Discussion Points

DEPARTMENT OF THE TREASURY

1. P.L.2019, c.32 established several multiyear schedules for gradually raising the State minimum wage from currently $8.85 per hour to not less than $15 per hour. The increase may affect department staff, third parties that provide services to or on behalf of the department, and programs with means-tested eligibility criteria. In FY 2020, the general State minimum wage will rise as follows: 1) on July 1, 2019 to $10 per hour; and 2) on January 1, 2020 to not less than $11 per hour. The general minimum wage schedule will increase to at least $12 per hour on January 1, 2021; $13 per hour on January 1, 2022; $14 per hour on January 1, 2023; and $15 per hour on January 1, 2024.

• Question: Please quantify the fiscal impact to the department in FY 2020 of the increases in the minimum wage of department employees from $8.85 to $10 per hour on July 1, 2019 and from $10 to $11 per hour on January 1, 2020, and the number of employees who will be impacted by each increase. Relative to current compensation levels, please provide the same information assuming an hourly minimum wage of $12, $13, $14, and $15.

Answer: There is no impact for the scheduled increase in the minimum wage for FY 2020.

• Question: Please quantify the fiscal impact to the department in FY 2020 of the increases in the minimum wage of employees of third parties that provide services either to the department, including temporary employment services, or on behalf of the department according to contractual agreements. Relative to current compensation levels, please provide the same information assuming an hourly minimum wage of $12, $13, $14, and $15.

Answer: The minimum wage’s fiscal impact for the Department of the Treasury’s third party providers is minimal for FY 2020.

• Question: Please quantify the fiscal impact to the department in FY 2020 of the increases in the minimum wage of enrollees in programs run by the department that have means-tested eligibility criteria. Relative to current compensation levels, please provide the same information assuming an hourly minimum wage of $12, $13, $14, and $15. Please list the programs with income-based eligibility criteria that will be affected by P.L.2019, c.32 and for each such program specify the law’s projected effects on enrollment, the benefits provided to enrollees, and the projected cost savings to the department.

Answer: The minimum wage’s fiscal impact for the Department of the Treasury’s means-tested eligibility criteria is minimal for FY 2020.

2. P.L.2018, c.31, the "New Jersey Health Insurance Market Preservation Act," restores, at the State level, the shared responsibility tax as originally established by the federal Affordable Care Act (ACA). The new law requires every New Jersey resident taxpayer to

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1 The ACA requires most individuals, other than those who qualify for certain exemptions, to obtain health insurance or pay a penalty (formerly known as the shared responsibility payment). The federal "Tax Cuts and Jobs Act" of 2017 effectively eliminated the shared responsibility tax by reducing the penalty to $0 beginning with tax year 2019.
obtain health insurance coverage that meets certain minimum standards. If the taxpayer does not obtain coverage, the law imposes a State shared responsibility tax equal to a taxpayer’s federal penalty under the ACA as originally enacted, with certain modifications. The amount of the State shared responsibility tax is determined using the State average premium for qualified health insurance plans which provide bronze-level coverage. The new State penalty first applies to tax year 2019, so the first shared responsibility tax revenues will be received in FY 2020. Collections are dedicated to the support of a health insurance reinsurance plan.

This new law requires the State Treasurer to establish a program for determining whether to certify that an individual is entitled to an exemption from either the individual responsibility requirement or the State shared responsibility tax by reason of religious conscience or hardship. According to the department’s website, there are twelve hardship exemptions. The threshold to qualify for an income-based hardship exemption is determined based on an individual’s required contribution for health insurance coverage under the ACA. Information available through the department’s website indicates that coverage is deemed unaffordable if the annual premium for the lowest cost plan that meets minimum coverage requirements is more than 8.05 percent of household income. In addition, individuals who are not required to file a New Jersey income tax return are automatically exempt from obtaining the requisite health insurance coverage.

In order to avoid the State shared responsibility tax, taxpayers are required to show that they had minimum essential coverage in each month of the tax year. Under the ACA, taxpayers were considered to have minimum essential coverage for the month if they did so for at least one day of the month. The OLS notes that individuals who receive Medicaid benefits sometimes experience a temporary loss in health insurance coverage. These individuals were required to submit a shared responsibility payment under the ACA if they could not meet the minimum essential coverage mandate.

• **Question:** Please discuss the department’s preparations for full implementation of the “New Jersey Health Insurance Market Preservation Act.” What is the amount of the shared responsibility tax for tax year 2019? Please describe the department’s methodology for calculating the amount of the tax. What is the department’s estimate of the total amount of FY 2020 shared responsibility tax payment revenues? Where in the Governor’s FY 2020 Budget is the anticipated revenue accounted for?

• **Question:** Please discuss the department’s preparations for full implementation of the “New Jersey Health Insurance Market Preservation Act.” What is the amount of the shared responsibility tax for tax year 2019? Please describe the department’s methodology for calculating the amount of the tax. What is the department’s estimate of the total amount of FY 2020 shared responsibility tax payment revenues?

**Answer:** Within the Department of the Treasury, the Division of Taxation is handling much of the administration of the New Jersey Health Insurance Market Preservation Act (hereinafter NJHIMPA). New lines will be inserted on the 2019 Resident Income Tax Return (NJ1040) to allow resident filers to indicate an Exemption Identification Number or enter the amount of their Shared Responsibility Payment (SRP). Worksheets, schedules and instructions are being updated to include information on the new lines as well as how to calculate the Shared Responsibility Payment.
Discussion Points (Cont'd)

The processing system is being readied to accept and credit payments associated with the Shared Responsibility Payment if taxpayers self-report.

Insurers and employers are required to provide documentation concerning their client/employee’s health coverage. The Division of Taxation and the Division of Revenue are creating a pathway for these entities to electronically submit information returns necessary to validate individual coverage. This information will be utilized to calculate the SRP for taxpayers who did not self-report.

The methodology for calculation of the SRP is fundamentally structured on the federal ACA. A web-based SRP calculator application is under development. It is expected this web application will provide a simple and consistent tool for use by external (the public) and internal users (Taxation).

The Department of Treasury has no estimates of SRP revenues in FY2020.

- **Question:** Where in the Governor’s FY 2020 Budget is the anticipated revenue accounted for?

Answer: The Governor’s FY2020 Budget does not include anticipated revenue from the SRP.

- **Question:** Please describe the department’s methodology for determining the unaffordability threshold. Will Medicaid recipients be subject to the shared responsibility tax if they experience a temporary loss in health insurance coverage?

Answer: New Jersey’s methodology for determining the unaffordability threshold follows federal practice, through Marketplace Affordability and Job-Based Affordability exemptions. As stated in the introduction to this section, beginning with tax year 2019, NJHIMPA instructs the State Treasurer to determine the income threshold for coverage “in a manner consistent with 26 U.S.C. s.500A (e) (1).” In accordance with this guidance, if the lowest-cost plan available in the marketplace or from the workplace requires an individual to pay premiums that exceed 8.05 percent of household income, that individual does not have to pay a Shared Responsibility Payment. This percentage is the same used by the IRS for the 2018 tax year.

The State also offers 12 Hardship Exemptions that cover special circumstances such as eviction, utility shut-off, fires and other disasters.

Based on the number and variety of exemptions available in the NJHIMPA, Treasury expects relatively few Medicaid eligible residents to face the prospect of paying a SRP. For example, among the 12 Hardship Exemptions offered, is a generic exemption for unique or unspecified hardship. Should a Medicaid eligible resident be unable to obtain coverage for three months or longer, and is not covered by any other exemption, the resident could file under this exemption. If a Medicaid-eligible resident were unable to obtain coverage because of factors outside their control (government paperwork processing delays, inability to access application services etc.), the taxpayer likely would be granted this exemption.

- **Question:** Please discuss the department’s efforts to inform the public about the health insurance coverage requirement and the shared responsibility tax. Is
Discussion Points (Cont'd)

the Executive considering the suspension of the penalty for tax year 2019 if that year’s tax filings would otherwise result in the imposition of the penalty on a large number of taxpayers who claim they were not aware of the State insurance mandate?

Answer: Treasury participated in the coordinated public awareness campaign to inform residents about the health insurance coverage requirement and the shared responsibility payment, which included:

- Development of the website "NJ Health Insurance Mandate" which provides information about the mandate (including which New Jersey residents are required to obtain health coverage), the Shared Responsibility Payment, exemptions, and employer filings to the Division of Taxation. A contact section on the page has drawn weekly inquiries from individual taxpayers, businesses, and data management companies that provide services for filing tax forms.
- Creation of a web button prominently placed on Treasury’s home page, as well as on a number of our public-facing division landing pages, including: Pensions and Benefits, Taxation, Revenue and Enterprise Services, and Unclaimed Property Administration and linking to the Department of Banking and Insurance’s “GetCovered” campaign informational website.
- Establishing a contact section on the NJ Health Insurance Mandate website staffed by an Email Response Team dedicated to providing prompt answers and guidance to the growing number of inquiries made by individual taxpayers, businesses, and data management companies that provide services for filing tax forms.
- Actively Promoting ACA enrollment through the Division of Pensions and Benefits as an alternative to COBRA and C375 enrollment on several of their online fact sheets geared to current and former participants and dependents in the State Health Benefits Program and the School Employees’ Health Benefits Program:
- Promoting enrollment opportunities and reminders to the public through periodic social media posts on both Treasury's and Taxation’s Facebook and Twitter platforms.
- Emphasizing the health care mandate at outreach events to the public, and with tax advisers, accountants, and businesses.
- Treasury’s many divisions continue to work to identify any online platforms, mailers or publications with audiences that would benefit from information on ACA enrollment.
- Nearly every Division of Taxation communication that is mailed, emailed, or posted on Division webpages includes a notice urging residents to get health coverage, including but not limited to:
  ✓ All Gross Income Tax Individuals (TGI) 1040/1040NR Instructions. For the Tax Year 2018, NJ1040 returns ask the filer to indicate if they, and their dependents, have health care coverage;
  ✓ TGI Billing notices;
  ✓ EITC Communications;
  ✓ Taxation’s webpage for “Individuals” under “Help & References” - http://www.state.nj.us/treasury/taxation/individuals.shtml

The Department of Treasury will implement whatever policy decision is made concerning the imposition of the SRP.
Discussion Points (Cont’d)

3. P.L.2019, c.56 established the New Jersey Secure Choice Savings Program. The law requires employers with 25 or more employees to participate in a retirement savings program administered through automatic payroll deductions, allowing employees of small businesses to save for retirement. Their employees will be automatically enrolled in the program, but they will have the opportunity to opt out. Employees of businesses with fewer than 25 employees may also participate in the retirement savings program even though their employers are not required to offer a payroll deduction for that purpose. The program gives workers the option to invest in a State-administered Individual Retirement Account. The law establishes the New Jersey Secure Choice Savings Board in, but not of, the Department of the Treasury, to administer the program, including the determination of investment options. P.L.2019, c.56 overlaps with and may affect the implementation of the New Jersey Small Business Retirement Marketplace.

P.L.2015, c.298 requires the Department of the Treasury to establish the New Jersey Small Business Retirement Marketplace, which is not yet operational. The purpose of the marketplace is to educate small business employers on retirement plan availability and to promote, without mandating participation, qualified, low-cost, low-burden retirement savings vehicles. As part of its responsibilities, the Treasury is required to approve a diverse array of private retirement plan options available to employers on a voluntary basis, including life insurance plans designed for retirement purposes and at least two types of plans for eligible employer participation: a SIMPLE IRA type plan and a payroll deduction individual retirement account type plan or workplace-based individual retirement accounts. A fee system may be established which charges financial services firms that participate in the marketplace for the startup and annual administrative expenses of the department.

On January 9, 2018, the Division of Investment issued Request for Information (RFI) No. 17-1226-INV. The purpose of the RFI was to determine the potential field of qualified vendors to provide investment products for the marketplace. In response to a FY 2019 Discussion Point, the department noted that it received eight responses to the RFI and that review of those responses was ongoing. The department noted that P.L.2015, c.298 established a new "line of business" for the State and that it expected to have better information regarding an operational timeline for the marketplace after the RFI responses were thoroughly reviewed.

- **Question:** Please provide an update regarding the current status of the New Jersey Small Business Retirement Marketplace. Given the recent enactment of the New Jersey Secure Choice Savings Program, has the department abandoned the implementation of the marketplace? If applicable, please detail the extent to which the department intends to leverage its work on the implementation of the marketplace to establish and operate the New Jersey Secure Choice Savings Program.

- **Question:** Has the department completed its review of the RFI responses to the January 2018 RFI? How have the responses informed or assisted the department’s efforts towards crafting an RFP for firms interested in participating in the marketplace? If applicable, when does the department anticipate that it will issue an RFP for firms interested in participating in the marketplace? If applicable, please indicate the date by which the department expects the marketplace to be operational. If applicable, please explain to what extent the
Discussion Points (Cont'd)

responses to the RFI will guide the implementation of the New Jersey Secure Choice Savings Program.

- Question: Has a fee system been established to cover the startup and annual administrative expenses of the marketplace? If so, what are the fees associated with the marketplace, how much revenue has been generated by those fees, and in which revenue line of the FY 2020 Governor’s Budget are collections located? What are the anticipated startup costs of the marketplace? What are the expected annual administrative costs of the marketplace?

The Department has not implemented the New Jersey Small Business Retirement Marketplace. Shortly after entering office in early 2018, the Department commenced work with the Legislature on the bill that eventually became the Secure Choice Savings Program Act. That has been the Department’s focus in working towards the objective of ensuring retirement savings opportunities for New Jerseyans.

The Department has completed its review of the RFI responses regarding the Small Business Retirement Marketplace. The responses revealed certain implementation challenges. For example, several respondents expressed concerns related to statutory caps on fees and indicated an unwillingness to offer services based on the current legislative mandates. Given the information received, the Department made a preliminary determination that it will likely have difficulty attracting vendors willing to participate in the program. The Department anticipates issuing an additional RFI for the Secure Choice Savings Program. It is too early to estimate when the process will be completed. The Department is in the early stages of developing its internal processes for full, timely implementation of the Secure Choice Savings Program.

4. P.L.2010, c.104 requires all monies received by the State from the sale, lease or assignment of any assets or property of the New Jersey Public Broadcasting Authority (NJPPA) to be deposited into the “Trust Fund for the Support of Public Broadcasting.” The funds deposited into the trust fund are dedicated solely for the support of a public broadcasting system serving New Jersey. A language provision in the FY 2018 Appropriations Act required only $10 million from the $331.9 million in proceeds the NJPPA received from the sale of broadcast spectrum to be deposited into the trust fund and any amounts in excess of $10 million to be deposited into the General Fund as State revenue.

