy generation capacity? If so, is the slowdown attributable to plunging SREC prices? If not, does the lack of a deceleration suggest that solar generators find the creation of solar capacity still sufficiently profitable in spite of low SREC prices? What percentage of the energy year 2013 solar target of**

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596 gigawatt-hours did electric power suppliers and providers meet through SRECs and through the alternative SACP payments to the BPU?

- **What is the anticipated average SREC price in energy years 2015, 2016, and 2017? Does the BPU still project the overhang of unsold SRECs to clear in energy year 2016? If not, what is the most current projection? How significant is the risk that the SREC supply will be insufficient to meet the rising solar targets in energy years 2016 and 2017 and that electric power suppliers and providers will have to make alternative SACP payments to the BPU? What will be the estimated annual cost to the average residential ratepayer of meeting the energy year 2014, 2015 and 2016 solar quotas?**

17. On October 21, 2013, the **New Jersey Solar Grid Supply Association and ten solar energy grid-supply developers filed a lawsuit against the State and the BPU** in Burlington County Superior Court seeking \$500 million in compensatory damages (*New Jersey Solar Grid Supply Association v. State of New Jersey*). According to news reports, the plaintiffs challenged the BPU's implementation of P.L.2012, c.24, which had changed qualifying criteria for participation in the Solar Renewable Energy Certificates (SRECs) program. In applying the new law, the BPU had denied or deferred approval for participation in the SREC program for solar energy generation projects that the plaintiffs had planned or begun to realize based on previous eligibility criteria. The plaintiffs now reportedly seek compensatory damages for some \$43 million in stranded investments, some \$58 million in foregone development income, and some \$400 million in lost profits.

P.L.2012, c.24 intends to correct an SREC market experiencing a substantial oversupply of solar electric power generation and to newly discourage the construction of large-scale solar power generation facilities on farmland. The law does not exempt from the new requirements solar facilities on farmland that were in the planning stages or in the middle of construction on the date of the law's enactment and that still had to receive final BPU approval for SREC program participation. Nevertheless the law instituted a special application process for such projects under subsection s. of N.J.S.A.48:3-87. One of its three conditions was BPU project approval; however, the law did not stipulate any guidelines concerning the evaluation of project applications. The BPU then used its discretion in a manner it deemed consistent with two objectives of P.L.2012, c.24: "limiting solar development on farmland and mitigating [SREC price] volatility" (page 19 of the Board Order dated May 8, 2013, Docket numbers EO12080832V, EO12090880V, EO12121101V, EO12121106V, and EO12121142V). Concretely, it reviewed 57 applications for grid-supply solar projects on farmland under subsection s. of N.J.S.A.48:3-87. It approved three for SREC program participation owing to their advanced stage of development, deferred a decision on 20 projects, and denied 34 applications. The BPU pointed out that rejected projects could still seek approval for SREC market participation under a different provision of P.L.2012, c.24 that dealt with solar projects on farmland, namely subsection q. of N.J.S.A.48:3-87. (Board Order dated May 8, 2013, Docket numbers EO12080832V, EO12090880V, EO12121101V, EO12121106V, and EO12121142V concerns the three projects the BPU approved; and Board Order dated May 10, 2013, Docket numbers EO12090832V, EO12090880V, EO12121089V – EO12121144V the projects the BPU denied or deferred).

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- **Questions:** Please indicate the current status of the lawsuit filed against the BPU by the New Jersey Solar Grid Supply Association and ten solar energy grid-supply developers (*New Jersey Solar Grid Supply Association v. State of New Jersey*). What was the SREC registration status of the projects that are the subject of the litigation prior to P.L.2012, c.24's enactment? What has been the State's cost to date of engaging in the court proceeding? Does the lawsuit create any uncertainty regarding the SREC market's viability that functions as a deterrent to the construction of additional solar power generation facilities in New Jersey?
- Have solar grid-supply developers submitted any applications for SREC market participation under subsection q. of N.J.S.A.48:3-87 for any solar power generation projects for which the BPU had denied approval under subsection s. of N.J.S.A.48:3-87? If so, how many projects fall into that category and by what date does the BPU anticipate ruling on the applications?

18. The "Offshore Wind Economic Development Act," P.L.2010, c.57, directs the BPU to establish an **Offshore Renewable Energy Certificate (OREC)** program. A price-support system similar to the Solar Renewable Energy Certificate program addressed in Discussion Point #16 above, the OREC program is intended to contribute to meeting the 2011 Energy Master Plan goal of building at least 1,100 megawatts of offshore wind electric generation capacity. Under the OREC financing mechanism, the BPU would first determine an annual percentage of New Jersey electricity sales that must be from offshore wind installations. Electric power suppliers and providers would then have to source that percentage of their New Jersey electricity sales from offshore wind farms. They would do so through the purchase of ORECs, which represent power generated by owners of offshore wind electric generation systems at prices that reflect the higher cost of renewable energy. ORECs would be sold separately from the electricity actually generated by the wind farms. To limit the price-support system's cost to ratepayers, the BPU would set a *de facto* price ceiling for the certificates in the form of Offshore Wind Alternative Compliance Payments. Electric power suppliers and providers could make such alternative payments to the BPU in lieu of purchasing ORECs to meet their offshore wind requirements.

To date, the BPU has promulgated regulations on the OREC application process and retained Boston Pacific to set up the infrastructure for an OREC market. The OREC program, however, is not yet operational. This is so because P.L.2010, c.57 makes the establishment of offshore wind generation targets contingent on the prior BPU approval of offshore wind installations for program participation. But as the BPU has yet to approve the first program participant, the rules establishing the price-support mechanism have yet to be adopted. Two impediments commonly stand between prospective applicants and program approval. First, projects to be sited in federal waters, which begin three miles off the State's coast, must receive federal permits. The United States government, however, has been slow to issue rules and permits for offshore wind energy activity. Second, the "Offshore Wind Economic Development Act" requires that OREC-eligible projects yield positive economic net benefits to the State. But complying with the net benefit requirement poses a challenge, according to unidentified developers cited in the NJSpotlight January 22, 2013 article "New Funding Mechanism Could Stop State from Raiding Offshore Wind Revenue." In fact, the only developer that has

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submitted an application to the BPU, Fishermen Energy for its planned 25-megawatt Atlantic City Wind Farm, failed the net benefit analysis in December 2012. This failure could reportedly not be remedied subsequently and so the BPU denied the project's OREC program application definitively on March 19, 2014. Notwithstanding these complications, the Board reaffirmed its support for the statutory net benefit requirement as an "essential" ratepayer protection and did not recommend amending the enabling law to facilitate projects' entry into the OREC program (BPU response to BPU Discussion Point #4 in the OLS FY 2013-2014 Department of the Treasury Budget Analysis).

- **Questions:** Please report on the BPU's progress in establishing the Offshore Renewable Energy Certificate (OREC) program. By which date does the BPU expect to have OREC rules promulgated, the market infrastructure set up, and the first certificates ready to trade? Please detail the reasons for rejecting Fishermen Energy's program application for the Atlantic City Wind Farm. Has the BPU received any applications for OREC participation other than the one for Fishermen Energy's Atlantic City Wind Farm? Based on its conversations with offshore wind developers and its application evaluations, does the BPU see a reasonable chance for proposed offshore wind energy installations to pass the economic net benefit test? What aspects of the current test impede program qualification?

19. Hurricane Irene made landfall in New Jersey on August 28, 2011 and disrupted service to 1.9 million of the State's 3.9 million electric customers with some not having their electricity restored for eight days. Two months later, an October 29, 2011 snowstorm caused 1.0 million customers to lose power with the most unfortunate being without electric service for seven days. The **power restoration performance of electric distribution companies** in the wake of the two storms attracted the scrutiny of the Board of Public Utilities (BPU). On December 14, 2011, the Board released its "Hurricane Irene Electric Response Report" in which it found that all electric utilities experienced challenges in their storm response and that some practices established in accordance with prior BPU actions were ineffective in the face of large-scale extreme weather situations. Accordingly, the BPU issued several directives so as to avert similar widespread and lengthy power outages in the future. They touched electric utility practices in the areas of communications, estimating outage restoration, supplemental crew mobilization, and mitigation of tree-related damages. The BPU also hired Emergency Preparedness Partnerships to review the electric utilities' performance in-depth. On August 9, 2012, the contractor submitted its final report. Its findings and recommendations led to the issuance of a Board Order containing 103 additional BPU directives New Jersey's electric distribution companies must implement, mostly, by September 2013 to improve their preparedness for and restoration efforts following large-scale extreme weather events. The measures fall into five categories: preparedness efforts, communications, restoration and response, post event, and underlying infrastructure issues (Board Order dated January 23, 2013 Docket number EO11090543).

Prior to the Board Order's issuance, Hurricane Sandy made landfall in New Jersey on October 29, 2012 and took a significantly larger toll on the State's electric infrastructure than the 2011 storms. In response to BPU Discussion Point #1 in the OLS FY 2013-2014 Department of the Treasury Budget Analysis, the BPU specified that 49 major substations were flooded, over

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3,000 distribution circuits damaged, and more than 100,000 trees and 9,000 utility poles felled. At its peak 2.9 million electric customers reported power outages. The Board stated that the restoration of utility services cost the State's electric and natural gas utilities an estimated \$1.1 billion. The investor-owned utilities, however, were ineligible for federal emergency aid to recoup their expenses. They could thus be expected to seek recovery from ratepayers in BPU base rate filings. Accordingly, the BPU directed all utilities that may request the recovery of major storm restoration expenses to file by July 1, 2013 a detailed report of their preparation, recovery, and restoration expenditures. The BPU would then examine the prudence, cost-efficiency, and effectiveness of the utilities' restoration activities (Board Order dated March 20, 2013 Docket number AX13030196). In general, though, in addressing BPU Discussion Point #1, the Board acknowledged improvements in the utilities' restoration performance relative to the 2011 storms. It found restoration efforts to have been more focused, the mobilization of supplemental mutual aid assets unprecedented, the level of preparedness and response higher, and communications between State and utility officials more fluid and functional. The BPU, however, continued to express misgivings regarding the accuracy of information the utilities transmitted to ratepayers.

- **Questions:** Please comment on the electric distribution companies' implementation of the 103 directives the BPU issued in the Board Order dated January 23, 2013, Docket number EO11090543, to improve the utilities' future preparedness for and restoration efforts following large-scale extreme weather events. By company, how many directives have been fully implemented to date? Please list the directives that have yet to be fully implemented and provide an estimate as to the expected date of full implementation. In light of the review of the electric distribution companies' handling of Hurricane Sandy, has the BPU issued, or does it plan to issue, any additional storm preparedness and recovery directives? If so, what are they?
- Please indicate by electric and natural gas utility: a) the expenses each utility incurred in restoring service after Hurricane Sandy; b) the amount thereof that each utility has sought to recover from ratepayers; c) the recovery amount the BPU has already approved; and d) the impact on ratepayers of the requested and approved cost recoveries. Please set forth the timeline and process the Board intends to follow in reviewing and ruling on any outstanding Hurricane Sandy-related service restoration cost recovery request.

20. Hurricane Sandy's large-scale damage prompted the BPU to examine the feasibility of different options to **enhance the resilience of utilities' infrastructure in future severe weather episodes**. In the Board Order dated January 23, 2013 Docket number EO11090543, the Board first highlighted four areas of interest concerning electric and natural gas distribution systems: 1) infrastructure improvements, particularly protective measures against substation flooding and the selective undergrounding of critical infrastructure; 2) the expansion of distributed generation; 3) smart grid technologies; and 4) best practices in transmission system vegetation management. To assist in the BPU's evaluation, the Board instructed electric distribution companies to provide detailed cost-benefit analyses for several specific infrastructure upgrades with deadlines varying by project type. It also directed the companies to examine their

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infrastructure and use data to determine more effective measures and procedures. The Board also intended to engage Rutgers' Center for Energy, Economic and Environmental Policy (CEEPP) for analytical support in the evaluation of the contemplated improvements, according to the BPU answer to BPU Discussion Point #1 in the OLS FY 2013-2014 Department of the Treasury Budget Analysis. On March 20, 2013, the Board then opened proceedings inviting all regulated utilities, not just electric distribution companies, to submit, by September 3, 2013, proposals for capital investments that would strengthen the ability of the utilities' infrastructure to withstand major storm events, including detailed cost-benefit analyses for each proposed infrastructure upgrade (Board Order dated March 20, 2013, Docket number AX13030197).

On February 20, 2013, Public Service Electric and Gas Company (PSE&G) became the first regulated utility to petition the BPU for approval of capital investments intended to fortify its electric and natural gas distribution infrastructure (Board Orders dated March 20, 2013, Docket numbers EO13020155 and EO13020156). The "Energy Strong Program" consists of \$3.9 billion in capital investments that would be made over a ten-year time horizon. The two largest investments would raise, relocate or protect electric switching and substations affected by recent storms as well as those in newly designated flood zones (\$1.7 billion); and replace 750 miles of low-pressure cast-iron gas mains in or near flood areas (\$1.04 billion). According to news reports, a BPU decision on PSE&G's petition is not expected until spring 2014.

- **Questions:** Have the electric distribution companies complied with the deadlines set for the submission of cost-benefit analyses for specified infrastructure upgrades under the Board Order dated January 23, 2013 Docket number EO11090543? Are any cost-benefit analyses still outstanding? If so, which one(s)? By what date does the Board anticipate receiving the Center for Energy, Economic and Environmental Policy's (CEEPP's) review of options to shore up the reliability of the electric distribution system in extensive, violent storms? If the review has already been completed, please provide a copy of the CEEPP's report, or if no report is available, itemize the measures the CEEPP recommends be taken to fortify the State's electric distribution infrastructure. Does the BPU intend to require electric distribution companies to implement the measures? Have any measures already been implemented? What compensation does the CEEPP receive for its services?
- Please detail any funding requests through the rate-setting process that the BPU has received from any of the regulated utilities for major capital investments to enhance the resilience of utilities' infrastructure in future severe weather events. Is the CEEPP reviewing the specific infrastructure investment proposals under the same contract that engaged the CEEPP to review options to shore up the reliability of the electric distribution system in extensive, violent storms? By what date does the BPU anticipate ruling on the infrastructure upgrade proposals? Is a decision on PSE&G's "Energy Strong Program" imminent?

21. On October 11, 2013, the United States District Court for the District of New Jersey ruled that the **Long-Term Capacity Agreement Pilot Program (LCAPP)** violated the Supremacy Clause of the United States Constitution and was therefore "null and void." The Supremacy Clause establishes the primacy of federal law whenever state and federal law clash.

Discussion Points (Cont'd)

Specifically, the court held that in establishing electricity capacity prices for participating power generators LCAPP breached the Federal Power Act through which the United States Congress had granted the Federal Energy Regulatory Commission the exclusive jurisdiction over the regulation of wholesale electricity sales and the transmission of energy in interstate commerce. (*PPL EnergyPlus, LLC v. Hanna*, Civil Action No. 11-745, 2013 U.S. Dist. LEXIS 147273 (D.N.J. Oct 11, 2013)) On November 20, 2013, the BPU notified the United States Court of Appeals for the Third Circuit that it would appeal the adverse lower court decision.

The State enacted P.L.2011, c.9 to foster the construction of new electric generation facilities through the LCAPP. The BPU later selected three gas-fired combined cycle projects for program participation: NRG Energy Inc.'s Old Bridge Clean Energy Center, Competitive Power Ventures LLC's Woodbridge Energy Center, and Hess Corp.'s Newark Energy Center. The projects were supposed to add 1,950 megawatts to New Jersey's generation capacity and provide an estimated \$1.8 billion in net economic benefits on a present value basis over 15 years. In general, combined cycle power facilities produce electric power via the combustion of fuel and use the resulting waste heat by-product to generate additional electric power.

To subsidize the projects, P.L.2011, c.9 provided for "Standard Offer Capacity Agreements" (SOCAs). A SOCA is a contract in which participating power generators would receive BPU-approved payments from electric public utilities for a defined amount of electric capacity at a fixed price for a term not to exceed 15 years. But in order to ultimately qualify for SOCA payments, the BPU-selected generation companies had to succeed at selling their capacity in interstate electricity auctions conducted by PJM Interconnection LLC, the regional transmission organization operating the wholesale competitive electricity market and power grid across thirteen Mid-Atlantic and Midwestern states and the District of Columbia. Two of the three projects cleared the 2012 capacity auction: the Woodbridge Energy Center and Newark Energy Center. NRG Energy's Old Bridge Clean Energy Center, however, failed the 2012 and 2013 capacity auctions. As a result, NRG Energy had already abandoned the project prior to the ruling by the United States District Court for the District of New Jersey.

The adverse court decision therefore only affects the other two projects. According to published news reports, Hess Corp. began the construction of the Newark Energy Center in late 2012 and planned to finish it in 2015, the court decision notwithstanding. As to Competitive Power Ventures LLC's Woodbridge Energy Center, news reports indicate that two weeks after the court decision construction commenced and is expected to be complete by early 2016. In response to BPU Discussion Point #8. b. in the OLS FY 2013-2014 Department of the Treasury Budget Analysis, the BPU stated that the power plant operators would bear the financial risk of the courts possibly invalidating the LCAPP statute, and that were the courts to do so, the State would have difficulty offering financial incentives to develop new generation capacity.

- **Questions:** Please indicate the current status of the appeal the BPU filed in the United States Court of Appeals for the Third Circuit of the October 2013 decision by the United States District Court for the District of New Jersey that declared the Long-Term Capacity Agreement Pilot Program (LCAPP) to be in violation of the United States Constitution. What is the status of the BPU's appeal? Have briefing or filing deadlines and oral arguments been scheduled? What are the expected decision date and the BPU's expectation of likelihood of success on appeal?

Discussion Points (Cont'd)

- **Please comment on the effects of the district court decision. Will the Woodbridge Energy Center and Newark Energy Center be built, the court ruling notwithstanding? Does the BPU perceive the projects to be economically viable absent the LCAPP price-support system? Have the project operators sued, or have they made known their intention to sue, the State for damages because of the invalidated price support? Is the BPU providing financial support of a different nature to the two projects after the adverse court ruling? In the BPU's estimation, does the court decision leave any room for the State to offer financial incentives or price-support mechanisms to develop new generation capacity in the State?**

22. The Oyster Creek nuclear power plant in Lacey Township, Ocean County, is expected to be decommissioned at the end of 2019. Its 615 megawatt (MW) capacity represents 15 percent of 4,108 MW in total statewide nuclear power generation capacity from four licensed nuclear power plants. In 2011, nuclear power accounted for 51.9 percent, or 39 million megawatt hours (MWh) of the 75 million MWh of electricity generated in New Jersey.

Because nuclear power is a carbon-free electricity generation resource the authors of the 2011 Energy Master Plan contend that Oyster Creek's closure jeopardizes meeting the greenhouse gas reduction targets of the Global Warming Response Act, P.L.2007, c.112: 2020 New Jersey greenhouse gas emissions are not to exceed their 1990 level and 2050 emissions 20 percent of their 2006 level. The plan's authors state that, consequently, "the Christie Administration supports the consideration of new nuclear generation as a potential baseload resource." They relate further that a planning process has begun to explore **substitution options for Oyster Creek's generation capacity** and that a State agency panel will be established to assess the **role of nuclear power in New Jersey's future in-state electricity generation**.

As to the region around the Oyster Creek nuclear power plant, the State intended to craft a specific redevelopment plan after holding two public information sessions in May 2013, according to the Board's response to BPU Discussion Point #9 in the OLS FY 2013-2014 Department of the Treasury Budget Analysis. The redevelopment was likely to include the construction of a new power plant. According to a footnote on page 84 of the 2011 Energy Master Plan, the new plant could be another nuclear power plant, as the location benefits from the presence of a highly-skilled workforce, community support for such an initiative, and the existing electrical transmission infrastructure. But a 650 to 850 MW natural gas-fired combined cycle generating plant was the most likely option, as maintained in a PowerPoint presentation on the webpage of the Office for Planning Advocacy in the Business Action Center in the New Jersey Department of State.

- **Questions: Please provide a status update on the work of the committee that is to develop a redevelopment plan for the region around the Oyster Creek nuclear power plant. What State agency leads the committee? By what date is the planning process supposed to yield a redevelopment strategy? If already available, please explain the strategy and the reason(s) for its selection. Is the committee considering erecting a new nuclear power plant at Oyster Creek? Does the October 2013 decision by the United States District Court for the District of New Jersey that the Long-Term Capacity Agreement Pilot Program violated the United States Constitution affect the**

Discussion Points (Cont'd)

redevelopment plan with regards to the construction of a new power plant? Would it be legal for the State to offer financial incentives to develop new generation capacity at Oyster Creek?

- **Has the State agency panel been established that is supposed to assess the role of nuclear power in New Jersey's future electricity generation pursuant to the 2011 Energy Master Plan? If so, please outline the composition of its membership and set forth by which date the panel is supposed to submit a report or make recommendations. Is the panel the same body as the committee charged with the redevelopment of the region around the Oyster Creek nuclear power plant?**

23. In conjunction with the Office of Information Technology, the BPU has undertaken the **"BPU Database Re-engineering Project"** to develop a new comprehensive database system that would support all of the BPU's existing programs and data. The BPU's previous database hardware did not allow for E-government functionality, such as electronic filing, secure file transfer protocols or remote access to the databases. The database software, in turn, was last upgraded in 1996 and still used technology in a character-based environment. In its August 2007 audit report on the BPU, the State Auditor specifically criticized the state of the computer applications the BPU used in the management of underground utility safety programs. The State Auditor deemed inadequate the application tracking data on the location of interstate gas pipelines and their inspection status under the Pipeline Safety Program. The State Auditor also stated that meaningful analysis of incidents with underground facilities under the "Underground Facility Protection Act" pursuant to P.L.1994, c.118 (N.J.S.A.48:2-73 et seq.), was impossible because the computer application could not provide adequate data. The law requires excavators to call a toll-free number three days prior to excavation and companies to mark their underground facilities near the excavation to prevent damage.

Answering BPU Discussion Point #16 in the OLS FY 2013-2014 Department of the Treasury Budget Analysis, the Board conveyed that the "BPU Database Re-engineering Project" was nearing completion. Specifically, BPU staff were in the middle of performing final testing of the new database and case management system software. Subsequently, the Pipeline Safety unit and Customer Assistance Division were to begin the staggered rollout of the new technology in late April of 2013. The BPU expected enhancements in its effectiveness, efficiency, and responsiveness to ensue from the implementation of the new system and the "significant operational changes" it would foster. For example, the new online pipeline safety system would improve the ease of entering, locating, printing, and sharing safety inspection records relative to the old manual, paper-based system. It would also facilitate data analysis tasks and the generation of reports. CSI Technologies was awarded the \$1.2 million contract in October 2011. As of the writing of its response, the BPU did not anticipate any cost overruns.

- **Questions:** Please provide an update on the status of the "BPU Database Re-engineering Project." Has the BPU completed the project and fully rolled out the new database and case management system software? If not, at which development stage is the project currently and by which date does the BPU expect its completion? If the project has been completed, please comment on the BPU's experiences with the new technology. Has staff productivity improved as intended? What problems has the

Discussion Points (Cont'd)

BPU encountered with the new technology, if any, and what amount would have to be expended to correct the problems? Did the project come in at the contractual \$1.2 million cost? If applicable, what factors account for any cost overrun?

Discussion Points

DEPARTMENT OF THE TREASURY

1. The Division of Taxation addressed its succession planning in its reply to Discussion Point #8 in the FY 2013-2014 Department of the Treasury Budget Analysis. Attrition-related risk points existed at all levels of the organization from staff to middle management and senior staff. The division highlighted its Audit, Collections, and Data Systems units as the most significant risk points. Moreover, the division **anticipated that many division careers would end in June of 2014**. Presumably, the division's concerns about a spike in departures were related to the expected reduction in employees' take-home pay as a result of the implementation in July 2014 of the final stage of the phase-in of the health insurance premium sharing by State employees in accordance with P.L.2011, c.78. The law's provisions concerning health care benefit contributions will expire four years after the law's effective date.

- **Questions:** Please state whether the Department of the Treasury sees a spike in departures prior to July 2014. How many Treasury employees are anticipated to retire or otherwise leave in June 2014? How many employees left in June of 2011, 2012, and 2013? Does the June 2014 departure count meet previous department expectations? Is the department prepared for the departures? Are any divisions experiencing any serious transition challenges because of the departures? If so, please note the divisions concerned and describe the challenges. Are the departures mostly retirement or non-retirement departures?

2. P.L.2007, c.200 requires the Department of the Treasury to publish an annual **Unified Economic Development Budget Report** (N.J.S.A.52:39-6). Thus far, no such report has been produced, although its first edition would have been due in 2008. According to the law, the report must include comprehensive information regarding the costs and benefits of all State economic development expenses, including the costs of all economic development-related tax expenditures. Tax expenditures are the amount of annual revenue foregone due to tax credits, deductions, and exemptions. In general, a unified economic development budget is intended to provide information to legislators and the public on the value and performance of a jurisdiction's economic development programs. The scale of New Jersey's economic development incentive programs adds to the significance of making the results of rigorous program analysis readily available, as evidenced by the Administration's observation on page 17 of the FY 2015 Budget Summary that "[r]edemptions of State tax credits awarded under various programs are another factor holding back Corporate Business Tax growth."

Responding to OLS Discussion Point #3 in the FY 2010-2011 Department of the Treasury Budget Analysis, the department conveyed that it intended to compile a unified economic development budget report using the annual New Jersey Tax Expenditure Report as its launching pad. A year later, the department replied to OLS Discussion Point #2 in the FY 2012-2013 Department of the Treasury Budget Analysis that it aimed at releasing an inaugural report before the end of FY 2012. The department ascribed the delay in the report's production to the difficulty of compiling and merging disparate data from multiple departments and agencies and a desire to minimize the impact on businesses. Last year, the department stated in addressing Discussion Point #2 in the FY 2013-2014 Department of the Treasury Budget Analysis that it had not completed the project because of ongoing issues regarding data sharing

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across agencies. Moreover, the department was working with legislators to amend unspecified provisions of P.L.2007, c.200 that stood in the way of the production of a meaningful report. Treasury stressed, however, that it had not abandoned the project.

- **Questions:** Please provide a status update on the production of a **Unified Economic Development Budget Report**, as required by N.J.S.A.52:39-6. Does the department anticipate publishing the report in FY 2014 or FY 2015? If not, has the department put the production of the report on hold pending changes to the enabling legislation or does work continue on a report that is responsive to the requirements of P.L.2007, c.200? Please specify any clarifications and revisions to the enabling law that would facilitate compliance with N.J.S.A.52:39-6.

3. Subject to certain exceptions, P.L.2001, c.404, the **Open Public Records Act (OPRA)**, makes government records accessible to the public. A governmental entity must grant or deny access to a record within seven business days unless a record is in storage or archived. Noncompliance may be penalized. A governmental entity charges for the copying cost and may levy special service charges when accommodating a request involves an extraordinary expenditure of time and effort or if copies cannot be reproduced by ordinary copying equipment in ordinary business size.

Replying to OLS Discussion Point #3 in the FY 2013-2014 Department of the Treasury Budget Analysis, the department reported that it received 925 OPRA requests in FY 2012 and that 662 of them emanated from requestors identifying themselves as representing commercial interests, including 136 requests from the media. The Division of Taxation, the Division of Purchase and Property, and the Division of Pension and Benefits combined accounted for 473 of the department's 925 OPRA requests. The total number of record requests rose from 910 in FY 2011 to 925 in FY 2012, although FY 2012 marked the first full year in which the Treasury put employee payroll, pension, and property tax records on the **Governor's Transparency Center** website and although doing so reduced the number of requests for certain public records. Overall, the Treasury denied 29 OPRA requests in whole in FY 2012, triggering the filing of five complaints with the Government Records Council and the New Jersey Superior Court. As of the time of its response, Treasury has never been penalized for OPRA noncompliance.

The Treasury Government Records Access Unit handles Treasury OPRA requests with three full-time equivalent positions. The unit had \$214,689 in FY 2012 salary expenses, excluding fringe benefits, but the full cost of OPRA compliance is unknown, as the unit frequently calls upon the assistance of Treasury's divisions, "in but not of" agencies, the Office of Information Technology, and the Division of Law in the Department of Law and Public Safety. On the other side of the ledger, in FY 2012, the department collected \$4,240 in charges from 37 chargeable OPRA requests, mostly for the programming required for the retrieval of data in various information technology systems and databases. The amount was noticeably less than the \$14,459 charged in FY 2011, as P.L.2010, c.75 lowered the per-page printing fees and required that records submitted electronically have to be provided free-of-charge. The department did not levy permissible charges for requests that require "an extraordinary expenditure of time and effort" in FY 2012 because the Government Records Council's rules for determining such charges are so complex that an employee might need several days to perform the calculation.

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In response to OLS Discussion Point #3 in the FY 2011-2012 Department of the Treasury Budget Analysis, the department had previously expressed support for increasing OPRA charges so that they may cover the cost of OPRA compliance and deter broad or frivolous requests.