In response to an FY 2019 OLS Discussion Point, the department noted that the NJPPA entered into three “Trust Fund Allocation Agreements” in support of public media in New Jersey. Through these agreements, $7.2 million in spectrum auction funds was disbursed to Public Media NJ, Inc., New York Public Radio, and WHYY, Inc. The remaining spectrum auction funds were reserved by the NJPPA to support $3.1 million in capital projects to be undertaken from FY 2018 through FY 2020 and listed below.

<table>
<thead>
<tr>
<th>Capital Project</th>
<th>Amount Encumbered</th>
</tr>
</thead>
<tbody>
<tr>
<td>Payment to Public Media NJ – Spectrum Divestiture</td>
<td>$250,000</td>
</tr>
<tr>
<td>Archives Preservation and Digitization (Phase II)</td>
<td>$400,000</td>
</tr>
<tr>
<td>Archives Management System</td>
<td>$315,000</td>
</tr>
<tr>
<td>Microwave System Replacements</td>
<td>$240,000</td>
</tr>
</tbody>
</table>
## Discussion Points (Cont'd)

<table>
<thead>
<tr>
<th>Transmitter Security Upgrade</th>
<th>$50,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Channel Repacking</td>
<td>$1,200,000</td>
</tr>
<tr>
<td>Signal Monitoring, Logging &amp; Compliance Reporting</td>
<td>$369,000</td>
</tr>
<tr>
<td>Lawrenceville Emergency Elevator Repair</td>
<td>$88,000</td>
</tr>
<tr>
<td>Tower Electrical Wiring and Conduit Replacement</td>
<td>$170,000</td>
</tr>
<tr>
<td>Transmitter HVAC Replacements</td>
<td>$65,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$3,147,000</strong></td>
</tr>
</tbody>
</table>

The Legislature then inserted a language provision in the FY 2019 Appropriations Act that appropriated an amount not to exceed $5,000,000 from the Trust Fund for the Support of Public Broadcasting to the New Jersey Civic Information Consortium to advance research and innovation in the field of media and technology to benefit the State. As of April 15, 2019, no amount has been expended from the trust fund to the New Jersey Civic Information Consortium, while the trust fund has an unexpended balance of approximately $3.2 million.

- **Question:** Please indicate whether any of the $3.2 million of the unexpended balance in the Trust Fund for the Support of Public Broadcasting is intended to be distributed to the New Jersey Civic Information Consortium. If not, please explain the reason(s) for not implementing the language provision. Does the Administration have an alternative source for providing $5.0 million to the New Jersey Civic Information Consortium?

**Answer:** The NJPBA FY 2018 through FY 2020 capital budget, which is funded by the Trust Fund for the Support of Public Broadcasting, has allocated its remaining resources toward internal NJPBA projects that preserve and maintain the broadcast infrastructure. Several projects in the current NJPBA capital budget are required by the Federal Communications Commission or are necessary to address deferred maintenance and severe structural deficiencies at our tower sites. One million dollars of funding for the Consortium is included in the Governor’s proposed FY 2020 budget in the Office of Higher Education.

- **Question:** Please provide an update regarding the NJPBA’s progress towards completing the approved capital projects. Which projects were completed by the end of FY 2018? Which projects does the NJPBA anticipate will be completed by the end of FY 2019 and FY 2020, respectively? Are the remaining account balances sufficient to support the cost of the capital projects listed above?

**Answer:** The projects that makeup NJPBA’s current $3.9 million capital budget are identified in the following list (NJPBA Amended and Restated FY18-FY20 Capital Budget). The remaining Trust Fund account balances are sufficient for the approved projects.

Staff foresees another $3.9 million for capital projects required in FY 2021 through FY 2026, with another $7.4 million in capital funds anticipated for longer-term needs. The NJPBA’s long-term capital requirements listed below do not have a source of funding.

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**NJPBA Amended and Restated FY18-FY20 Capital Budget, Approved April 9, 2019**
### Discussion Points (Cont’d)

<table>
<thead>
<tr>
<th>Capital Project</th>
<th>Amount Budgeted</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Payment to Public Media NJ – Spectrum Divestiture</td>
<td>$250,000</td>
<td>Completed in FY18</td>
</tr>
<tr>
<td>Archives Preservation, Digitization, &amp; Management</td>
<td>$715,000</td>
<td>In progress; Complete in FY20</td>
</tr>
<tr>
<td>Microwave System Replacements</td>
<td>$240,000</td>
<td>In progress; Complete in FY20</td>
</tr>
<tr>
<td>Transmitter Security Upgrade</td>
<td>$132,000</td>
<td>In progress; Complete in FY20</td>
</tr>
<tr>
<td>Channel Repacking</td>
<td>$1,200,000</td>
<td>In progress; Complete in FY20</td>
</tr>
<tr>
<td>Signal Monitoring, Logging &amp; Compliance Reporting</td>
<td>$369,000</td>
<td>Completed in FY18</td>
</tr>
<tr>
<td>Lawrenceville Emergency Elevator Repair</td>
<td>$81,000</td>
<td>Completed in FY18</td>
</tr>
<tr>
<td>Tower Electrical Wiring and Conduit Replacement</td>
<td>$170,000</td>
<td>In progress; Complete in FY20</td>
</tr>
<tr>
<td>Transmitter HVAC Replacements</td>
<td>$65,000</td>
<td>In progress; Complete in FY19</td>
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<tr>
<td>Lawrenceville Temporary Emergency Guy Wire Repair</td>
<td>$2,283</td>
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<tr>
<td>Lawrenceville Permanent Guy Wire Repair</td>
<td>$247,885</td>
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<tr>
<td>Tower Repair/Maintenance</td>
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</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$3,897,168</strong></td>
<td></td>
</tr>
</tbody>
</table>

### NJPBA LONG-TERM CAPITAL FUNDING REQUIREMENTS

1 - 5 YEAR PROJECT REQUIREMENTS

**Tower Guy Wire Replacement**

$1,800,000

Continuing to maintain the integrity of our 47-year-old broadcasting towers will require the replacement of guy wires in the near future. The guy wires, which are used to support the tower structure, are reaching their 50-year designed lifespan. The wires are critical infrastructure that cannot be allowed to deteriorate. The recent electromagnetic inspection at Lawrence and Waterford found two wires compromised and five more wires showing signs of deterioration. An aggressive schedule of inspections is crucial, and the necessity to replace more wires is inevitable. NJPBA staff estimates that up to twelve guy wires may have to be replaced within the next five years.

**Warren Tower Lighting System Replacement**

$300,000

The FCC has the authority to require the illumination of broadcast towers when it determines that such towers may otherwise constitute a menace to air navigation. The FCC’s rules governing broadcast tower lighting requirements are based upon the advisory recommendations of the FAA. The standards and specifications outlined in these FAA documents are incorporated by reference.
Discussion Points (Cont'd)

into the FCC's rules, making these advisory standards mandatory for broadcast towers. The two lighting systems at the Warren site operate with obsolete equipment that has exceeded designed operating life and must be upgraded in compliance with the federal standards.

**Transmitter Replacement**

The manufacturer of the Authority's WNJB transmitter has issued an "end-of-life" statement and will eliminate support and parts on December 31, 2019. A fully functioning transmitter is an FCC requirement. Non-compliance with the technical and operational specifications granted to the NJPBA will jeopardize the WNJB license to operate. The transmitter replacement requires significant changes to the electrical, cooling, and radio frequency systems at the transmitter site. Preliminary equipment and building design plans have been developed. The Authority had planned to utilize the WNJS Repack contract award to acquire equipment from the same manufacturer under a similar timeline. Insufficient funding has postponed our replacement plans. The NJPBA will attempt to acquire spare parts to prevent unintended operating conditions.

**Archive Project (Phase III)**

When New Jersey Network (NJN) ceased operations in 2011, thousands of hours of historically and culturally valuable programming were left behind. Most of the archives are on tape, an unstable format, and stored in the headquarters of the NJPBA. With funding from the Corporation for Public Broadcasting, the Robert Wood Johnson Foundation, and the NJ Trust Fund for Public Broadcasting, early phases of this project organized the assets, created a database, identified those most at-risk assets, and preserved approximately 13,300 assets, which represent 16% of the total collection. The funding requested here will enable digitization, preservation, and public access to most of the remaining assets which are relevant to historical, educational, and public interests.

1-5 YEAR PROJECTED TOTAL

$3,850,000

* Projects have been submitted to the Capital Improvement Program for consideration in the FY2020 budget.

5 – 10 YEAR PROJECT REQUIREMENTS

**Tower Guy Wire Replacement**

The NJPBA staff will continue with an accelerated schedule of guy wire inspections, projecting another twelve or more guy wires will require replacement.

**ATSC Encoder Replacement**

New TV standards will be implemented requiring the NJPBA to re-tool our ability to broadcast signals. The Authority's current ATSC-1 encoder cannot be used for the new ATSC-3 standard which will be an FCC requirement for all broadcast stations. The equipment required for this project is currently in development and may not be required by the Authority for up to five years.

**Mitigate Guy Anchor Water Table Issue**

The Lawrenceville tower is located on property owned by the NJ Department of Environmental Protection. A small waterway running through our property has been rising over its banks for 20 years, flooding the area and creating unsafe soil conditions for the tower anchoring system. The NJPBA has routinely unclogged culverts and removed debris within our capacity without much
Discussion Points (Cont’d)

success in lowering water levels. We have also taken measures to strengthen the tower anchor system at the cost of about $34,000. The soil conditions around the anchor have again reached a critical stage and may be undermining the concrete structures that make-up the anchoring system. A larger scope plan is warranted to permanently resolve the rising water level that effects the NJPBA tower, the Bakers Basin motor vehicle inspection station, and the Rt 293/Rt 1 interchange. The NJPBA has met with DEP and DOT officials in the past and will work with them in the future to remediate the water level in the area to a safe stage to protect our assets.

Tower Foundation Repair and Upgrade
Continuing to maintain the integrity of our 47-year-old broadcasting towers will require repairs and upgrades to the foundations to maintain engineered safety factors. This is critical infrastructure that cannot be allowed to deteriorate. Foundation resurfacing, capping and reconstruction has occurred at several tower sites. Based on historical data, foundation issues usually occur every 10-15 years. Additional observation and planning will continue as part of routine tower maintenance.

Generator Replacement
NJPBA maintains standby generators at the tower sites. All four generators will reach the typical 20 years expected lifespan in 2023. The units are showing signs of deterioration. One generator ran for 21 consecutive days during Super Storm Sandy and has had numerous repairs since then.

Tower Painting
The FCC has the authority to require the painting of antenna towers when it determines that such towers may otherwise constitute a menace to air navigation. The FCC’s rules governing antenna tower painting requirements are based upon the advisory recommendations of the FAA. The standards and specifications outlined in these FAA documents are incorporated by reference into the FCC’s rules, making these advisory standards mandatory for antenna towers. Because all outdoor paints deteriorate with time, the surfaces must be repainted when the color changes noticeably, or its effectiveness is reduced by scaling, oxidation, chipping, or layers of contamination. The painting also protects the asset. The NJPBA towers will require repainting starting in 2028.

Tower Decommissioning/Consolidation
This project anticipates altering or removing the tower antenna assets that are no longer required to reduce weight load and provide space for leasing and future NJPBA broadcast options.

5 - 10 YEAR PROJECTED TOTAL

$7,365,000

5. Senate Bill No. 784 (First Reprint) provides a gross income tax exclusion for the amount of attorney’s fees and costs received by a State taxpayer in connection with unlawful discrimination, unlawful retaliation, and certain whistleblower claims and actions. On January 31, 2019, the Governor vetoed the bill. In his veto message, the Governor noted, “I am advised by the Department of the Treasury that this legislation is likely to result in a tax revenue loss to the State of approximately $245 million over the next four years, including a loss of approximately $56 million for the current Fiscal Year.”
Discussion Points (Cont'd)

- **Question:** What assumptions and projections did the department utilize for determining the estimated revenue loss that would have resulted from the enactment of Senate Bill No. 784 (First Reprint)? How many awards for attorney's fees and costs would produce the estimated $56 million revenue loss for Fiscal Year 2019?

Answer: Senate Bill No. 784 (First Reprint) purports to provide a "gross income tax exclusion for attorney's fees and costs received in connection with certain unlawful discrimination, unlawful retaliation, and qui tam claims or actions." It is our understanding based on discussions with proponents of the bill that it was meant to align New Jersey tax law with federal tax law. However, S-784 differs from the federal law in a very significant way. Federal law provides a deduction “for attorney fees and court costs paid by, or on behalf of, the taxpayer” (emphasis added). By contrast, S-784 provides a deduction for attorney fees and court costs both paid by and received by a taxpayer in unlawful discrimination suits. The bill would appear to prevent the State from collecting any tax on attorney fees or court costs awarded in these suits, including fees received by an attorney as compensation for the attorney's services. Our revenue impact estimates were based on the plain language of the bill.

6. **The Department of the Treasury facilitates the work of the New Jersey State Capital Partnership**, which is to develop a framework for aligning State resources with the City of Trenton's plans for development. The partnership was established through the issuance of Executive Order No. 40 on September 26, 2018 and has the following responsibilities: (1) review the priorities of the Trenton 250 Plan and identify funding and other resources to implement plan initiatives; (2) create a plan for the redevelopment of State properties in downtown Trenton and around Trenton’s transit centers that support a mix of residential, office, and retail properties; (3) develop initiatives to support the construction of new market-rate housing in downtown Trenton; (4) align State resources to implement Trenton's vision for the Capital Park and access to the waterfront; (5) support public safety initiatives; (6) review and recommend incentives targeted to attract private capital to Trenton's opportunity zones; (7) make recommendations to the Governor regarding State support of Trenton's efforts to obtain federal funding for infrastructure improvements; (8) integrate institutions of higher education within Mercer County into Trenton’s revitalization and workforce development strategies; and (9) collaborate with public and private stakeholders to coordinate efforts to better utilize arts, cultural, and historical assets to attract visitors to downtown Trenton.

The partnership consists of representatives from the Departments of Community Affairs, Environmental Protection, Law and Public Safety, Transportation, and the Treasury, New Jersey Transit, and the New Jersey Economic Development Authority, and is required to consult with the Mercer County Executive and Mayor of Trenton.

- **Question:** Please provide a summary of the New Jersey State Capital Partnership’s FY 2019 activities to date. From what sources, if any, does the

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2 The Trenton 250 Plan is the City of Trenton’s long-range comprehensive master plan intended to guide city planning and economic development efforts through 2042 - the 250th anniversary of Trenton’s incorporation.
partnership receive financial support? Has the partnership completed its review of the Trenton 250 plan? If not, when will the review be completed? What FY 2019 resources, financial and otherwise, has the State provided to support the implementation of the Trenton 250 plan? What specific activities does the partnership intend to undertake in FY 2020?