- **Questions:** Please provide Department of the Treasury Open Public Records Act (OPRA) statistics for FY 2013. How many OPRA requests did the department receive in FY 2013 in general and from commercial interests in particular? Was there a noteworthy change in the volume of requests received for specific types of records? How many OPRA requests did the Treasury deny in FY 2013? How many denials, if any, have been appealed to the Government Records Council and how has the council ruled on the appeals? Was the department penalized for OPRA noncompliance in FY 2013?
- Please indicate the department's expenditures and employee hours devoted to OPRA requests in FY 2013. How many OPRA requestors were subject to "ordinary copying charges" and "extraordinary request charges?" What were the Treasury's total FY 2013 collections from OPRA requestors?

4. The Office of the State Auditor reported in its July 2011 audit report on the Office of Management and Budget (OMB) that the Department of the Treasury processed about 7.6 million checks and remittance advices for State payroll, pension benefit payments, tax refunds and rebates, and vendor payments every year. In calendar year 2010, the cost for printing and postage totaled about \$3.7 million. The Treasury has since been phasing out paper checks as a method of payment to State employees, retirees, and vendors. Instead, it has been processing more **State payroll, pension, and vendor payments as well as remittances advices electronically and is looking to issue debit cards for recipients without bank accounts.** Replying to OLS Discussion Point #4 in the FY 2013-2014 Department of the Treasury Budget Analysis, the department related that as a result it printed and mailed only 4.3 million checks and remittance advices in FY 2012 at a cost of \$2.9 million.

In addressing last year's Discussion Point, the department noted that the Division of Purchase and Property required vendors to receive payments electronically as part of the terms of contracts awarded in accordance with Requests for Proposal issued as of August 2, 2011. Paper checks are only continued as a payment method under prior contracts. Accordingly, the percentage of active vendors in the State's procurement system who received electronic payments rose from 37 percent in FY 2012 to 44 percent as of March 31, 2013.

Paper checks are similarly being phased out as a payment method for retirement benefits, as all State employees retiring on or after July 1, 2011 must receive their retirement benefits as an electronic direct deposit into their bank accounts. About nine percent of recent retirees, however, still received paper checks. Overall, about 13 percent of all pensioners did so. In its quest to eliminate paper checks the Division of Pensions and Benefits continued to explore debit cards as the sole payment method for unbanked pensioners. A first attempt failed when an October 2011 Request for Proposal to outsource the State's pension payroll services garnered no cost-effective bids. The division then considered drafting a narrower project plan in which a vendor would only be responsible for cutting checks or other forms of payment.

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State employees presently elect to receive their regular biweekly pay either as a paper check or an electronic transfer to their bank accounts. But P.L.2013, c.28 imposes a direct deposit requirement as of July 1, 2014 from which the State Treasurer may grant exemptions. Accordingly, the Office of Management and Budget Circular Letter 13-19-OMB, Mandatory Direct Deposit and Online Access to Pay Stub Information, exempts the following individuals: a) seasonal employees; b) New Jersey National Guard members who are activated for State emergencies; c) former State employees with retroactive contractual payments or Back Pay Awards; d) employees with disabilities that prevent them from using a computer to access their pay stubs; and e) recipients of wage payments as a result of consent decrees. Neither the law nor the circular letter addresses unbanked State employees, though. But the OMB replied to last year's OLS Discussion Point #4 that it planned to issue pay cards to such employees. In addition, the OMB reported a reduction in the issuance of separate supplemental paper checks for overtime, as new labor contracts discontinued this previously common practice. Only four units with a total of 1,253 employees, or eight percent of the employee population with contractually stipulated supplemental overtime pay, still received separate supplemental overtime checks. The OMB noted that supplemental paper paychecks would still be necessary for non-standard overtime, salary restoration payments, retroactive pay, and payments for inactive employees.

- **Questions:** Please share the number of checks and remittance advices that Treasury processed in FY 2013 for State payroll, pension benefit payments, tax refunds and rebates, and vendor payments. What was the total FY 2013 cost for printing and postage? How many regular payroll checks, one-time supplemental checks, and pay stubs were printed in FY 2013 and at what cost? What percentage of all contractual payments to vendors is now paid electronically?
- What percentage of State employees who have retired after July 1, 2011 receive their pension payments through electronic funds transfer? How do unbanked State employees who have retired after July 1, 2011 receive their benefits? Has the division established a debit card alternative for unbanked State employees who have retired after July 1, 2011? If so, what are the fees associated with the debit cards and who is paying them? If the division pays the fees, what is the expected annual fee outlay? Do the fee expenditures exceed the cost savings from not issuing paper checks to all former State employees who have retired after July 1, 2011? What percentage of retirement benefits to all recipients is now paid electronically?
- Please share the Office of Management and Budget's (OMB) plan for making payroll payments to unbanked State employees after July 1, 2014. Has the OMB struck an agreement with a bank to offer debit cards as the method of payment to unbanked State employees? If so, what are the fees associated with the alternative payment option and who would be paying them? If the office pays the fees, what is the expected annual fee outlay? Are the fee expenditures exceeding the cost savings from not issuing paper checks to current State employees? Please detail the progress the State has achieved in eliminating supplemental paper paychecks through labor negotiations. How many contracts remain that require supplemental paper paychecks? How many supplemental paper paychecks did the OMB print in FY 2013 and has printed to date in FY 2014?

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5. Effective as of July 1, 2011 and in accordance with P.L.2010, c.104, the State ceased to operate **New Jersey Network Public Television and Radio (NJN)**. It divested NJN's radio assets and operating licenses for nine radio stations to two non-profit organizations. It also transferred the management of NJN's four-station television network to another non-profit organization, while holding on to its television operating licenses. Established pursuant to P.L.1968, c.405, the **New Jersey Public Broadcasting Authority (NJPBA)** hitherto owned and operated NJN, which broadcast New Jersey public affairs and cultural programming.

NJN's nine-station radio network was sold to WHYY and New York Public Radio for \$1.9 million in cash and \$2.4 million in non-cash compensation. In its replies to OLS Discussion Point #1 in each of the FY 2012-2013 and FY 2013-2014 Department of the Treasury Budget Analysis, the department stated that the \$1.9 million had been received and deposited in the nonlapsing "Trust Fund for the Support of Public Broadcasting," as required by P.L.2010, c.104. The fund received an additional \$158,000 from the sale of NJPBA surplus equipment in FY 2013. Moreover, the department related that the NJPBA had approved \$1.2 million for capital investments that would be charged against the fund (\$635,000 to paint and guy-wire coating at four broadcast towers; \$200,000 to construct a television studio in the Capitol Visitors Center; \$125,000 to replace the tower lighting system at the Montclair site; \$108,000 for transmitter signal switching and monitoring improvements; and \$132,000 as a contingency reserve for the projects). In April 2013, the department reported that the construction of the television studio in the Capitol Visitors Center was completed and the transmitter signal switching and monitoring project under contract and expected to be completed by June 30, 2013. The tower lighting system replacement at the Montclair site and the paint and guy-wire coating project at four broadcast towers, however, still needed to be contracted out. Furthermore, the NJPBA was considering additional capital investments to enhance media capabilities in the Capitol Building and continue the reliable and safe operation of the NJPBA's statewide broadcast transmission infrastructure.

Public Media NJ, Inc., a New Jersey not-for-profit corporation affiliated with WNET.org, runs NJN's four-station television network for five years starting on July 1, 2011. Replying to OLS Discussion Point #1 in the FY 2013-2014 Department of the Treasury Budget Analysis, the department estimated that Public Media NJ would receive a \$4.6 million State subsidy in FY 2014 (\$1.7 million in revenue from the lease of excess spectrum of the educational broadband authorizations held by the NJPBA, \$1.5 million in annual Corporation for Public Broadcasting Community Service Grant funding, \$1.0 million in revenue generated through the lease of space on the stations' broadcast towers, and \$400,000 in payments from the Food Channel for a cable waiver). In addition, the State continues to fund five management and engineering positions that allow the NJPBA to maintain, and if necessary operate, the television stations and other broadcast equipment in accordance with Federal Communications Commission licensing standards. In FY 2014, the authority received \$2.2 million in supplemental appropriations from the State for that purpose (after receiving \$2.0 million in each of FY 2012 and FY 2013). The Governor's Budget does not include an appropriation to the authority in FY 2015. However, it includes a language provision on page F-9 allowing for supplemental appropriations of unspecified amounts for the operation of the authority without additional legislative approval. The Administration invoked this language provision to authorize such supplemental appropriations in FY 2012, FY 2013, and FY 2014.

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In answering OLS Discussion Point #1 in the FY 2013-2014 Department of the Treasury Budget Analysis, the department also noted that the Division of Property Management and Construction had begun a \$5 million renovation and repurposing of NJN's former headquarters in the Trenton Office Complex. The division was already undertaking limited interior renovations, such as painting and putting in new carpets. In addition, it was planning major renovations to the building's roof and mechanical equipment to be completed in 2015. State agency operations were to move into the building by the end of 2013 already. The department anticipated \$2 million in annual savings from a concomitant reduction in leased office space.

- **Questions:** Please provide an accounting of the "Trust Fund for the Support of Public Broadcasting." Has the fund received any revenues other than the \$2.1 million deposited through the end of FY 2013? Does the Treasury expect additional deposits into the fund in FY 2014 and FY 2015? Please delineate the amounts expended from the fund, specifying the purposes for which they were used. Please provide a status report on: a) the transmitter signal switching and monitoring project; b) the tower lighting system replacement at the Montclair site; and c) the paint and guy-wire coating project at four broadcast towers. If the projects have not been completed, by what date does the department expect their completion? How does the Treasury intend to use any remaining fund balances?
- Broken out into its segments, what is the projected magnitude of the State subsidy to Public Media NJ in FY 2014 and FY 2015? What are the projected FY 2015 expenses of the New Jersey Public Broadcasting Authority?
- Please provide an update on the renovation and conversion of NJN's former headquarters in the Trenton Office Complex into an office building for other State agencies. What is the status of the planned renovations to the building's roof and mechanical equipment? What State agencies have moved into the renovated facility? Are all the moves into the facility complete and is the entire office space occupied?

OFFICE OF MANAGEMENT AND BUDGET

6. Effective February 28, 2011, the Office of Management and Budget (OMB) and the Division of Purchase and Property changed aspects of the administration of the **moratorium on non-information technology (IT) equipment purchases of \$2,500 or more** (see Office of Management and Budget and Division of Purchase and Property Circular Letter 11-12-OMB/DPP, Moratorium on Procurement of Non-IT (Information Technology) Equipment). The moratorium was first imposed in 2008 and authorized procurements in excess of \$2,500 only with OMB pre-approval (see Office of Management and Budget and Division of Purchase and Property Circular Letter 08-22-OMB/DPP, Moratorium on Procurement of Non-IT (Information Technology) Equipment). Procurements in excess of \$2,500 have only been allowed if they meet one of five exceptions: a) the equipment is needed for emergency maintenance or repairs; b) the equipment replaces failing equipment so as to not adversely impact or halt mission critical business functions; c) the procurement is related to a program mandated by the federal government, state law or a court order; d) the denial of the purchase request would

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significantly increase future costs or e) dedicated or non-state funds provide significant funding for the initiative and there is a compelling reason for the purchase. The 2011 circular letter maintains the \$2,500 threshold for the moratorium but requires OMB pre-approval only for procurements of \$36,000 or more. If a department seeks to make a procurement valued between \$2,500 and \$36,000, it can now invoke one of the exceptions and proceed with the purchase. Any such purchase, however, will be subject to an OMB post-audit review and if the OMB determines that a purchase was made in violation of the exemption rules the offending department may once more have to receive OMB pre-approval for all non-IT procurement requests exceeding \$2,500.

Replying to OLS Discussion Point #7 in the FY 2012-2013 Department of the Treasury Budget Analysis, the OMB relayed that it processed 73 non-IT procurement requests in FY 2011, approximately 55 percent less than the 162 it had processed in FY 2010. The OMB attributed the decline in part to the March 2011 increase in the review threshold for purchase requests from \$2,500 to \$36,000. In FY 2012, the OMB received and approved 125 non-IT procurement requests, according to its response to OLS Discussion Point #5 in the FY 2013-2014 Department of the Treasury Budget Analysis. Moreover, with the conclusion of FY 2012, the first full fiscal year following the promulgation of the circular letter, the OMB would soon undertake its first post-audit of non-IT procurements valued between \$2,500 and \$36,000.

- **Questions:** For FY 2013, please indicate the number of non-information technology (IT) purchase requests the OMB reviewed and the number of non-IT purchase requests the OMB rejected. Please state the number of post-audit reviews the OMB has conducted for FY 2012 and FY 2013 non-IT procurements valued between \$2,500 and \$36,000. Are State agencies and departments complying with the requirements of OMB and Division of Purchase and Property Circular Letter 11-12-OMB/DPP? What is the number, if any, of non-IT purchases valued between \$2,500 and \$36,000, broken out by State agency and department, that the OMB deemed to be in violation of the circular letter as part of a post-audit review? Does any State agency or department once again need OMB pre-approval for all non-IT procurement requests exceeding \$2,500 because of circular letter violations? Please comment on the ways, if any, in which the circular letter has affected OMB's workload and operations now that the increase in the non-IT procurement review threshold from \$2,500 to \$36,000 and the post-audit review requirement for non-IT procurements valued between \$2,500 and \$36,000 were in effect for the second full fiscal year.

NEW JERSEY LOTTERY

7. On June 20, 2013, the Division of Lottery entered into State Contract No. T-2884 for "Lottery Growth Management Services" that **outsourced the sales and marketing operations of the New Jersey State Lottery to Northstar New Jersey Lottery Group, LLC** from June 20, 2013 through June 30, 2029. The contractor took full control of the Lottery's sales and marketing operations on October 1, 2013 but will work under the supervision of the Division of Lottery. Northstar is a tripartite consortium consisting of GTECH Corp., Scientific Games International Inc., and a subsidiary of the Ontario Municipal Employees Retirement System. It was the only

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vendor that responded to the August 2012 Request for Proposal (RFP) 13-X-22694 for "Lottery Growth Management Services." The RFP grew out of the responses the Treasury had received to a December 2011 Request for Information that sought ideas for increasing Lottery net revenues, including the possible privatization of certain Lottery functions. GTECH Corp. and Scientific Games International Inc. were among the respondents, according to the Division of Lottery's reply to OLS Discussion Point #6. a. in the FY 2013-2014 Department of the Treasury Budget Analysis.

According to RFP 13-X-22694, the outsourcing initiative is intended to maximize Lottery proceeds for the support of State institutions and State aid for education. The compensation model reflects the pay-for-performance principle, shifts a portion of the Lottery performance risk to the vendor, and has three elements.

A) Accelerated Guarantee Payment: Northstar made a one-time \$120 million Accelerated Guarantee Payment to the State in FY 2013. The vendor may use up to \$20 million of the payment to offset any future Contribution Shortfall Payments.

B) Contribution Shortfall Payments: Northstar must make Contribution Shortfall Payments for any contract year in which it fails to meet the Lottery net income target, but not more than 2.0 percent of a contract year's Lottery net income. The payments thus represent a partial shift to the contractor of the risk of Lottery net income shortfalls. The payment equals 50 percent of the difference between the net income target and the base net income level if the actual net income falls between the two markers. If the actual net income is less than the base amount, the payment is 50 percent of the difference between the net income target and the base amount plus 100 percent of the amount by which the actual net income falls below the base amount. The contract specifies gradually increasing base amounts and net income targets.

C) Incentive Compensation: Capped at 5.0 percent of the year's lottery net income, Incentive Compensation payments by the State to Northstar occur in any year in which the Lottery net income exceeds the contractual base net income level. The base net income level in contract year 1 is \$959 million, which rises to \$1,096 million in contract year 16, implying a 0.89 percent annualized growth rate. A payment is calculated as a percentage of the year's net income in excess of the base amount with the percentage ranging from 5 percent to 30 percent depending on the size of the excess over the base, middle, and upper net income levels, as defined in the contract. Net income targets are immaterial to the computation. Therefore, should a year's actual net income fall between the base net income level and the net income target, Incentive Compensation payments and Contribution Shortfall Payments will both come due and will offset one another to varying degrees. The table below shows Northstar's net income targets and base net income levels for FY 2014 through FY 2018.

Fiscal Year	Base Net Income Level	Net Income Target
2014	\$959,000,000	\$1,035,000,000
2015	\$967,000,000	\$1,047,000,000
2016	\$976,000,000	\$1,060,000,000
2017	\$985,000,000	\$1,070,000,000
2018	\$994,000,000	\$1,080,000,000

The Governor's FY 2015 Budget projects net lottery sales of \$3.2 billion to be generated by 6,800 agents and 2,133 drawings. In FY 2015, the State Lottery is expected to transfer \$1.04 billion to the General Fund for the support of State institutions and State aid to education, an

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increase of \$44 million, or 4.4 percent, from the amount anticipated in the current fiscal year. The evaluation data in the Governor's FY 2015 Budget indicate that with Northstar the amount spent to generate one government dollar increases from 35.9 cents in FY 2013 to a revised 53.0 cents in FY 2014 and an estimated 53.4 cents in FY 2015. At the same time the ratio of government revenue over total sales falls from 34.2 percent in FY 2013 to a revised 32.8 percent in FY 2014 and an estimated 31.7 percent in FY 2015.

- **Questions:** Please comment on the performance of Northstar as the manager of the State Lottery's sales and marketing operations. Has the transition of the functions to Northstar been seamless? If not, what challenges needed to be resolved in executing the initiative? How does the Division of Lottery assess the performance of Northstar following its taking complete control of the sales and marketing functions on October 1, 2013? What, if anything, is Northstar doing differently in managing the State Lottery's sales and marketing operations? Are there any deficiencies that Northstar still has to address? Is Northstar operating at full capacity?
- Please provide an estimate of the State Lottery's FY 2014 and FY 2015 net income. What amount is anticipated to accrue to the State Lottery as revenue and what amount is anticipated to accrue to Northstar? For FY 2014 and FY 2015, please break out Northstar's anticipated compensation by Incentive Compensation payment tier and Contribution Shortfall Payment. How is Northstar's compensation accounted for in the Governor's FY 2015 Budget? Is it included in the Division of Lottery's Services Other Than Personal account? How does Northstar's total compensation compare to the administrative costs incurred by the Lottery's Sales and Marketing Unit in FY 2012 and FY 2013? In FY 2014 and FY 2015, what is the anticipated fiscal net effect on the State Lottery of the outsourcing initiative relative to the hypothetical continuation of the in-house performance of the Lottery's sales and marketing functions?
- Please put into context the increase in the amount spent to generate one government dollar from 35.9 cents in FY 2013 to an estimated 53.4 cents in FY 2015. Is the metric an average or a marginal indicator? Does the jump mean that the efficiency of the State Lottery's former Sales and Marketing Unit was superior to that of Northstar? Is Northstar currently maximizing the State's lottery profits? What would be the marginal return of investing an additional dollar in lottery sales and marketing?

8. The Governor's FY 2015 Budget states in the "Program Classifications" section on page D-385 that the State Lottery generated revenue also through a number of online games. For example, on its webpage, the State Lottery advertises the free "NJ Lottery VIP Club." Registered members get exclusive access to opt-in contests, second-chance drawings, and "some really cool online games." Moreover, the December 2013 New Jersey Lottery Commission Meeting Minutes mention under the "Online Product Activities" heading that the State Lottery had developed a December promotion in which players could enter non-winning tickets into a second-chance drawing and that it planned a January 2014 Powerball Power Play enhancement. The current scale of online lottery games appears to be small, however.

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State Contract No. T-2884 for "Lottery Growth Management Services" does not require Northstar New Jersey Lottery Group, LLC to offer online lottery games. In fact, the Division of Lottery noted in its response to OLS Discussion Point #6. a. in the FY 2013-2014 Department of the Treasury Budget Analysis that the variables that determined the contractor's annual compensation did not include assumptions on any revenue from the introduction of **internet lottery ticket sales or internet-based lottery games**. The contract, however, allows for such internet-based offerings and the contractor would be ready to integrate them into its activities. Notably, Section 4.5 of the "Services Agreement" sets forth the procedure that must be followed if the Division of Lottery decided to create new online lottery game offerings during the contract period. The vendor, though, cannot make a decision to that effect. If online lottery games were to be allowed, the variables determining the contractor's annual compensation may be revised accordingly. Schedule 10.2 of the contract authorizes the Division of Lottery to recommend to Northstar upward adjustments to the variables if there was a material change in the gaming environment, such as "a change in law that would make available or expand Lottery sales channels or authorize game types or platforms currently unavailable to the Lottery." If Northstar disagreed with the recommendation, the issue would become subject to the contract's dispute resolution procedure.

Even so Section 21.1 of the "Services Agreement" also authorizes Northstar to recommend to the Division of Lottery downward adjustments to the variables determining its compensation in the event of an "Adverse Action," New Jersey's introduction in 2013 of **internet gambling** does not appear to be a permissible impetus. The contract defines an "Adverse Action" as any affirmative State action whose effect can reasonably be expected to have a material adverse effect on the Lottery's net income and, by extension, Northstar's compensation. However, several State actions do not qualify as an "Adverse Action," among them actions that permit internet gaming activities. P.L.2013, c.27 did just that by authorizing Atlantic City casinos to offer internet gambling to persons physically located in New Jersey for a ten-year trial period. Responding to OLS Discussion Point #6. b. in the FY 2013-2014 Department of the Treasury Budget Analysis, the Division of Lottery noted that the law's enactment had not affected contract negotiations with Northstar. Notwithstanding the contract's treatment of internet gambling, concerns over competition to the Lottery from internet gambling persist. For instance, the December 2013 New Jersey Lottery Commission Meeting Minutes mention that a commission member was apprehensive that the new internet gambling might hold down the Lottery's instant game revenues.

- **Questions:** Please list and describe the State Lottery's current online games and indicate each game's gross revenue. Are the games only available to "NJ Lottery VIP Club" members? Does the State Lottery plan to sell lottery tickets over the internet or expand its internet-based lottery game offering in the next five years? If so, what are the plans and has the State Lottery already begun discussions with Northstar regarding the implementation of the changes to the business plan and possible upward adjustments to Northstar's compensation variables? Does the State Lottery intend to desist from offering internet-based lottery games for now so that they would not compete for players' attention with online games of chance operated by Atlantic City casinos and thereby jeopardize the viability of online casino gambling? Is the nascent online casino gambling putting downward pressure on Lottery instant ticket sales? Is it the State Lottery's understanding that the contract with Northstar does not allow

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the contractor to request downward adjustments to its compensation variables because of the existence of internet gambling?

9. By October 1, 2013, Northstar New Jersey Lottery Group, LLC had fully taken over the sales and marketing operations of the New Jersey State Lottery in accordance with State Contract No. T-2884 for "Lottery Growth Management Services." The change effectively terminated the Lottery's Sales and Marketing Unit, which had 63 employees, according to the reply by the Division of Lottery to OLS Discussion Point #7 in the FY 2013-2014 Department of the Treasury Budget Analysis. During the Department of the Treasury's revenue and budget hearing before the Assembly Budget Committee on April 2, 2014, the State Treasurer informed the Committee that **not a single former employee of the Lottery's Sales and Marketing Unit was laid off as a result of the outsourcing.** All employees were reassigned to other positions either within the State Lottery or elsewhere within State government, retired or took positions with Northstar. The contractor had planned to create a new sales organization with 89 sales positions and 48 administrative and marketing positions, according to the Lottery's reply to last year's OLS Discussion Point #7. Former employees of the Lottery's Sales and Marketing Unit had privileged access to Northstar's new positions, as Section 6.2 of the "Services Agreement" stipulates that the contractor shall afford each existing Division of Lottery employee the opportunity to apply for a position with the contractor and interview and consider for employment any such employee who applies for a position for which the employee is qualified. The outsourcing initiative accounts for the 47-position drop in the Lottery's position count from 134 in FY 2013 to 87 in FY 2014.

- **Questions:** Please indicate the number of former employees of the Lottery's Sales and Marketing Unit who: a) took positions with Northstar, b) were reassigned to other positions either within the State Lottery or elsewhere within State government, and c) retired. Please state the number of sales and marketing positions that Northstar created and filled and the number of sales and marketing positions that it still intends to fill.

DIVISION OF TAXATION

10. On March 25, 2014, the Division of Taxation released a **Request for Information (RFI) for the State of New Jersey Tax Systems Modernization Project** with an April 22, 2014 submission deadline. The submissions might ultimately serve to inform the terms and conditions included in any future Request for Proposal. The RFI solicits possible solutions for the replacement of the division's current separate tax administration and collection systems with a more versatile, integrated system. The division envisions a benefit-based procurement model, whereby the vendor would get paid a percentage of the incremental savings and revenues the vendor's solution generates. The State would thus not face any significant up-front costs for the capital project and limit its financial liability in case of cost overruns and nonperformance of the vendor's solution.

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The State's current tax administration systems, collectively known as TAXNET, date from the mid-1980s. They are: 1) the Taxpayer Registration System (TAXREG); 2) the Generic Tax System (GENTS), which is used for taxpayer account maintenance; 3) the Taxation Unremitted Liability Inventory Plotting System (TULIPS), which is used for collections case management; 4) the Cash Receipts Account System (CRAS); and 5) the Set-Off of Individual Liability (SOIL) system. In addition, the division would like to replace its audit case management system (ESKORT), which dates from 2005. The division hopes that a new integrated tax administration system that delivers a single view of the taxpayer and audit process will: a) improve customer service, in part through the centralized capture and tracking of all taxpayer communications; b) increase online public access and services to taxpayers; c) comply with industry security standards; d) enhance the efficiency of the division's taxpayer accounting, tax compliance, and auditing processes through the use of up-to-date database technology and big data analytics strategies; and e) augment the system's long-term viability over the current legacy systems whose maintenance depends on a shrinking number of proficient programmers.

- **Questions:** Please provide a status update on the Request for Information (RFI) for the State of New Jersey Tax Systems Modernization Project. How many submissions has the Division of Taxation received in response to the RFI? Do any of the submissions invite further pursuit? By what date does the division hope to issue a Request for Proposal to solicit bids for an integrated tax administration system?

11. In September 2011, the Office of the State Auditor published its audit report on the Division of Taxation, Generic Tax System (GENTS). In the report the State Auditor recommended that the Divisions of Taxation and Revenue and Enterprise Services strengthen the tax administration system of internal control by routinely reconciling data in GENTS with those in the Cash Receipt Accounting System (CRAS). The Division of Taxation uses GENTS to manage individual taxpayer accounts and the Division of Revenue and Enterprise Services uses CRAS in processing cash receipts for the Division of Taxation. The data in the two systems are currently not being systematically cross-checked so that no assurance is given that receipts recorded in GENTS have actually been received and deposited. Replying to OLS Discussion Point #16 in the FY 2013-2014 Department of the Treasury Budget Analysis, the Division of Taxation reiterated that although a data reconciliation process was not in place, transactional control reports between CRAS and GENTS were routinely generated. To upgrade internal control capabilities, however, the division was also working on a project in conjunction with the Division of Revenue and Enterprise Services, the Office of Information Technology, and a vendor that would permit an automatic CRAS/GENTS reconciliation but whose objective was ultimately more far-reaching. Notably, the partners were **developing a proof of concept that would allow for the tracking of payment data and associated payments as they cascade through the State's tax filing and financial recordkeeping systems.** If successful, this tool would readily identify any inconsistencies across the disparate systems. A proof of concept is usually a small-scale realization of an idea to demonstrate its feasibility and usefulness.

- **Questions:** Please provide a status update on the development of the proof of concept that would allow for the tracking of payment data and associated payments as they cascade through the State's tax filing and financial recordkeeping systems. Has the proof of concept been developed? If so, what were the determinations as to

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its feasibility for full implementation? Will a full-fledged tracking system be developed? If so, by what date should the system be operational and what is the project's cost estimate? If the proof of concept has not been completed, by what date does the division anticipate its completion? If there are no plans for a full-scale realization of the tracking system, please explain the reason(s) for sidelining it.

12. N.J.S.A.54:53-1 et seq. authorizes the Division of Taxation to negotiate **closing agreements** with taxpayers that permanently and conclusively resolve issues related to past and future tax liabilities. The law grants broad discretion to the division as to the type of cases it may settle and the scope of any agreement. Closing agreements may cover tax liabilities for any taxable period ending prior or subsequent to the date of the agreement. The division may conclude an agreement in any case in which there appears to be an advantage in having the case permanently and conclusively closed, or if the taxpayer shows good and sufficient reasons for desiring a closing agreement and the division determines that the State will sustain no disadvantage through consummation of an agreement. The applicable regulations under N.J.A.C.18:33-1.1 et seq. do not appear to restrict the division's discretion any further.

Over the years, the division has routinely entered into closing agreements to settle taxpayer cases. Nevertheless, it appears that their use has intensified of late. As part of its initiative to reduce the backlog in the administrative review of taxpayer protests and appeals of division tax determination, the division has encouraged its Conference and Appeals Branch to make more frequent use of closing agreements. Accordingly, the branch concluded 82 such agreements in FY 2012 and 153 in FY 2013 through March. In addressing OLS Discussion Point #9 in the FY 2013-2014 Department of the Treasury Budget Analysis, the division explained that the settlements accelerated the collection of State revenue, added finality to the taxpayer's request for administrative review, avoided litigation, and conserved division resources for other matters. (Discussion Point #14 addresses, in part, the use of closing agreements by the Conference and Appeals Branch.) Moreover, the division's website articulates the division's willingness to negotiate taxpayer-specific closing agreements in lieu of voluntary disclosure agreements. The latter allow taxpayers who failed to file tax returns or collect sales tax to come forward and file the appropriate tax returns as well as registration materials, and pay outstanding tax obligations. (Discussion Point #13 addresses, in part, the use of closing agreements as an alternative to voluntary disclosure agreements.)

Furthermore, in reply to OLS Discussion Point #15 in the FY 2013-2014 Department of the Treasury Budget Analysis, the division related that a closing agreement represented at least part of the accord with Amazon.com that the Governor had announced on May 30, 2012. The closing agreement's confidentiality clause, however, preempts the division from disclosing any specifics other than that Amazon.com would begin to collect sales and use tax on taxable purchases by New Jersey residents starting on July 1, 2013. The Governor's May 2012 announcement had also suggested that the New Jersey Economic Development Authority would provide unspecified financial incentives to the online retailer in support of the company's construction of two warehousing and shipping facilities in New Jersey. To date it does not appear that Amazon.com has received any incentive award even though its new warehousing and shipping facility in Robbinsville is reportedly nearing completion.

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In addition, it appears that the State has entered into a closing agreement with the National Football League that waived certain tax liabilities expected to be incurred by the league and its affiliates in connection with the February 2014 Super Bowl. According to news accounts, event-specific tax suspensions applied to the sale of tickets for admission and parking charges. But the National Football League's November 2009 Request for Proposal for Super Bowl XLVIII required that in return for the privilege of hosting the event the league and its affiliates would be exempt from any state, county, city or other local taxes as they relate to the holding of the game at the site and preparatory advance site visits.

- **Questions:** For each fiscal year from FY 2010 through FY 2014 to date, please indicate the number of closing agreements the division concluded and the amount of revenue collected pursuant to the agreements. Please specify the division's general policies and procedures regarding closing agreements. Beyond the broad criteria stipulated in N.J.S.A.54:53-1 et seq., what conditions must parties meet for the division to consider a closing agreement? What guidelines does the division use in determining the magnitude and terms of closing agreement payments that taxpayers must make to the State? What are the typical payment requirements?
- Does N.J.S.A.54:53-1 et seq. prohibit the use of closing agreements as an economic development tool that conditions prospective tax exemptions on certain capital investments and the creation and retention of a certain number of jobs? If applicable, please indicate and describe every closing agreement which the division has concluded since FY 2010 that included prospective tax exemptions that were contingent upon the generation of economic activity in New Jersey. Does the closing agreement with Amazon.com include any tax exemptions for the period after July 1, 2013? Has the division concluded a closing agreement with the National Football League with regard to Super Bowl XLVIII that prospectively waived the collection of certain State taxes in connection with the event? If so, what taxes were waived and what was the rationale for concluding the closing agreement? Please provide a copy of the closing agreement concerning Super Bowl XLVIII.

13. The Division of Taxation's Audit group administers the **voluntary disclosure program**. The amnesty-like program allows taxpayers who failed to file tax returns or collect sales tax to come forward prior to being contacted by the division and file the appropriate tax returns as well as registration materials, and pay outstanding tax obligations. If approved, a voluntary disclosure agreement requires the payment of taxes owed for a look-back period equal to the current year plus the three prior years, and interest. In return, the division waives the late filing and late payment penalties for the tax years covered by the agreement. In reply to OLS Discussion Point #11 in the FY 2013-2014 Department of the Treasury Budget Analysis, the division provided the data for FY 2010 through FY 2013 as of the date of the division's discussion point reply that the table on the next page shows: the number of requests for voluntary disclosure agreements, the number of agreements concluded, and the total amount collected from the agreements. Voluntary disclosure agreements, however, are not the only option for noncompliant taxpayers to come forward. On its webpage the division notes that alternatively it may be willing to negotiate taxpayer-specific closing agreements in accordance with N.J.S.A.54:53-1 et seq. (Discussion Points #12 and #14 also address closing agreements.)

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	Voluntary Disclosure Agreement Requests	Voluntary Disclosure Agreements Concluded	Voluntary Disclosure Agreement Collections
FY 2010	247	177	\$106,176,170
FY 2011	348	281	\$36,310,932
FY 2012	435	322	\$90,812,145
FY 2013 (As of Discussion Point Response)	307	132	\$56,990,776

The division is running two special voluntary disclosure program initiatives from March 15, 2014 through May 15, 2014. The Partnership Tax and Partner Fees Initiative targets partnerships and their individual partners that have New Jersey sourced income but that have not filed any of the required business registration forms or paid the required income tax amounts. The Intangible Asset Nexus Initiative, in turn, is for companies with income derived from the use of intangible assets in New Jersey that have heretofore failed to acknowledge their subjection to the State's taxing jurisdiction but that intend to henceforth comply with their corporation business tax filing requirements. Under both programs, participants must remit payment of all taxes and fees owing within 45 days of the execution of the voluntary disclosure agreement. The initiatives might be related to a "loophole-closing" proposal included in the FY 2015 Governor's Budget. Specifically, the Executive anticipates \$65 million in FY 2015 corporation business tax revenue from newly taxing certain nonresident partner gains.

- **Questions:** Please explain the factors that guide the Division of Taxation in deciding whether a taxpayer qualifies for a voluntary disclosure agreement or a closing agreement. Under what set of circumstances would the division prefer one type of agreement over the other? Which type of agreement typically results in the more favorable terms to the taxpayer? For FY 2013 and FY 2014 to date, please provide summary statistics for the voluntary disclosure program: the number of taxpayers coming forward, the number of concluded voluntary disclosure agreements, and the amount of revenue collected pursuant to the agreements. Please set forth the reasons for which the division may reject voluntary disclosure agreement requests.
- Please comment on the Partnership Tax and Partner Fees Initiative and the Intangible Asset Nexus Initiative. To date, how many taxpayers have contacted the division with a voluntary disclosure agreement request under each of the initiatives? How many voluntary disclosure agreements has the division granted to date and what cumulative dollar amount is associated with the agreements? Are the two programs related to the Administration's FY 2015 "loophole-closing" proposal regarding the taxation of certain nonresident partner gains? If so, please explain the connection.

14. The Division of Taxation has been undertaking a multiyear **initiative to reduce the backlog in the administrative review of taxpayer protests and appeals of division tax determinations**. In its October 2010 audit report on the division, the Office of the State Auditor had stated that the backlog of 1,300 unassigned cases at the division's Conference and Appeals Branch meant that the average wait time for a case to be assigned to a specialist was one and a

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half years. This backlog left taxpayers frustrated and delayed State revenue collections. In its reply to OLS Discussion Point #9 in the FY 2013-2014 Department of the Treasury Budget Analysis, the division reported significant improvements. The number of unassigned taxpayer protests and appeals declined from 1,300 cited in the October 2010 audit report to 439 in March 2012 and 323 in March 2013. The average wait time between the receipt of a taxpayer protest and its resolution in the conference cycle, in turn, was cut from 21 months in calendar year 2011 to 11 months in calendar year 2012.

The Conference and Appeals Branch implemented several changes to reduce the backlog and related wait times. In response to last year's OLS Discussion Point #9, the branch stated that in FY 2013 it hired nine additional specialists who hold conferences with taxpayers at an annual cost of about \$600,000, increasing their count from 15 in FY 2012 to 24 in FY 2013. The division, however, did not plan to hire any additional conferees. The division also reorganized the manner in which the Conference and Appeals Branch processes taxpayer appeals and protests. Notably, the branch had a new Chief as of February 2011 and was reorganized into four teams specializing in a particular tax and each headed by a new supervisor, according to the division's responses to OLS Discussion Points #8 and #10 in the FY 2012-2013 Department of the Treasury Budget Analysis. Moreover, the branch allocated additional resources to its Review Group, which in FY 2013 through March resolved 24 percent of all cases without the need for an administrative conference simply by obtaining and reviewing additional documentation from taxpayers, as the division related in addressing OLS Discussion Point #9 in the FY 2013-2014 Department of the Treasury Budget Analysis. In addition, the branch enhanced its efficiency by newly grouping similar cases together and assigning them jointly to conferees, according to the division's reply to last year's Discussion Point #9. Furthermore, the branch made more frequent use of the division's authority to enter into closing agreements in accordance with N.J.S.A.54:53-1 et seq., which permanently and conclusively end taxpayer cases. It concluded 82 closing agreements in FY 2012 and 153 in FY 2013 through March. The division explained that the settlements accelerated the collection of State revenue, added finality to the taxpayer's request for administrative review, avoided litigation, and conserved division resources for other matters. (Discussion Points #12 and #13 also discuss closing agreements.)

Last year, the division also reported that in FY 2013 through the date of its response the Conference and Appeals Branch upheld division tax determinations in 56 percent of all cases, reduced the determinations in 20 percent of all cases, and vacated them in 24 percent of all cases. About 11 percent of the taxpayers who received a final determination for payment of taxes, fees, and penalties appealed to the Tax Court of New Jersey.

- **Questions:** Please provide an update on the initiative to reduce the backlog in the administrative review of protests and appeals that taxpayers file against Division of Taxation tax determinations. Please describe any reorganizations and changes the Conference and Appeals Branch has made in the last year in the process of handling taxpayer appeals and protests. Has the branch concluded the backlog reduction initiative?
- What are the current backlog of unassigned cases and related wait times? Please provide summary statistics on the disposition of taxpayer appeals in FY 2013 and FY 2014 to date, including information on the percentage of appeals that is resolved in

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favor of the taxpayer. What percentage of all final determinations is appealed? Please specify the number of closing agreements the Conference and Appeals Branch has concluded in FY 2013 and FY 2014 to date.

- Please identify any additional resources that have been committed to the Conference and Appeals Branch in FY 2014 and quantify their budgetary cost. Are the additional resources intended to be temporary or recurring? How many specialists work on administrative reviews of taxpayer protests and appeals in FY 2014? Were any new specialists hired in FY 2014 or are anticipated to be hired in the remainder of FY 2014 and in FY 2015?

15. Addressing OLS Discussion Point #8 in the FY 2012-2013 Department of the Treasury Budget Analysis, the Division of Taxation described the **reorganization of the division's Audit group**. A new Deputy Director was hired to oversee the group and auditing responsibilities were split into business and individual taxes. The Field Audit unit also created two audit groups dedicated to high-net worth taxpayers. A year later, in reply to OLS Discussion Point #10 in the FY 2013-2014 Department of the Treasury Budget Analysis, the division elaborated that the reorganization was to augment operational efficiencies and productivity through specialization. Short-term, the Audit group already observed a reduction in aged inventory and more managerial involvement in cases following the reorganization. Evaluation Data in the FY 2015 Governor's Budget, however, do not yet suggest any reorganization-related gains. As the table below illustrates, the Audit group's revised FY 2014 performance indicators fall below FY 2012 and FY 2013 levels. Nevertheless the Executive expects the performance indicators to turn the corner in FY 2015. Lastly, the division responded to last year's Discussion Point #10 that the Audit group continued to draft a comprehensive Manual of Audit Procedures, which would be published by the end of calendar year 2013.

Performance Indicator	FY 2012 Actual	FY 2013 Actual	FY 2014 Revised	FY 2015 Budget Estimate
Audits Completed	135,220	132,158	125,181	131,000
Audit Assessments	\$695,639,320	\$622,653,780	\$570,000,000	\$590,000,000
Average Number of Auditors	346	358	361	352
Average Assessments per Auditor	\$1,950,851	\$1,476,864	\$1,375,000	\$1,550,000

- **Questions:** Please comment on the performance of the reorganized Audit group in the Division of Taxation. Are the expected reorganization-related efficiency and productivity gains already materializing? What factors account for the anticipated reductions in total audit assessments and audit assessments per auditor from FY 2012 through FY 2014? Please describe the reasons underlying the projected increase in total audit assessments and audit assessments per auditor from FY 2014 to FY 2015. Has the Audit group finished and published the comprehensive Manual of Audit Procedures? If not, by what date does the division expect the completion and publication thereof?

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16. In reply to OLS Discussion Point #12 in the FY 2013-2014 Department of the Treasury Budget Analysis, the Division of Taxation reported that its **Office of Criminal Investigation (OCI) had started “the largest operational expansion of its history.”** Ten additional special agents and an unspecified number of support personnel were to join the office by the end of calendar year 2013. The expansion would allow the office to widen its focus from primarily contraband-related matters to a broader spectrum of tax-related crimes. The evaluation data in the Governor’s FY 2015 Budget reflect the OCI’s hiring drive. The division anticipates the OCI to engage in 408 tax-related criminal prosecutions in FY 2014. That number marks a 171 count, or 72.2 percent, increase over the 237 actual prosecutions in FY 2013. For FY 2015, the division expects a smaller increase to 430 prosecutions. The division clarified in response to last year’s OLS Discussion Point #12 that not all OCI criminal cases represented referrals to the Office of the Attorney General in the Department of Law and Public Safety for criminal prosecution. A significant unspecified number of OCI cases were OCI direct arrests, joint investigations with other law enforcement agencies, and criminal complaints the OCI initiated directly to the courts when taxpayers fail to pay for their dishonored checks and electronic fund transfers. The division informed further that with the exception of a limited number of cases that resulted in defendant participation in a pretrial intervention program all OCI prosecutions have led to criminal convictions either in the form of a court sentencing or a plea agreement.

Contemporaneously with the expected surge in criminal prosecutions, the evaluation data in the Governor’s FY 2015 Budget show that the division projects a plunge in assessment amounts that will be generated by OCI’s tax-related criminal investigations in FY 2014. Specifically, the division anticipates \$3.7 million in assessment amounts in FY 2014. This total reflects a \$3.7 million, or 50.0 percent, decline over the \$7.3 million actually assessed in FY 2013. Assessment amounts, however, tend to fluctuate from year to year, as \$8.8 million was levied in FY 2012 and \$1.5 million in FY 2011. For FY 2015, the division estimates \$3.9 million in criminal assessments. In reply to last year’s OLS Discussion Point #12 the division ascribed the expected FY 2014 decline in part to the OCI’s plans to increase investigations which would not result in the recovery or assessment of taxes. The OCI’s Special Frauds Unit, for example, had already expanded its stolen identity refund fraud investigation activities. Given that not all prosecutions involved allegations of tax evasion, the division warned that one should not expect a direct correlation between the number of criminal OCI prosecutions and the amount of criminal assessments.

- **Questions:** Please present the organizational structure of the Office of Criminal Investigation (OCI), detailing the number of subdivisions, if any, the hierarchy, and the number of employees within each job title category. Please indicate the OCI’s actual and recommended budgets for FY 2013, FY 2014, and FY 2015. Has the office hired any new staff in FY 2014 or is anticipated to hire any new staff in the remainder of FY 2014 and in FY 2015? If a reorganization accompanied the office’s recent expansion, please describe the reorganization. Are the expected performance gains from expanding, and possibly reorganizing, the OCI already materializing? If so, please provide examples. Have the changes proved somewhat disruptive during the transition phase? If so, what expansion-related challenges must still be resolved?
- What factors account for the anticipated decline in criminal assessment amounts from \$7.3 million in FY 2013 to \$3.7 million in FY 2014? Does the decline reflect a resource shift from certain types of investigations to others? Please breakdown the

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\$7.3 million in actual FY 2013 criminal assessments by tax and any other source. What components of the total are projected to fall in FY 2014?

17. The State Earned Income Tax Credit (EITC) program, which piggy-backs on the federal EITC credit program, is intended to offset the burden of Social Security payroll taxes on the working poor and provide an incentive to work. Pursuant to P.L.2000, c.80 (C.54A:4-6 et seq.), the State EITC provides a refundable credit under the State gross income tax, currently equal to 20 percent of the federal EITC benefit amount. To claim a State credit, taxpayers must first file for the federal EITC.

According to the Division of Taxation, beginning in Tax Year 2011, the division implemented an **EITC fraud screening process**. As part of the program, certain taxpayers claiming a NJ-EITC were asked to provide the division with supplemental documentation such as Social Security cards, IRS account transcripts, W-2's, 1099's, pay stubs, and birth certificates to substantiate their EITC claim.

As a result of this initiative, although 577,039 tax filers claimed EITC benefits totaling \$251.6 million for Tax Year 2011, thus far only 468,359 have received credits (totaling \$192.8 million), while 19,412 tax filers (claiming \$14.0 million) have been denied an EITC, and another 89,268 tax filers (claiming \$44.7 million) still have claims pending for Tax Year 2011 as of March 2014. According to the division, the number pending are those tax filers who were sent a notice requesting additional information but have not yet responded, or have responded and are under review; however, the division anticipates that a "very low" number of claims will convert from "pending" to paid.

Based on the data indicated, and assuming the conversion of pending claims to paid claims remains low, the number of New Jersey tax filers receiving a federal EITC who will also receive a State EITC will have decreased from 90.1 percent in Tax Year 2009 to 72.2 percent in Tax Year 2011, a level of program participation last experienced during the early years of program implementation, and a level well below the 90 percent rate anticipated nationally for a mature program, according to the Center for Budget and Policy Priorities.

However, while the drop in program participation has been steep since peaking above 90 percent in TY 2009, New Jersey is not alone in pursuing enforcement efforts within its EITC program. Research indicates that other nearby states, including Connecticut and New York, implemented their own screening processes around the same period. Indeed, evidence of overpayment of EITC credits due to either error or fraud has been widely reported by the Internal Revenue Service since at least the late 1990's. And, in its most recent report, dated February 2013, the Treasury Inspector General (TIG) for Tax Administration at the United States Department of Treasury estimated an error rate in the federal EITC program of between 21 and 25 percent for the 2012 Fiscal Year, costing the federal Treasury between \$11.6 billion and \$13.6 billion.

- **Questions: Please provide an update on the division's EITC fraud prevention efforts. Has the number of claims converting from "pending" to "paid" been in line with division expectations for TY 2011 and TY 2012? At what point are claims which**

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are pending considered “closed” if the taxpayer does not respond to the division’s request for supplemental documentation? Of the number of pending claims outstanding for TY 2011 and TY 2012, what amount, in accordance with GAAP principals, was accrued in FY 2013 to account for refund claims? When and on what basis will such accruals be reversed during FY 2014 or thereafter? Since inception of the division’s enforcement efforts in TY 2011, and updated through April 2014, what number and percentage of EITC claimants, by tax year, have received letters requesting additional information? What number and percentage of claimants were able to provide the information requested by the division? Have the criteria used to determine which claimants receive letters evolved since TY 2011? Does the division anticipate that the participation rate in the State EITC program will stabilize at the current TY 2011 rate of approximately 70% or rebound closer to the 90 percent historical (and national expected) rate? Given that the federal government has also implemented a screening process for the EITC, and that New Jersey taxpayers must first qualify for a federal credit before claiming the State credit, does the division believe a 30 percent “fall off” between federal and State participation to be reasonable?

- For all years since EITC program inception in Tax Year 2000, please provide the following data: number of EITC claims filed, number paid, number rejected.

18. Created in April 2011, the **Office of the Taxpayer Advocate (OTA)** in the Division of Taxation is to help enhance voluntary compliance with tax laws by simplifying tax regulations and assisting taxpayers. Specifically, it is intended to identify systemic tax administration problems encountered by taxpayers and recommend administrative and legislative solutions. The office is also to assist taxpayers who: a) face a threat of immediate adverse action for a disputed tax liability; b) believe that they did not receive adequate notification of the division’s actions or that the division’s actions are unwarranted, unfair or illegal; c) suffer or are about to suffer “undue hardship” resulting from the division’s administrative actions; or d) have experienced a delay of more than 75 days in their quest to resolve a tax account problem or obtain a response to an inquiry from the division. The OTA clarifies on its website, however, that it does not handle inquiries involving the New Jersey Earned Income Tax Credit. The office is funded out of the division’s operating budget and had \$312,000 in annual salary expenditures for its four employees at the time of its response to OLS Discussion Point #9 in the FY 2012-2013 Department of the Treasury Budget Analysis.

The OTA received requests for assistance from roughly 600 taxpayers in FY 2012 and FY 2013 through April, of which some 500 requests met the office’s case acceptance guidelines, according to the OTA’s reply to OLS Discussion Point #13 in the FY 2013-2014 Department of the Treasury Budget Analysis. At the time of the response only five of the cases remained still open and the office had closed another 20 without a resolution. In all, since July 1, 2011 through the date of the discussion point reply, about 60 percent of all cases involved the gross income tax and 15 percent the corporation business tax with all other taxes combining for the remaining 25 percent. As an outgrowth of its interactions with taxpayers the OTA identified and reviewed several systemic issues in the year prior to its discussion point answer and made recommendations regarding, among others: 1) automated Division of Taxation responses that

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unnecessarily requested that taxpayers provide power of attorney before the division would respond to general tax questions taxpayers had sent to the division's e-mail unit; and 2) the alleviation of taxpayer confusion on the corporate dissolution and reinstatement process and related corporate business tax filing requirements.

- **Questions: Please set forth the reason(s) for which the Office of the Taxpayer Advocate (OTA) is not helping taxpayers with inquiries regarding the New Jersey Earned Income Tax Credit. Please describe the OTA's activities in FY 2013 and FY 2014 to date. How many taxpayers have contacted the OTA in FY 2013 and FY 2014 to date? How many cases has the OTA accepted for assistance in FY 2013 and FY 2014 to date and how many cases has the office closed? What taxes have produced the most requests for OTA assistance in FY 2013 and FY 2014 to date? For the last 12 months, please indicate: a) the systemic tax administration problems encountered by taxpayers that the OTA has identified; b) the recommendations the OTA has made to rectify them; and c) the changes in tax laws, rules, and regulations that have actually been made subsequent to OTA recommendations. What are the division's budget and position count for FY 2014? Are any budgetary or staffing changes anticipated in FY 2015?**

19. The contours of the Governor's proposed FY 2015 **New Jersey Homestead Property Tax Credit program** (N.J.S.A.54:4-8.57 et seq.), renamed the **Homestead Benefit Program** by the Administration, are unchanged from FY 2014. Overall, the Executive estimates that 829,000 homeowners would collect an average \$469 benefit in FY 2015, after 843,200 homeowners collected an average \$469 rebate in FY 2014. Although the program's eligibility criteria have not changed since FY 2010, the number of claimants fell by 148,800, or 15.0 percent, from 992,000 in FY 2010 to 843,200 in FY 2014. Some 21,600 fewer seniors, or 4.2 percent, participated in the program in FY 2014 (492,400 participants) than in FY 2010 (514,000 participants). But the more significant decline transpired among non-seniors whose participation dropped by 127,200 claims, or 26.6 percent, from 478,000 claimants in FY 2010 to 350,800 in FY 2014. For all claimants combined, the Administration projects a further 1.7 percent contraction in FY 2015 to 829,000 participants. In response to OLS Discussion Point #17 in the FY 2012-2013 Department of the Treasury Budget Analysis, the Treasury conveyed that its own analysis suggested that bracket creep was the primary driver of the erosion in program participation. Especially the incomes of many former non-senior participants had grown beyond the \$75,000 eligibility threshold.

Under the program's statutory structure, a homeowner's credit amount is based on the homeowner's gross income and the homeowner's property taxes paid in the last calendar year up to \$10,000. Credits equal 20 percent of allowable property taxes paid up to \$10,000 for incomes up to \$100,000, 15 percent of allowable property taxes paid up to \$10,000 for incomes over \$100,000 up to \$150,000, and 10 percent of allowable property taxes paid up to \$10,000 for incomes over \$150,000 up to \$250,000. A homeowner who is disabled, blind or 65 years of age or older receives the higher of the payment to which the homeowner is entitled under the above schedule or an amount equal to the amount by which property taxes paid in a tax year exceed five percent of the claimant's gross income subject to the following ranges: if the gross income is not over \$70,000 the claimant receives a \$1,000 to \$1,200 benefit, if the

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gross income over \$70,000 but not over \$125,000 the claimant receives a \$600 to \$800 benefit, and if the gross income is over \$125,000 but not over \$200,000 the claimant receives a \$500 benefit. Statutory tenant rebates in FY 2015 are \$150 for all tenants with incomes up to \$100,000, with tenants who are blind, disabled or 65 years of age or older with incomes not exceeding \$70,000 receiving up to \$850.

Relative to statutory provisions, the Governor's FY 2015 Budget proposes to: a) eliminate rebates for non-senior homeowners with incomes above \$75,000 and senior homeowners with incomes above \$150,000; b) reduce rebates from 20 percent to 10 percent of property taxes paid up to \$10,000 for senior homeowners with incomes not exceeding \$100,000 and for non-senior homeowners with incomes not exceeding \$50,000; c) reduce rebates from 20 percent to 6.67 percent of property taxes paid up to \$10,000 for non-senior homeowners with incomes between \$50,000 and \$75,000; d) reduce rebates from 15 percent to 5 percent of property taxes paid up to \$10,000 for senior homeowners with incomes between \$100,000 and \$150,000; e) eliminate the alternative benefit computation under which claimants who are disabled, blind or 65 years of age or older receive the higher of the payment to which they are entitled under the above schedule or an amount equal to the amount by which property taxes paid in a tax year exceed five percent of the claimant's gross income subject to the ranges indicated in the above paragraph; and f) maintain 2006 property taxes, as opposed to tax year 2013 property taxes, as the basis for calculating homestead benefits. The Governor also proposes continuing the elimination of the homestead property tax rebate program for tenants.

- **Questions:** Has the Division of Taxation refined its analysis of the reasons for the 15.0 percent drop in Homestead Property Tax Credit program participation from 992,000 participants in FY 2010 to 843,200 in FY 2014? If so, please set forth any available quantification of the bracket creep hypothesis and any other explanatory variable(s) that may be tied to the impact of economic and credit market conditions on the incidence of homeownership among concerned income groups.
- For FY 2014 Homestead Property Tax Credit distributions, please provide the following data for the senior and non-senior homeowner populations: 1) distribution of rebates by income brackets and 2) distribution of rebates by rebate amounts.

20. On November 14, 2007, the United States Government Accountability Office (GAO) released a report on **tax evasion by Medicaid providers** (Medicaid: Thousands of Medicaid Providers Abuse the Federal Tax System, GAO-08-17). The GAO found that over 30,000 Medicaid providers in seven selected states (New Jersey was not included in the sample), or over five percent, had federal tax debts totaling over \$1 billion as of September 30, 2006. The unpaid taxes mostly consisted of individual income and payroll taxes. The GAO noted further that the federal government and the seven states surveyed had no process for screening health care providers for unpaid taxes and hence did not bar health care providers with tax debts from enrolling in or receiving payments from Medicaid.

In response to OLS Discussion Point #10 in the FY 2008-2009 Department of the Treasury Budget Analysis, the division related that it did not have a database of Medicaid providers. Consequently, it was unable to screen the providers for unpaid taxes. Even so, the division

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intended to begin discussions with the Division of Medical Assistance and Health Services in the Department of Human Services to identify and to resolve any legal issues that might impede the exchange of provider information for tax administration purposes. If successful, the Division of Taxation could then provide information to the Medicaid program on medical providers who have unpaid State taxes so that the Medicaid program may terminate such providers from the program or withhold Medicaid reimbursements until resolution of the tax matter. Replying to OLS Discussion Point #17 in the FY 2013-2014 Department of the Treasury Budget Analysis, the Division of Taxation stated that the initiative was still ongoing and that a high-level meeting between the two divisions took place on this matter on April 5, 2013. The Division of Taxation related further that it was statutorily restricted from disclosing confidential tax information to outside parties. Therefore, it would have to perform the data match of Medicaid providers against outstanding tax liabilities. To enable the data match the Division of Medical Assistance and Health Services would have to provide the Division of Taxation with a listing of Medicaid providers and relevant identifying details.

- **Questions:** Have the Division of Taxation and the Division of Medical Assistance and Health Services in the Department of Human Services concluded their discussions concerning the exchange of information on medical providers so that the Medicaid program may terminate providers with unpaid State tax liabilities from the program or withhold Medicaid reimbursements until resolution of the tax matter? If so, what has been the outcome of the deliberations? If not, what are the stumbling blocks that stand in the way of implementing the information exchange?

21. The Division of Taxation publishes an annual *Statistics of Income* report based on gross income tax returns filed with the division. The personal income report includes a wealth of information, such as the number of returns filed, the distribution and source of income, and the total cost to the State of assorted exemptions, tax credits and deductions. In contrast, the division does not disclose similar aggregate **Corporation Business Tax (CBT) data**. In response to OLS Discussion Point #18 in the FY 2013-2014 Department of the Treasury Budget Analysis, the division did, however, provide some summary information on tax year 2011 CBT filings, including an indication that 93.3 percent of CBT filers paid only the statutory minimum tax amounts (100,521 out of 114,742 C corporation filers, or 87.6 percent, and 100,257 out of 100,359 S corporation filers, or 99.9 percent, paid statutory minimum amounts).