Answer: As the Partnership began its work in the fall of last year, staff worked with the Mayor's administration to review Trenton 250, associated district plans and proposed Action steps to identify priorities for facilitation, coordination and funding. A monthly committee structure was then launched to advance the work of the Partnership, and several subcommittees have also formed around specific projects. The committees are organized around five areas of focus. Those subject areas, identification of participating government agencies, and some of the areas of interest for each committee to consider are provided herein. To date, the state agency participants have provided resources in the way of dedicated staff time, with no specific budgetary allocation for operations of the Partnership. Some financial support has been contributed through agency programmatic or project funding as described below.

Steering Committee
Purpose: Discussion and involvement around cross cutting issues with Cabinet heads and Mayor. Participation in National Resource Network (NRN) /NJDCA/City engagement aimed at long term fiscal and operational plan, implementation of agreed upon strategies to be outlined in NRN report. This committee will meet on a quarterly basis. Participating Agencies: City, Treasury, NJDCA, Mercer County and the Commissioners and CEOs of state agencies implementing the EO.

Live and Work
Purpose: To improve the environment for residents and visitors to live and work in the City. Participating Agencies: City, Treasury, NJDCA Office of Planning Services, NJEDA, Department of State, Department of Law and Public Safety, NJ Transit, Mercer County, Trenton Department of Public Safety, City Office of Community Relations, City of Trenton Divisions of Recreation, Inspections, and Historic Preservation, Secretary of State, Greater Trenton, Trenton Downtown Association.

Economic Development
Purpose: Leverage government assets to attract private investment and mixed use development including market rate housing in alignment with City Master Plan. Participating Agencies: Treasury, Mercer County, MCIA, NJEDA, NJHMFA, CCRC, NJDCA Office of Planning Services, City of Trenton Department of Housing and Economic, and Greater Trenton.

Infrastructure and Natural Resources
Purpose: Implement improvements that connect assets in the downtown to surrounding areas and enhance infrastructure and environment. Participating Agencies: Treasury, NJDEP, NJDOT, NJ Transit, NJDPMC, Mercer County, City of Trenton Mercer Department of Water and Sewer, and Department of Public Works.

Workforce and Innovation
Purpose: Grow Trenton's economy by providing local workforce strategies, and improving access to education and training programs. Participating Agencies: City, County, Treasury, DCA, NJDLWD, NJDOE, NJOSHE, and NJEDA.
Discussion Points (Cont’d)

FY19/FY20 Activities
In addition to staff committee participation and technical assistance, in FY19 the Partnership state agencies contributed resources in the following ways that are expected to carry into FY20:

DCA:
Fiscal and operational assistance: Financially supporting the National Resource Network’s engagement. This project involves a $403,500 total investment, $100,875 of which will be paid by DCA. Expected outcome are recommendations for a Five year fiscal and operational plan.

Assistance with streamlining and implementing Trenton Water Works’ hiring process and working in partnership with DEP in crafting a plan for implementation of the DEP mandated lead line replacement program.

The Division of Local Government Services will assist Trenton in transitioning off its long-term accelerated tax sale cycle, returning to a regular tax sale over the next year or two. Helping the City’s Fire Department develop an RFP for a consultant to do an analysis of the Department’s operations and fiscal management assisting Trenton in addressing its expanding overtime costs in Police department.

Local Planning Services support of City’s planning efforts in order to implement the district plans in the Master Plan, as well as GIS mapping.

EDA:
Award of $100,000 Innovation Challenge Grant to City. The funds will be used to identify and plan for collaborative work space to bring together the City’s entrepreneurs, students and faculty strategy to inform and engage the State workforce in city centered events.

Dedicated staff to assist small businesses in the City and use of business lease incentives for first floor retail.

Treasury DPMC:
Advancing construction of the new Department of Health and Division of Taxation buildings in the downtown.

In February, DPMC proceeded with an on line auction of the Van Sciver building (former Department of Revenue) on S. Broad Street to redevelop the site. A housing developer is currently under contract to purchase the site with plans for a renovation/new construction of housing and limited parking.

NJDOT:
Local Aid and Economic Development unit is providing hands-on support to ensure all previously awarded funding is maintained and that the City is on course to apply for, and receive approval for federal DOT funds so that the City can apply for fall funding rounds.
Discussion Points (Cont’d)

NJDEP:
DEP continues to work closely and proactively with the City, the community, local partners, and the EO committees to support the economic, environmental, and quality of life projects important to Trenton under its community collaborative initiative.

$370,000 was awarded by DEP to Rutgers for the installation of green infrastructure in the City of Trenton.

DEP has offered assistance to Trenton on combating illegal dumping. DEP expects to work with the City to develop a joint enforcement and communication strategy.

The Capital City Redevelopment Corporation (CCRC):
CCRC is updating its Renaissance Plan and design guidelines in coordination with the City of Trenton’s Trenton 250 plan, as well as other relevant plans for areas within the CCRC Boundary. An RFP was issued in April and the contract is anticipated to be awarded by mid-2019. The CCRC will contribute to the costs of the consulting contract. A working group of City/State participants will be engaged with the consultant.

7. In October 2018, the department launched a veterans outreach campaign intended to return unclaimed assets to veterans and widows living in New Jersey. The press release indicates that the Unclaimed Property Administration (UPA) identified 3,000 veterans, widows, or heirs who may have unclaimed assets in their name. In November 2018, the UPA sent letters notifying those individuals that they might have unclaimed property and instructed them to file a claim. On December 27, 2018, the department issued a follow-up press release announcing that the veterans outreach campaign would continue into 2019. The press release noted that responses to mail notices have resulted in 251 claims and 133 approvals for the return of property valued at $200,487.

Under the State’s unclaimed property laws, the State deems certain properties abandoned by their rightful owners if no activity has been recorded during statutorily defined periods of time. Once the State deems property abandoned, the State takes custodial possession of it, deposits it in the Unclaimed Personal Property Trust Fund, and transfers a portion thereof to the General Fund for State use. For instance, the Governor’s FY 2020 Budget anticipates a $170.0 million transfer to the General Fund in FY 2019 and recommends a $210.0 million transfer in FY 2020. Rightful owners, however, can reclaim their property at any time; unclaimed property valued at approximately $144.0 million was returned to owners in FY 2018 (See Page D-375 of the FY 2020 Budget).

• Question: Please provide an update regarding the UPA’s veterans outreach campaign. For 2019 to date, how many claims have been filed, how many claims have been approved, and what is the total value of unclaimed property returned to owners? To what extent has the department engaged New Jersey veterans’ organizations to make their members aware of the outreach campaign?

Answer: The veterans outreach campaign continues to be a success. To date, the UPA has received 546 claims submissions from veterans. Of those claims filed, the UPA has paid 351 with a total value of $606,808.35.
Discussion Points (Cont’d)

The UPA has reached out to Veterans’ Services Offices within the state to obtain information on upcoming events. As a result, the UPA has been able to identify a number of events that we are currently in the process of scheduling. In addition, the UPA continues to visit senior centers throughout the state which further helps the UPA reach veterans.

8. General Provision No. 89 of the FY 2019 Appropriations Act authorizes State agencies to obtain employment and income information from third-party commercial consumer reporting agencies for the purpose of obtaining real-time employment and income information to help determine program eligibility. The intent of the general provision is to achieve cost savings, improve timeliness, and minimize fraud.

- **Question:** Please describe the extent to which the department uses the services of third-party commercial consumer reporting agencies for the purpose of obtaining real-time employment and income information to help determine program eligibility. What cost savings does the department attribute to the use of commercial consumer reporting agencies in the eligibility determination process? If the department does not use such services, please provide the reason(s) for not doing so.

**Answer:** Treasury does not use the services of third-party commercial consumer reporting agencies.

**DIVISION OF INVESTMENT**

9. 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. As of June 30, 2018, the State retirement funds had a net value of $78.2 billion, an increase of 2.9 percent over the FY 2017 net value of $76.0 billion.

On September 27, 2018, the SIC adopted an “Environmental, Social, and Governance” (ESG) Policy that requires the division to identify and consider ESG factors that present material business risks or opportunities associated with assets in which the division has invested or may invest pension fund moneys. The ESG Policy and its implementation are subject to the division’s fiduciary duty to manage the pension fund portfolio solely in the interest of, and to provide financial benefits to, its beneficiaries.

The policy provides that ESG considerations should be integrated into all asset classes, and that different approaches are to be undertaken for different types of investments and the retention of investment advisers. The policy also recognizes the advantage of long-term value creation through an engagement process with companies to encourage more effective ESG policies. However, the policy notes that engagement activities should not be undertaken only to affect social behavior that does not have an impact on the financial performance or stability of an investment. Engagement activities should be undertaken solely with the purpose of enhancing the financial value of the pension funds and must be consistent with the division’s fiduciary duties.

- **Question:** Please provide an update regarding the implementation of the new ESG Policy. What criteria and assumptions did the SIC use to devise the ESG
Discussion Points (Cont’d)

Policy? What weight is given to ESG concerns as the division evaluates the current pension fund portfolio and ongoing investment opportunities? Please explain how the division plans to adjust its investment strategies to account for the ESG policy. How has the ESG policy informed the SIC’s review of the current asset allocation plan?

• Question: Please list any asset divestment the division has made as a result of an ESG analysis, indicating for each divestment the ESG consideration that contributed to the divestment.

Answer: Since the SIC adopted its ESG Policy in the fall of 2018, the Division has been implementing the policy on multiple fronts. As part of its due diligence process, the Division now incorporates a comprehensive analysis of fund managers’ ESG approaches and will incorporate a similar ESG analysis as part of its procurement process for investment advisers. The Division is in the process of drafting an ESG Ratings, Research and Related Services RFP which, upon award, will help in the analysis and oversight of investments through an ESG lens. The Division is also working with the ESG Committee and the Division’s proxy research consultant to update the SIC’s Proxy Voting Policy for the 2020 proxy season. The Division continues to engage with companies and investment partners on ESG issues, as appropriate.

The Division worked with the ESG Subcommittee of the SIC to develop the SIC’s ESG Policy. Division staff researched other public fund policies, reviewed guidance provided by the United Nations’ Principles for Responsible Investment (UNPRI) best practices, and utilized multiple consultants in drafting its initial policy. After consultation with the Attorney General’s Office and the Investment Policy Committee, the policy was presented to the full SIC for consideration. The underlying principles behind the Policy include the following: (i) the identification and analysis of economically material ESG factors may improve investment returns and reduce risk, (ii) investments that can demonstrate positive ESG-related outcomes may also achieve improved risk-adjusted returns, and (iii) giving appropriate consideration for ESG factors is consistent with the Division’s fiduciary responsibility to enhance long-term risk-adjusted returns on behalf of beneficiaries.

In investing and managing the Pension Fund’s assets, the ESG Policy provides that the Division will consider ESG factors that present material investment risks or opportunities, giving weight to such factors as is appropriate to the relative level of risk and return. ESG factors are among many considerations in the investment decision-making process.

While the Policy provides a framework for how the Division and SIC should consider material ESG factors within the investment decision-making process, the Policy does not explicitly prescribe an ESG approach for the broader allocation of assets. Notwithstanding this, implementation of the ESG Policy that results in purchases and/or sales may impact the allocation to certain industries and sectors. Since ESG analysis is integrated into the entire investment process, and investment decisions are based on a wide range of factors, the impact of the ESG policy on the asset allocation plan may not be easily discernable.

Consistent with the SIC’s ESG Policy, no investment decisions are based solely on ESG factors. Decisions to sell securities are subject to fiduciary law, and must be undertaken for the exclusive purpose of providing financial benefits to beneficiaries. Therefore, such decisions are based on a wide range of factors including, but not limited to, ESG factors.
Discussion Points (Cont'd)

Accordingly, it is not possible to identify any specific asset divestments that are solely the result of ESG analysis.

10. 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. New Jersey's investments are allocated into six broad categories: Fixed Income (20.5 percent), Alternative Assets (26.0 percent), Domestic Equity (30.0 percent), International Equity (18.0 percent), Cash and Equivalents (5.5 percent), and the Police and Fire Mortgage Program (0.0 percent). The target asset allocation was unchanged from FY 2017 to FY 2018. In response to an FY 2019 OLS Discussion Point, the department anticipated that the SIC would review the asset allocation plan in the first half of FY 2019.

In FY 2018, the division's pension fund investments posted a 9.1 percent return, net of fees. Although all of the division's investments portfolios achieved positive returns, a few (domestic equity, international equity, and private equity) underperformed their FY 2018 benchmarks. According to the SIC Annual Report, the pension fund investment portfolio achieved double-digit returns in four of the five most recent fiscal years.

- Question: Has the SIC completed its review of the division's asset allocation plan? How does the SIC intend to adjust the FY 2020 asset allocation plan? Please provide an update regarding the State investment portfolio's FY 2019 year-to-date performance. What elements of the division's stock portfolio dragged the overall rate of return down in FY 2019? Did the division make any adjustments following the strong FY 2018 performance that subsequently have had a negative effect on the rate of return in FY 2019? Please discuss the impact, if any, of the recent instability in the financial markets on the allocation of pension fund investments.

Answer: The SIC is currently undergoing a comprehensive asset allocation study, which will include proposed allocations to various asset classes and strategies. It is anticipated that the new asset allocation plan will be approved by the SIC prior to the start of the new fiscal year. Following SIC adoption of a new targeted asset allocation, the Division will implement the new policy.

For FY 2019 fiscal year-to-date, through April 30, 2019, the Pension Fund has returned approximately +4.7%, net of all fees (unaudited). Over this investment horizon, the U.S. equity portfolio (+8.3%) has outperformed the non-U.S. Developed Market equity portfolio (+1.4%) and the Emerging Market equity portfolio (+3.4%), reflecting broader capital market performance trends. Fiscal year-to-date returns for private market portfolios, including private equity, private credit, real estate, and real assets, have trailed the public markets, but these returns are reported on a lagged basis. Over the past five fiscal years, the private market portfolios have outperformed the broader Pension Fund.

The targeted asset allocation reflects long-term investment expectations. While it is appropriate to make adjustments for changing market circumstances, deviations relative to the targeted allocation tend to be modest as the Division does not employ a market timing strategy. Instead, prudent and disciplined rebalancing tends to serve the Pension Fund well.
Discussion Points (Cont’d)

Portfolio adjustments in response to instability in the financial markets have generally led to favorable outcomes during Fiscal Year 2019. Specifically, consistent with a disciplined rebalancing strategy, the Division reduced its allocation to U.S. equities following a period of strong outperformance and increased its allocation to U.S. equities following a decline in valuations, leading to favorable investment outcomes in both cases.