- **Questions:** For tax year 2012, please indicate: a) the number of corporation business tax (CBT) return filers, segregated into at least five net income brackets; b) the total net income that taxpayers in each bracket declared; c) the total amount of tax they were charged; and d) the effective tax rate for each bracket. What was the number and percentage of CBT return filers paying the statutory minima? Please break out the number of S corporations paying the statutory minima.

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DIVISION OF REVENUE AND ENTERPRISE SERVICES

22. The Office of Treasury Technology provides information technology services and support to the Department of the Treasury and agencies supported by the department. According to page D-385 in the FY 2015 Governor's Budget, the **Division of Revenue and Enterprise Services assumed jurisdictional control of the Office of Treasury Technology** from the department's Division of Administration in FY 2011. A footnote to the position data on page D-388, however, states that the Division of Revenue and Enterprise Services' FY 2014 position data newly reflect the transfer to the division of the office's functions. In addition, page C-25 in the FY 2015 Governor's Budget shows for the first time a "Treasury Technology Services" revolving fund. A revolving fund finances the operations of an intragovernmental service agency that bills client agencies for the goods and services it provides to them. For FY 2014 and FY 2015, the Treasury Technology Services revolving fund's anticipated annual revenues are \$10.3 million.

- **Questions:** Please comment on the transfer of the Office of Treasury Technology to the Division of Revenue and Enterprise Services. What was the justification for the reorganization? When did the division effectively assume control of the office? Does the fact that the office's positions are first reflected in the division's FY 2014 position count suggest a multi-year transfer of functions or complications in transfer execution? If so, please explain the timeline of any multi-year transfer or any difficulties encountered. If applicable, please indicate the reorganization's actual or anticipated State cost savings.
- Please delineate all operational changes the Division of Revenue and Enterprise Services has already implemented at the Office of Treasury Technology or intends to implement in FY 2015. Has the division altered the services the office provides to client agencies? Has it restructured the office? What is the rationale for newly creating in FY 2014 the Treasury Technology Services revolving fund? Does the revolving fund finance 100 percent of the office's operations or only a portion thereof? If the revolving fund finances only a portion of the office's operations, please set forth the office's entire budget for FY 2014 and FY 2015 by funding source. Please list the client agencies that receive bills from the office. How many funded "on-budget" and "off-budget" positions does the office have in FY 2014 and is anticipated to have in FY 2015?

23. The Division of Revenue and Enterprise Services pays for services it receives from contracted vendors out of its **Services Other Than Personal account**. Since FY 2010, annual disbursements from the account have fluctuated significantly. For example, actual FY 2013 expenditures were \$9.8 million, some \$3.6 million, or 57.3 percent, more than the \$6.2 million expended in FY 2012. In reply to OLS Discussion Point #21 in the FY 2013-2014 Department of the Treasury Budget Analysis, the division related that an additional \$3.8 million was needed in FY 2013 to provide full-year funding for the division's mail processing and data entry vendors. The division expected the services to recur in FY 2014. The account's FY 2014 adjusted appropriation now stands at \$7.7 million, some \$2.1 million, or 21.2 percent, less than actual FY 2013 expenditures. The Administration's recommended FY 2015 appropriation

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is a slightly larger \$7.8 million. The following list sets forth actual account expenditures for FY 2010, FY 2011, FY 2012, and FY 2013, the FY 2014 adjusted appropriation, and the Administration's recommended FY 2015 appropriation.

FY 2010 Actual:	\$5,910,000
FY 2011 Actual:	\$3,720,000
FY 2012 Actual:	\$6,200,000
FY 2013 Actual:	\$9,753,000
FY 2014 Adjusted Appropriation:	\$7,682,000
FY 2015 Budget Recommendation:	\$7,782,000

- Questions:** Please delineate actual FY 2013 and projected FY 2014 and FY 2015 expenditures from the Services Other Than Personal account of the Division of Revenue and Enterprise Services, indicating for each year the vendors receiving payments, the dollar amount of each vendor's payment, and the services each vendor rendered in exchange for the payments. What factors account for the \$2.1 million, or 21.2 percent, drop from \$9.8 million in actual FY 2013 expenditures to the \$7.7 million FY 2014 adjusted appropriation? Have any contractor payments by the Office of Treasury Technology been moved to the new "Treasury Technology Services" revolving fund? According to current projections, will the \$7.7 million be sufficient to pay for FY 2014 contractor expenditures?

24. The processing of tax documents and payments is one of the core responsibilities of the Division of Revenue and Enterprise Services. In FY 2013, the processing of tax year 2012 paper gross income tax returns, refunds, and payments experienced atypical multi-month delays. FY 2013 also marked the first year in which **two private-sector contractors were fully responsible for the pre-processing of mailed paper gross income tax returns and payments as well as related data entry and verification services.** PRWT Services Inc. pre-processed the paper returns and payments and delivered them to designated State processing centers. Data Entry Company then took possession of the pre-processed returns and performed data entry and verification services. The two contractors received their first payment (\$975,000) in FY 2012. In reply to OLS Discussion Point #21 in the FY 2013-2014 Department of the Treasury Budget Analysis, the division related that it anticipated expending \$3.8 million in FY 2013 to pay the contractors for full-year mail pre-processing and data entry services.

On January 14, 2011, the Division of Purchase and Property issued Request for Proposal (RFP) 12-X-21940 for "Front End Mail Receipt & Pre-Processing Service — Division of Revenue." The contractor was expected to "expeditiously open, sort, screen and prepare mail items ... to enable subsequent, accelerated electronic document scanning, data capture and revenue deposit operations." The pre-processing encompasses all types of paper documents and payments, including those related to taxes, commercial filings, and license renewals. The RFP noted that the Division of Revenue and Enterprise Services had previously conducted the document and payment processing operations in-house with 71 full-time and 254 seasonal employees. With the award of State Contract T-2774, this function was outsourced to PRWT Services Inc. of Philadelphia, PA. The three-year contract runs from September 22, 2011 through December 31, 2014 with two optional one-year contract extensions.

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On January 12, 2011, the Division of Purchase and Property issued RFP 12-X-21802 for "Data Entry/Verification Services" for paper and digitally imaged gross income tax returns on behalf of the then-Division of Division of Revenue. The RFP noted that the Division of Revenue and Enterprise Services had previously conducted data entry operations in-house with an average of 27 operators. The number had increased to an average of 119 operators during the height of the tax return processing season from March 1 through June 18. With the award of State Contract T-2775, this function was outsourced to Data Entry Company of Bethesda, MD. The three-year contract runs from September 22, 2011 through December 31, 2014 with two optional one-year contract extensions.

- **Questions:** Please describe the causes for the atypical multi-month delays in the processing of tax year 2012 paper gross income tax returns, refunds, and payments. What part of the process did not work as envisioned and how did the Division of Revenue and Enterprise Services address the shortcomings once they had surfaced? Did the division incur any unanticipated costs in rectifying the shortcomings?
- How does the division rate the performance of PRWT Services Inc. and Data Entry Company with regard to the tax year 2012 gross income tax return processing season? Has the division sanctioned, or does it intend to sanction, either contractor for any performance deficiencies? If not, please set forth the reasons for not doing so. What payment amounts did the contractors receive for their services in FY 2013? Were the amounts lowered as a result of the multi-month tax return processing delays? Are both vendors involved in the processing of tax year 2013 paper gross income tax returns? If so, is the division confident that the vendors have resolved any prior problems that caused last year's multi-month processing delays? What are projected FY 2014 payments to the vendors? Does the division plan on invoking the contracts' optional one-year extensions at the end of the year?
- What lessons has the division learned from the outsourcing of the pre-processing of mailed documents and payments as well as gross income tax return data entry and verification? Have the outsourcing's actual costs and benefits matched expectations? What have been the division's cost savings? Did the division incur any unanticipated costs? Does the division perceive a change in service quality relative to its previous in-house service performance? Is the division satisfied with the vendors' performance? If the division could return to the decision point for the outsourcing, would it still privatize the functions? Is the division considering returning the functions in-house?
- Has the division evaluated the role of its contract management in the multi-month delays in the processing of tax year 2012 paper gross income tax returns, refunds, and payments? How does the division rate its contract management in this case? Did the RFP clearly articulate the division's requirements and expectations vis-à-vis the contractors? By what date did the division become aware of any mail gross income tax return processing difficulties? Should the contract manager have foreseen the difficulties sooner? Does the division intend to increase the size and expertise of its contract management staff to reduce the likelihood of similar problems occurring in the future? Does the division have the capacity to effectively oversee contractors?

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25. P.L.2008, c.24 statutorily centralized the **non-tax debt management** functions for State government in the Division of Revenue and Enterprise Services; Office of Management and Budget Circular Letter 13-11-OMB, Statewide Non-Tax Debt Collection and Write-Off, in turn, details the general non-tax debt management policy. Most importantly, every State agency in the Executive branch must transfer to the division every non-tax debt owed to the agency for 90 days. Most State departments and agencies comply with this mandate, according to the division's FY 2013 annual report on New Jersey's centralized non-tax debt collection program. In fact, 93.1 percent of non-tax debt subject to the transfer requirement was transferred in FY 2013. While that percentage represents a slight decline over the 94.2 percent compliance rate in FY 2012, it still is an improvement over the 82.8 percent FY 2011 and 90.3 percent FY 2010 compliance rates. The division considers a rate of at least 90 percent to equate to "substantial compliance." The table below delineates the extent to which State departments and agencies adhere to the transfer mandate.

Compliance with Non-Tax Debt Transfer Requirement in FY 2013			
Department/Agency	Debt Subject to Mandatory Transfer	Debt Transferred	Compliance Rate
Office of the Public Defender	\$80,592,014	\$80,592,014	100.0%
Human Services	\$35,111,230	\$35,111,230	100.0%
Banking and Insurance	\$19,639,312	\$19,639,312	100.0%
Lottery	\$2,344,161	\$2,344,161	100.0%
Corrections	\$458,283	\$458,283	100.0%
Parole Board	\$27,516	\$27,516	100.0%
Agriculture	\$27,265	\$27,265	100.0%
Health	\$25,503	\$25,503	100.0%
Civil Service Commission	\$5,433	\$5,433	100.0%
Treasury	\$2,942,795	\$2,942,031	100.0%
Law and Public Safety	\$29,844,197	\$29,829,902	100.0%
Transportation	\$762,450	\$752,441	98.7%
Children and Families	\$885,436	\$830,252	93.8%
Community Affairs	\$16,608,319	\$15,350,010	92.4%
Military and Veterans Affairs	\$447,663	\$406,560	90.8%
Labor and Workforce Development	\$13,340,095	\$9,023,889	67.6%
Environmental Protection	\$30,695,505	\$20,333,956	66.2%
Motor Vehicle Commission	\$196,757	\$71,753	36.5%
Higher Education Student Assistance Authority	\$3,742	\$883	23.6%
Education	\$0	\$0	N/A
State	\$0	\$0	N/A
TOTAL	\$233,957,678	\$217,772,395	93.1%

Two departments have compliance rates below 90 percent and untransferred non-tax debts exceeding \$1 million: the Department of Environmental Protection (\$10.4 million) and the

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Department of Labor and Workforce Development (\$4.3 million). In response to OLS Discussion Point #22 in the FY 2013-2014 Department of the Treasury Budget Analysis, the division explained that the agencies that fell short of the 90 percent compliance threshold did so because of "staffing, budgetary and/or technological limitations." The division elaborated that in the case of the Department of Labor and Workforce Development the amount not transferred represented unemployment insurance debt and that the department claimed that the United States Department of Labor prohibited the use of amounts owed to the federal Unemployment Trust Fund for unemployment insurance debt collection operations. (After the depletion of the State's Unemployment Insurance Compensation Trust Fund account on March 5, 2009, the State commenced borrowing from the federal Unemployment Trust Fund to pay State unemployment insurance benefits.) As the division would not be reimbursed for debt collection expenses, it therefore has not taken on the administration of the unemployment insurance debt.

Non-tax debt collections were \$11.7 million in FY 2013, \$10.0 million in FY 2012, and \$11.4 million in FY 2011. The FY 2013 collection rate was 10.0 percent, an increase over the 9.7 percent rate in FY 2012 and the 9.3 percent rate in FY 2011. Overall, the division actively managed \$549.3 million of the State's outstanding non-tax debt amount at the end of FY 2013. It also wrote off as uncollectible \$57.2 million in its non-tax debt portfolio in FY 2013, marking only the third time that the division performed a write-off. Previous write-offs occurred in FY 2010 (some \$306.3 million) and FY 2011 (some \$29.3 million). Uncollectible non-tax debt typically is owed by individuals who cannot be located or are unable to pay because they have deceased, are institutionalized, unemployed or bankrupt. Importantly, write-offs do not represent a debt cancellation or forgiveness. Case files are closed but remain available for reactivation should new information surface that allows for additional collection attempts. Write-offs merely represent an accounting technique intended to paint a more realistic picture of the potentially collectible portion of the non-tax debt portfolio.

- **Questions:** Please relate whether the Division of Revenue and Enterprise Services has succeeded in having additional non-tax debt accounts transferred to its non-tax debt management program since publication of the FY 2013 annual report on the centralized non-tax debt collection program. If so, please list the additional programs for which the division has assumed control of non-tax debt. Given that the Department of Environmental Protection's failure to transfer non-tax debt to the division after it has been owed for more than 90 days concerns numerous types of non-tax debt, please specify the obstacles impeding the department from achieving a 90 percent compliance rate with the debt transfer requirement of P.L.2008, c.24. Please state the amount of any write-off of non-tax debt that the division has already performed or plans to perform in FY 2014. Are the numbers presented in the FY 2013 annual report net of vendor contingency fee payments?

26. The Division of Revenue and Enterprise Services outsources the collection of non-tax debt to first and second referral non-tax debt collection contractors. Specifically, after a State agency transferred non-tax debt to the division a first referral debt collector has twelve months to collect it. Any amount still owed after the twelve-month period is transferred to a second referral non-tax debt collector. In the FY 2013 annual report on New Jersey's centralized non-

Discussion Points (Cont'd)

tax debt collection program, the division divulged that it intended to engage a new **second referral non-tax debt collection contractor** in FY 2014. The new contract would include a revised contingency fee arrangement that would make it financially viable for third-party debt collectors. In the past at least one firm, NCO Financial Systems, Inc., had stopped working on second referral cases because it suffered financial losses in attempting to collect the debt (see the FY 2009 annual report on New Jersey's centralized non-tax debt collection program).

- **Questions:** Please indicate the amounts the Division of Revenue and Enterprise Services paid its non-tax debt collection contractors in FY 2011, FY 2012, and FY 2013. Please provide a progress update on the contract for second referral non-tax debt collection services that the division intended to award in FY 2014. Has the contract been awarded? If so, who is the contractor and what are the terms of payment to the vendor? How do the terms of payment differ from those of: a) the previous second referral non-tax debt collection contract, and b) the current first referral non-tax debt collection contract? If no contract has been awarded to date, please indicate by what date the division anticipates awarding the contract. Who is currently performing second referral non-tax debt collection services?

DIVISION OF INVESTMENT

27. The State Investment Council (SIC) adopts investment policies and procedures for the **various State public employee retirement funds** and functions like a board of directors in overseeing the Division of Investment. The division, in turn, implements the council's investment policies and runs the day-to-day operations of the portfolio. For each fiscal year, the SIC adopts within a regulatory framework an **asset allocation plan** that sets targets for the percentage of the portfolio that ought to be invested in specific asset classes, such as fixed income and domestic equities. The table on the following page displays FY 2013 and FY 2014 target allocations, as well as the actual allocation on December 31, 2013, according to the New Jersey Division of Investment, December 2013 "Investment Reporting Package." As of December 31, 2013, the State retirement funds had an aggregate value of \$76.8 billion.

The division continues to invest a gradually increasing share of the portfolio in alternative assets (hedge funds, private equity, real estate, and commodities). On December 31, 2011, some 21.0 percent of the portfolio was invested thusly; on December 31, 2012, some 24.8 percent; and on December 31, 2013, some 25.2 percent, or \$19.3 billion. The long term target is 33.2 percent, according to the division's answer to OLS Discussion Point #23 in the FY 2013-2014 Department of the Treasury Budget Analysis. All these figures, however, fall under the 38 percent regulatory allocation ceiling for all alternative assets combined (N.J.A.C.17:16-69.9). The maximum allocation for hedge funds is 15 percent of the portfolio, for private equity firms 12 percent, for real estate nine percent, and for commodities seven percent.

Discussion Points (Cont'd)

<u>Asset Allocation and Targets for Pension Funds</u> <u>(December 31, 2013)</u>				
Asset Class	Target Allocation FY 2013	Target Allocation FY 2014	Actual Allocation (%)	Actual Allocation (\$ Million)
Fixed Income	24.0%	21.1%	19.0%	\$14,610.8
Alternative Assets:	29.7%	29.5%	25.2%	\$19,346.1
<i>Hedge Funds</i>	12.5%	11.0%	10.4%	\$7,955.5
<i>Private Equity</i>	7.7%	10.5%	8.1%	\$6,204.6
<i>Real Estate</i>	5.5%	5.5%	4.3%	\$3,291.0
<i>Commodities</i>	4.0%	2.5%	2.5%	\$1,895.1
Domestic Equity	23.8%	26.5%	28.1%	\$21,581.8
International Equity	19.5%	20.7%	20.5%	\$15,723.1
Cash	1.5%	1.0%	6.1%	\$4,645.9
Police & Fire Mortgages	<u>1.5%</u>	<u>1.2%</u>	<u>1.1%</u>	<u>\$853.7</u>
TOTAL	100.0%	100.0%	100.0%	\$76,761.4

In January 2005, the SIC adopted policies and procedures establishing the **Alternative Investment Program (AIP)** under which pension funds assets may be invested in private equity, real estate, commodities, and hedge funds. Private equity groups raise capital from institutional investors and wealthy individuals to either purchase companies or to further invest in companies they already run. Hedge funds, on the other hand, are private pools of capital that are lightly regulated, often borrow to enhance returns, and pursue a myriad of investment strategies across various financial markets in the pursuit of returns that are not directly correlated with the performance of underlying financial markets. As of December 31, 2013, the division had placed \$19.3 billion in the AIP. In all, it paid \$321 million in management and performance fees and expenses for the AIP in FY 2013, \$192 million in FY 2012, \$174 million in FY 2011, and \$127 million in FY 2010. Replying to OLS Discussion Point #23, the division indicated that since inception through December 2012, the AIP's private equity program returned a positive 7.33 percent net of fees (inception in July 2005), the hedge fund program a positive 4.81 percent (inception in April 2006), and the real estate program a negative 1.31 percent (inception in December 2005). From April 2006 through December 2012, the fixed income portfolio returned a positive 9.40 percent, the domestic equity portfolio a positive 5.01 percent, and the international equity portfolio a positive 1.46 percent.

- **Questions:** Does the Division of Investment intend to revise the asset allocation plan for FY 2015? If so, please highlight any changes from the current plan and explain the rationale for the changes.
- Per AIP asset class, what have been the gross returns since the AIP's inception and what have been the returns net of management and performance fees paid to alternative investment firms? How do these rates of return compare with those of the pension funds' equity and fixed income portfolios?
- Please identify all current contracts, outside vendors or entities engaged for placing investments under the AIP, including the "General Consultant." Please specify the

Discussion Points (Cont'd)

amount paid or expected to be paid for the services of each and the terms of each contract.

28. On November 21, 2013, the State Investment Council voted to **invest \$300 million of the assets of the State public employee retirement funds in a separate account vehicle with Chatham Asset Management, LLC that will mimic the Chatham Asset High Yield Master Fund, Ltd.** Excluding fund-of-funds investments, this will mark the second largest pension fund placement in a hedge fund, according to the Division of Investment's December 2013 Investment Reporting Package. The minutes of the November 21, 2013 council meeting indicate that two council members expressed concern that investing with Chatham might result in State pension funds being placed in the troubled Revel Casino in Atlantic City, of which Chatham is the largest owner. Division of Investment staff pointed out that Chatham was expected to divest its casino holdings by the time the pension fund investment in Chatham's hedge fund would close. As a result, no State pension funds were expected to be invested in the casino.

The Revel Casino has reportedly failed to turn a profit since opening on April 2, 2012. It continued to pile up losses even after shedding the bulk of its debt service payment obligations in a bankruptcy proceeding that ended with the United States Bankruptcy Court for the District of New Jersey approving a reorganization plan on May 12, 2013. The reorganization also turned the casino's creditors into owners. The new owners, of whom Chatham is the largest, are now reportedly considering selling the casino or initiating a second bankruptcy filing.

The State supported the casino development as part of the envisioned revitalization of Atlantic City. To that end the New Jersey Economic Development Authority approved an Economic Redevelopment and Growth Grant of up to \$261.4 million on February 1, 2011 in support of the completion of the construction of the then-unfinished casino. The State, however, does not make a one-time upfront payment of the full grant amount. Under the performance-based tax-increment financing program, the final grant amount will instead equal 75 percent of certain State tax collections the casino actually generates over 20 years. The original grant agreement also afforded the EDA a cash distribution interest of 20 percent of the management's initial 10 percent ownership. While not absorbing any of the casino's losses, the authority would share in any profits until it recoups its full investment. Moreover, the Casino Reinvestment Development Authority pledged the revenue it stands to collect under its agreements with the Revel Casino for the repayment of up to \$50 million in bank loans whose proceeds are to be used for infrastructure improvements and redevelopment projects in the Atlantic City Southwest Inlet area adjacent to the casino.

- **Questions:** Please indicate by what date the pension fund investment in the separate account vehicle with Chatham Asset Management, LLC that will mimic the Chatham Asset High Yield Master Fund, Ltd will close. Does the Division of Investment intend to delay the closing of the investment until Chatham will have divested its Revel Casino holdings? In light of Chatham's role first as a major creditor of an unprofitable casino and then as its largest owner, is the financial risk of investing with Chatham relatively elevated?

Discussion Points (Cont'd)

- **Is there any connection between the \$300 million pension fund investment in the Chatham hedge fund with Chatham's current or past role as the largest investor in the Revel Casino?**

29. In exercising its fiduciary duties, the division makes use of its investor right to **cast votes by proxy in corporate meetings**. Replying to OLS Discussion Point #29 in the FY 2012-2013 Department of the Treasury Budget Analysis, the division stated that it voted according to its proxy voting guidelines so as to strengthen shareholder rights and promote good corporate governance practices. Every vote, however, is cast based on a case-by-case analysis and not the dogmatic application of the guidelines. In any event, the division's shareholder activism does not encompass social issues, as section b. of N.J.S.A.52:18A-89 requires the division's director "to manage and invest the portfolio [of the pension funds] solely in the interests of the beneficiaries of the portfolio and for the exclusive purpose of providing financial benefits to the beneficiaries of the portfolio."

In addressing OLS Discussion Point #26 in the FY 2013-2014 Department of the Treasury Budget Analysis, the division furnished the "Fiscal Year 2012 Summary Proxy Voting Report" and the "State of New Jersey Division of Investment Proxy Guidelines." According to the "Fiscal Year 2012 Summary Proxy Voting Report," in FY 2012, the division voted 2,118 proxies and went against 1,261 individual proposals recommended by corporate management that were included in 794 of the 2,118 proxies. Most commonly, the division voted against management proposals concerning stock options or incentive or restricted stock plans as elements of non-salary compensation policies. Specifically, the division rejected plans diluting outstanding shares by more than 5 percent, offering stock at a discount, extending eligibility beyond employees and non-employee directors, and accelerating vesting provisions. The second most common vote against corporate management targeted proposals regarding capitalization, such as the issuance of additional shares, share buybacks, and capital increases. This ranking marks a change that is attributable to the enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Until FY 2010, the second most common type of votes against corporate management was the support of shareholder proposals seeking to impose shareholder votes on the compensation of executive officers ("say on pay"). But the Dodd-Frank Act newly required shareholders to cast non-binding advisory votes on the compensation of executive officers and on whether the "say on pay" ballot should be held every one, two or three years ("say on frequency"). The novelty of "say on frequency" votes made them the second most common instance in which the division voted against management proposals in FY 2011. In FY 2012, though, division opposition to management on "say on pay" and "say on frequency" proposals became relatively rare. The division responded to OLS Discussion Point #26 that its behavior change mirrored general shareholder behavior. Prior to the Dodd-Frank Act's institution of the non-binding "say on pay" vote, shareholders had frequently voted in retaliation against directors who served as members of a company's compensation committee. In FY 2011 and FY 2012, however, the number of directors who failed to receive majority shareholder support plummeted. Nevertheless, the division noted that the non-binding nature of "say on pay" votes does "not necessarily empower shareholders with respect to compensation." Moreover, the division believed that the overall impact of the non-binding votes "on executive compensation has been negligible." Consequently, division opposition to management-proposed remuneration packages could regain prominence in the future.

Discussion Points (Cont'd)

- **Questions:** Please comment on the exercise of proxy voting rights by the Division of Investment in FY 2013. How many proxies did the division vote in FY 2013, how many management proposals did it vote against, and what areas did rejections of management proposals most commonly concern? Relative to FY 2011 and FY 2012, did the division revive in FY 2013 its proxy voting against a) corporate management on executive compensation arrangements and b) directors sitting on compensation committees? Has there been a policy change in the division's exercise of proxy voting rights since the beginning of calendar year 2013? Please indicate any changes the division has made since the beginning of calendar year 2013 to the "State of New Jersey Division of Investment Proxy Guidelines." Please submit a copy of the "Fiscal Year 2013 Summary Proxy Voting Report."

DIVISION OF PURCHASE AND PROPERTY

30. In their March 2014 "Overlooking Oversight" report researchers at Rutgers University found the State had "a severe lack of systematic [contractor] oversight capacity." The consequences of substandard contract management could be dire. It could lead to the overpayment for procurements and the delivery of goods and services that fail to meet contract specifications. Cost overruns may also result when agencies do not clearly define the scope of work to be provided by contractors. For those reasons the report identified and expressed concern about several **deficiencies in the State's management of contractors**, notably the lack of: a) routine contract costing prior to the issuance of Requests for Proposal (RFP); b) detailed specifications of contract terms in RFPs; c) adequate performance requirements, indicators, and standards, which complicates the assessment of contractor performance; d) interest in penalizing contractors for nonperformance; e) a central contractor performance database; and f) investment in contract management capacity, as attrition has depleted the ranks of contract managers who, in addition, usually do not receive proper training (The report noted that a three-hour online tutorial was the only training most contract managers received.).

Other publications had previously addressed the State's management of private-sector contractors. For example, on page 42 of the FY 2009 Budget-in-Brief, the Executive had conceded that the "State's current system for evaluating contractors [was] somewhat fragmented and the information that [was] gathered [was] not managed in a central, coordinated manner." It was hence possible that certain vendors received additional work "despite a history of poor performance." Moreover, in its November 2007 report on the Division of Purchase and Property, the Office of the State Auditor had stated that none of the contract managers in its sample had received any training. In reply to OLS Discussion Point #16 in the FY 2008-2009 Department of the Treasury Budget Analysis, the division also acknowledged that not all State contract managers at the time were "appropriately trained, skilled, or of a disposition appropriate to being a competent State Contract Manager."

The responsibility for the development of contract terms and contract management resides with contracting agencies. The Division of Purchase and Property runs only the purchasing process. Nevertheless, subsequent to the November 2007 State Auditor report that stated that none of

Discussion Points (Cont'd)

the contract managers in its sample had received any training, the division has taken a multi-pronged approach to improving the quality of contract management in State government. The development of contract management training programs has been a hallmark of the division's initiative. In addressing OLS Discussion Point #21 in the FY 2009-2010 Department of the Treasury Budget Analysis, the division stated that all assigned contract managers were to take a newly implemented mandatory web-based State Contract Manager course and test in FY 2009, which cover State procurement law, policies, procedures, and efficient and effective procurement practices. In addition, the division continued to offer instructor-led State Contract Manager courses upon request. In reply to OLS Discussion Point #33 in the FY 2012-2013 Department of the Treasury Budget Analysis, the division noted that it had also designated a senior staff member to head the training initiative, which newly incorporated insights from protests handled by the division and final agency decisions that were appealed to the Appellate Division of the New Jersey Superior Court. Last year, in addressing OLS Discussion Point #31 in the FY 2013-2014 Department of the Treasury Budget Analysis, the division added that it had assigned two of its contract administrators to overseeing all State contract managers who handle professional services contracts worth at least \$1.0 million. While the division did not intend to change the contract management training curriculum or require continuing education, it reported that many contract managers were now proactively contacting the division with questions and suggestions.