11. In his FY 2019 budget address, the Governor announced a new policy of divesting from hedge funds and reinvesting moneys that would otherwise be paid to hedge fund managers into the State pension funds. Doing so would go beyond a State Investment Council (SIC) policy adopted in FY 2017 that decreased the hedge fund target allocation from 12.5 percent of the State pension fund portfolio in FY 2016 to 6.0 percent in FY 2017. According to the SIC Annual Reports for FY 2017 and FY 2018, the following compensation was paid to hedge funds for managing pension fund investments between FY 2013 and FY 2018.

<table>
<thead>
<tr>
<th>Compensation Paid to Hedge Fund Managers</th>
<th>FY 2013</th>
<th>FY 2014</th>
<th>FY 2015</th>
<th>FY 2016</th>
<th>FY 2017</th>
<th>FY 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fees and Expenses</td>
<td>$114,621,629</td>
<td>$142,913,988</td>
<td>$141,737,524</td>
<td>$126,880,195</td>
<td>$99,974,409</td>
<td>$59,513,685</td>
</tr>
<tr>
<td>Total Compensation</td>
<td>$288,786,744</td>
<td>$305,253,443</td>
<td>$269,917,853</td>
<td>$182,187,838</td>
<td>$166,305,987</td>
<td>$95,475,330</td>
</tr>
</tbody>
</table>

The division has also implemented the “Fair Alignment and Incentive Reform” (FAIR) initiative within its risk management and strategies portfolio in order to reduce fees, enhance investment returns, offer greater transparency, and lower operating costs. The initial commitment to the FAIR program was $500 million. Through the FAIR program the division sought to engage with investment firms willing to offer fee terms that are approximately 50 percent below standard market rates in order to achieve better net of fees returns. Through March of 2018, the division had deployed $375 million to the FAIR initiative.

• Question: Please provide an update regarding the Governor's announced hedge fund divestiture initiative and the FAIR initiative. Has the division met its full $500 commitment to the FAIR initiative? If not, what amount has been directed to the FAIR initiative to date? Does the division intend to make a greater financial commitment to the FAIR initiative? Please discuss the investment performance of the $500 million initially committed to the FAIR initiative. Given that hedge funds are supposed to protect an investment portfolio against a market downturn and that the economy is experiencing one of the longest recoveries on record, is the division considering increasing its exposure to hedge funds?

Answer: The SIC provides a targeted asset allocation for the Pension Fund and the Division manages the Fund within parameters set by the SIC. Currently, the actual allocation to hedge fund strategies (including risk mitigation, credit-oriented and equity-oriented hedge funds) is slightly below the target allocation of six percent.

As noted in the response to Question #10, the SIC is currently undergoing a comprehensive asset allocation study, which will include proposed allocations to various asset classes and strategies, including certain types of hedge fund strategies. The SIC may consider various
Investment approaches (e.g., allocations to cash, U.S. Treasuries and certain hedge fund strategies) to help protect the investment portfolio against a market downturn.

The FAIR program currently consists of three funds with aggregate investments in excess of $1 billion as of March 31, 2019. One year net returns for the funds under the FAIR initiative are +4%. The Division does not anticipate further expansion of the FAIR program beyond current commitments at this time.

Office of Public Finance

12. The Internal Revenue Code of 1986 authorizes state and local government entities to issue tax-exempt private activity bonds for qualified purposes on behalf entities other than the governmental agency issuing the debt. Private activity bonds are issued to finance uses that benefit private persons, but also serve a significant public benefit, such as affordable housing, student loans, and privately-operated transportation facilities. A bond is classified as a private activity bond if more than 10 percent of its proceeds are used by a private party and more than 10 percent of the debt service is backed by private resources. Interest on private activity bonds is generally taxable.

In addition to restricting the types of private activities that may qualify for tax-exempt status, Congress formulaically limits the aggregate principal balance that can be issued as private activity bonds in each state. The limit established for each state is known as the "volume cap." According to the Internal Revenue Service, the 2019 volume cap equals the greater of $105 per capita or $316.7 billion nationwide. According to estimates published by Federal Funds Information for States, New Jersey’s calendar year 2019 private activity bond volume cap is $935.4 million, approximately $10.2 million (or 1.1 percent) less than the 2018 volume cap of $945.6 million.

The State Treasurer allocates the State volume cap among State entities and local units authorized to issue private activity bonds and sets the terms and conditions for receiving an allocation and the terms and conditions under which State entities may carry forward their allocations. The "New Jersey Bond Volume Cap Allocation Act," (N.J.S.A.49:2A-1 et seq.) requires the Governor to submit an annual report to the Legislature providing a review of the allocation of the State volume cap during the preceding calendar year and the preliminary allocation for the current calendar year. The Executive has not transmitted a report since 2015.

Question: What assumptions, projections, and criteria does the department use when determining how to allocate the State volume cap? Since a lower amount of volume cap is available in 2019, what changes, if any, has the department made to its methods for evaluating and prioritizing allocation requests? In each of calendar years 2015 through 2019, what is the total amount of private activity bonds requested, allocated, and issued? To what degree are State agencies and local entities required to obtain or provide other types of financing in addition to their volume cap allocations? What is the total amount of volume cap carry forward that remains outstanding? Does the department anticipate that the State's entire volume cap will be allocated in calendar 2019? If not, what amount of volume cap will remain unallocated and carried forward to calendar year 2020?
Discussion Points (Cont’d)

•   Question: What assumptions, projections, and criteria does the department use when determining how to allocate the State volume cap?

   Answer: Over the last several years, the amount of volume cap allocated to the State has been sufficient to satisfy all requests. Thus, the use of assumptions, projections, and criteria to determine allocations has not been necessary.

•   Question: Since a lower amount of volume cap is available in 2019, what changes, if any, has the department made to its methods for evaluating and prioritizing allocation requests?

   Answer: None, as the State’s 2019 allocation will be sufficient to satisfy all requests for general State volume cap.

•   Question: In each of calendar years 2015 through 2019, what is the total amount of private activity bonds requested, allocated, and issued?

   Answer: Provided below is a table which displays the total amount volume of cap requested, allocated and issued in calendar years 2015 through 2019.

<table>
<thead>
<tr>
<th></th>
<th>Requested</th>
<th>Allocated*</th>
<th>Issued**</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015</td>
<td>$735,350,000</td>
<td>$735,350,000</td>
<td>$767,205,723</td>
</tr>
<tr>
<td>2016</td>
<td>$1,089,459,462</td>
<td>$895,801,300</td>
<td>$590,848,472</td>
</tr>
<tr>
<td>2017</td>
<td>$778,309,817</td>
<td>$778,309,817</td>
<td>$634,254,845</td>
</tr>
<tr>
<td>2018</td>
<td>$688,353,453</td>
<td>$688,353,453</td>
<td>$569,840,302</td>
</tr>
<tr>
<td>2019</td>
<td>$626,019,833</td>
<td>$626,019,833</td>
<td>N/A</td>
</tr>
</tbody>
</table>

* Does not include allocations made at the end of the calendar year to fulfill requests for succeeding year volume cap.

** Includes carry forward from previous years.

•   Question: To what degree are State agencies and local entities required to obtain or provide other types of financing in addition to their volume cap allocations?

   Answer: No such requirements exist.

•   Question: What is the total amount of volume cap carry forward that remains outstanding?

   Answer: As of December 31, 2018, the total amount of carry forward was $1,319,499,894.

•   Question: Does the department anticipate that the State’s entire volume cap will be allocated in calendar 2019?

   Answer: Yes. Treasury will satisfy 2020 requests for cap with 2019 unallocated cap so as not to forfeit any 2019 cap. This has been the practice for the last several years.
Discussion Points (Cont’d)

- **Question:** If not, what amount of volume cap will remain unallocated and carried forward to calendar year 2020?

  Answer: This amount will not be known until Treasury conducts its annual survey at the end of the calendar year. However, it is anticipated that any amounts allocated to State agencies that are either unallocated or unused will be granted as carry forward so as to not forfeit any 2019 cap.

- **Question:** Please provide the State volume cap allocation reports for calendar years 2015 through 2019.

  Answer: The reports have been transmitted annually to the Legislature in accordance with the Act. Copies of the reports for calendar years 2015 through 2017 are provided with the responses to these discussion points. The calendar year 2018 report is near completion but has not been transmitted yet. The report for calendar year 2019 will not be completed until after 2019 has concluded.

13. Page 11 of the FY 2020 Budget-in-Brief states, “Appropriations for debt service have increased by over $800 million over the past five years due to new bond issuances and higher borrowing costs related to the **eleven credit downgrades** from the previous administration.” (Bold added for emphasis).

In response to a March 2015 Assembly Budget Committee inquiry regarding the effect of credit downgrades on State borrowing for the Transportation Trust Fund, the then-State Treasurer stated that because of the “very strong” demand for investment-grade bonds, the advisory credit downgrades did not materially affect the State’s interest rates. Specifically, the then-Treasurer noted, "Using market data as of March 31, 2015, Treasury estimates that principal and interest payments would be substantially similar, if not identical, under financings undertaken at the variable credit ratings [assigned to the State as of December 31, 2009 and March 31, 2015]." The Treasurer conceded, however, that the downgrades would lower bond premium payments the State receives from investors.

- **Question:** In the last ten years, how have the downgrades in the advisory credit ratings affected the interest rates New Jersey has had to pay on new bond issuances and the amounts of any bond premiums paid by investors? How would FY 2020 State debt service payment obligations be different if the State had maintained its December 31, 2009 credit ratings, all other factors being equal?

- **Question:** In the last ten years, how have the downgrades in the advisory credit ratings affected the interest rates New Jersey has had to pay on new bond issuances and the amounts of any bond premiums paid by investors?

Answer: While many factors influence the cost of State borrowing, the downgrades have increased the spread that New Jersey pays for its debt compared to industry benchmarks. This spread increase results in higher interest rates for bonds and/or reduced premium received. For example, in the most recent State appropriation backed transaction (NJTTFA 2019 Series AA), the 20-year bond (4.41% yield) was priced closer to Thompson Reuters Municipal Market Data (“MMD”) “BAA” benchmark rates (3.74% - a 67 basis point difference)
Discussion Points (Cont’d)

than to MMD “AA” benchmark rates (3.08% - a 133 basis point difference). This suggests that the State could have paid less interest if it were rated in the AA category and thus pricing close to the AA benchmark. It is important to remember that, for any debt issuance many other factors influence the final yield, including market fluctuations, supply and demand, issue structure, and other factors.

• **Question:** How would FY 2020 State debt service payment obligations be different if the State had maintained its December 31, 2009 credit ratings, all other factors being equal?

Answer: They would be lower. Please see the previous answer.

• **Question:** Please reconcile the statement in the FY 2020 Budget-in-Brief regarding the impact of credits downgrades on State borrowing costs with the former State Treasurer’s 2015 statement on this issue. What percentage of the $800 million increase in the appropriations for debt service over the past five years mentioned in the FY 2020 Budget-in-Brief is attributable to the credit downgrades? What is the department’s methodology for calculating the dollar amount of additional State borrowing costs resulting from previous credit downgrades? What assumptions and projections has the Treasury used in arriving at this amount? Have market conditions changed since the former State Treasurer noted that interest rates were virtually unaffected by the advisory credit downgrades because of a “very strong” demand for investment-grade credit?

• **Question:** Please reconcile the statement in the FY 2020 Budget-in-Brief regarding the impact of credits downgrades on State borrowing costs with the former State Treasurer’s 2015 statement on this issue.

Answer: As stated above, many factors influence the cost of borrowing. Also, without a full understanding of the previous Treasurer’s analysis supporting his statement, we are not able to comment.

• **Question:** What percentage of the $800 million increase in the appropriations for debt service over the past five years mentioned in the FY 2020 Budget-in-Brief is attributable to the credit downgrades?

Answer: It is impossible to isolate with certainty what percentage of the State’s costs are caused by the credit rating of the State. However, as explained above, credit ratings are one of many factors that influence borrowing costs.

• **Question:** What is the department’s methodology for calculating the dollar amount of additional State borrowing costs resulting from previous credit downgrades?

Answer: In a vacuum, the simplest methodology is to compare benchmark MMD yields for AAA/AA/BAA credits against the yields the State actually receives from a sale.

• **Question:** What assumptions and projections has the Treasury used in arriving at this amount?
Discussion Points (Cont'd)

Answer: Please see previous answers.

- **Question:** Have market conditions changed since the former State Treasurer noted that interest rates were virtually unaffected by the advisory credit downgrades because of a "very strong" demand for investment-grade credit?

Answer: Strong demand currently exists for New Jersey debt.

**DIVISION OF PROPERTY MANAGEMENT AND CONSTRUCTION**

14. On January 8, 2018, the New Jersey Economic Development Authority (EDA) issued $375.7 million in State Lease Revenue Bonds to finance the redevelopment and rehabilitation of certain State office buildings and facilities. A portion of the bond proceeds will support the construction of new facilities to replace the New Jersey Training School operated by the Juvenile Justice Commission (JJC) and located in Monroe Township (Middlesex County). The Training School opened in 1867 as a home for troubled youth and is capable of housing 300 male juveniles. According to information provided to the EDA Board on December 12, 2017, the JJC is in need of new facilities that provide an environment for the application of best practices in juvenile justice administration and facilitates the implementation of state-of-the-art rehabilitation practices to provide opportunities for young offenders to become independent, productive, law-abiding citizens.

The EDA information indicates that the JJC has identified three sites (Woodbridge Township, Middlesex County, Ewing Township, Mercer County, and Winslow Township Camden County) for the new facilities. However, the Attorney General has indicated that only two sites had been chosen. In response to an FY 2019 OLS Discussion Point, the department noted that the division and the JJC made site visits to several potential properties in North Jersey and continued to narrow down the search. New sites would be considered as they became available. The division had not received any direction from the JJC regarding formal plans for disposing of, or renovating the New Jersey Training School.

- **Question:** Please provide an update regarding the selection of the third site for the new Juvenile Justice Commission facility. Has the division established a plan for disposing of the New Jersey Training School site in Monroe Township? Has the division conducted any review to determine the amount necessary to renovate the site prior to its sale or before it is put to another use?