- **Questions:** Please comment on the Rutgers University report's conclusion that the State has "a severe lack of systematic [contractor] oversight capacity." Does the Division of Purchase and Property agree that State agencies and departments are mostly unable to provide effective contract management due to understaffing and insufficient contract management expertise? Does the Administration intend to strengthen the State's contract management capacity? If so, please detail any plans to that effect. Does the division intend to expand its contract management training offerings? Is the division satisfied with the improvements that the training program has brought about in the quality of contract management in State government? If the quality of the State's contract management ability is questionable, should the State place a moratorium on the outsourcing of State government functions?

31. Standard purchasing procedures hinge on the awarding of contracts based on a formal, advertised, competitive bidding process. The **Delegated Purchasing Authority** (DPA) and **Request for Waiver of Advertising** (RWA) programs, to the contrary, exempt certain State agency purchases from the regular process. Agencies can only employ the two alternatives if they cannot procure a purchase transaction through a State contract, the State Distribution and Support Services Center, the Bureau of State Use Industries or the Central Non-profit Agency (CNA), ACCSES NJ. Of the \$1.6 billion the State spent on procurements in FY 2012, 17.4 percent, or \$274 million, was expended under the DPA and RWA programs (\$165 million, or 10.5 percent, for RWAs and \$109 million, or 6.9 percent, for DPAs).

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The DPA program covers State agency purchases valued at no more than \$36,000, which threshold the Division of Purchase and Property increased from \$29,000 effective July 1, 2010 pursuant to statutory authority (see N.J.S.A. 52:34-7 and N.J.A.C. 17:12-1A.2(b)). The table below summarizes basic DPA price solicitation requirements (see Division of Purchase and Property Circular Letter 11-10-DPP, Delegated Purchasing Authority (DPA)). To bypass the advertised competitive bidding process for a procurement whose price exceeds

\$36,000 a State agency must obtain the approval for an RWA from the Division of Purchase and Property and the Department of Law and Public Safety. Existing law sanctions RWAs if an agency has contacted at least three viable firms for price quotations and if a procurement is an emergency; the services to be

DPA Price Solicitation Requirements	
Purchase Value	Solicitation Requirements
Up to \$1,000	One Price Quotation
\$1,000 to \$17,500	Three Price Quotations
\$17,500 to \$36,000	Three Sealed Written Bids
Emergency	One Price Quotation

performed are highly complex, technical, unique or specialized; or if only a single source of supply is available. The Department of Law and Public Safety reviews all RWAs so as to ascertain that they meet legal requirements. N.J.S.A. 52:34-8 et seq., N.J.A.C. 17:12-1A.2(f), and Division of Purchase and Property Circular Letter 11-14-DPP, Requests for Waivers of Advertising, set the legal framework for RWAs. The division reported in response to OLS discussion point #32 in the FY 2013-2014 Department of the Treasury Budget Analysis that the average processing time for an RWA was approximately 41 days at the time of writing the response (it was 75 days in FY 2009). It also noted that it declined 26 RWA requests in FY 2012 and that there were seven known instances in FY 2012 in which State agencies engaged vendors prior to division approval of the RWA requests.

- **Questions:** How many purchases for which total amounts were made, by State agency, under the Delegated Purchasing Authority (DPA) and the Request for Waiver of Advertising (RWA) programs in FY 2013? How do these figures compare to contracts awarded under the formal, advertised, competitive bidding process? What is currently the standard processing time for an RWA? In FY 2013 and 2014, how many RWAs did the Division of Purchase and Property decline? In how many instances did State agencies engaged vendors prior to division approval of the RWA in FY 2013?

32. Between July 1, 1998 and June 30, 2001, the State received \$101.1 million in federal Medicaid funds for school-based health services claimed by school health providers under the **Special Education Medicaid Initiative (SEMI)**. In its May 18, 2006 audit of these claims, the Office of Inspector General in the United States Department of Health and Human Services recommended that New Jersey refund \$51.3 million to the federal government after finding that 109 of 150 audited school-based claims had violated federal and State program guidelines. The State contested the findings. In its reply to OLS discussion point #32 in the FY 2012-2013 Department of the Treasury Budget Analysis, the Department of the Treasury conveyed that through the appeal process the United States Department of Human Services reduced its final reimbursement claim to \$44.5 million. The State paid the amount in January 2012.

Discussion Points (Cont'd)

SEMI is a school-based federal Medicaid Title XIX reimbursement program that allows participating school districts to recover a portion of the costs for certain Medicaid-covered services provided to Medicaid-eligible pupils. The Department of the Treasury shares the administrative responsibility for operating SEMI with the Departments of Children and Families, Education, and Human Services. Specifically, Treasury serves as the contract manager for the billing agent whose responsibilities, in turn, include receiving and processing billing agreements and pupil registration information from school health providers; conducting Medicaid eligibility verification for registered pupils; and monitoring program compliance.

Maximus, Inc., served as the State's billing agent during the period covered by the federal \$44.5 million refund claim. In response to the initial notification of disallowance, the Treasury did not release the \$440,000 performance bond posted by Maximus and opined that it should seek to recover the contingency fees paid to the vendor on the final disallowed claim amounts, and, if possible, an additional amount for damages (department response to OLS Discussion point #4 e. in the FY 2007-2008 Department of the Treasury Budget Analysis). In addressing OLS Discussion Point #33 in the FY 2013-2014 Department of the Treasury Budget Analysis, the Treasury related that the Office of The Attorney General was considering bringing legal action against the vendor. It stated further that, at the time of the response, Maximus no longer served as the State's SEMI billing agent but still had three contracts with the State for other services, including website services, arbitration and mediation services, and support and quality assurance services. Moreover, the Treasury noted that while N.J.A.C.17:12-6.3 (10) allowed for the debarment of a contractor for unsatisfactory performance, it could not debar Maximus for two reasons. First, the unsatisfactory performance had to have occurred within a reasonable time preceding the determination to debar. The unsatisfactory performance in this case, though, dates to 1998 to 2001. Second, the unsatisfactory performance had to have been caused by acts within the control of the debarred contractor. However, in this case Maximus was not solely responsible for the rejection of claims by the United States Department of Health and Human Services because some school districts had failed to properly document services eligible for reimbursement and because some services had been performed by providers who had been qualified under New Jersey Department of Education requirements, but not under federal Medicaid requirements.

- **Questions: What legal recourse, if any, is the State considering, or has initiated, against the vendor, Maximus, Inc., to recoup the \$44.5 million the State had to reimburse the federal government for having filed claims in violation of federal and State Special Education Medicaid Initiative (SEMI) program guidelines? As the State's billing agent was Maximus responsible for program compliance monitoring and ensuring that the documentation submitted to the United States Department of Health and Human Services met program guidelines? If not, who performed, or was supposed to perform, that control function? Please detail the contracts under which Maximus is currently performing services for the State.**

33. On July 7, 2010, the Office of the State Comptroller released its audit report on Billing and Contracting for Telecommunications Services. In the report, the State Comptroller concluded that the Division of Purchase and Property and the Office of Information Technology (OIT) had inappropriately turned several **State telecommunications contracts** into no-bid

Discussion Points (Cont'd)

contracts. One way of circumventing the competitive bidding process was to extend contracts beyond the terms authorized by original contract awards. Specifically, each of the four contracts reviewed by the State Comptroller was first competitively awarded to the current vendors 10 to 15 years ago, had an initial term ranging from one to three years, and authorized a single one- or two-year extension. The division and the OIT, however, extended the contracts between seven and 22 times after exercising the contracts' extension options. A second approach the division and the OIT reportedly used to award no-bid telecommunications contracts involved the approval of Waivers of Advertisement on the basis that only one vendor existed for these services or that the State or federal governments regulated the vendors. In its audit response, the OIT reported that significant discounts accompanied the extensions and that only one vendor was suitable for some of its telecommunications contracts given that the State's outdated internal telephone system precluded competitors from providing telecommunication services. Nonetheless, the State Comptroller recommended that the division and the OIT no longer extend telecommunications contracts beyond their original terms, issue Requests for Proposals to procure telecommunications services and supplies through competitive processes, and review all Waivers of Advertisement for telecommunications services to ensure the proper use of statutorily permissible exceptions to competitive procurement processes.

Responding to OLS discussion point #34 in the FY 2011-2012 Department of the Treasury Budget Analysis, the division stated that it and the OIT were heeding the recommendations and that contracts would be extended only when necessary to allow time for the completion of the competitive bidding process. Accordingly, the division listed six telecommunications contracts that were in the rebid process. Over the next two years, in its replies to OLS discussion point #34 in the FY 2012-2013 Department of the Treasury Budget Analysis and OLS discussion point #34 in the FY 2013-2014 Department of the Treasury Budget Analysis, the division reported that new vendors had been selected for the following four contracts: 1) Video Teleconferencing, 2) Telecommunications Equipment and Services, 3) Wireless Devices and Services, and 4) Radio Communications Equipment and Accessories. The division noted further that the terms and conditions of the new contracts were more favorable to the State than those of the previous contracts with greater discounts and better options and solutions. The procurement process, however, was still ongoing for the remaining two telecommunications contracts: 1) Telecommunications and Data Services, and 2) Toll and 800 Services. In response to OLS discussion point #34 in the FY 2013-2014 Department of the Treasury Budget Analysis, the division stated that the estimated value of the new contract for telecommunications data services was \$120 million over five years and that of the new contract for toll and 800 services \$75 million over five years.

- **Questions:** Please provide an update on the status of the rebidding process for each of the following two telecommunications contracts: 1) Telecommunications and Data Services, and 2) Toll and 800 Services. For each contract, please indicate how many vendors submitted bids; which vendor was selected; the start date of the contract; the term of the contract, including that of any optional extension; and which vendor held the previous contract. Are the terms and conditions of the new contracts more or less favorable to the State than those of the previous contracts? What is the updated estimated value of the new contracts over five years?

Discussion Points (Cont'd)

DIVISION OF PROPERTY MANAGEMENT AND CONSTRUCTION

34. The Division of Property Management and Construction manages the real estate needs of State government. Its responsibilities include the **awarding of contracts for architectural, engineering, design, and construction services** for State facilities and the management of the projects. It also provides State agencies with technical assistance in planning their real estate projects.

Cost overruns are a common occurrence in construction and infrastructure projects worldwide. Published research suggests that deliberate “strategic misrepresentation” runs rampant in vendor *ex ante* bids and that the vast majority of large projects finish with cost overruns, suggesting that errors were not random and the estimates biased. In addressing OLS Discussion Point #28 in the FY 2013-2014 Department of the Treasury Budget Analysis, the division explained that it priced envisioned construction projects before issuing construction bid solicitations. Notably, it first uses a competitive bidding process to hire independent design consultants and professional estimating firms to prepare project designs, specifications, and cost estimates. Upon advertising the completed project plans and specifications, the division awards the actual construction contracts to the “lowest responsible” bidders. The division does not maintain historic data comparing design consultant estimates to actual bid prices and final project costs.

- **Questions:** Please comment on the experiences of the Division of Property Management and Construction with the accuracy of vendor bids for construction-related services for State facilities. What are the average error rates and error variances when *ex ante* vendor bids are compared to actual *ex post* costs? Are the errors biased in one direction? Do the error rates differ according to project size and type? In the last five years, what project produced the largest discrepancy between a winning vendor bid and actual cost?
- Please describe the safeguards the division employs to protect the State against implausibly low vendor bids for construction-related services for State facilities. What techniques does the division use to determine the accuracy of vendor bids? Does the division accord preferential treatment to vendors in the contractor selection process whose bids have proven reliable over time? In setting a project budget, does the division include a cushion of a certain percentage to accommodate unforeseen cost overruns? If so, how does the division determine the percentage? What sanctions could the State bring to bear on contractors whose bid prices turn out to have been unrealistic? Has the division ever brought a lawsuit or contemplated bringing one against a vendor it suspected of having provided a negligent or fraudulent bid? Does the division have the legal authority to bring such a lawsuit?

35. In its December 2013 audit of the Division of Property Management and Construction, the Office of the State Auditor stated that the division’s contractor prequalification and classification process, bid evaluation and contract award process, and contract management were adequate. Nevertheless, the State Auditor pointed to one **shortcoming pertaining to the prequalification and classification of firms seeking to perform construction services for the State, and another concerning consultant selection evaluations.**

Discussion Points (Cont'd)

First, firms must prequalify before they can bid on a State construction project. In order to receive a prequalification that is valid for 24 months a firm must submit comprehensive, multi-faceted information on its operations, including financial statements prepared by independent accountants. Since firms may submit the financial statements directly, however, they could alter or forge their accountants' documents. Indeed, among 35 sampled vendors the State Auditor found one whose independent financial statement appeared to have been altered. Wary of the submission of falsified financial documents the State Auditor thus recommended that the division require firms to have the preparers of their financial documents transmit them directly to the division. Apprehensive that this change would prolong the prequalification process, the division dismissed the idea in its audit reply. Instead, it intended to post a statement on its website that all information submitted by firms would be subject to verification and that any falsehoods would expose a firm to possible civil and criminal proceedings and disbarment from future work. In addition, the division intended to sample applicant materials to ascertain their accuracy. If the sampling revealed instances of strategic misrepresentation, the division would consider a verification process in the future.

Second, the State Auditor found that the division did not have any policies or procedures in place that guide evaluators of consultant services bids on the completion of bid evaluation forms. As a result, the State Auditor counted four among the 15 projects it sampled that had at least one of the evaluators give a numeric score without any written justification. The lack of information, however, impedes unsuccessful bidders in the identification of their bids' relative weaknesses. Consequently, the State Auditor recommended that the division implement policies and procedures requiring evaluators to provide detailed comments supporting their numeric grades on each evaluation. In its audit response, the division announced the recommendation's future implementation.

- **Questions:** Please indicate whether the Division of Property Management and Construction has already posted a statement on its website that information submitted by firms would be subject to verification and that false claims could lead to civil and criminal action and disbarment from future work. Has the division already begun to sample and verify the accuracy of documents submitted by firms seeking to prequalify for State construction contracts? If so, what are the types and prevalence of any inaccuracies? Has the division initiated any debarment from future State work, or any criminal or civil proceedings, for false claims in a firm's prequalification materials? If the division has not yet started the sampling of applicant documentation, by what date does it intend doing so? Will this additional duty divert division resources from other priorities or require the hiring of any additional staff?
- Please report whether the division has already adopted policies and procedures on the written justification evaluators must provide in support of their numeric grades on their bid evaluation sheets. If so, please summarize the policies and procedures. If they have not been established yet, by what date does the division anticipate their implementation? If the division has abandoned the crafting of the policies and procedures, please explain the rationale for the abandonment.

Discussion Points (Cont'd)

36. On October 29, 2012, **Superstorm Sandy** made landfall in New Jersey. The severe weather event inflicted \$935,260 worth of **damage on State-owned facilities and properties**, according to the reply by the Division of Property Management and Construction to OLS Discussion Point #27 in the FY 2013-2014 Department of the Treasury Budget Analysis. The table below itemizes the facilities damaged, each facility's recovery cost, and the status of each facility's recovery.

Facility	Storm Recovery Costs	Recovery Status
James J. Howard Marine Lab (Sandy Hook)	\$445,973	Completed
Distribution and Support Services Facility (West Trenton)	\$229,556	Partially Completed
Department of Health's Health and Agriculture Lab (Ewing Township)	\$188,825	Partially Completed
William Ashby Building (Trenton)	\$24,692	Completed
Miscellaneous (Various Locations)	\$19,500	Completed
Capital Post Office (Ewing Township)	\$18,752	Completed
Department of Environmental Protection Facility (Trenton)	\$7,962	Completed
TOTAL	\$935,260	

As of the date of the division's discussion point response, all recovery projects had been completed but for the acquisition of a replacement generator at the Distribution and Support Services facility in West Trenton (\$160,000) and several projects at the Department of Health's Health and Agriculture Lab in Ewing Township: the repair and replacement of solar panels (\$95,000), the repair of skylights (\$74,160), building façade repairs (\$5,000), lighting protection (\$4,205), and the purchase of 300 gallons of diesel fuel for the backup generator (\$1,008). The division also noted that the Department of the Treasury was seeking reimbursement from the Federal Emergency Management Agency (FEMA) for all eligible recovery costs at a 75 percent reimbursement rate. But the Departments of Health and Environmental Protection had to apply for FEMA reimbursements on their own for the recovery costs they incurred at their respective facilities.

- Questions:** Please indicate whether the replacement generator for the Distribution and Support Services facility in West Trenton has been acquired. Have the recovery projects at the Department of Health's Health and Agriculture Lab been completed? If applicable, please update the \$935,260 cost total of Superstorm Sandy-related recovery projects at State-owned facilities and properties. Please report on the status of the State's efforts to secure reimbursements from the Federal Emergency Management Agency (FEMA) for all eligible recovery costs at a 75 percent reimbursement rate. Has the State received the requested payments? If so, what is the aggregate dollar amount received? Has FEMA denied any reimbursement requests? If so, for what reason(s)? What reimbursement requests are still pending?

Discussion Points (Cont'd)

37. As the manager of State government's real estate needs, the Division of Property Management and Construction is also responsible for the leasing of office and warehouse space. In carrying out this function, section (c) of N.J.A.C.17:11-2.2 mandates that the division conduct periodic **site visits of leased properties**. In its November 2012 audit report on the division and the building leases program, the Office of the State Auditor noted the long frequency between site visits. As of June 14, 2012, some 30 of 248 leased offices had not been inspected in 12 to 23 months. The office expressed concern that if the division did not visit leased properties at least annually, safety and security issues might develop. In addressing OLS Discussion Point #29 in the FY 2013-2014 Department of the Treasury Budget Analysis, the division reported that its Lease Compliance Unit had five filled positions and that it was hoping to refill two of the unit's previously vacated positions in FY 2014. The division remarked further that other priority needs and limited existing staffing made it impractical to reassign staff to the unit from elsewhere within the division.

- **Questions:** Please indicate the number of the State's leased offices that the Lease Compliance Unit in the Division of Property Management and Construction has not inspected within the last 12 months. What is the time that has elapsed since the last inspection of the leased office that has gone the longest without an inspection?
- Does the Lease Compliance Unit still operate with five filled positions? Has the division succeeded in bolstering in FY 2014, or does it intend to bolster in the remainder of FY 2014 or FY 2015, the unit's staffing level so as to up the frequency of site visits of leased properties? If so, how many filled positions have been or will be added to the Lease Compliance Unit? Have all of these positions been filled or will they be filled by new hires? How many vacant positions does the unit currently have?

38. On March 9, 2011, the Office of the State Comptroller released its audit report on the "Disposition of Excess and Surplus Computer Equipment." In reaction to the report, the Division of Purchase and Property and the Office of Information Technology (OIT) **have revised the policies governing the disposition of surplus computer equipment and the protection of data stored thereon.**

Previous Policy: Division of Purchase and Property Circular Letter 00-17-DPP, Disposition of Excess and Surplus Computer Equipment, required that all excess computers be sent to the Surplus Property Unit within the Division of Purchase and Property for centralized redistribution, donation, sale or disposal. In actuality, the Bureau of Special Services warehouse within the Division of Property Management and Construction exercised this function. Once the warehouse received the equipment it was to notify State agencies of its availability, according to N.J.A.C.17:12-9.4. If no State agency claimed the equipment within 30 days, it was disposed of through either sale at public auction or donation to local governments and non-profit organizations. The circular letter also directed State agencies to remove all data from a computer's hard drive and data storage media before sending the computer to the warehouse.

Audit Report: In its March 2011 audit report, the Office of the State Comptroller exposed substantial deviations from regulatory policies and procedures. For example, the State

Discussion Points (Cont'd)

Comptroller found data on 46 of 58 hard drives slated for redistribution in the Bureau of Special Services warehouse and business-related data on 37 of those hard drives, of which 13 were already packaged for public auction at the time of review. The State Comptroller pointed out that granting third parties access to confidential and sensitive information presented a security risk and violated several federal and State data protection and privacy laws. The State Comptroller also found irregularities in the central redistribution of excess computer equipment that reaches the Bureau of Special Services warehouse. For example, the bureau did not announce the availability of excess computer equipment to all State agencies, but frequently contacted certain State agency staff directly to grant them first access to the equipment. In addition, the State Comptroller gained the impression that certain State agency staff received preferential treatment in part in return for office supplies and equipment.

Policy Revisions: In reaction to the report, the Division of Purchase and Property and the OIT have issued revised policies governing the disposition of surplus computer equipment and the protection of data stored thereon (State of New Jersey IT Circular 152-00-01 — Information Disposal and Media Sanitization Procedure, No. 09-10-P1-NJOIT; and Division of Purchase and Property Circular Letter 13-18-DPP, Disposition of Excess and Surplus Computer Equipment). The circular letters discontinue the central redistribution of surplus computers within State government. Nowadays hardware may only be reassigned within the using agency or it has to be sold to the general public at auctions conducted by either a contract vendor or the Surplus Property Unit in the Division of Purchase and Property. The Surplus Property Unit may conduct auctions at the Bureau of Special Services warehouse in the Division of Property Management and Construction or in-house at the sending agency. Furthermore, the circular letters newly require that agencies remove or destroy media capable of storing data (such as hard drives and removable storage devices) before auction. Previously, the data had to be purged, but data storage devices could be part of the excess computer equipment to be redistributed or auctioned. For auctions that will be conducted at the Bureau of Special Services warehouse, warehouse staff will ascertain that all data storage ability has been removed by verifying that the physical equipment count sent to the warehouse by agencies matches the count in the documentation and confirming that agencies properly filled out and signed Form PB180, "Declaration of Removal of all Hard Drives and Other Data Storage Devices on Surplus Computer and other Electronic Devices," according to the Division of Property Management and Construction's response to OLS Discussion Point #30 in the FY 2012-2013 Department of the Treasury Budget Analysis. But warehouse staff only sample, instead of systematically inspect, the equipment to confirm that hard drives and data storage devices are actually removed. If a using agency does not call on the services of the Bureau of Special Services warehouse it must still fill out Form PB180 before any auction and the hardware may at any time be inspected or audited to confirm compliance with the circular letters. Division of Purchase and Property Circular Letter 13-18-DPP, however, does not clearly state whether Bureau of Special Services warehouse staff or Surplus Property Unit staff exercise the control function when auctions are held either by contractors or in-house at using agencies.

According to the Division of Property Management and Construction's response to OLS Discussion Point #30 in the FY 2013-2014 Department of the Treasury Budget Analysis, in sampling incoming shipments Bureau of Special Services warehouse staff had not yet discovered any non-compliance with the circular letters' removal of hard drives and other data storage devices requirement. There were, however, five instances of discrepancies between the actual count of computer equipment and the declaration forms. Lastly, the division indicated

Discussion Points (Cont'd)

that the State earned \$470,000 from the sale of surplus computers and other equipment in FY 2012 and \$187,000 in FY 2013 through February 28, 2013.

- **Questions:** Please describe the current division of labor in the excess computer equipment disposition process between the Bureau of Special Services warehouse in the Division of Property Management and Construction and the Surplus Property Unit in the Division of Purchase and Property. Is the perception correct that Division of Purchase and Property Circular Letter 13-18-DPP reduced the responsibilities of the Bureau of Special Services warehouse? Does the warehouse play any role in auctions conducted by contractors or run in-house at using agencies? Please provide aggregate statistics on the prices and quantities of excess computer equipment sales in FY 2013 and 2014, and break out the total by auction type: Bureau of Special Services warehouse auctions, in-house auctions by using agency, and contractor auctions.
- Is it the view of the Division of Property Management and Construction that agencies are complying with New Jersey IT Circular 152-00-01 and Division of Purchase and Property Circular Letter 13-18-DPP in removing or destroying media capable of storing data before requesting the auctioning off of excess computer equipment? How many auction requests were at first denied in FY 2013 and FY 2014 because of a lack of proper certification that all hard drives and other data storage devices were removed or because hard drives and other data storage devices were actually found not to have been removed? Do Bureau of Special Services warehouse staff conduct the off-site inspections of excess computer equipment that is to be auctioned in-house at the using agencies or by third party contractors? If not, who performs the inspections?

OFFICE OF PUBLIC FINANCE

39. On March 7, 2014, the Tobacco Settlement Financing Corporation entered into a **pledge agreement concerning two classes of refunding bonds it had issued in 2007 as part of the \$3.62 billion Tobacco Settlement Asset-Backed Bonds (Series 2007-1)**. The bond issuance is backed by a portion of the payments the State receives from leading United States tobacco product manufacturers in accordance with the November 23, 1998 multi-state Tobacco Master Settlement Agreement (MSA). The MSA settled New Jersey's claims for relief with respect to the costs it had incurred from residents' cigarette smoking in the year of payment and earlier years. As announced in the MSA, New Jersey was expected to receive approximately \$7.6 billion in payments through 2025 with unquantified payments continuing in perpetuity thereafter. In accordance with P.L.2002, c.32, the State sold its future MSA payment stream to the newly-established single purpose corporation. Serving as a conduit, the corporation then sold the payment stream to bondholders. Under the terms of the Tobacco Settlement Asset-Backed Bonds (Series 2007-1) the corporation subsequently refunded the outstanding bonds in such a manner that it pledged 76.26 percent of the State's future MSA payment stream to bondholders. The corporation transfers the residual, unsecuritized MSA payments, an anticipated \$56.0 million in FY 2015, to the State for general State purposes.

Discussion Points (Cont'd)

The two bond classes subject to the pledge agreement are capital appreciation (or zero-coupon) bonds, meaning that the corporation will not make any interest payment on them. Instead, it issued the bonds at steep discounts relative to their face value and will pay bondholders the face value at maturity. The two bond classes, Series 2007-1B and 2007-1C, have a \$1.28 billion maturity value and a June 1, 2041 maturity date. Presumably, bondholders sought the pledge agreement in reaction to projections that the collateral amount pledged to the bond repayment in 2041 would be insufficient to cover required debt service payments. Instead, according to the "Bond Enhancement Memorandum," dated March 6, 2014, the corporation will now pay the bonds off early in return for a bond enhancement premium. Specifically, the corporation pledged the unsecuritized 23.74 percent of its MSA payment stream starting in FY 2017 to the repayment of the two bond classes until they are fully paid off. This is expected to occur in FY 2023 after \$406.7 million in payments to bondholders. During this period these funds will not be available to the State General Fund. Afterwards, the 23.74 percent of the MSA payments will become available again for general State purposes. In return for the payment acceleration the corporation received a \$91.6 million bond enhancement premium in FY 2014, net of transaction costs, that it transferred to the State for general State use. Based on the interaction between MSA payments to the States and the terms of the bond issuance, the Executive also projects that the corporation will retain \$1.63 billion in bond payments from FY 2042 through FY 2049 that the Executive believes the corporation would otherwise have to make to bondholders. The pledge agreement is reportedly estimated to generate \$136.7 million in net present value savings to New Jersey.

- **Questions:** Please describe the elements of and assumptions behind the projected \$136.7 million net present value savings of the March 2014 pledge agreement concerning two classes of bonds that the Tobacco Settlement Financing Corporation issued as part of the Tobacco Settlement Asset-Backed Bonds (Series 2007-1). What is the calculation's discount rate? Please explain the \$1.63 billion in bond payments that the corporation is estimated not to have to make from FY 2042 through FY 2049 because of the pledge agreement. What is the total dollar value, in nominal terms, that holders of the two concerned bond classes will receive through maturity?
- In addition to the net present value calculation, did the Office of Public Finance perform a risk-return analysis? If so, what were the conclusions? Given that significant uncertainty surrounds the scale of United States cigarette sales of manufacturers participating in the Tobacco Master Settlement Agreement (MSA), and hence the size of MSA payments to New Jersey, from FY 2042 to FY 2049, is it accurate to state that the pledge agreement shifted the risk tied to the uncertainty from FY 2042 to FY 2049 from bondholders to the corporation and thus to the State? If so, what risk premium did the Office of Public Finance exact from the bondholders subject to the pledge agreement?

40. The Office of Public Finance (OPF) issues and manages all State-backed bonded debt. In its September 2013 audit report on the OPF, the Office of the State Auditor found that the OPF had adequate procedures in place to manage the issuance of State-backed debt in accordance with applicable regulations. Nevertheless, the State Auditor brought attention to one shortcoming, namely the inadequate **monitoring of cost of issuance accounts that the OPF**

Discussion Points (Cont'd)

had set up with trustee banks to pay for bond issuance expenses. The State Auditor based this determination, in part, on having located unexpended balances in inactive cost of issuance accounts. As a remedy, the State Auditor recommended that the OPF routinely monitor cost of issuance accounts and develop monitoring procedures that also provide for the proper use of unspent account balances. In its audit response, the Department of the Treasury concurred and outlined its rectification strategy. It reported that the office was already canvassing trustee banks to inventory all cost of issuance accounts and compile the data into a master spreadsheet or database. Furthermore, the office would establish procedures for the periodic review of cost of issuance accounts, the closure of obsolete accounts, and the use of unexpended balances in obsolete accounts.

Bond issuance expenses; such as accounting, legal, advertising, and bond rating fees; are typically paid out of bond proceeds by way of trustee bank accounts. The amounts deposited in the accounts for vendor payment reflect initial cost projections. If unexpended balances remain in the accounts after compensating all vendors for their services, the State is to close the accounts and use the remaining sums either to make debt service payments or to support the bond sale's intended purposes.

- **Questions:** Please indicate whether the Office of Public Finance (OPF) has completed its inventory of cost of issuance accounts that the office had set up with trustee banks to pay for bond issuance expenses. If so, how many cost of issuance accounts are currently active and what total amount of unexpended balances do they hold? How many inactive cost of issuance accounts has the office closed as a result of the inventory and what total amount of unexpended balances has been returned to the State? How has the State used the unexpended balances?
- Please report whether the OPF has established procedures for monitoring and managing cost of issuance accounts. If so, please summarize the procedures and indicate the periodicity of account reviews. If the procedures have not been established yet, please indicate by what date the office anticipates their implementation. If the office has abandoned the development of monitoring procedures, please explain the rationale for the abandonment.

CAPITAL CITY REDEVELOPMENT CORPORATION

41. Established pursuant to P.L.1987, c.58 (N.J.S.A.52:9Q-9 et seq.) and allocated "in but not of" the Department of the Treasury, the **Capital City Redevelopment Corporation (CCRC)** finances community and economic development projects in Trenton's Capital City District in accordance with the Capital City Renaissance Plan. The Capital City Redevelopment Loan and Grant Fund, a nonlapsing revolving fund, finances corporation activities out of moneys received from prior State appropriations and loan repayments. P.L.2009, c.252 changed the corporation's organizational structure and powers so as to transform it from a financing and regulatory agency to a municipal redevelopment agency. The corporation, now constituted as an independent, self-supporting authority, is newly able to add to its financial wherewithal through the sale of bonds, notes, and other obligations paid for from non-State sources.

Discussion Points (Cont'd)

Nevertheless, the corporation experiences a state of financial penury that has impinged on its effectiveness. According to its reply to OLS Discussion Point #38 in the FY 2013-2014 Department of the Treasury Budget Analysis, the Capital City Redevelopment Loan and Grant Fund was in need of recapitalization. At the same time the CCRC had not yet used its new power to issue debt instruments. As a result of the financial deficiency, the CCRC was unable to advance some of its FY 2013 objectives, as the table below indicates in listing: a) several priorities and programming recommendations for FY 2013 that the CCRC had planned to present to the City of Trenton, Mercer County, and the Governor's Authorities Unit, according to its response to OLS Discussion Point #35 in the FY 2012-2013 Department of the Treasury Budget Analysis; and b) the project updates the CCRC provided in answering OLS Discussion Point #38 in the FY 2013-2014 Department of the Treasury Budget Analysis.

Initiative (April 2012)	Update (April 2013)
Craft economic development strategy inclusive of Downtown Master Plan	Ongoing.
Locate funding to provide capital to small and emerging businesses in the Capital District	Unable to secure funding
Develop façade improvement programs for S. Broad Street, N. Broad Street, and State Street	On hold due to lack of funding
Devise a comprehensive redevelopment plan for the former Glen Cairn Arms apartment building on West State Street	The building is demolished and the property will serve as Thomas Edison State College's new nursing education center. The CCRC is involved in planning the development of adjacent properties.
Assist in carrying out first phase of lighting and streetscape improvement plan for the Capital District	Ongoing

In response to OLS Discussion Point #38 in the FY 2013-2014 Department of the Treasury Budget Analysis, the corporation listed its FY 2014 objectives: a) obtaining redevelopment authority designation for the Capital District from the City of Trenton; b) identifying opportunities to issue debt instruments with the assistance of the New Jersey Economic Development Authority; c) identifying funding alternatives to recapitalize the Capital City Redevelopment Loan and Grant Fund; d) assisting the City of Trenton in completing the Capital District lighting improvement plan; e) assisting Mercer County Community College with the expansion of its Capital Campus; f) collaborating with its Capital District partners to develop a business attraction, retention, and expansion strategy; and g) developing the Capital State Park. Moreover, on its website, the CCRC states that it was developing a set of economic benchmark indicators for the City of Trenton that would be used to track the City's economic progress.

- Questions:** Please provide an accounting of the Capital City Redevelopment Loan and Grant Fund for FY 2012, FY 2013, FY 2014, and FY 2015, showing each year's actual or anticipated opening balance, expenditures, revenues, and closing balance. Has the Capital City Redevelopment Corporation (CCRC) been able in FY 2014 to recapitalize the fund? What is the dollar amount of the fund's total outstanding loan portfolio? Which portion thereof is non-performing? Has the corporation ever written off any non-performing loans? Has the CCRC issued any bonds, notes or other

Discussion Points (Cont'd)

- debt instruments? Does the CCRC have any financial resources other than those accounted for in the Capital City Redevelopment Loan and Grant Fund?
- Please provide an update on the corporation's activities in FY 2014 and comment on the state of the revitalization of Trenton's Capital City District. Has the City of Trenton designated the corporation as the redevelopment authority for the Capital District? Has the CCRC co-developed an economic development strategy inclusive of the Downtown Master Plan? If so, please detail the elements of the strategy. Has the corporation co-developed and implemented the envisioned façade improvement programs for S. Broad Street, N. Broad Street, and State Street? Has the CCRC co-developed a redevelopment plan for the properties adjacent to Thomas Edison State College's future Nursing Educational Facility on West State Street? If so, please detail the elements of the redevelopment plan. Has the corporation co-administered and completed the first phase of the lighting and streetscape improvement plan for the Capital District? Has the CCRC provided capital for small and emerging businesses in the Capital District? Has the corporation developed a business attraction, retention, and expansion strategy for the Capital District? Has the corporation assisted Mercer County Community College with the expansion of its Capital Campus? Has the CCRC advanced the development of the Capital State Park? Has the CCRC developed the economic benchmark indicators for Trenton that would be used to track the city's economic performance?
 - What objectives does the corporation intend to pursue in FY 2015? Does it intend to issue any bonds, notes or other obligations in FY 2015? How many filled full-time positions is the CCRC projected to have in FY 2015?

PRINT SHOP

42. The State Police and the Departments of Corrections, Health, Labor and Workforce Development, and Treasury each operate print and copy shops. The Treasury Print Shop handles printing and photocopying services for the remaining State government agencies. Operating as a revolving fund, the self-supporting entity bills client agencies for the expenses it incurs in printing and photocopying documents on their behalf. According to the Governor's FY 2015 Budget (page G-6), the Treasury Print Shop is expected to have 24 employees in FY 2015, the same number as in FY 2014 but four fewer than in FY 2013. Overall, the Governor recommends a \$2.0 million FY 2015 appropriation to the Treasury Print Shop, the same as its revised FY 2014 appropriation, and \$320,000 less than actual FY 2013 expenditures.

In reply to OLS Discussion Point #37 in the FY 2012-2013 Department of the Treasury Budget Analysis, the Department of the Treasury noted that it would conduct a comprehensive review to determine **the most cost-effective method of printing documents for State government**. The review would not just look at the optimal allocation of print assignments between the several in-house print shops and outside contractors but would also consider the structure of printing contracts, the reduction of in-house printing costs, and the modification of print jobs and specifications. A year later, in addressing OLS Discussion Point #39 in the FY 2014-2015 Department of the Treasury Budget Analysis, the Treasury informed that the review was almost

Discussion Points (Cont'd)

finished. The bulk of the analysis had been completed and the department anticipated implementing the review's recommendations in FY 2014. Notably, the department expected placing a greater emphasis on a central review of all print assignments so as to allocate them in the most cost-effective manner between in-house print shops and outside contractors. State print shops would continue to handle the processes for which they had existing production capacity, while outside vendors would do specialty work. But the department could not yet determine whether any task realignment would alter the balance between in-house and outside printing and photocopying. In FY 2012, the State paid private vendors about \$14.4 million for printing services (including paper), and roughly \$12 million in FY 2011. The department hoped, however, that more favorable terms for the procurement of paper would generate significant future cost savings. In addition, the department related that the comprehensive review had already led to the Treasury Print Shop initiating a move from off-set printing to digital imaging. Doing so would be more cost-effective, given the improvements in digital technology and the advanced age of the Treasury Print Shop's off-set printing equipment.

- **Questions: Please indicate total FY 2013 State printing and photocopying expenditures and their anticipated FY 2014 and FY 2015 levels. What dollar amount did the State expend on third party printing services (including paper) in FY 2013? By what date does the Department of the Treasury expect savings to begin materializing from more favorable terms for paper purchases?**
- **Please provide a status report on the comprehensive review the Treasury has conducted on the State's printing operations. Has the department concluded the review? If not, please indicate by what date the department expects its completion. If the review has already been concluded, what were its findings and what are the projected annual cost savings from implementing its recommendations? Which of the recommendations does the Treasury intend to implement? If there are any recommendations that the Treasury does not intend to implement, please list them and provide the rationale for not heeding them.**
- **Has the Treasury Print Shop completed the transition from off-set printing to digital imaging? Has the central review process for print job allocations between in-house print shops and third-party contractors been strengthened? If so, who conducts the central review, are the review's determinations binding, and does the review also encompass non-Treasury print shops? Have the changes spurred by the comprehensive review of State printing operations shifted the balance of print job assignments between in-house print shops and contractors to date?**

STATE CENTRAL MOTOR POOL

43. The Bureau of Transportation Services in the Division of Administration runs the **State Central Motor Pool (CMP)**. Operating as a revolving fund, the self-supporting CMP bills client agencies for the expenses it incurs in managing the State's motor vehicle fleet. Its responsibilities include vehicle purchasing, assignment, maintenance, repair, and fuelling. According to the Governor's FY 2015 Budget (page G-5), the State's estimated FY 2015 vehicle count is 14,700, some 43 vehicles more than in FY 2014. This total includes 8,100 vehicles on

Discussion Points (Cont'd)

agency assignment whose maintenance expenses are accounted for separately in agencies' budgets. The CMP expects to oversee the remaining 6,600 vehicles at an estimated FY 2015 cost of \$29.5 million, the same as the adjusted FY 2014 appropriation, but \$4.3 million less than the \$33.8 million actually expended in FY 2013. The FY 2014 decline is primarily attributable to a reduction in the Additions, Improvements and Equipment account from \$5.3 million in FY 2013 to \$185,000 in FY 2014. Replying to OLS Discussion Point #37 in the FY 2013-2014 Department of the Treasury Budget Analysis, the Division of Administration noted that the CMP had procured 798 new vehicles in FY 2013 at a cost of \$28.4 million. In FY 2012, it had purchased 1,008 new vehicles for \$25.0 million.

The Department of the Treasury has experienced mixed fortunes in its recent attempts to generate cost savings in the management of the State passenger vehicle fleet through outsourcing initiatives. First, according to the FY 2012 Budget Summary, the State was expected to realize \$4.0 million in savings in FY 2012 by privatizing the ownership and maintenance of all or a portion of the State passenger vehicle fleet. The initiative was abandoned in November 2011 after all five bid submissions to a May 2011 Request for Proposal (RFP) failed to fully meet the specifications of the bid solicitation, as the department indicated in response to OLS Discussion Point #36 in the FY 2012-2013 Department of the Treasury Budget Analysis. Similarly, the department reported a year later, in reply to OLS Discussion Point #37 in the FY 2013-2014 Department of the Treasury Budget Analysis, that it had closed another competitive bidding process without a contract award on April 8, 2013. The RFP had sought bids for scheduled and unscheduled maintenance for the CMP fleet. The bids, however, failed to provide any significant cost savings. Nevertheless, the department would continue to explore other options for potential cost savings.

In contrast to the aforementioned outsourcing efforts, the Treasury implemented a new short-term passenger vehicle rental program by joining a multi-state contract with Enterprise, Hertz, and National through the Western States Contracting Alliance. Since May 2012 State agencies and departments can newly avail themselves of the companies' services at discounted rates. Previously, employee travel on State business could only be effectuated in a State vehicle or the employee's own personal vehicle with the State reimbursing the employee for mileage driven. In addressing OLS Discussion Point #37 in the FY 2013-2014 Department of the Treasury Budget Analysis, the department disclosed that, through March 2013, State agencies had used 2,773 vehicle-days for FY 2013 at a cost of \$97,800, thereby allowing the CMP to reduce the size of its "rental" fleet by 80 vehicles. This resulted in the sale of 80 additional vehicles at auction, which netted \$95,700. The department did not anticipate that the new short-term passenger vehicle rental program would lead to any workforce reductions at the CMP.

- **Questions:** Please provide explanatory details on the anticipated decline in spending from the State Central Motor Pool's (CMP) Additions, Improvements and Equipment account from \$5.3 million in actual FY 2013 expenditures to the adjusted FY 2014 appropriation of \$185,000. Please delineate actual and anticipated FY 2013 and FY 2014 expenditures from the account, listing for each year the goods and services purchased and the dollar amount associated with each purchase. Will the discontinued FY 2013 purchases reoccur periodically? If so, what is their expected periodicity?

Discussion Points (Cont'd)

- Please comment on the use by State agencies and departments of the multi-state contract through the Western States Contracting Alliance that allows for short-term passenger vehicle rentals. How many vehicle-days have been rented in each of FY 2013 and FY 2014, at what cost, and what are the associated cost savings? What is the CMP's projection for contract usage in FY 2015? Does the FY 2015 Governor's Budget include any cost savings related to the contract? Beyond the 80 vehicles auctioned off in FY 2013, does the CMP anticipate any additional reductions in its vehicle count because of short-term passenger vehicle rentals? Please describe any other initiative(s) the CMP may have undertaken in FY 2014, or may plan to undertake in FY 2015, to further lower the State's cost of employees traveling on State business.
- For FY 2014, please provide the number of vehicles retired and purchased, indicating how many of the vehicles purchased directly replaced a retired vehicle. What sum does the CMP expect to spend on new vehicle purchases in FY 2014 and 2015?
- For the most recent month for which the data are available, please indicate the total number of State vehicles listed by State department and agency. In the list, please differentiate between passenger vehicles and all other vehicles, and the number of vehicles on individual assignment and pool assignment.

Background Paper: Regional Trends in Business Entity Tax Homes

Budget Pages.... D-368

Introduction & Executive Summary

The place where a business entity decides to call its tax home is an important piece of data for a number of reasons, but from a State budget perspective chiefly because it reflects a point of economic activity and related tax reporting responsibilities. This background paper takes a look at trends in tax homes amongst corporations, S corporations, and partnerships in New Jersey and its five closest neighboring states using federal income tax return originations for federal fiscal years 2004 through 2013.¹ The paper suggests New Jersey is developing a robust partnership population and is ahead of the curve in the national shift toward the use of partnerships as a preferred mode of business entity operations for income tax purposes. However, the State is experiencing an accelerated decline in corporations, the traditional form of larger business operations, and an unusual decline in S corporations, a mode of small business operation. This decline has dragged New Jersey's broader rate of growth down, even in spite of New Jersey's remarkable growth in partnerships.

New Jersey is still above average in the number of business entities making the State its tax home, measured as a total number and relative to population in comparison to its five closest neighboring states. However, shifting from the total number of business entities to the rates of growth of those entities, there are some noteworthy trends. New Jersey's overall rate of growth (2.16%) trails the regional average (13.31%) and the national (22.58%) rate of growth. This lag appears to be driven by two trends: (i) New Jersey's accelerated rate of decline in corporate returns (-30.49%), which is faster than both the regional (-14.64) and national decline (-11.54%); and (ii) New Jersey's abnormal decline in S corporation returns (-10.99%) in contrast to the regional (8.88%) and national (30.32%) growth. Though abnormal, the severity of the declines in corporations and S corporations may be tempered by the States more competitive total number of corporations, particularly when considered relative to population. Moreover, while New Jersey has lagged in terms of the number of corporations and S corporations making the State its tax home, the State has shown remarkable growth in partnerships. Behind only Delaware (63.10%) and New York (56.39%), New Jersey's rate of growth in partnerships (52.01%) exceeds the regional average (46.28%) and the national rate (46.21%).

¹ The data underlying this analysis was obtained from the Internal Revenue Services' Data Book for federal fiscal years 2004 through 2013. Data preceding 2004 was not incorporated into this analysis due to varying treatment of S corporations relative to the broader category of corporations and Maryland return originations relative to the District of Columbia metropolitan area. The Internal Revenue Services' Data Book may be located at: <http://www.irs.gov/uac/SOI-Tax-Stats-IRS-Data-Book>.

Background Paper: Regional Trends in Business Entity Tax Homes (Cont'd)

Business Entity Income Tax Return Originations

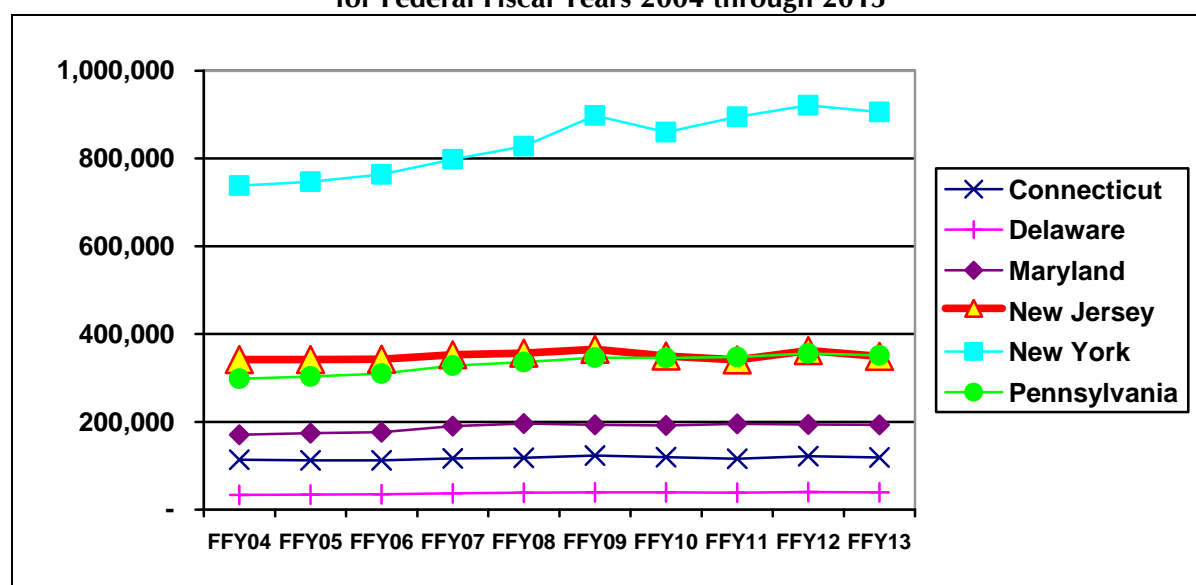
New Jersey is above average in terms of its total number of business entity federal income tax return originations (349,004) in comparison to its five closest neighboring states, behind only New York (906,293) and Pennsylvania (350,958). However, its overall rate of growth for federal fiscal years 2004 through 2013 (2.16%) significantly trails the regional average (13.31%) and national rate of growth (22.58%). This phenomenon appears to result from above average rates of decline in corporations and S corporations. Though noteworthy, the degree of abnormality in New Jersey's lagging growth rate is somewhat muted by its significantly more competitive measurement of business entities relative to population.

Regional Business Entity Growth Rates for Federal Fiscal Years 2004 to 2013	
National Rate	22.58%
Regional Average	13.31%
1. New York	22.76%
2. Delaware	18.63%
3. Pennsylvania	17.77%
4. Maryland	13.48%
5. Connecticut	5.08%
6. New Jersey	2.16%

Population Per Business Entity for Federal Fiscal Year 2013	
Nationally	29.90
Regionally	26.34
1. New York	21.60
2. Delaware	23.11
3. New Jersey	25.40
4. Connecticut	30.13
5. Maryland	30.44
6. Pennsylvania	36.36

*The underlying dataset to this backgrounder covers business entities operating as corporations, partnerships, and S corporations for federal income tax purposes. Sole proprietorships are not covered.

Regional Business Entity Populations for Federal Fiscal Years 2004 through 2013



Background Paper: Regional Trends in Business Entity Tax Homes (Cont'd)

Corporate Income Tax Return Originations

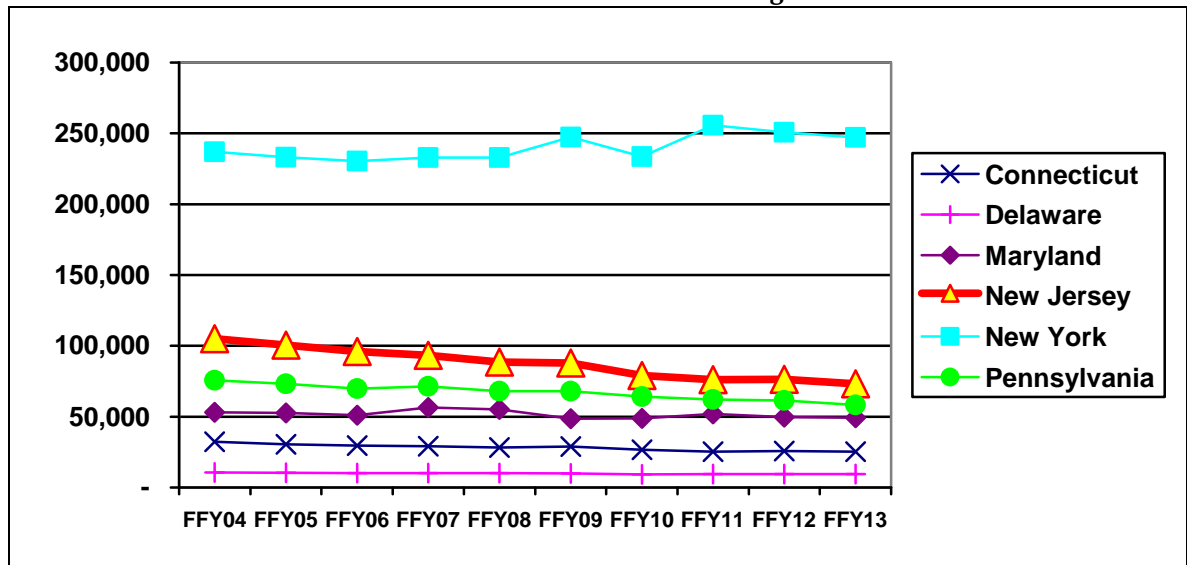
The use of conventional corporations has been on the decline at both the regional and national levels. New Jersey has tracked that trend, but at a faster pace. New Jersey's rate of loss (-30.49%) surpasses both the regional (-14.64%) and national (-11.54%) rates of decline. However, despite that weakness in corporate growth, New Jersey (73,083) remains second only to New York (247,078) in terms of total corporate return originations within the region. It may be noteworthy that though New York and New Jersey rank one and two respectively in the total number of corporations in the region, their growth rates are on the opposite ends of the region's corporate growth spectrum. New York is the only state within the region with a positive corporate growth rate (4.22%) and New Jersey has the largest corporate loss rate (-30.49%).

Regional Corporate Growth Rates for Federal Fiscal Years 2004 to 2013	
National Rate	-11.54%
Regional Average	-14.64%
1. New York	4.22%
2. Maryland	-7.49%
3. Delaware	-9.54%
4. Pennsylvania	-23.00%
5. Connecticut	-21.54%
6. New Jersey	-30.49%

Population Per Corporation for Federal Fiscal Year 2013	
Nationally	139.65
Regionally	111.53
1. New York	79.23
2. Delaware	95.80
3. Maryland	119.59
4. New Jersey	121.30
5. Connecticut	141.26
6. Pennsylvania	219.09

*This dataset covers business entities subject to federal corporate income tax.

Regional Corporate Populations for Federal Fiscal Years 2004 through 2013



Background Paper: Regional Trends in Business Entity Tax Homes (Cont'd)

Partnership Return Originations

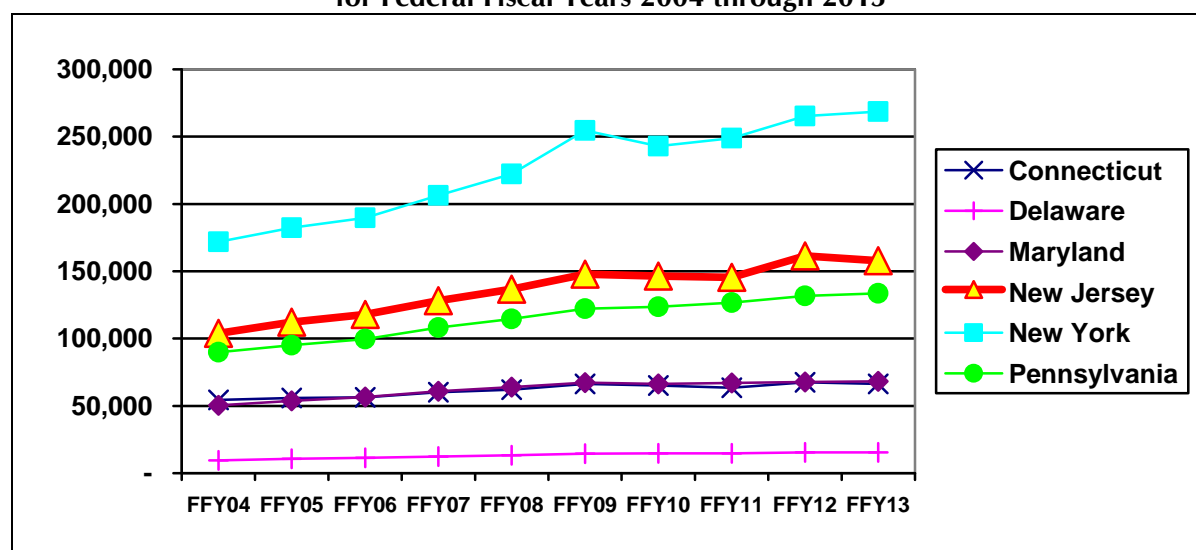
New Jersey has exhibited remarkably strong partnership growth. New Jersey's rate of growth (52.01%) exceeds both the regional average (46.28%) and national (46.21%) rates of growth. New Jersey trails only Delaware (63.10%) and New York's (56.39%) rates of growth within the region. And New Jersey actually has a stronger partnership presence than both of those states relative to population. As to the total number of partnerships, New Jersey (157,859) is second only to New York (268,643) within the region. It is not know the extent to which New Jersey's partnership population may have grown at the expense of the State's abnormal declines in corporations and S corporations.

Regional Partnership Growth Rates for Federal Fiscal Years 2004 to 2013	
National Rate	46.21%
Regional Average	46.28%
1. Delaware	63.10%
2. New York	56.39%
3. New Jersey	52.01%
4. Pennsylvania	48.63%
5. Maryland	35.54%
6. Connecticut	21.98%

Population Per Partnership for Federal Fiscal Year 2013	
Nationally	85.17
Regionally	72.64
1. Connecticut	54.13
2. New Jersey	56.16
3. Delaware	58.90
4. New York	72.87
5. Maryland	86.15
6. Pennsylvania	95.51

*This dataset covers business entities subject to federal income tax reporting as partnerships.

Regional Partnership Populations for Federal Fiscal Years 2004 through 2013



Background Paper: Regional Trends in Business Entity Tax Homes (Cont'd)

S Corporation Income Tax Return Originations

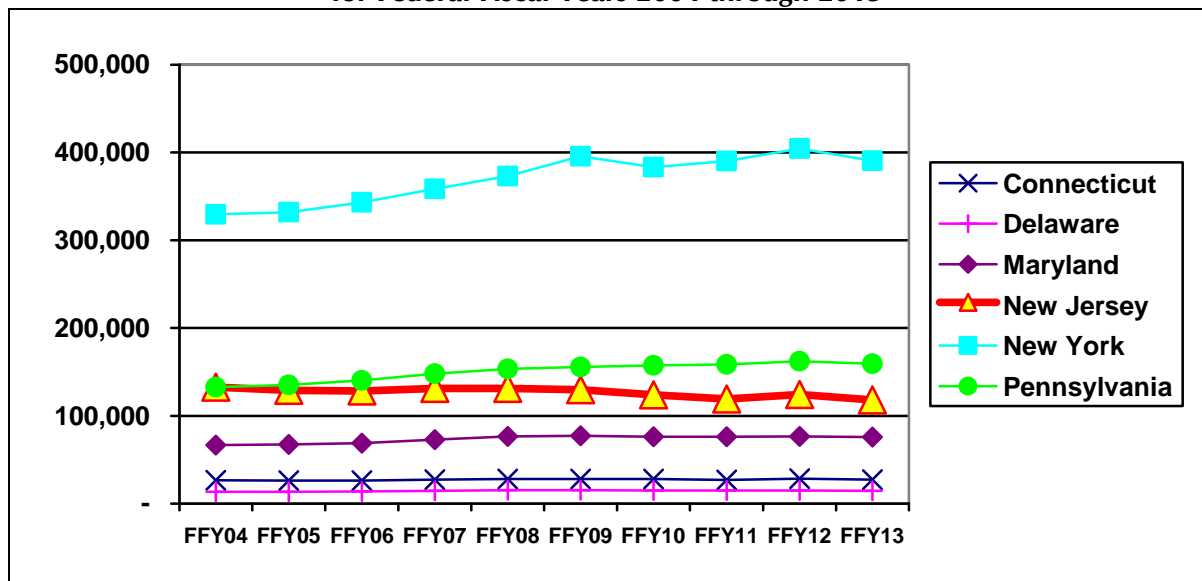
While S corporation federal income tax return originations have grown steadily at the national (30.32%) and regional (8.88%) levels, New Jersey has experienced a decline (-10.99%). This decline places New Jersey (118,062) third in the region in terms of the total number of S corporations, behind Pennsylvania (159,121) and New York (390,572). It may be noteworthy that though New Jersey ranks third behind New York and Pennsylvania in the total number of S corporations, New Jersey's growth rate varies significantly. Pennsylvania (20.10%) and New York (18.55%) lead the region in S corporation growth, while New Jersey is the only state in the region with a S corporation loss rate (-10.99%). Though New Jersey's S corporation loss rate is certainly an abnormality, the State's S corporation presence relative to population is more competitive.