Answer: The division, in consultation with JJC, has taken reasonable and diligent efforts to identify a site in the Northern Region of the State. Due in part to the particular needs of JJC and the specialized use, the selection of the third site is still under review. Plans for disposition of the current New Jersey Training School site have been considered but remain premature. The existing School will remain operational, in whole or in part, until the completion of the new facilities. The division has not commissioned a study to determine the amount necessary to renovate the facility prior to sale or before it is put to another use.

**DIVISION OF PURCHASE AND PROPERTY**

15. P.L.2017, Joint Resolution No. 3 established a 15-member Disparity in State Procurement Study Commission to assess the procurement of goods and services by State
departments and agencies, including independent State authorities, and local government units to determine if any disparities exist between the availability and utilization of small, disadvantaged, and minority-owned and women-owned businesses in particular market areas. The commission is tasked with recommending policies, practices, and programs that would promote opportunities for these businesses in public purchasing and procurement. The commission is required to report its findings, conclusions, and recommendations within one year of its initial organization meeting, which was held on February 19, 2019.

- **Question:** Please provide a summary of the Disparity in State Procurement Study Commission's FY 2019 activities. Please identify the State departments and agencies, and the number of employees from each, providing staff support to the commission. Please provide the commission's meeting calendar through the end of the year.

Answer: The first meeting of the Disparity in State Procurement Study Commission was held on February 19, 2019 at the Statehouse Annex. Due to a lack of quorum, no official business was transacted. Members present engaged in a discussion regarding the history of the prior New Jersey Set-Aside Act, N.J.S.A. 52:32-17, which sought to address race and gender based discrimination in the state's procurement practices. Specific focus was centered on subsequent federal litigation that permanently enjoined by consent decree the Set-Aside Act and resulted in the elimination of set aside goals for minority and women owned businesses. The members further discussed subsequent Executive and Legislative efforts to address disparities in state contracting processes and proposed areas of action to be undertaken by the Commission. Areas identified included:

- Review of potential disparities in state procurement if any, between availability and utilization of qualified small, disadvantaged, minority and women owned businesses
- Review of bonding and paperwork requirements imposed by contracting agencies that may unnecessarily impede the ability of small, disadvantaged, minority and women owned businesses to compete.
- Streamlining the state certification process and,
- Determining appropriate legislative or regulatory action

During the Commission's second meeting on March 26, 2019, where a quorum of members were in attendance, state Chief Diversity Officer Hester Agudosi was elected to serve as Chair of the Commission along with Senator Ronald Rice as Vice-Chair. The Commission has scheduled monthly meetings throughout the remaining 2019 calendar year (see attached calendar) and has invited representatives from state departments and agencies, national and local professional organizations, along with public and private leaders from neighboring states to present testimony regarding current state marketplace conditions for small, disadvantaged, minority and women owned businesses. The Commission is expected to provide a report of its findings, conclusions and recommendation by March 2020.

State department and agencies that provide staff support to the commission include the following:

**Department of Treasury:**
2 Representatives from the Division of Purchase and Property

**Department of Community Affairs:**
Discussion Points (Cont’d)

2 Representatives from the Division of Local Government Services

Office of Legislative Services:
1 Representative from Central Staff.

DISPARITY IN STATE PROCUREMENT STUDY COMMISSION

Upcoming Meeting Dates
Tuesday, May 21, 2019 @ 10:00 a.m.
Tuesday, June 25, 2019 @ 10:00 a.m.
Tuesday, August 6, 2019 @ 10:00 a.m.
Tuesday, September 17, 2019 @ 10:00 a.m.
Tuesday, October 29, 2019 @ 10:00 a.m.
Tuesday, December 3, 2019 @ 10:00 a.m.

16. P.L.2017, c.95 established the position of Chief Diversity Officer in the Division of Purchase and Property. The Chief Diversity Officer is charged with monitoring the State’s public contracting process for the purpose of compiling information on the awarding of contracts to minority-owned and women-owned business enterprises. On April 20, 2018, the Governor appointed the first Chief Diversity Officer. The Executive recommends an FY 2020 funding level of $583,000 to support the officer. Of that amount, $448,000 would cover the salary costs associated with the officer and three additional staff positions.

- Question: What additional steps have been taken to establish the Office of the Chief Diversity Officer? What amount has been expended in FY 2019 to date to support the office? How many additional employees have been hired to work for the office? When does the department anticipate that the office will be fully established? Please provide a FY 2020 spending plan and detailed table of organization for the office. Please provide a summary of the office’s FY 2019 activities. What additional initiatives does the Chief Diversity Officer plan to undertake in FY 2020? To what extent, if any, has the Chief Diversity Officer provided support to the Disparity in State Procurement Study Commission?

Answer: After Governor Phil Murphy appointed a Chief Diversity Officer (CDO), the CDO established the Office of Diversity and Inclusion (ODI) within the Department of Treasury.

Additional steps taken by the office, include but are not limited to:
- Development of a statewide strategic Diversity and Inclusion plan designed to provide for accountability, measure performance and centralize processes and procedures across state departments, agencies, authorities, commissions, colleges and universities. As a result, greater utilization of minority and women owned business enterprises in state procurement can be achieved.
- Review of practices, procedures and programs of each state contracting agency to determine their effectiveness in awarding a fair share of state contracts to small, disadvantaged, minority and women owned businesses

FY 2019 expended through April 30 is $147,500.

To assist the Chief Diversity Officer in the performance of her duties, the Office of Diversity and Inclusion is staffed with (4) employees including the Chief Diversity Officer. As of 4/24/19
Discussion Points (Cont'd)

the previous functions of the Division of Minority and Women Business Development created under Executive Order 34 by former Governor Jon S. Corzine, were transferred to the office.

SUMMARY OF FISCAL YEAR 2019 ACTIVITIES:

- Developed and distributed a Diversity and Inclusion (D&I) Assessment Questionnaire to 45 state departments, commissions and authorities. Received 100% compliance from survey respondents.
- Reviewed and analyzed D&I Assessment Questionnaires and conducted one-on-one meetings with Cabinet and Agency heads.
- Identified and secured funding for the procurement of a statewide technology system that will enable the CDO, Department and Agency representatives to monitor and track procurement spend in real time, with small, disadvantaged, minority, women and service disabled veteran owned businesses to assist in developing a more robust and diverse contracting supply chain.
- Assembled a working group comprised of state, county, municipal representatives and film executives to launch the first state Diversity in Film Forum. The forum was designed to promote and support recent film tax credit legislation that provides additional bonus tax credit for the inclusion of diverse crew and talent in productions filmed in New Jersey. In furtherance of this effort, ODI entered into an Interagency Memorandum of Agreement with the NJ Economic Development Authority to assist in setting up and administering the Diversity Bonus Tax program. Additionally, the CDO provided training and technical support to EDA program staff.
- Provided technical support and Implicit Bias training to Department of Health personnel selected to review licensee applications as part of the department's medical marijuana program expansion. 3 of the 6 licensees selected represented minority and women owned businesses enterprises.
- The CDO was appointed to serve on the Disparity in State Procurement Study Commission. Recently elected to serve as Chair with primary responsibility to assist the members in reviewing the disparity if any between the availability and utilization of small, disadvantaged, minority and women owned businesses in state contracting.
- The CDO was selected to serve as a member of the Opportunity Zone Working Group under the direction of the Governor's Policy Office, and developed the community engagement strategy for the state program. The CDO has participated as a speaker and panel presenter in stakeholder conferences hosted around the state and worked in concert with the New Jersey Housing and Redevelopment Association to develop a community engaged strategy for the state Opportunity Zone program.
- The CDO attended conferences as an invited speaker and met with diverse business owners, chamber officials and members of professional and advocacy organizations and other stakeholders to discuss the CDO's role in advancing equity, and to provide information on state workforce and supplier diversity initiatives.

PLANNED INITIATIVES FOR FISCAL YEAR 2020:

- Continued tracking and monitoring of state Minority, and Women Owned Business Enterprises (MWBE) procurement spend.
- Development and Implementation of Statewide Diversity and Inclusion Strategic Plan.
- Development of Diversity and Inclusion Training Curriculum for state executives and managers.
Discussion Points (Cont'd)

- Establishment of protocols and practices for state agencies to conduct outreach efforts that provide for greater engagement with small, disadvantaged, minority, women and service disabled veteran owned businesses.
- Continued sponsorship of an annual Garden State MWBE Summit.
- The CDO will continue to serve as Chair of the State Disparity in Procurement Study Commission and pursuant to governing legislation will issue a report on the Commission's findings to the Governor and members of the state legislature.

Projected spending for FY 2020 is $583,000, of which $448,000 is salaries.

TABLE OF ORGANIZATION:

![Diagram of organizational structure]

DIVISION OF TAXATION

17. 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 solicited possible solutions for the replacement of the division’s separate tax administration and collection systems, which date back to the mid-1980s, with a more versatile, integrated system. The division favored 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.

According to the March 2014 RFI, the division hopes that a new integrated tax administration system that delivers a single view of 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.

In October 2017, the Division of Purchase and Property (DPP) issued a Request for Proposals (RFP) for an Integrated Tax System. In response to a FY 2019 OLS Discussion Point, the department stated that no bids were submitted in response to the RFP. On April 19, 2018, the DPP project team issued a survey requesting information from potential vendors as to why they did not submit a bid. The project team was also analyzing questions submitted by vendors during the RFP question and answer period. The department intended to use the results of the survey and analysis of vendor questions to modify the RFP prior to a re-issue later in 2018.
Discussion Points (Cont’d)

• **Question:** Please provide a status update on the State of New Jersey Tax Systems Modernization Project. Please indicate the number of potential vendors that responded to the DPP survey and summarize their reasons for not submitting a bid for the project. Was the benefit-based procurement model a deterrent? What amount does the department anticipate will be expended for the New Jersey Tax Systems Modernization Project in FY 2020? Please provide a budget, by fiscal year, for the project.

• **Question:** Please provide a status update on the State of New Jersey Tax Systems Modernization Project. Please indicate the number of potential vendors that responded to the DPP survey and summarize their reasons for not submitting a bid for the project. Was the benefit-based procurement model a deterrent?

Answer: The scope of the revised RFP is in development by Taxation.

The number of potential vendors that responded to the DPP survey was five (5).

According to the responses to the DPP survey, vendors had three (3) primary reasons for not submitting a bid for the project:
1. New Jersey State Standard Terms and Conditions (NJSSTC) - Vendors want the ability to negotiate the NJSSTC and to have performance bond and/or bid security requirements reduced or eliminated.
2. Complexity of the requirement to submit two (2) separate proposals.
3. Not enough time to complete the proposals.

The benefit-based procurement model was not a deterrent to submitting a bid as it was not used as the procurement model in the RFP.

• **Question:** What amount does the department anticipate will be expended for the New Jersey Tax Systems Modernization Project in FY 2020?

Answer: Because the revised scope is still in development, the division does not anticipate an expenditure for the New Jersey Tax Systems Modernization Project in FY 2020.

• **Question:** Please provide a budget, by fiscal year, for the project.

Answer: A budget, by fiscal year, for the project will not be known until completion of the RFP process.

• **Question:** Has the DPP issued a new RFP for the New Jersey Tax Systems Modernization Project? How was the RFP modified in response to the vendor survey and analysis of vendor questions? If applicable, please indicate: a) the number of RFP submissions; b) whether any of the respondents to the earlier RFI submitted bids; c) the date by which the division expects a contract award; d) if applicable, the name of the winning bidder; and e) if applicable, whether the contract winner was an earlier RFI respondent. Does or will the successful
Discussion Points (Cont’d)

vendor receive compensation in accordance with a benefit-based procurement model? If so, please explain the formula used to determine the vendor’s compensation.

- **Question:** Has the DPP issued a new RFP for the New Jersey Tax Systems Modernization Project?

No, DPP has not issued a new RFP for the New Jersey Tax Systems Modernization Project because Taxation is still in developing the revised scope.

- **Question:** How was the RFP modified in response to the vendor survey and analysis of vendor questions?

Answer: Taxation is considering vendor responses in the development of the RFP scope.

- **Question:** If applicable, please indicate: a) the number of RFP submissions; b) whether any of the respondents to the earlier RFI submitted bids; c) the date by which the division expects a contract award; d) if applicable, the name of the winning bidder; and e) if applicable, whether the contract winner was an earlier RFI respondent. Does or will the successful vendor receive compensation in accordance with a benefit-based procurement model?

Answer: a) – e) Not applicable at this time.

The RFP scope has not been finalized.

- **Question:** If so, please explain the formula used to determine the vendor’s compensation.

Answer: Not applicable.

18. The **New Jersey Offshore Voluntary Compliance Initiative** closed on November 1, 2018. This program complemented the federal Internal Revenue Service (IRS) Offshore Voluntary Disclosure Initiative. The New Jersey program was intended to help taxpayers voluntarily disclose previously unreported assets and income from sheltered offshore accounts that are subject to taxation under State law. All civil penalties, including a 50 percent civil fraud penalty, were waived for businesses and individuals accepted into the program and taxpayers avoided criminal prosecution for tax evasion. Program participants were required to pay 100 percent of the tax liability on the previously undisclosed taxable income, a five percent late payment penalty, and a five percent amnesty penalty. Taxpayers who participated in the New Jersey Offshore Compliance Initiative were not eligible to participate in the 2018 New Jersey Tax Amnesty Program.

- **Question:** For each FY in which the New Jersey Offshore Voluntary Compliance Initiative was operational, please indicate, by tax type, the number of taxpayers who applied to participate in the program, the number of applications accepted and rejected, the amount of revenue collected, and the amount of disputed tax liabilities and penalties that the agreements settled.
Discussion Points (Cont'd)

Answer: Please see attached chart.
Taxation DP 18 OFFSHORE FISCAL YEAR SUMMARY

19a. The Division of Taxation operates two permanent amnesty-like programs: the voluntary disclosure agreement program and the closing agreement program. Voluntary disclosure agreements bring previously unknown, non-filing taxpayers into compliance with their tax return filing obligations. Closing agreements, in turn, settle ongoing cases and current issues involving known taxpayers who are already filing returns.

N.J.S.A.54:53-1 et seq. authorizes the division to negotiate amnesty-like closing agreements with known taxpayers that permanently and conclusively resolve issues related to tax liabilities for any taxable period ending prior or subsequent to the date of the agreement. The law grants broad discretion to the division as to the type of cases it may settle and the scope of any 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.

• **Question:** For FY 2018 and FY 2019 to date, please indicate the number of closing agreements the division concluded, the amount of revenue collected pursuant to the agreements, and the amount of disputed tax liabilities and penalties that the agreements settled. Please provide the equivalent data for refund disputes that were settled through closing agreements. If applicable, please indicate and describe every closing agreement which the division has concluded since FY 2017 that included prospective tax exemptions that were contingent upon the generation of economic activity in New Jersey.

Answer: For July 1, 2017 to June 30, 2018:
CAB executed 39 closing agreements. 26 were to settle amounts of tax owed and disputed by the taxpayer. 13 were to settle amounts of refunds requested by the taxpayer.

<table>
<thead>
<tr>
<th>Assessments</th>
<th></th>
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</thead>
<tbody>
<tr>
<td>Agreements Completed</td>
<td>26</td>
</tr>
<tr>
<td>Amount of Tax Disputed</td>
<td>$47,395,443</td>
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<tr>
<td>Amount of Penalty Disputed</td>
<td>$2,494,936</td>
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<tr>
<td>Amount of Interest Disputed</td>
<td>$23,037,499</td>
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<tr>
<td>Total Disputed</td>
<td>$72,927,878</td>
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<tr>
<td>Amount of Revenue Collected</td>
<td>$32,722,120</td>
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<thead>
<tr>
<th>Refunds</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Agreements Completed</td>
<td>13</td>
</tr>
<tr>
<td>Amount of Refunds Requested</td>
<td>$10,315,943.27</td>
</tr>
<tr>
<td>Amount Refunded</td>
<td>$9,293,346.76</td>
</tr>
</tbody>
</table>

For FY 2018, a total of 42 additional closing agreements have been executed by the Audit branch for $21,382,270.

For July 1, 2018 to April 20, 2019:
Discussion Points (Cont'd)

As of 4/20/19 CAB has executed 20 closing agreements. 18 were to settle amounts of tax owed and disputed by the taxpayer. 2 were to settle amounts of refunds requested by the taxpayer.

<table>
<thead>
<tr>
<th>Assessments</th>
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</thead>
<tbody>
<tr>
<td>Agreements Completed</td>
<td>18</td>
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<tr>
<td>Amount of Tax Disputed</td>
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<tr>
<td>Amount of Penalty Disputed</td>
<td>$371,261</td>
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<tr>
<td>Amount of Interest Disputed</td>
<td>$3,909,925</td>
</tr>
<tr>
<td>Total Disputed</td>
<td>$12,146,885</td>
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<tr>
<td>Amount of Revenue Collected</td>
<td>$4,233,572</td>
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</table>

<table>
<thead>
<tr>
<th>Refunds</th>
<th></th>
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</thead>
<tbody>
<tr>
<td>Agreements Completed</td>
<td>2</td>
</tr>
<tr>
<td>Amount of Refunds Requested</td>
<td>$930,092</td>
</tr>
<tr>
<td>Amount Refunded</td>
<td>$233,082</td>
</tr>
</tbody>
</table>

For FY 2019 YTD, a total of 53 additional closing agreements have been executed by the Audit branch for $114,233,031.

Asked above: If applicable, please indicate and describe every closing agreement which the division has concluded since FY 2017 that included prospective tax exemptions that were contingent upon the generation of economic activity in New Jersey.

Not applicable.

19b. The Division of Taxation's Audit Group administers voluntary disclosure agreements. 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 does not impose late filing and late penalty penalties for the tax years covered by the agreement.

• Question: For FY 2018, and FY 2019 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. What is the current backlog?

Answer: See chart below.

<table>
<thead>
<tr>
<th></th>
<th>Voluntary Disclosure Agreement Requests</th>
<th>Voluntary Disclosure Agreements Concluded</th>
<th>Voluntary Disclosure Agreement Collections</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>FY 2018</strong></td>
<td>494</td>
<td>376</td>
<td>$14,202,955</td>
</tr>
<tr>
<td><strong>FY 2019 YTD</strong></td>
<td>208</td>
<td>243</td>
<td>$21,440,931</td>
</tr>
</tbody>
</table>
Discussion Points (Cont'd)

There are currently 83 cases pending final disposition.

The nature of the program is that penalties do not apply. Thus, no penalties are “waived” under the program.

20. The Office of the Taxpayer Advocate (OTA) in the Division of Taxation is to help enhance voluntary compliance with tax laws by simplifying tax administration procedures 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; 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.

In response to an FY 2019 OLS Discussion Point, the department indicated that OTA received 761 requests for assistance from taxpayers during FY 2017 and FY 2018 (through April 30, 2018). Of the cases received during that time period, 66 percent involved the gross income tax, 14.7 percent involved the corporation business tax, 10.8 percent involved the sales tax, and 4.3 percent involved property tax relief programs. The remaining 4.2 percent involved assorted topics. The department also noted that the OTA had identified issues surrounding innocent spouse relief under the gross income tax as an area that may warrant legislation.

• Question: How many taxpayers have contacted the OTA in FY 2018 and FY 2019 to date? How many cases has the OTA accepted for assistance in FY 2018 and FY 2019 to date and how many cases has the office closed? Which taxes have produced the most requests for OTA assistance in FY 2018 and FY 2019 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 that OTA has made to rectify them; and c) the changes in tax laws, rules, and regulations that have been made subsequent to OTA recommendations. What issues confronting taxpayers has the OTA identified which would require legislative action to resolve?

• Question: How many taxpayers have contacted the OTA in FY 2018 and FY 2019 to date? How many cases has the OTA accepted for assistance in FY 2018 and FY 2019 to date and how many cases has the office closed?

Answer: During FY 2018 and FY 2019 to date, OTA received 845 requests for assistance from taxpayers. All requests have been met with some manner of assistance. Only 9 of the cases are currently open.

• Question: Which taxes have produced the most requests for OTA assistance in FY 2018 and FY 2019 to date?

Answer: Of the cases received during FY 2018 and FY 2019 to date, 70% involved gross income tax, 3.2% involved property tax relief programs (homestead benefit and PTR), 11%
Discussion Points (Cont'd)

involved corporation business tax, and 10% involved sales tax. The remaining 5.8% involved numerous topics including inheritance tax, estate tax, and bulk sales.

- **Question:** For the last 12 months, please indicate: a) the systemic tax administration problems encountered by taxpayers that the OTA has identified; b) the recommendations that OTA has made to rectify them; and c) the changes in tax laws, rules, and regulations that have been made subsequent to OTA recommendations.

Answer: Other than assisting taxpayers to resolve their individual problems, most of OTA's work over the past 12 months has been concentrated in helping individual employees and supervisors establish and maintain consistency in their procedures and policies.

- **Question:** What issues confronting taxpayers has the OTA identified which would require legislative action to resolve?

Answer: The lack of a statute providing innocent spouse relief under the Gross Income Tax Act continues to be an area of concern.

21. The New Jersey Homestead Property Tax Credit Program (N.J.S.A.54:4-8.57 et seq.) also known as the Homestead Benefit Program, provides credits against eligible homeowners’ property tax bills. To qualify for the program, residents must have owned and occupied their principal residence on October 1 of the tax year. They must have paid property taxes on their residence and also meet certain income requirements. Operationally, a homestead credit is issued by a municipality as an adjustment to a homeowner's property tax bill. The municipality receives a payment from the State equal to the total amount of credits for the cost of printing and mailing adjusted tax bills.

The FY 2019 Appropriations Act allocated a total of $298.2 million for homestead credits: $143.5 million to provide the first half of tax year 2016 homestead credits to which program participants are entitled according to language in the FY 2019 Appropriations Act and $154.7 million to provide the second half of tax year 2015 homestead credits to which program participants are entitled according to language in the FY 2018 Appropriations Act. The Governor's FY 2020 Budget provides $282.6 million for homestead credits: $138.1 million to provide the first half of tax year 2017 homestead credits to which program participants are entitled according to recommended language in the FY 2020 Appropriations Act and $144.5 million to provide the second half of tax year 2016 homestead credits to which program participants are entitled according to language in the FY 2019 Appropriations Act. The Administration does not recommend any changes to program parameters in FY 2020.

- **Question:** For tax year 2015 and 2016 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.

Answer: Please see attached charts.
Taxation DP 21 2015 HR HOMEOWNER
Taxation DP 21 2016 HR HOMEOWNER
22a. The "Corporation Business Tax Act (1945)," (N.J.S.A.54:10A-1 et seq.) imposes a tax on corporations for the privilege of exercising their corporate charter or doing business in New Jersey. CBT filers are responsible for paying the greatest of three values: (1) the "schedule tax," calculated by multiplying a corporation's allocated New Jersey net income by a rate that depends on its entire net income; (2) the "gross receipts minimum tax," either $500, $750, $1,000, $1,500, or $2,000 depending on the corporation's amount of New Jersey gross receipts; or (3) the "alternative minimum assessment" calculated according to either New Jersey gross receipts or gross profits, depending on the corporation's preference.

**Question:** For Tax Year 2017, please indicate: a) the number of corporation business tax return filers, segregated into at least five income brackets; b) the total net income that taxpayers in each bracket declared; c) the total tax base; d) the total amount of tax they were charged; and e) 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.

Answer: See charts below:

**NJ CBT-100, Return Year 2017**

<table>
<thead>
<tr>
<th>Allocated Net Income Group</th>
<th>Count</th>
<th>Allocated Net Income</th>
<th>Tax Due</th>
<th>Effective Tax Rate (Tax + ANI)</th>
<th>Number Paying Gross Receipts Minimum</th>
<th>Percent Paying Gross Receipts Minimum</th>
</tr>
</thead>
<tbody>
<tr>
<td>At Least 100M</td>
<td>20</td>
<td>4,416,277,375</td>
<td>259,538,048</td>
<td>5.04</td>
<td>3</td>
<td>0.04</td>
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<tr>
<td>At Least 10M, Below 10M</td>
<td>283</td>
<td>7,655,280,554</td>
<td>568,288,263</td>
<td>5.04</td>
<td>9</td>
<td>0.04</td>
</tr>
<tr>
<td>At Least 5M, Below 10M</td>
<td>2,097</td>
<td>6,036,186,285</td>
<td>517,870,205</td>
<td>5.04</td>
<td>38</td>
<td>0.04</td>
</tr>
<tr>
<td>At Least 100K, Below 1M</td>
<td>6,965</td>
<td>2,138,970,163</td>
<td>189,042,562</td>
<td>5.04</td>
<td>76</td>
<td>0.11</td>
</tr>
<tr>
<td>At Least 10K, Below 1K</td>
<td>16,356</td>
<td>569,156,498</td>
<td>47,994,750</td>
<td>3.24</td>
<td>3,775</td>
<td>3.04</td>
</tr>
<tr>
<td>At Least 5K, Below 1K</td>
<td>13,337</td>
<td>59,129,760</td>
<td>13,721,683</td>
<td>23.26</td>
<td>11,442</td>
<td>12.64</td>
</tr>
<tr>
<td>Greater than 0, Below 1K</td>
<td>5,156</td>
<td>2,163,595</td>
<td>5,659,302</td>
<td>279.04</td>
<td>5,127</td>
<td>5.24</td>
</tr>
<tr>
<td>Exactly 0, Below 1K</td>
<td>77,947</td>
<td>0</td>
<td>77,112</td>
<td>98,563</td>
<td>100.0%</td>
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<tr>
<td><strong>Total</strong></td>
<td>121,891</td>
<td>20,281,950,220</td>
<td>1,718,733,343</td>
<td>8.54</td>
<td>98,563</td>
<td>100.0%</td>
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</table>

**NJ CBT-100S, Return Year 2017**

<table>
<thead>
<tr>
<th>Allocated Net Income Group</th>
<th>Count</th>
<th>Allocated Net Income</th>
<th>Tax Due</th>
<th>Effective Tax Rate (Tax + ANI)</th>
<th>Number Paying Gross Receipts Minimum</th>
<th>Percent Paying Gross Receipts Minimum</th>
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</thead>
<tbody>
<tr>
<td>At Least 100M</td>
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</tr>
<tr>
<td>At Least 10M, Below 10M</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>At Least 5M, Below 1M</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>At Least 100K, Below 1K</td>
<td>34</td>
<td>8,052,481</td>
<td>505,688</td>
<td>6.32</td>
<td>9</td>
<td>26.5%</td>
</tr>
<tr>
<td>At Least 10K, Below 10K</td>
<td>116</td>
<td>4,031,534</td>
<td>259,597</td>
<td>6.44</td>
<td>36</td>
<td>33.6%</td>
</tr>
<tr>
<td>At Least 5K, Below 1K</td>
<td>107</td>
<td>84,306</td>
<td>75,497</td>
<td>17.14</td>
<td>100</td>
<td>100.0%</td>
</tr>
<tr>
<td>Greater than 0, Below 1K</td>
<td>78</td>
<td>26,646</td>
<td>53,652</td>
<td>201.44</td>
<td>71</td>
<td>91.0%</td>
</tr>
<tr>
<td>Exactly 0, Below 1K</td>
<td>110,104</td>
<td>91,135,842</td>
<td>108,295</td>
<td>98.44</td>
<td>108,295</td>
<td>98.44</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>110,439</td>
<td>12,259,967</td>
<td>733,224</td>
<td>108,295</td>
<td>98.44</td>
<td>98.44</td>
</tr>
</tbody>
</table>

34
Discussion Points (Cont’d)

22b. The Corporation Business Tax on Banking and Financial Corporations (CBT B&F) is imposed at a rate of 9 percent on net income or at the lesser rates provided under the CBT for certain income thresholds.

• **Question:** For Tax Year 2017 please indicate: a) the number of CBT B&F return filers, segregated into at least five income brackets; b) the total net income that taxpayers in each bracket declared; c) the total tax base; d) the total amount of tax they were charged; and e) the effective tax rate for each bracket. Please display the data separately by banking corporations and financial corporations.