Regional S Corporation Growth Rates for Federal Fiscal Years 2004 to 2013	
National Rate	30.32%
Regional Average	8.88%
1. Pennsylvania	20.10%
2. New York	18.55%
3. Maryland	13.54%
4. Delaware	9.15%
5. Connecticut	2.96%
6. New Jersey	-10.99%

Population Per S Corporation for Federal Fiscal Year 2013	
Nationally	68.74
Regionally	65.68
1. New York	50.12
2. Delaware	63.06
3. New Jersey	75.09
4. Maryland	77.62
5. Pennsylvania	80.19
6. Connecticut	130.93

*This dataset covers business entities subject to federal income tax reporting as S Corporations.

Regional S Corporation Populations for Federal Fiscal Years 2004 through 2013



Background Paper: Regional Trends in Business Entity Tax Homes (Cont'd)

Conclusion

New Jersey stands third in the region in total number of business entities compared to its five closest neighboring states. But the State's above average declines in corporations and S corporations have undercut the growth of the State's business entity population. The severity of the declines in corporations and S corporations are somewhat abnormal, but may be mitigated by the State's more competitive total numbers of corporations and S corporations, particularly when considered relative to population. However, while corporations and S corporations have declined in New Jersey, the State has become a regional leader in partnerships. With an above average partnership population and growth rate, the State appears to be ahead of the broader national shift toward partnerships as a preferred mode of business entity operations for income tax purposes.

Overall, New Jersey appears to be a competitive regional location for business entity tax homes, but there are open questions as to the stability of that regional position. The extent to which New Jersey's robust partnership population has come at the expense of its corporate population is unknown. New Jersey has the strongest corporate loss rate in the region, while New York has the region's only corporate growth rate. New Jersey is the only state in the region with an S corporation loss rate, while New York and Pennsylvania lead the region in S corporation growth. The dataset underlying this paper does not answer the question of whether New Jersey's loss has been its neighbors' gains. However, the dataset does portray New Jersey as having a lagging business entity growth rate that is undermining its historical position as a regional leader in business entity tax homes.

Background Paper: The History of Homestead Rebates

Budget Pages.... D-402 to D-404

The FY 2015 Governor's Budget recommends continuing the restrictions of the FY 2014 New Jersey Homestead Property Tax Credit program for homeowners and the elimination of the tenant program. If implemented, FY 2015 would mark the seventh straight year in which the program does not operate under its statutory framework but under superseding terms set forth in the annual appropriations acts that constrain eligibility and payment levels. In fact, since enactment of the current benefit structure pursuant to P.L.2007, c.62, the program paid statutory benefit amounts only once, in FY 2008.

The variability in eligibility and benefit levels does not represent a departure from the history of the program. Since the inception of the original homestead rebate program in FY 1977, there have been five different statutory incarnations, not counting limitations placed on homestead rebates² in various appropriations acts. While the program adhered to its statutory structures through FY 1992, starting in FY 1993, actual rebate payments have rarely reflected the program's statutory contours. Instead, language in the annual appropriations acts has routinely limited eligibility or benefit amounts or both.

This background paper retraces the history of the homestead rebate program. **Table 3** on page 163 provides an overview of the history of annual program expenditures, and, where available, the number of claimants.

The Original Homestead Property Tax Rebate Program

P.L.1976, c.72 as amended by P.L.1977, c.17 instituted homestead rebates as the precursor of today's homestead credits. First effective in FY 1977, all resident-homeowners could claim a rebate according to a formula that considered only equalized property values and effective municipal tax rates, with senior, disabled, and blind homeowners able to claim an additional \$50. The formula equaled \$1.50 per \$100 on the first \$10,000 of equalized value, or two-thirds of equalized value, whichever was less, plus 12.5 percent of the effective tax rate in the homeowner's municipality, multiplied by \$10,000 of equalized value or two-thirds of equalized value, whichever was less (but rebates were capped at 50 percent of a homeowner's property tax liability). A 1977 amendment extended eligibility to tenants by granting them a \$65 rebate, with senior, disabled, and blind tenants eligible for an additional \$35 (P.L.1977, c.241). Between FY 1982 and FY 1990, the program cost around \$300 million per year with 1.5 million taxpayers receiving rebates averaging about \$195.

² Given that the homestead rebate program has been renamed often over the years, the background paper will employ the term "rebates" interchangeably with the program benefit's official designation in effect at the time.

Background Paper: The History of Homestead Rebates (Cont'd)

The Homestead Property Tax Rebate Act of 1990

The "Homestead Property Tax Rebate Act of 1990" (P.L.1990, c.61) reshaped the program, introducing a taxpayer's tax filing status, income, and property taxes paid as factors in determining rebate amounts. Homeowners and tenants filing jointly with incomes in excess of \$100,000 became ineligible. Homeowners filing jointly with incomes in excess of \$70,000 and no more than \$100,000 received a \$100 rebate, while similarly situated tenants received \$35. Homeowners filing jointly whose income was up to \$70,000 received between \$150 and \$500, depending on the extent to which property taxes paid exceeded five percent of income, and similarly situated tenants received between \$65 and \$500, depending on the extent to which rent constituting property taxes (18 percent of rent paid) exceeded five percent of income. The income requirements for single filers were 50 percent of the ones for joint filers. In FY 1992, the cost of the program rose to \$707 million, as 2.5 million claimants received rebates averaging \$290.

Budgetary constraints led to language provisions in the appropriations acts that restricted program eligibility and certain rebate amounts from FY 1993 through FY 1999. Only senior, disabled, and blind residents with incomes of up to \$70,000 were allowed to receive full statutory rebates, while other individuals with incomes of up to \$40,000 qualified for reduced amounts: \$90 for homeowners and \$30 for tenants. Throughout these years, the program's annual outlay was around \$325 million, as the State issued about 1.5 million rebates averaging approximately \$225.

The NJ SAVER and Homestead Rebate Act

Homestead Rebates: In 1999, the "New Jersey School Assessment Valuation Exemption Relief and Homestead Property Tax Rebate Act (the NJ SAVER and Homestead Rebate Act)" (P.L.1999, c.63) integrated prior budget language restrictions into the statutes and introduced the NJ SAVER, which extended property tax relief to residents who became ineligible for homestead rebates. In addition, the act gradually increased homestead rebate amounts for tenants with incomes not exceeding \$100,000 from \$30 in FY 2000 to \$100 in FY 2004. Residents could not receive both, a homestead and a NJ SAVER rebate.

A 2001 amendment increased the maximum rebate amount from \$500 to \$750 for homeowners and from \$60 to \$100 for tenants effective FY 2002 and indexed the maximum amounts to inflation thereafter (P.L.2001, c.159). Consequently, the average rebate grew from \$219 in FY 2001 to \$319 in FY 2003, and the total outlay rose from \$331 million in FY 2001 to \$506 million in FY 2003. FY 2004 budget language suspended the cost-of-living adjustment for one year and thus maintained the \$775 FY 2003 maximum, which otherwise would have risen to \$790.

NJ SAVER: From FY 2000 through FY 2004, the NJ SAVER provided property tax relief to homeowners who did not qualify for homestead rebates. As of FY 2005, the NJ SAVER became consolidated into the Homestead Property Tax Rebate program.

The NJ SAVER instituted school property tax relief in the form of a rebate check equal to the 1997 equalized school tax rate applied against the first \$45,000 of equalized assessed value of

Background Paper: The History of Homestead Rebates (Cont'd)

eligible owner-occupied, primary residences. Under a five-year phase-in provision, homeowners were to receive 20 percent of the full rebate amount in FY 2000, 40 percent in FY 2001, 60 percent in FY 2002, 80 percent in FY 2003, and 100 percent as of FY 2004. In 2001, an amendment accelerated the phase-in to 83.3 percent in FY 2002 and to 100 percent as of FY 2003, a year earlier than under the initial schedule (P.L.2001, c.106).

Full NJ SAVER rebate amounts were never paid, as budgetary pressures prompted the State to curtail the scope of the program through budget language restrictions. The FY 2003 Appropriations Act limited eligibility to homeowners with incomes not in excess of \$200,000 and suspended the phase-in schedule, so that rebates remained at 83.3 percent of the full statutory amount. The FY 2004 Appropriations Act reduced the FY 2003 amount by 50 percent and maintained the income eligibility requirement.

Apart from FY 2002, when the program had 1.45 million beneficiaries, about 1.25 million homeowners participated in every fiscal year. Subject to the statutory phase-in schedule, the average NJ SAVER amount was \$115 in FY 2000, \$236 in FY 2001, and \$500 in FY 2002. The FY 2003 restrictions resulted in an average amount of \$505, which the FY 2004 limitations reduced to \$256. Program cost mirrored the average rebate trend: in FY 2000, it was \$144.3 million; in FY 2001, \$297 million; in FY 2002, \$724.4 million; in FY 2003, \$630.8 million; and in FY 2004, \$297.3 million.

2004 Homestead Property Tax Rebate Act

The "2004 Homestead Property Tax Rebate Act" (P.L.2004, c.40) folded the NJ SAVER rebate program into the homestead rebate program and raised rebate amounts to up to \$1,200 for certain taxpayers as of FY 2005. To finance the higher benefits, the marginal gross income tax rate on incomes above \$500,000 increased from 6.37 percent to 8.97 percent. Accordingly, the program's FY 2005 expenditures of \$1.54 billion surpassed its FY 2004 funding level by \$726 million, or 90 percent. A resident's statutory rebate amount became the amount by which property taxes paid exceeded five percent of income, subject to a cost-of-living adjustment, the taxpayer's income, property taxes paid, filing status, whether the taxpayer was a homeowner or tenant, and whether the taxpayer was 65 years of age or older or disabled or both. Senior, disabled, and blind homeowners received rebates ranging from \$500 to \$1,200 and all other homeowners from \$500 to \$800. Senior, disabled, and blind tenants' rebates ranged from \$150 to \$850 and all other tenants received a \$150 rebate.

FY 2006 homestead rebate spending fell to \$1.1 billion, a \$442 million, or 29 percent, decline from the FY 2005 funding level. The State realized the savings from restrictions it placed on rebate amounts for non-senior homeowners and tenants (ceilings were either \$300 or \$350 for homeowners and \$75 for tenants). Senior homeowners and tenants, on the other hand, were still eligible for their full statutory rebate amounts.

A language provision in the FY 2007 Appropriations Act overrode the statutory cost-of-living adjustment to benefit amounts for senior, disabled, and blind recipients (3.64 percent) and reduced rebates for other beneficiaries. Instead of statutory benefit levels ranging from \$520 to \$830, such homeowners with annual incomes of no more than \$200,000 received payments ranging from \$200 to \$350. Such tenants with annual incomes of no more than \$100,000

Background Paper: The History of Homestead Rebates (Cont'd)

received \$75 in lieu of the statutory \$150. Hence, the FY 2007 homestead rebate program cost \$1.02 billion, a year-on-year decrease of \$77 million, or 7.0 percent.

Homestead Property Tax Credit Act

Effective as of FY 2008, P.L.2007, c.62 recalibrated the benefit structure of the homestead rebate program for homeowners while maintaining the parameters of the tenant program, apart from requiring that the FY 2008 appropriation for the tenant program double the FY 2007 appropriation. The law also renamed the New Jersey Homestead Property Tax Rebate program the New Jersey Homestead Property Tax Credit program in anticipation of a change in the method of disbursing the benefit from checks mailed to homeowners to credits applied via electronic fund transfer directly against homeowners' local property tax accounts. The conversion to the new delivery method took place in FY 2011.

FY	Cost	Participants
2015**	\$395,200,000	829,000
2014**	\$400,500,000	843,000
2013	\$3,654,000	0
2012	\$408,154,000	857,000
2011	\$266,023,000	944,000
2010	\$1,111,042,000	1,096,000
2009	\$1,672,473,000	2,386,000
2008	\$2,086,995,000	2,552,000

* The annual appropriation for the Homestead Credit Program includes funding for the \$50 refundable property tax credit paid to senior and disabled tenants who do not file income tax returns. The nearly \$3.7 million expended in FY 2013 reflects the cost of these credits.

** Estimated in FY 2015 Governor's Budget

The State paid the new statutory rebate amounts only in FY 2008. Since then budgetary pressures caused the recurring suspension of rebates for certain beneficiaries and the reduction of rebate amounts for others, culminating in the program's one-year suspension in FY 2013. **Table 1** displays for each fiscal year under the New Jersey Homestead Property Tax Credit program the amounts expended and the number of program participants. The FY 2015 figures reflect the FY 2015 Governor's Budget proposal.

Since FY 2010 the eligibility criteria for homeowners have remained fixed. But benefit amounts have vacillated. The timing of rebate payments also began to vary. Through FY 2010, the State disbursed rebates in September and October of each fiscal year. In FY 2011, payments occurred in May, in FY 2012 in February, and in FY 2014 in August.

Furthermore, the number of homeowner rebate claimants has declined since FY 2010. Notwithstanding the constant eligibility criteria, the number of program participants fell

Background Paper: The History of Homestead Rebates (Cont'd)

gradually by 148,800, or 15.0 percent, from 992,000 in FY 2010 to 843,200 in FY 2014. Some 21,600 fewer seniors, or 4.2 percent, participated in the program in FY 2014 (492,400 participants) than in FY 2010 (514,000 participants). But the more significant decline transpired among non-seniors whose participation dropped by 127,200 claims, or 26.6 percent, from 478,000 claimants in FY 2010 to 350,800 in FY 2014. For all claimants combined, the Administration projects another 1.7 percent contraction in FY 2015 to 829,000 participants. In reply to OLS Discussion Point #17 in the FY 2012-2013 Department of the Treasury Budget Analysis, the Treasury reported that its analysis suggested that bracket creep was the erosion's primary driver, especially among former non-senior participants.

As to the tenant rebate program, some 104,000 tenants who were blind, disabled or 65 years of age or older still received rebates in FY 2010. The State discontinued the program beginning in FY 2011.

FY 2008: FY 2008 marked the only year in which the State paid rebates in accordance with P.L.2007, c.62. In all, the State expended \$2.09 billion. This sum represented an increase of \$1.07 billion, or 105 percent, to provide benefits to 1.73 million homeowners and 817,000 tenants.

A homeowner received a statutory rebate based on the homeowner's gross income and property taxes paid in calendar year 2006 up to \$10,000. Credits equaled 20 percent of allowable property taxes paid for incomes up to \$100,000, 15 percent of allowable property taxes paid for incomes over \$100,000 up to \$150,000, and 10 percent of allowable property taxes paid for incomes over \$150,000 up to \$250,000. Homeowners who were age 65 or older, disabled or blind with an income of no more than \$200,000 were guaranteed minimum rebates ranging from \$500 to \$1,000.

P.L.2007, c.62 provided that the FY 2008 appropriation for the tenant program double the FY 2007 appropriation. Accordingly, the FY 2008 Appropriations Act established enhanced one-year tenant benefit levels. Tenants with a gross income of not more than \$100,000 who were 65 years of age or older, disabled or blind received rebates ranging from \$160 to \$860, depending on the tenant's gross income and property taxes paid in calendar year 2006. Minimum benefits ranged from \$160 to \$350. Tenants who were neither 65 years of age or older, nor disabled nor blind who had a gross income not exceeding \$100,000 were entitled to rebates ranging from \$80 to \$350, depending on a tenant's gross income.

FY 2009: Owing to budgetary pressures FY 2009 homestead rebate spending fell to \$1.67 billion, a \$415 million, or 19.9 percent, decline from the FY 2008 funding level, to provide benefits to an estimated 1.52 million homeowners and 865,000 tenants. The State realized the savings from excluding certain homeowners from the program and reducing rebate amounts to certain other homeowners and tenants.

Rebates were eliminated for all homeowners with incomes above \$150,000 and reduced from 15 percent to 10 percent of property taxes paid up to \$10,000 for homeowners with incomes between \$100,000 and \$150,000. Homeowners with incomes of not more than \$100,000 received a statutory rebate equal to 20 percent of property taxes paid up to \$10,000. But all homeowners had their rebates calculated based on 2006, and not 2007, property taxes paid. The minimum benefit for homeowners with incomes not exceeding \$150,000 who were age 65 or older, disabled or blind remained intact.

Background Paper: The History of Homestead Rebates (Cont'd)

As to tenants who were 65 years of age or older, disabled or blind, the FY 2009 Appropriations Act eliminated the statutory inflation adjustment to the maximum so that rebates ranged from \$160 to \$860, with \$160 as the minimum for every beneficiary. Tenants who were neither 65 years of age or older, nor disabled nor blind who had a gross income not exceeding \$100,000 were entitled to an \$80 rebate.

FY 2010: Persisting budgetary pressures prompted further reductions in program spending in FY 2010. Rebate expenditures fell to \$1.11 billion, a \$561 million, or 33.6 percent, decline from the FY 2009 funding level, to pay benefits to 992,000 homeowners and 104,000 tenants. The State realized the savings by eliminating additional homeowners and tenants from the program and reducing rebate amounts to certain other homeowners.

Rebates continued to be eliminated for all homeowners with incomes above \$150,000 and were newly cancelled for homeowners who were neither 65 years of age, nor disabled nor blind with incomes exceeding \$75,000. In addition, rebate amounts remained at a reduced 10 percent of property taxes paid up to \$10,000 for senior, disabled, and blind homeowners with incomes between \$100,000 and \$150,000 and were newly lowered from 20 percent to 13.34 percent of property taxes paid up to \$10,000 for homeowners who were neither 65 years of age, nor disabled nor blind with incomes between \$50,000 and \$75,000.

In all, senior, disabled, and blind homeowners with incomes of not more than \$100,000 and other homeowners with incomes of not more than \$50,000 received a statutory rebate equal to 20 percent of property taxes paid up to \$10,000; senior, disabled, and blind homeowners with incomes above \$100,000 but not exceeding \$150,000 received a rebate equal to 10 percent of property taxes paid up to \$10,000; and homeowners with incomes above \$50,000 but not above \$75,000 received a rebate equal to 13.34 percent of property taxes paid up to \$10,000 if they were neither 65 years of age, nor disabled nor blind. But all homeowners had their rebates calculated based on 2006, and not 2008, property taxes paid. The minimum benefit for homeowners with incomes not exceeding \$150,000 who were age 65 or older, disabled or blind remained intact.

The FY 2010 Appropriations Act newly eliminated all tenants from the rebate program who were neither 65 years of age, nor disabled nor blind. Some 104,000 senior, disabled, and blind tenants, on the other hand, received statutory rebates ranging from \$160 to \$860, except that budget language eliminated the statutory inflation adjustment.

FY 2011 through FY 2014: Ongoing budgetary pressures led to additional reductions in program spending in the period from FY 2011 to FY 2014. The State expended \$266.0 million on the program in FY 2011, \$408.2 million in FY 2012, suspended the entire program in FY 2013, and spent an estimated \$400.5 million in FY 2014. Cuts to benefit amounts rather than eligibility changes primarily achieved the spending reductions.

The New Jersey Homestead Property Tax Credit program for homeowners retained the eligibility restrictions of the FY 2010 iteration. Homeowners who were blind, disabled or 65 years of age or older who had an annual income of not more than \$150,000, and all other homeowners with annual incomes not exceeding \$75,000 were eligible to receive downsized rebates in each fiscal year in which the program was operative. The sole eligibility change concerned the tenant program, which the State eliminated as of FY 2011. Some 104,000

Background Paper: The History of Homestead Rebates (Cont'd)

tenants who were blind, disabled or 65 years of age or older had received FY 2010 rebates ranging from \$160 to \$860.

Whereas the homeowner program's eligibility criteria have remained constant since FY 2010, benefit amounts have fluctuated. In FY 2011, they equaled one-quarter of the payments beneficiaries had received in FY 2010; in FY 2012 and FY 2014 they were two-quarters of the payments beneficiaries had received in FY 2010. Rebate payments did not occur in FY 2013.

Specifically, homeowners who were blind, disabled or 65 years of age or older with incomes not exceeding \$100,000 received homestead rebates of 5.0 percent of property taxes paid up to \$10,000 in FY 2011 and 10.0 percent of property taxes paid up to \$10,000 in FY 2012 and FY 2014 (in lieu of the statutory 20.0 percent they had received in FY 2010). Homeowners who were blind, disabled or 65 years of age or older with incomes between \$100,000 and \$150,000 received rebates of 2.5 percent of property taxes paid up to \$10,000 in FY 2011 and 5.0 percent of property taxes paid up to \$10,000 in FY 2012 and FY 2014 (in lieu of the statutory 15.0 percent and the 10.0 percent they had received in FY 2010). Moreover, annual appropriations acts since FY 2011 eliminated the guaranteed minimum benefit levels for blind, disabled, and senior homeowners with incomes not exceeding \$150,000. In addition, the annual appropriations acts maintained 2006 property taxes, as opposed to the respective prior tax year property taxes, as the basis for calculating benefit amounts.

All other homeowners with incomes not exceeding \$50,000 received homestead benefits of 5.0 percent of property taxes paid up to \$10,000 in FY 2011 and 10.0 percent of property taxes paid up to \$10,000 in FY 2012 and FY 2014 (in lieu of the statutory 20.0 percent they had received in FY 2010). All non-blind, non-disabled, and non-senior homeowners with incomes between \$50,000 and \$75,000 received homestead benefits of 3.34 percent of property taxes paid up to \$10,000 in FY 2011 and 6.67 percent of property taxes paid up to \$10,000 in FY 2012 and FY 2014 (in lieu of the statutory 20.0 percent and the 13.34 percent they had received in FY 2010). Moreover, the annual appropriations acts maintained 2006 property taxes, as opposed to the respective prior tax year property taxes, as the basis for calculating benefit amounts.

Since FY 2011, the timing of rebate payments has also varied. Through FY 2010, the State disbursed rebates in September and October of each fiscal year. In FY 2011, it paid rebates in May, in FY 2012 in February, and in FY 2014 in August. There was no FY 2013 rebate payment.

FY 2015: The Administration recommends maintaining the limitations of the FY 2014 New Jersey Homestead Property Tax Credit program for homeowners. Tenants would remain ineligible. An estimated 829,000 homeowners would collect an average \$469 benefit in FY 2015, after 843,200 homeowners obtained an average \$469 rebate in FY 2014. **Table 2** on page 162 juxtaposes the benefit amounts individuals would receive under statutory provisions, the amounts they actually received in FY 2014, and the amounts they would collect in FY 2015 according to proposed language in the Governor's FY 2015 Budget.

Background Paper: The History of Homestead Rebates

**Table 2
Homestead Property Tax Credit/Homestead Benefit Amounts
Statutory, FY 2014 Actual, and FY 2015 Proposed**

Homeowner or Tenant	Status	Gross Income	Rebate Amounts		
			Statutory	FY 2014 Actual	FY 2015 Proposed
Homeowner	Senior or Disabled	Not over \$70,000	\$1,000 - \$2,000	\$0 - \$1,000	\$0 - \$1,000
		\$70,001 to \$100,000	\$600 - \$2,000	\$0 - \$1,000	\$0 - \$1,000
		\$100,001 to \$125,000	\$600 - \$1,500	\$0 - \$500	\$0 - \$500
		\$125,000 to \$150,000	\$500 - \$1,500	\$0 - \$500	\$0 - \$500
		\$150,001 to \$200,000	\$500 - \$1,000	\$0	\$0
		\$200,001 to \$250,000	\$0 - \$1,000	\$0	\$0
	Under Age 65 and not Disabled	Not over \$50,000	\$0 - \$2,000	\$0 - \$1,000	\$0 - \$1,000
		\$50,001 to \$75,000	\$0 - \$2,000	\$0 - \$667	\$0 - \$667
		\$75,001 to \$100,000	\$0 - \$2,000	\$0	\$0
		\$100,001 to \$150,000	\$0 - \$1,500	\$0	\$0
		\$150,001 to \$250,000	\$0 - \$1,000	\$0	\$0
Tenant	Senior or Disabled, Married	Not over \$70,000	\$150 - \$850	\$0	\$0
		\$70,001 to \$100,000	\$150	\$0	\$0
	Senior or Disabled, Single	Not over \$35,000	\$150 - \$850	\$0	\$0
		\$35,001 to \$100,000	\$150	\$0	\$0
	Under Age 65 and not Disabled	Not over \$50,000	\$150	\$0	\$0
		\$50,001 to \$75,000	\$150	\$0	\$0
		\$75,001 to \$100,000	\$150	\$0	\$0

Background Paper: The History of Homestead Rebates (Cont'd)

Table 3 Funding History of Homestead Rebate and NJ SAVER Programs * (in 000)						
FY	HOMESTEAD REBATES		NJ SAVER		TOTAL	
	Cost	Claims	Cost	Claims	Cost	Claims
2015**	\$395,200	829			\$395,200	829
2014**	\$400,500	843			\$400,500	843
2013	\$3,654	0			\$3,654	0
2012	\$408,154	857			\$408,154	857
2011	\$266,023	944			\$266,023	944
2010	\$1,111,042	1,096			\$1,111,042	1,096
2009	\$1,672,473	2,386			\$1,672,473	2,386
2008	\$2,086,995	2,552			\$2,086,995	2,522
2007	\$1,018,244	2,401			\$1,018,244	2,401
2006	\$1,095,287	2,409			\$1,095,287	2,409
2005	\$1,537,448	2,435			\$1,537,448	2,435
2004	\$513,839	1,583	\$297,314	1,174	\$811,153	2,757
2003	\$505,612	1,559	\$630,776	1,236	\$1,136,376	2,795
2002	\$494,600	1,527	\$724,386	1,440	\$1,207,186	2,967
2001	\$333,400	1,515	\$296,961	1,245	\$628,161	2,760
2000	\$330,700	1,429	\$144,312	1,233	\$454,012	2,662
1999	\$326,300	1,336			\$324,100	1,336
1998	\$322,600	1,324			\$321,700	1,324
1997	\$323,600	1,361			\$323,200	1,361
1996	\$324,700	1,444			\$323,600	1,444
1995	\$324,100	1,464			\$321,600	1,464
1994	\$325,500	1,517			\$325,500	1,517
1993	\$323,800	1,648			\$323,800	1,648
1992	\$707,300	2,460			\$707,300	2,460
1991	\$263,400	1,605			\$263,400	1,605
1990	\$304,900	1,596			\$304,900	1,596
1989	\$304,900	1,575			\$304,900	1,575
1988	\$303,200	1,551			\$303,200	1,551
1987	\$298,700	1,524			\$298,700	1,524
1986	\$300,900	1,535			\$300,900	1,535
1985	\$295,200	1,512			\$295,200	1,512
1984	\$287,300	1,477			\$287,300	1,477
1983	\$286,500	1,493			\$286,500	1,493
1982	\$290,200	1,476			\$290,200	1,476
1981	\$282,100	NA			\$282,100	NA
1980	\$276,600	NA			\$276,600	NA
1979	\$273,300	NA			\$273,300	NA
1978	\$139,500	NA			\$139,500	NA
1977	\$137,200	NA			\$137,200	NA

* The annual appropriation for the Homestead Benefit/Rebate Program includes funding for the \$50 refundable property tax credit paid to senior and disabled tenants who do not file income tax returns. The nearly \$3.7 million expended in FY 2013 reflects the cost of these credits.

** Estimated in FY 2015 Governor's Budget

Background Paper: Resource Diversions from Energy-Related Dedicated Funds

Budget Pages.... C-7 ; C-8 ; C-15 ; C-16 ; D-121 ;
D-359 ; D-380 ; D-381 ; D-428 ;
D-430 ; F-2 ; page 26 of the
"Supplementary Information"
section of the Governor's FY
2015 Budget (online version
only)

The Governor's FY 2015 Budget contains a recommendation to redirect an additional \$117.4 million in Clean Energy Fund balances to the General Fund in FY 2014 and FY 2015 combined. If enacted, the transfer would represent a continuation of the recent practice of diverting unexpended balances in dedicated energy-related off-budget funds into the General Fund as State revenue. In all, including the proposed additional FY 2014 and FY 2015 transfers, a cumulative total of some \$1.18 billion will have been transferred from the Clean Energy Fund, Global Warming Solution Fund, and Retail Margin Fund into the State General Fund from FY 2008 through FY 2015.