Answer: See charts below:

**NJ BFC: Banks, Return Year 2017**

<table>
<thead>
<tr>
<th>Allocated Net Income Group</th>
<th>Count</th>
<th>Allocated Net Income</th>
<th>Tax Base</th>
<th>Tax Due</th>
<th>Effective Tax Rate (Tax \div ANI)</th>
</tr>
</thead>
<tbody>
<tr>
<td>At Least 100M</td>
<td>6</td>
<td>1,360,752,903</td>
<td>1,360,473,347</td>
<td>85,147,854</td>
<td>6.3%</td>
</tr>
<tr>
<td>At Least 10M, Below 100M</td>
<td>12</td>
<td>404,622,568</td>
<td>373,008,113</td>
<td>32,091,258</td>
<td>6.2%</td>
</tr>
<tr>
<td>At Least 1M, Below 10M</td>
<td>48</td>
<td>162,933,397</td>
<td>150,952,195</td>
<td>13,481,202</td>
<td>8.3%</td>
</tr>
<tr>
<td>At Least 100K, Below 1M</td>
<td>47</td>
<td>20,395,497</td>
<td>16,154,370</td>
<td>1,565,017</td>
<td>8.1%</td>
</tr>
<tr>
<td>At Least 10K, Below 100K</td>
<td>20</td>
<td>935,290</td>
<td>828,921</td>
<td>78,564</td>
<td>8.4%</td>
</tr>
<tr>
<td>At Least 1K, Below 10K</td>
<td>4</td>
<td>15,927</td>
<td>10,713</td>
<td>4,500</td>
<td>28.3%</td>
</tr>
<tr>
<td>Greater than 0, Below 1K</td>
<td>1</td>
<td>421</td>
<td>421</td>
<td>2,000</td>
<td>475.1%</td>
</tr>
<tr>
<td>Exactly 0</td>
<td>89</td>
<td>0</td>
<td>0</td>
<td>71,750</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>227</td>
<td>1,949,656,003</td>
<td>1,901,429,480</td>
<td>125,623,769</td>
<td>6.4%</td>
</tr>
</tbody>
</table>

**NJ BFC: Financial Corporations, Return Year 2017**

<table>
<thead>
<tr>
<th>Allocated Net Income Group</th>
<th>Count</th>
<th>Allocated Net Income</th>
<th>Tax Base</th>
<th>Tax Due</th>
<th>Effective Tax Rate (Tax \div ANI)</th>
</tr>
</thead>
<tbody>
<tr>
<td>At Least 100M</td>
<td>1</td>
<td>123,571,641</td>
<td>123,571,641</td>
<td>11,121,448</td>
<td>9.0%</td>
</tr>
<tr>
<td>At Least 10M, Below 100M</td>
<td>8</td>
<td>301,495,454</td>
<td>233,943,485</td>
<td>65,550,313</td>
<td>8.4%</td>
</tr>
<tr>
<td>At Least 1M, Below 10M</td>
<td>24</td>
<td>74,637,393</td>
<td>58,236,730</td>
<td>6,552,345</td>
<td>8.8%</td>
</tr>
<tr>
<td>At Least 100K, Below 1M</td>
<td>29</td>
<td>12,284,396</td>
<td>12,284,396</td>
<td>1,105,596</td>
<td>9.0%</td>
</tr>
<tr>
<td>At Least 10K, Below 100K</td>
<td>12</td>
<td>497,002</td>
<td>497,002</td>
<td>45,568</td>
<td>9.2%</td>
</tr>
<tr>
<td>At Least 1K, Below 10K</td>
<td>8</td>
<td>32,812</td>
<td>32,812</td>
<td>8,529</td>
<td>26.0%</td>
</tr>
<tr>
<td>Greater than 0, Below 1K</td>
<td>5</td>
<td>2,669</td>
<td>2,669</td>
<td>850</td>
<td>318.3%</td>
</tr>
<tr>
<td>Exactly 0</td>
<td>175</td>
<td>0</td>
<td>30,079</td>
<td>1,037,099</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>262</td>
<td>514,521,368</td>
<td>428,598,915</td>
<td>45,137,388</td>
<td>8.8%</td>
</tr>
</tbody>
</table>

23. The Realty Transfer Fee is imposed on a property’s selling price. There are several partial or full exemptions, including for sellers who are 62 years of age or older, blind, or disabled at the time of selling a one- or two-family residential property. Further, there is a separate one-percent assessment on certain residential and commercial properties selling for more than $1 million.
Discussion Points (Cont’d)

- Question: Please provide a table which displays the total number of properties sold with a consideration below $350,000, between $350,000 and $1,000,000, and $1,000,000 and above for FY 2018 and year-to-date FY 2019. In each of those years, how many individuals received partial exemptions due to age or disability?

Answer: See chart below:

<table>
<thead>
<tr>
<th>Realty Transfer Fee Breakdown</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fiscal Year 2018</td>
</tr>
<tr>
<td>Sales under $350,000</td>
</tr>
<tr>
<td>Sales between $350,000 and $1,000,000</td>
</tr>
<tr>
<td>Sales over $1,000,000</td>
</tr>
<tr>
<td>Total:</td>
</tr>
<tr>
<td>Fiscal Year 2019 YTD</td>
</tr>
<tr>
<td>Sales under $350,000</td>
</tr>
<tr>
<td>Sales between $350,000 and $1,000,000</td>
</tr>
<tr>
<td>Sales over $1,000,000</td>
</tr>
<tr>
<td>Total:</td>
</tr>
</tbody>
</table>

- Question: For FY 2018 and year-to-date FY 2019, please provide the amount of revenue generated by the residential portion of the one-percent assessment on properties over $1 million and a separate accounting for the commercial segment. For the residential and commercial segments, how many buyers were subject to the one-percent assessment for those years?

Answer: See chart below:

<table>
<thead>
<tr>
<th>RTF Revenue from One-Percent Assessment on Properties over $1M</th>
</tr>
</thead>
<tbody>
<tr>
<td>Actual RTF Revenue Fiscal Year 2018</td>
</tr>
<tr>
<td>-----------------------------------</td>
</tr>
<tr>
<td>$136,068,603.00</td>
</tr>
<tr>
<td>79% Residential</td>
</tr>
</tbody>
</table>
Discussion Points (Cont’d)

| 21% Commercial | 1,125 | 21% Commercial | 761 |

*Please note that the 1% totals do not account for buyers whom may have been exempt from the 1% fee, or were granted refunds.

24. The **Tobacco Products Wholesale Sales and Use Tax** is imposed on the receipts from every sale of tobacco products, other than cigarettes, by a distributor or a wholesaler to a retail dealer or consumer. The tax is imposed at the rate of 30 percent on the invoice price. Moist snuff is taxed at the rate of $0.75 per ounce on net weight.

P.L.2018, c.50 imposed a $0.10 per fluid milliliter tax on the sale of liquid nicotine. According to a notice issued by the Division of Taxation, P.L.2018, c.50 substantially altered the definition of a “tobacco product” so that products that were formerly not subject to the tax, including non-liquid nicotine products and tobacco product substitutes, are now subject to the 30 percent tax rate, beginning September 29, 2018. The new tax on liquid nicotine also took effect on September 29, 2018.

- **Question:** For FY 2018 and FY 2019 to date, please provide a table which displays the revenues collected for tobacco products subject to the tax, moist snuff, and liquid nicotine, respectively. Please provide the number of distributors and wholesalers that pay each component of the **Tobacco Products Wholesale Sales and Use Tax**.

**Answer:** The requested table for tobacco products is below:

<table>
<thead>
<tr>
<th>TOBACCO PRODUCTS TAX REVENUE FY 18-19</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
<tr>
<td>FY19*</td>
</tr>
<tr>
<td>Tax Due on Tobacco Products</td>
</tr>
<tr>
<td>Tax Due on Moist Snuff</td>
</tr>
<tr>
<td>Tax Due on Liquid Nicotine</td>
</tr>
<tr>
<td>Tax Due on Roll-Your-Own</td>
</tr>
<tr>
<td>Total Tax Revenue</td>
</tr>
</tbody>
</table>

* Through February 2019

The above Revenue numbers do not include $424,575 collected in Liquid Nicotine Floor Stocks Revenue.

Prior to September 2018, Roll-Your-Own products were included in Tobacco Products.
The number of filers that pay each component of TPT is as follows:

<table>
<thead>
<tr>
<th></th>
<th>TOBACCO PRODUCTS</th>
<th>MOIST SNUFF</th>
<th>LIQUID NICOTINE</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY18</td>
<td>257</td>
<td>48</td>
<td>0</td>
<td>305</td>
</tr>
<tr>
<td>FY19</td>
<td>198</td>
<td>42</td>
<td>63</td>
<td>303</td>
</tr>
</tbody>
</table>

The filing requirements for TPT are the same for both wholesalers and distributors therefore we do not track the tax by type or filer.

25. The Insurance Premiums Tax is imposed on net premiums collected by every stock, mutual, and assessment insurance company transacting business in New Jersey with tax rates differing by line of insurance. If, for any insurance company, the ratio of New Jersey business to total business is greater than 12.5 percent, the tax is imposed on only 12.5 percent of that company’s total premiums. Additionally, a retaliatory tax is imposed against foreign (out-of-State) insurance companies doing business in New Jersey where the out-of-State company’s state, county, or province imposes an overall tax on New Jersey companies doing business in that jurisdiction higher than the tax New Jersey imposes on the foreign company doing business in New Jersey.

- **Question:** Please provide component data for the Insurance Premiums Tax by line of insurance for calendar year 2018. Specifically, please provide the number of taxpayers, total net premiums, and revenues generated by line of insurance. How many calendar year 2018 taxpayers exceeded the 12.5 percent threshold and what is the estimated value of the 12.5 percent premium cap?

Answer: Data is attached for calendar year 2018 taxpayers (returns filed in March 2019). Please note the data on the report is incomplete as returns are currently being processed. An updated report should be able to be provided by mid-May.

If, for any insurance company, their New Jersey taxable premiums exceed 12.5% of the total worldwide premiums collected by the company and all of its affiliates, the tax is imposed on 12.5% of that company’s total premiums.

Please see attached chart:
Taxation DP 25 2018 COMPONENT DATA SUMMARY-GENTS REPORT

26. Taxpayers awarded certain State tax credits may apply for a **tax credit transfer certificate** with the New Jersey Economic Development Authority. Tax credit transfer certificates allow businesses in New Jersey with unused tax credits to sell those tax credits for use by other CBT or insurance premiums taxpayers. In response to an FY 2019 OLS Discussion Point, the Treasury noted that 68 tax credits were issued in FY 2017 with a total value of $108.3 million. In FY 2018, 93 tax credits were issued with a total value of $139 million.
Discussion Points (Cont’d)

- **Question:** For FY 2018 and year-to-date FY 2019, how many tax credit transfer certificates were approved? Please provide the value of approved tax credit transfer certificates for taxpayers with CBT liabilities, and for taxpayers with insurance premiums tax liabilities. For both the CBT and insurance premiums tax, what was the magnitude of tax liability reductions attributable to the transferred tax credits in FY 2018 and for year-to-date FY 2019? For which incentive programs were the most tax credit transfer certificates approved? By incentive program, please provide the percentage of tax credits awarded through the New Jersey Economic Development Authority that is being transferred.

- **Question:** For FY 2018 and year-to-date FY 2019, how many tax credit transfer certificates were approved?

Answer: NJEDA approves the tax credit transfers and provides such approval to Taxation. The number of transfer certificates certified by Taxation for FY18 is 118. The number of transfer certificates certified by Taxation as of April 26, 2019 is 98.

<table>
<thead>
<tr>
<th>Tax Credit Program</th>
<th>FY18</th>
<th>FY19</th>
<th>Total FY18-FY19</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business Employment Incentive Program (BEIP)</td>
<td>6</td>
<td>4</td>
<td>10</td>
</tr>
<tr>
<td>GROW NJ Tax Credit Program (Grow NJ)</td>
<td>45</td>
<td>55</td>
<td>100</td>
</tr>
<tr>
<td>Urban Transit HUB Tax Credit Program (HUB)</td>
<td>35</td>
<td>10</td>
<td>45</td>
</tr>
<tr>
<td>Economic Redevelopment and Growth Grant - Residential (ResERG)</td>
<td>29</td>
<td>29</td>
<td>58</td>
</tr>
<tr>
<td>Public Infrastructure Project Tax Credit Program (PIP)</td>
<td>3</td>
<td>0</td>
<td>3</td>
</tr>
<tr>
<td>Totals</td>
<td>118</td>
<td>98</td>
<td>216</td>
</tr>
</tbody>
</table>

- **Question:** Please provide the value of approved tax credit transfer certificates for taxpayers with CBT liabilities, and for taxpayers with insurance premiums tax liabilities.

Answer: The following totals are based on issuances across all five incentive programs documented by Taxation:

**FY2018:**

<table>
<thead>
<tr>
<th>Tax Credit Program</th>
<th>CBT Value</th>
<th>CBT-8X Value</th>
<th>IPT Value</th>
<th>Totals</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business Employment Incentive Program (BEIP)</td>
<td>$670,502.00</td>
<td>-</td>
<td>-</td>
<td>$670,502.00</td>
</tr>
<tr>
<td>GROW NJ Tax Credit Program (Grow NJ)</td>
<td>$21,953,377.00</td>
<td>$3,653,500.00</td>
<td>-</td>
<td>$25,606,877.00</td>
</tr>
<tr>
<td>Urban Transit HUB Tax Credit Program (HUB)</td>
<td>$38,571,472.00</td>
<td>$8,395,375.00</td>
<td>-</td>
<td>$46,966,847.00</td>
</tr>
<tr>
<td>Economic Redevelopment and Growth Grant - Residential (ResERG)</td>
<td>$1,225,978.00</td>
<td>$6,039,129.00</td>
<td>-</td>
<td>$7,265,107.00</td>
</tr>
<tr>
<td>Public Infrastructure Project Tax Credit Program (PIP)</td>
<td>$15,000,000.00</td>
<td>-</td>
<td>-</td>
<td>$15,000,000.00</td>
</tr>
<tr>
<td>Totals</td>
<td>$77,419,529.00</td>
<td>$18,082,004.00</td>
<td>-</td>
<td>$95,501,533.00</td>
</tr>
</tbody>
</table>

07/01/15 - 06/30/18

**FY2019 (YTD through 4/26/19):**
Discussion Points (Cont’d)

<table>
<thead>
<tr>
<th>Tax Credit Program</th>
<th>CBT Value</th>
<th>CBT-EN Value</th>
<th>IPT Value</th>
<th>Totals</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business Employment Incentive Program (BEIP)</td>
<td>$156,644.00</td>
<td>$ -</td>
<td>$947,443.0</td>
<td>$1,104,287.00</td>
</tr>
<tr>
<td>GROW NJ Tax Credit Program (Grow NJ)</td>
<td>$22,013,009.0</td>
<td>$1,351,500.0</td>
<td>$44,941,172.0</td>
<td>$68,303,672.00</td>
</tr>
<tr>
<td>Urban Transit HUB Tax Credit Program (HUB)</td>
<td>$1,024,409.00</td>
<td>$12,341,049.0</td>
<td>$10,628,846.0</td>
<td>$33,994,298.00</td>
</tr>
<tr>
<td>Economic Redevelopment and Growth Grant - Residential (ResEGR)</td>
<td>$9,593,123.00</td>
<td>$ -</td>
<td>$17,281,265.0</td>
<td>$27,223,888.00</td>
</tr>
<tr>
<td>Public Infrastructure Project Tax Credit Program (PIP)</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
</tr>
<tr>
<td>Totals</td>
<td>$43,133,370.0</td>
<td>$13,602,549.0</td>
<td>$73,798,726.0</td>
<td>$130,622,645.00</td>
</tr>
</tbody>
</table>

07/01/18 - 04/28/19

- **Question:** For both the CBT and insurance premiums tax, what was the magnitude of tax liability reductions attributable to the transferred tax credits in FY 2018 and for year-to-date FY 2019?