As **Table 1** shows, the State began using balances in the dedicated energy-related off-budget funds as general State revenue in FY 2008. The \$10 million displayed in FY 2008 and FY 2009 represents Clean Energy Fund moneys that paid for energy efficiency projects in State buildings. The State then accelerated its redirections of unspent balances in the Clean Energy Fund and the now functionally defunct Retail Margin Fund and Global Warming Solution Fund. Accordingly, more than \$127 million was thus diverted annually between FY 2010 and FY 2014.

FY 2015 Governor's Budget Proposal	\$68,289,000
FY 2014 Governor's Proposed Supplemental	\$49,100,000
FY 2014	\$194,685,000
FY 2013	\$145,430,000
FY 2012	\$252,500,000
FY 2011	\$127,800,000
FY 2010	\$326,000,000
FY 2009	\$10,000,000
FY 2008	\$10,000,000
Prior to FY 2008	\$0
Cumulative Total	\$1,183,804,000

Background Paper: Resource Diversions from Energy-Related Dedicated Funds (Cont'd)

Clean Energy Fund

The Clean Energy Fund (CEF) will have contributed the lion's share of the \$1.18 billion that will have been transferred to the State General Fund from dedicated, energy-related off-budget funds from FY 2008 through FY 2015. Specifically, some \$966.6 million, or 81.6 percent of the total transfer amount, will have originated in the CEF. This number does not include the amounts transferred annually to the State General Fund to defray the administrative expenses related to State-funded positions of the BPU's Office of Clean Energy (\$2.0 million in FY 2014 and \$2.3 million in FY 2015), given that these expenses fall directly within the scope of the statutorily authorized spending purposes of the Clean Energy Program.

The diversions from the CEF into the State General Fund have fallen into five categories. Of the \$966.6 million total, some \$609.2 million, or 63.0 percent, will have been transferred for unspecified general State purposes. Another \$242.5 million, or 25.1 percent, will have been redirected to defray the cost of utilities in State facilities; \$75.0 million, or 7.8 percent, to cover the cost of energy efficiency projects in State facilities; \$36.2 million, or 3.7 percent, to pay for New Jersey Transit's utility costs; and the remaining \$3.7 million, or 0.4 percent, to support the operations of the Office of Sustainability and Green Energy in the Department of Environmental Protection (DEP).

Arguably, the use of CEF resources for energy efficiency projects in State buildings is not a diversion because the fund's balances are to be used for energy efficiency and renewable energy programs. But for purposes of this background paper, the OLS counts the use of CEF balances for energy efficiency projects in State facilities as a fund diversion because it supersedes the BPU's adopted Clean Energy Program budgets. Likewise, the use of CEF resources to support the operations of the DEP's Office of Sustainability and Green Energy could fall within the scope of the statutorily authorized spending purposes of CEF balances. Given that the DEP's specific use of the funds is unidentified, however, the OLS also counts the use of CEF balances by the Office of Sustainability and Green Energy as a fund diversion. If one were to exclude from the \$966.6 million transfer total the \$75.0 million allocated to energy efficiency projects in State facilities and the \$3.7 million proposed to support the operations of the DEP's Office of Sustainability and Green Energy in FY 2015, some \$887.9 million will have been transferred to the General Fund from the Clean Energy Fund from FY 2008 through FY 2015. **Table 2** on the subsequent page breaks down the elements of each fiscal year's balance transfers from FY 2008 through FY 2015.

As can be seen, the Administration proposes to divert an additional \$117.4 million into the State General Fund in FY 2014 and FY 2015 combined. The proposed supplemental FY 2014 transfer equals \$49.1 million and is three-pronged: 1) the use of \$23.3 million to pay for New Jersey Transit's utility costs; 2) the allocation of \$15.8 million to energy efficiency projects in State facilities; and 3) a \$10.0 million transfer without a specified spending purpose.

The Administration's proposed \$68.3 million FY 2015 diversion into the State General Fund, in turn, has four components: 1) the use of \$42.5 million to defray the cost of utilities in State facilities (page D-428); 2) the application of \$12.9 million towards New Jersey Transit's utility costs (page D-359); 3) the allocation of \$9.2 million to energy efficiency projects in State

Background Paper: Resource Diversions from Energy-Related Dedicated Funds (Cont'd)

facilities (page D-430); and 4) the use of \$3.7 million to support DEP's Office of Sustainability and Green Energy (page D-121).

Table 2: Diversions into General Fund of Clean Energy Fund Balances	
FY 2015 Governor's Budget Proposal:	\$68,289,000
State Utility Bills	\$42,500,000
New Jersey Transit Utility Costs	\$12,889,000
Energy Efficiency Projects in State Buildings	\$9,200,000
Office of Sustainability and Green Energy (DEP)	\$3,700,000
FY 2014 Governor's Proposed Supplemental:	\$49,100,000
State General Fund (unspecified)	\$10,000,000
New Jersey Transit Utility Costs	\$23,280,000
Energy Efficiency Projects in State Buildings	\$15,820,000
FY 2014 Appropriations Act:	\$194,685,000
State General Fund (unspecified)	\$152,185,000
State Utility Bills	\$42,500,000
FY 2013:	\$131,500,000
State General Fund (unspecified)	\$89,000,000
State Utility Bills	\$42,500,000
FY 2012:	\$252,500,000
State General Fund (unspecified)	\$200,000,000
State Utility Bills	\$42,500,000
Energy Efficiency Projects in State Buildings	\$10,000,000
FY 2011:	\$52,500,000
State Utility Bills	\$42,500,000
Energy Efficiency Projects in State Buildings	\$10,000,000
FY 2010:	\$198,000,000
State General Fund (unspecified)	\$158,000,000
State Utility Bills	\$30,000,000
Energy Efficiency Projects in State Buildings	\$10,000,000
FY 2009:	\$10,000,000
Energy Efficiency Projects in State Buildings	\$10,000,000
FY 2008:	\$10,000,000
Energy Efficiency Projects in State Buildings	\$10,000,000
Cumulative Total	\$966,574,000

In general, the CEF is a dedicated, off-budget fund that serves as the repository of moneys sustaining the activities of New Jersey's Clean Energy Program. New Jersey ratepayers finance

Background Paper: Resource Diversions from Energy-Related Dedicated Funds (Cont'd)

the program via the societal benefits charge included in their electric and natural gas bills. Operative since April 2001, the program was authorized as part of the "Electric Discount and Energy Competition Act," P.L.1999, c.23 (N.J.S.A.48:3-49 et seq.). Through the program the BPU seeks to promote increased energy efficiency and the use of renewable energy sources. But the program no longer supports the installation of solar energy generation systems, as the State has adopted Solar Renewable Energy Certificates (SRECs) as the subsidy mechanism for solar power. The Offshore Renewable Energy Certificate (OREC) program attempts to do the same for offshore wind energy installations.

The BPU has not yet determined the Clean Energy Program budget for FY 2015. But the BPU Board Order dated February 14, 2014 Docket number EO13050376V shows a revised \$418.1 million FY 2014 funding level for the program: a) \$304.3 million, or 72.8 percent, support the portfolio of energy efficiency programs; b) \$38.0 million, or 9.1 percent, the Combined Heat and Power (CHP) and Fuel Cell Program; c) \$31.4 million, or 7.5 percent, three green energy-related economic development programs that the BPU co-administers with the Economic Development Authority; d) \$20.3 million, or 4.9 percent, renewable energy programs; e) \$12.8 million, or 3.1 percent, the Temporary Relief for Utility Expenses (TRUE) program; and f) \$11.4 million, or 2.7 percent, the administrative expenses of the BPU's Office of Clean Energy.

Notwithstanding the lack of an adopted program budget for FY 2015, the Governor's FY 2015 Budget anticipates \$450.9 million in available CEF resources in FY 2015, which is composed of \$344.8 million in new revenues and an opening balance of \$106.1 million. On the other side of the ledger, the Governor's FY 2015 Budget anticipates \$305.9 million in expenditures, which is comprised of \$235.3 million in direct expenditures and \$70.6 million in transfers to the State General Fund, including \$2.3 million to pay for administrative expenses related to State-funded positions of the BPU's Office of Clean Energy. A \$145.0 million projected fund balance would remain at the end of FY 2015 (page 26 of the "Supplementary Information" section of the Governor's FY 2015 Budget, available in the online version only).

Global Warming Solutions Fund

The Global Warming Solutions Fund (GWSF) contributed \$79.1 million, or 6.7 percent, to the \$1.18 billion that will have been transferred to the State General Fund from dedicated, energy-related off-budget funds from FY 2008 through FY 2015. As **Table 3** portrays, the transfer took place in two stages, notably in FY 2011 and FY 2013.

Balances in the GWSF represented the amounts New Jersey collected from auctioning off carbon dioxide emission allowances to power plant owners under the multistate Regional Greenhouse Gas Initiative (RGGI). In all, New Jersey reaped \$113.3 million from the auctions. With New Jersey's exit from RGGI at the end of 2011, though, the GWSF is no longer credited with any new deposits.

Prior to New Jersey's 2011 departure from RGGI, the State had been among ten Northeastern and Mid-Atlantic states comprising the initiative. RGGI members pledge to cap annual regional carbon dioxide emissions from power plants at their projected 2009 level from 2009 through

Background Paper: Resource Diversions from Energy-Related Dedicated Funds (Cont'd)

2014 and to lower emissions by ten percent from 2015 through 2018. RGGI created a mandatory cap-and-trade program effective as of January 1, 2009 under which participating states first auction off carbon dioxide emission allowances to power plant owners who may subsequently trade the allowances in a secondary market so as to match them with their emission levels.

Table 3: Diversions into General Fund of Global Warming Solutions Fund Balances	
FY 2013:	\$13,930,000
State General Fund, returned from EDA (unspecified)	\$12,500,000
State General Fund (unspecified)	\$1,430,000
FY 2011:	\$65,200,000
State General Fund (unspecified)	\$65,200,000
Cumulative Total	\$79,130,000

P.L.2007, c.340 authorized New Jersey's participation in RGGI and mandated that all proceeds from the auctioning of emission allowances be deposited in the GWSF and used for environmental purposes (N.J.S.A.26:2C-50 et seq.). The law directed the Economic Development Authority to use 60 percent of fund receipts to provide financial assistance to commercial, institutional, and industrial entities to support energy efficiency projects, combined heat and power production facilities, and new efficient electric generation facilities. The BPU was to use another 20 percent of the proceeds to support programs reducing the electricity demand or costs of low- and moderate-income residential ratepayers primarily in urban areas. The Department of Environmental Protection was to use the remaining 20 percent to manage the State's forests and tidal marshes and to support local government initiatives designed to lower greenhouse gas emissions.

Retail Margin Fund

The Retail Margin Fund (RMF) contributed \$138.1 million, or 11.7 percent, to the \$1.18 billion that will have been transferred to the State General Fund from dedicated, energy-related off-budget funds from FY 2008 through FY 2015. As **Table 4** depicts, the transfer took place in two stages, namely in FY 2010 and FY 2011. The \$138.1 million reflected virtually the entire amount ever deposited in the RMF.

Balances in the RMF accrued from the 0.5¢ per kilowatt-hour retail margin that electric distribution companies charged certain non-residential customers remaining on Basic Generation Service since August 2003 under sections 3 and 9 of P.L.1999, c.23 (N.J.S.A.48:3-51 and 48:3-57). For several years RMF balances accrued in the near-absence of assigned spending purposes. P.L.2009, c.34 then required that \$60 million of the accrued RMF balances as of March 31, 2009 fund grants to support the development of Combined Heat and Power

Background Paper: Resource Diversions from Energy-Related Dedicated Funds (Cont'd)

facilities. The law also authorized the BPU to use any remaining and future collections to operate programs for Commercial and Industrial Energy Pricing (CIEP) electric customers that maximize energy conservation and efficiency, reduce peak energy demand, and increase renewable energy sources. Balances in the RMF were never spent on the intended statutory purposes, however, and were instead diverted into the General Fund as State revenue. The BPU terminated the retail margin assessment effective June 1, 2011 so that the RMF is no longer credited with any new deposits.

Table 4: Diversions into General Fund of Retail Margin Fund Balances	
FY 2011:	\$10,100,000
State General Fund (unspecified)	\$10,100,000
FY 2010:	\$128,000,000
State General Fund (unspecified)	\$128,000,000
Cumulative Total	\$138,100,000

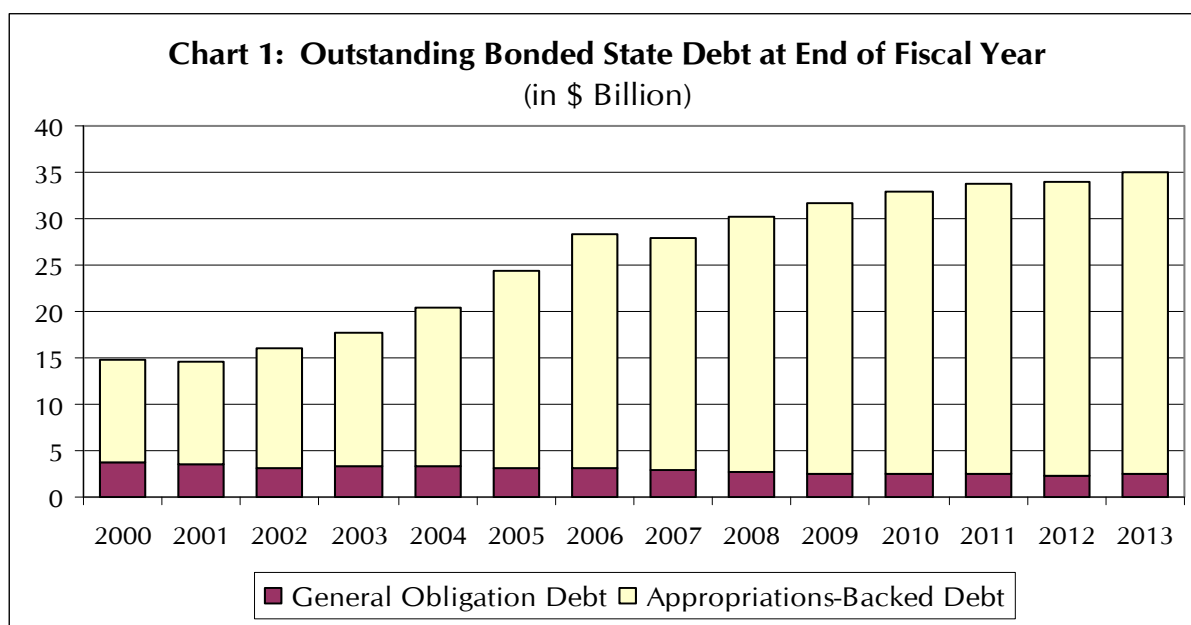
Background Paper: The Budgetary Impact of the State’s Bonded Debt

Budget Pages.... E-2 to E-8; H-8; H-15

The State of New Jersey had \$34.97 billion in outstanding bonded indebtedness and \$8.27 billion in legislatively authorized but unissued bonding authority at the end of FY 2013. The Governor’s FY 2015 Budget includes \$3.12 billion in on-budget payments to service that bonded debt. The amount represents 9.1 percent of the \$34.45 billion in anticipated FY 2015 on-budget revenues. The \$3.12 billion, however, does not include debt service payments from off-budget State sources. The Office of Public Finance in the Department of the Treasury projected in the FY 2013 State of New Jersey Debt Report that the State would have to make \$226.8 million in FY 2015 off-budget debt service payments. If that number is still accurate, then total recommended FY 2015 State debt service payments on bonded indebtedness would approximate \$3.35 billion. This total equates to 6.1 percent of the \$55.00 billion in anticipated FY 2015 on- and off-budget State revenues.

The State’s Outstanding Bonded Indebtedness

Outstanding Bonded Indebtedness at the End of FY 2013: The State had \$34.97 billion in outstanding bonded indebtedness at the end of FY 2013, according to the FY 2013 State of New Jersey Debt Report. That debt burden was equivalent to 72.9 percent of the \$47.97 billion in FY 2013 State revenues and 6.88 percent of New Jersey’s calendar year 2012 gross domestic product (the Bureau of Economic Analysis in the United States Department of Commerce indicates that New Jersey’s gross domestic product was \$508.0 billion in calendar year 2012, the most recent year for which the information is available). Pages 67 and 68 of the FY 2013 State of New Jersey Debt Report set forth several statistics comparing New Jersey’s debt burden as measured against population, personal income, and state gross domestic product to the debt burden of other states. At the end of FY 2013, the State still had \$8.27 billion in legislatively authorized but unissued bonding authority.



Background Paper: The Budgetary Impact of the State's Bonded Debt (Cont'd)

Outstanding Bonded Indebtedness since FY 2000: Since FY 2000, the State's outstanding bonded indebtedness has expanded at an annualized rate of 6.9 percent. In FY 2000, the State had \$14.75 billion in debt. By FY 2013, the total had grown by 137.1 percent, or \$20.23 billion, to \$34.97 billion. **Chart 1** above displays the scale of the State's outstanding bonded debt service obligations at the end of each fiscal year from FY 2000 through FY 2013.

General Obligation and Appropriations-Backed Bonds: The State's bonded indebtedness has two elements: general obligation bonds and appropriations-backed bonds. A key difference between the two types of debt is that the consent of the voters has always been required for general obligation bonds, but only since a 2008 constitutional amendment has voter consent been required for newly enacted appropriations-backed bonds. Moreover, when the State issues general obligation bonds, it pays the required debt service out of the General Fund and pledges its full faith and credit, meaning that the State backs the debt issuance with a direct and irrevocable guarantee of its taxing power as a repayment source. Appropriations-backed bonds, in contrast, do not carry the State's full faith and credit pledge. Instead, when the State issues appropriations-backed bonds, it uses State Authorities as a conduit issuer and promises to provide for required debt service payments in the annual appropriations acts. That promise, however, is not a legally binding, irrevocable guarantee.

Initially, State bonds were issued as general obligation bonds, as the State Constitution requires voter approval before the State can borrow additional money if the total State debt after the bonds' issuance will exceed one percent of the amount appropriated for the fiscal year of the bonds' approval (Article VIII, Section II, paragraph 3). Over time, however, State courts have gradually loosened the voter-approval strictures. The New Jersey Supreme Court first held in *Clayton v. Kervick*, 52 N.J. 138 (1968), that debt obligations issued by State Authorities are not subject to voter approval if they are not backed by the State's full faith and credit. Since then, State statutes have repeatedly bypassed voters by opting to raise capital through appropriations-backed bonds with independent State Authorities serving as a conduit issuer of bonds. In November 2008, voters limited that practice by adopting a constitutional amendment requiring voter approval for new laws authorizing appropriations-backed bonds issued by independent State Authorities. The sole exceptions from the new limitation are bonds that are to be paid off from a constitutional dedication of State revenue or from an independent non-State source of revenue paid by third persons for the use of the financed project.

Over time, the State chose to raise funds predominantly without voter approval by using bonds issued by independent State Authorities. The vast majority of its indebtedness today is therefore in appropriations-backed bonds, with the relative share of general obligation debt steadily declining. In FY 2013, appropriations-backed bonds made up 93.1 percent, or \$32.57 billion, of the \$34.97 billion in outstanding bonded indebtedness. General obligation bonds accounted for the remaining 6.9 percent, or \$2.40 billion. In FY 2000, appropriations-backed bonds comprised 74.3 percent (\$10.96 billion) of the \$14.75 billion in outstanding debt service obligations and general obligation bonds 25.7 percent (\$3.79 billion). It remains unclear whether the enactment of the 2008 constitutional amendment will change that trend. **Chart 1** on the previous page shows the relative weight of general obligation and appropriations-backed bonds from FY 2000 through FY 2013.

Background Paper: The Budgetary Impact of the State's Bonded Debt (Cont'd)

The State's Annual Bonded Debt Service Payments

The Governor's FY 2015 Budget includes \$3.12 billion in on-budget payments the State would make in FY 2015 to service its bonded indebtedness. To put that number into perspective, it represents 9.1 percent of the \$34.45 billion in anticipated FY 2015 on-budget revenues. The \$3.12 billion, however, does not include debt service payments from off-budget revenue sources. The Governor's Budget does not quantify those payments. But the FY 2013 State of New Jersey Debt Report projected \$226.8 million in FY 2015 off-budget debt service payments. If that number is still accurate, total recommended FY 2015 State debt service payments on bonded indebtedness would be \$3.35 billion. This total equates to 6.1 percent of the \$55.00 billion in anticipated FY 2015 on- and off-budget State revenues.

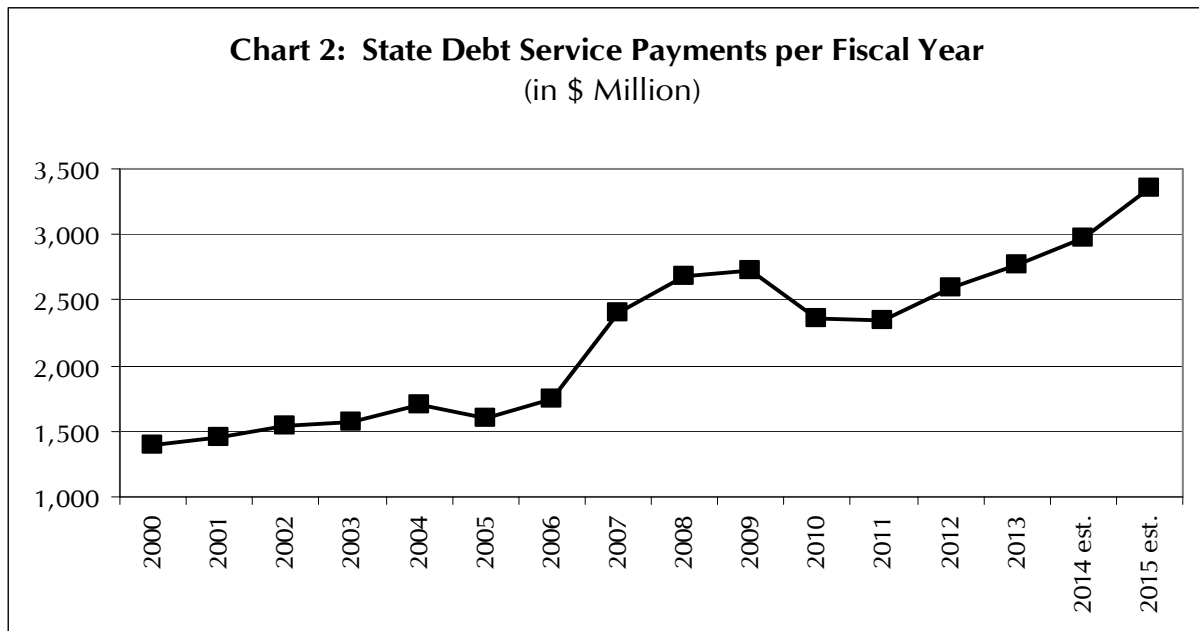
Debt Service Payments on General Obligation Bonds: The Governor's Budgets over the years have detailed contractually required general obligation bond debt service payments in the "Capital Construction and Debt Service" section (see pages E-2 to E-8 in the Governor's FY 2015 Budget). In FY 2015, the State would pay \$404.8 million to service its general obligation bond debt, some \$85.1 million, or 26.6 percent, more than in FY 2014. The difference is ascribable to: a) \$46.2 million in rising debt service payments under the terms of existing refunding bond covenants; b) \$24.8 million in projected debt service payments on unspecified anticipated FY 2014 and FY 2015 general obligation bond sales; c) \$5.7 million in additional debt service payments on Green Acres, Farmland, Blue Acres, and Historic Preservation Bonds (P.L.2007, c.119), predominantly reflecting the FY 2013 sale of \$31.5 million in new bonds; d) \$2.4 million in debt service payments on FY 2013 bond sales that represented the first issuances under their respective bonding authorities, namely a \$169.5 million Green Acres, Water Supply and Floodplain Protection, and Farmland and Historic Preservation Bonds (P.L.2009, c.117) sale and a \$100.0 million Building Our Future Bonds (P.L.2012, c.41) issuance to finance higher educational capital projects; and e) \$6.0 million in miscellaneous changes. In general, in FY 2015, general State resources will for the first time pay for debt service on bonds issued in FY 2013. This is so because the Treasury applied to their FY 2014 payment a portion of the \$24.2 million in original issue premiums it had realized in prior bond sales.

The budgeted numbers, however, are incomplete, for they capture only general obligation bond debt service payments from budgeted resources. FY 2014 debt service payments are actually \$343.9 million instead of \$319.7 million after the inclusion of \$24.2 million in offsetting payments from bond premiums the State had received as part of prior bond issuances. Similarly, anticipated FY 2015 debt service payments are \$433.3 million, rather than the budgeted \$404.8 million, owing to the application towards required FY 2015 debt service payments of: a) \$23.0 million in bond premiums the State realized in prior bond sales; and b) \$5.5 million to be realized from a proposed general obligation bond cash defeasance. Defeasance is a method of liquidating debt whereby the issuer sets aside cash in an escrow account to pay off the bonds. Doing so allows the issuer to remove the bonded indebtedness from the issuer's balance sheet. Therefore, FY 2015 general obligation bond debt service payments are projected to grow by \$89.4 million, rather than \$85.1 million.

Background Paper: The Budgetary Impact of the State’s Bonded Debt (Cont’d)

Debt Service Payments on General Obligation and Appropriations-Backed Bonds from On-Budget Sources: General obligation bonds represent only a fraction of the State’s total annual debt service obligations, whereas appropriations-backed bonds comprise an overwhelming majority thereof. Proposed FY 2015 debt service payments on appropriations-backed bonds, however, are scattered among numerous accounts in several departments. On page H-15 of the Governor’s FY 2015 Budget, the Administration lists its \$3.32 billion in recommended FY 2015 on-budget debt service appropriations for general obligation and appropriations-backed bonds from on-budget sources. For purposes of this background paper, however, the OLS disregards some entries on that listing and arrives at \$3.12 billion in recommended State appropriations for the payment of bonded debt service from on-budget sources. Specifically, the OLS excludes \$202.3 million in obligations because they do not reflect bonded liabilities: a) non-bonded Capital Leases, \$83.8 million; b) New Jersey Transit Certificates of Participation, \$64.2 million; c) Line of Credit Borrowing, \$48.1 million; d) Interest on Short-Term Notes, \$6.0 million; and e) Interest on Interfund Borrowing, \$100,000.

Total Debt Service Payments: The \$3.12 billion in recommended FY 2015 State appropriations for the payment of bonded debt service from on-budget sources provides an incomplete picture of the State’s total required FY 2015 debt service payments, as the number fails to include debt service payments that would be made from off-budget sources. The Governor’s FY 2015 Budget does not aggregate these expenditures. The FY 2013 State of New Jersey Debt Report, however, indicates the Administration’s previous projection that off-budget debt service payments would be \$226.8 million in FY 2015 (from certain off-budget cigarette tax and motor vehicle fee revenues). If that number is still accurate today, total recommended FY 2015 State debt service payments on bonded indebtedness would approximate \$3.35 billion.



Annual Total Debt Service Payments since FY 2000: Historical debt service payments broadly mirror the trend in outstanding debt service obligations with the exception of the impact of several refunding initiatives. Specifically, State bonded debt service payments have increased

Background Paper: The Budgetary Impact of the State's Bonded Debt (Cont'd)

\$1.96 billion, or 141.0 percent, from \$1.39 billion in FY 2000 to an estimated \$3.35 billion in FY 2015, representing an annualized growth rate of 7.0 percent. **Chart 2** above displays the amount of total annual debt service payments the State made from FY 2000 through FY 2013 and is forecast to make in FY 2014 and FY 2015. Bond refundings explain the dip relative to the FY 2009 level in FY 2010, 2011, and 2012. The expiration of front-loaded debt service reductions attributable to the refundings also explains a significant portion of the year-over-year increases in bonded debt service payments since FY 2012.

Chart 2 relies on data in the annual State of New Jersey Debt Reports, except for the FY 2015 figure, which reflects the \$3.35 billion calculated pursuant to the above method. The chart does not display the FY 2013 Debt Report's projections for FY 2015 through FY 2019 because the projections do not encompass the issuance of any new or refunding bonds subsequent to the report's date of publication. For example, the Governor's FY 2015 Budget indicates that the State is contractually obligated to spend \$1.26 billion to service Transportation Trust Fund bonds in FY 2015. The FY 2013 Debt Report pegs the number at \$1.05 billion. Furthermore, taking into account anticipated sales of several new and refunding bonds in FY 2014 and FY 2015, the Administration shows in the Governor's Budget that the State is contractually obligated to spend \$577.6 million to service school construction bonds in FY 2015. The FY 2013 Debt Report has set that number at \$862.9 million. The Governor's Budget also anticipates \$24.8 million in debt service payments on new unspecified general obligation bond sales under existing bonding authority in the remainder of FY 2014 and FY 2015.

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Individuals wishing information and committee schedules on the FY 2015 budget are encouraged to contact:

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