Answer: This information is not yet available.

- **Question:** For which incentive programs were the most tax credit transfer certificates approved?

Answer: The most transfer requests have come through the Grow New Jersey Assistance Act Tax Credit incentive program, with 100 transfers since 7/1/17.

- **Question:** By incentive program, please provide the percentage of tax credits awarded through the New Jersey Economic Development Authority that is being transferred.

Answer: Refer to the chart below:

<table>
<thead>
<tr>
<th>Tax Credit Program</th>
<th># Certificates Issued</th>
<th>$ Certificates Issued</th>
<th># Certificates Transferred</th>
<th>% Transferred</th>
<th>$ Certificates Transferred</th>
<th>% Transferred ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business Employment Incentive Program (BEIP)</td>
<td>141</td>
<td>$28,659,177.00</td>
<td>10</td>
<td>7.09%</td>
<td>$2,200,281.00</td>
<td>8.57%</td>
</tr>
<tr>
<td>GROW NJ Tax Credit Program (Grow NJ)</td>
<td>197</td>
<td>$306,461,184.00</td>
<td>156</td>
<td>79.13%</td>
<td>$210,812,651.00</td>
<td>68.79%</td>
</tr>
<tr>
<td>Urban Transit HUB Tax Credit Program (HUB)</td>
<td>132</td>
<td>$341,369,614.00</td>
<td>130</td>
<td>98.36%</td>
<td>$334,465,292.00</td>
<td>98.00%</td>
</tr>
<tr>
<td>Economic Redevelopment and Growth Grant - Residential (ResEGR)</td>
<td>65</td>
<td>$59,798,524.00</td>
<td>65</td>
<td>99.48%</td>
<td>$53,463,093.00</td>
<td>99.47%</td>
</tr>
<tr>
<td>Public Infrastructure Project Tax Credit Program (PIP)</td>
<td>3</td>
<td>$15,000,000.00</td>
<td>3</td>
<td>100.00%</td>
<td>$15,000,000.00</td>
<td>100.00%</td>
</tr>
<tr>
<td>Totals</td>
<td>529</td>
<td>$755,226,508.00</td>
<td>354</td>
<td></td>
<td>$623,950,207.00</td>
<td></td>
</tr>
</tbody>
</table>

NEW JERSEY LOTTERY

27. On October 1, 2013, Northstar New Jersey Lottery Group, LLC (“Northstar New Jersey) assumed full control over the New Jersey Lottery's sales and marketing operations. Northstar New Jersey’s annual compensation has two components, the reimbursement of the vendor's administrative expenses and a performance-based incentive payment or penalty. FY 2018 State Lottery net income equaled $1.059 billion. As a result, the vendor received a $31.9 million performance payment, which represented 3.0 percent of the State Lottery’s FY 2018 net operating revenues prior to deducting the vendor’s performance payment.

In recognition of the environment in which Northstar New Jersey operated at the time, a contract amendment was adopted in December 2015 that lowered the vendor’s performance-based compensation targets for the remainder of the term. The general outlook has improved since then. Powerball and Mega Millions have been restructured, resulting in higher sales and jackpots. In addition, in July 2017, the State launched Quick Draw, a monitor-style game expected to generate $65 million in FY 2018 sales receipts and $136 million in FY 2019, with net proceeds of $19 million and $45 million, respectively, in each fiscal year.

40
Discussion Points (Cont’d)

As a result, in response to a FY 2019 OLS Discussion Point, the department noted that it was reviewing costs and terms of the Service Agreement to ensure that the State is fully benefitting from the launch of new games and the growth in sales from the reinvigorated multi-state games. The department noted that the 2015 contract amendment permits further amendments to the vendor’s performance-based compensation targets if the State permits monitor games, such as Quick Draw.

The “Lottery Enterprise Contribution Act,” P.L. 2017, c.98 contributed the State Lottery Enterprise to the Teachers’ Pension and Annuity Fund (TPAF), the Public Employees’ Retirement System (PERS), and the Police and Firemen’s Retirement System (PERS) for a term of 30 years. Supplementary FY 2020 Budget information indicates that $976.0 million in lottery proceeds was contributed to the pension funds in FY 2018. The Governor’s FY 2020 Budget anticipates $1.037 billion in FY 2019 and $1.071 billion in FY 2020 to supplement State contributions to the State retirement systems.

• **Question:** Has the department completed its review of the Service Agreement with Northstar New Jersey? If so, what are the department’s conclusions? What changes to the Services Agreement, if any, have been negotiated? How have the performance-based compensation targets been adjusted to reflect the commencement of the Quick Draw game and growth in sales for Powerball and Mega Millions? If the review is not yet complete, when does the department anticipate it will be finished? If no changes have been made to the Service Agreement, please explain why.

**Answer:** The Department has entered into an agreement with Northstar New Jersey Lottery Group (“Northstar”) to amend the Service Agreement with Northstar. Amendment Number 4 to the Service Agreement was executed by the State on May 3, 2019. Under the original contract, Northstar was entitled to earn incentive compensation if the Lottery achieved certain targets for Net income in a fiscal year. A 2015 amendment to the contract lowered the contracted performance targets that are used to calculate any incentive payment for Northstar. As a result, in the fiscal years ending in 2017 and 2018, Northstar received very large incentive payments.

Amendment number 4 to the Service Agreement does several things. Importantly, it increases the performance targets that are used to calculate any incentive payment to Northstar, thereby creating a higher performance bar to be reached before Northstar receives an incentive payment. These performance targets have been increased in Fiscal Year 2020 and until the contract expires in FY2029 to reflect expected income from the introduction of Lottery’s Quick Draw game, which was first launched in August 2017. Lottery expects Quick Draw to generate $130 million in sales this Fiscal Year.

Next, it creates a one year rebate formula to be applied to this year’s (FY2019) incentive payment calculation. While the FY 2019 incentive compensation due to Northstar will be calculated using the formula that was in effect pursuant to the 2015 amendment, the incentive payment will be reduced by (a) an amount equal to 20 percent of the calculated amount plus (b) an additional $1 million.

Finally, the contract has been amended to provide that Northstar’s Manager’s Expenses do not include any expenses related to Northstar personnel travel, meals, and entertainment, and do not include the Northstar management bonuses. The contract as initially awarded allowed
Discussion Points (Cont’d)

Northstar to pass all of its operating expenses on to the State. Those expenses will be paid out of Northstar’s future incentive payments, and if Northstar receives no incentive pay, out of Northstar’s own funds.

As a result of this amendment, the Department projects that under a scenario where Lottery’s net income increases 1% annually, the State will pay $52 million less to Northstar in incentive payments over the next 5 years and $79.5 million less over the remaining term of the contract, which ends in 2029, than it would have had the contract not been amended.

COMMISSION ON SCIENCE, INNOVATION AND TECHNOLOGY

28. P.L.2018, c.91 reactivates the previously defunct New Jersey Commission on Science and Technology as the New Jersey Commission on Science, Innovation, and Technology. Originally established in 1985, the commission encourages the development of scientific and technological programs, stimulates academic-industrial collaboration, and coordinates the activities of technology centers and business facilities. In addition to these responsibilities, P.L.2018, c.91 requires the commission to appoint an Innovation Council from its membership. The Innovation Council is charged with determining how to stimulate technology transfer between public and private research institutions and industry, including the transfer of information from various federal agencies. On February 13, 2019, the Governor announced the appointment of the chair of the commission.

The FY 2019 Appropriations Act provided a Grants-in-Aid appropriation of $1 million to the commission but all of those funds remain unexpended. The Governor recommends an additional $1 million appropriation for Grants-in-Aid in FY 2020.

• Question: Please provide an update regarding the status of the New Jersey Commission on Science, Innovation and Technology. Please provide a summary of the commission’s FY 2019 activities to date and its proposed activities for FY 2020. From what department or agency does the commission receive staff support? What is the total amount expended for commission operations in FY 2019 to date? What is the total amount anticipated to be expended for commission operations in FY 2020? Does the commission anticipate expending the $1 million FY 2019 Grants-in-Aid appropriation?

Answer: The Commission held its first meeting on March 28, 2019, and a second meeting is scheduled for May 16. At its first meeting in March, the Commission resolved several governance and logistical issues, including designating an ethics officer and records custodian, and began discussions to identify key issues on which the Commission should focus its efforts. They are also reviewing the work of the previous commission that suspended operations in 2010.

The Commission is currently receiving support from staff in the Governor’s office, the Treasurer’s office and Treasury’s Division of Administration, the Office of the Attorney General and the Economic Development Authority. Because of this support from existing staff, the Commission has not yet needed to expend any money for operations in FY 2019. Commissioners may commence operational programming prior to the end of FY 2019, but how much of their FY 2019 appropriation will be encumbered has not yet been determined. It is Treasury’s understanding that the Commission intends to fully expend their FY 2020 appropriation.
Discussion Points (Cont’d)

CASINO CONTROL COMMISSION

29. The three-member New Jersey Casino Control Commission (CCC), along with the Division of Gaming Enforcement (DGE) in the Department of Law and Public Safety, is responsible for the regulation of legalized casino gaming in New Jersey. Among its duties, the CCC is charged with licensing casinos and their key employees.

On June 21, 2018, the CCC granted a plenary casino license to the Ocean Resort Casino, formerly known as the Revel Casino Hotel Atlantic City. The casino reopened on June 27, 2018. On February 6 2019, the Press of Atlantic City reported that the Ocean Resort Casino had lost nearly $23 million from September 2018 through January 2019. At the recommendation of the DGE, the CCC adopted a resolution on February 6, 2019 placing additional financial conditions on the casino. The casino is required to maintain a daily operating cash balance of not less $10 million and a casino bankroll of not less than $11 million. The casino is also required to have access to a combined working capital and debt service reserve of at least $15 million for any operational purpose. The casino is required to notify the DGE if the combined total of the daily operating cash balance, casino bankroll, and working capital and debt service reserve is less than $36 million. The CCC also imposed additional financial reporting requirements on the casino.

• **Question:** Please discuss the CCC’s and, if necessary, the Division of Gaming Enforcement’s ongoing role in monitoring the financial conditions of Atlantic City’s casinos. What assumptions, projections, and criteria does the commission use when determining whether to approve an application for a casino license?

**Answer:** In order to obtain a casino license, the Casino Control Act, N.J.S.A. 5:12-1 et seq. (Act), requires an applicant to establish, by clear and convincing evidence, certain essential criteria: financial stability, integrity, and responsibility; good character, honesty, and integrity; and sufficient business ability and casino experience to establish the likelihood of maintaining a successful and efficient casino operation. An applicant may establish that it meets these essential criteria by providing such information, documentation, and assurances as may be required. Additionally, the casino license applicant must establish its financial background and resources, as well as the qualification of any financial backers and investors. It must also demonstrate its business organization, including the nature and background of all of its business activities and those of its holding, intermediary, and subsidiary companies. Furthermore, background details must be provided relevant to the casino license applicant’s officers, directors, and such other employees as the Division of Gaming Enforcement (Division) may designate.

To apply for a casino license, the applicant for the license must submit the requisite forms for itself and each of its entity and individual qualifiers, and pay an application fee deposit of $100,000.00. Required forms include, a business entity disclosure form (BED), the most comprehensive of which is the BED-Corporate and a personal history disclosure form (PHD) which include the Multi-jurisdictional personal history disclosure form (PHD-MJ) and New Jersey supplemental form, or the personal history disclosure form 1B (PHDF-1B) or the personal history disclosure form 4A.
Discussion Points (Cont'd)

Pursuant to section 84a (1) through (5) of the Act, to demonstrate financial stability, integrity and responsibility, a casino license applicant must demonstrate the ability to meet five financial standards:

1. Maintain an adequate casino bankroll (or equivalent) to pay winning patrons when due. Section 84a(1) specifies that a casino license or applicant shall be presumed to have met this standard if it maintains on a daily basis a casino bankroll or equivalent, in an amount which is at least equal to the average daily minimum casino bankroll or equivalent, for the corresponding month in the previous year. In the case of a casino license or applicant that has been in operation for less than 1 year, the amount required shall be determined by the Division based upon levels maintained by a comparable casino licensee.

2. Meet ongoing operating expenses by achieving annually a positive gross operating profit.

3. Pay, as and when due, all federal, state and local taxes, including the gross revenue tax, the investment alternative tax and any fees imposed by the Act or regulations.

4. Fund in a timely manner all necessary capital and maintenance expenditures to assure a superior first class facility of exceptional quality. Section 84a(4) specifies that a casino license or applicant shall be presumed to have met this standard if it demonstrates that its capital and maintenance expenditures, over the five-year period which includes the three most recent calendar years and the upcoming two, average at least 5 percent of net revenue per annum. A casino license or applicant that has been in operation for less than 3 years shall be required to otherwise establish compliance with this standard.

5. Pay, exchange, refinance or extend debts which will mature or otherwise become due and payable during the license term, or to otherwise manage such debts and any default with respect to such debts.

A casino license applicant must also establish that its casino and related facilities are suitable for casino operations. Additionally, a casino license applicant must establish that it does not suffer from any of the negative disqualification criteria, such as failure to provide required information, conviction of a serious crime, pending criminal charges, or association with what the Act calls "career offenders" or "career offender cartels." Further, section 134b of the Act requires that a casino license applicant must agree to afford equal employment opportunity under an approved affirmative action-action program.

To guard against the ill effects from the concentration of economic power, section 82e of the Act prohibits anyone, either directly or through related companies, from holding a casino license if doing so would result in undue economic concentration of Atlantic City casino operations by that person. The rules previously promulgated by the Commission to examine various market criteria to determine if unacceptable dominance would be created through the granting of a casino license were codified on February 1, 2011 (P.L. 2011, c. 19, §46) and updated thereafter by statutory amendments enacted August 7, 2012 (P.L. 2012, c. 34, §5) and February 26, 2013 (P.L. 2013, c. 27, §32). The general criteria for the Commission to determine whether the prohibition against undue economic concentration in casino operations is implicated are now detailed in Section 82e(1)-(11) of the Act.
Discussion Points (Cont'd)

The Act requires that the Division investigate all license applications and provide the Commission with all information necessary for it to act on casino licensing matters. A casino license is subject to review by the Division every five (5) years. Further, pursuant to section 87 of the Act, a casino license resubmission is generally approved by the Division and a summary report issued to the Commission, unless, upon review, the Division Director determines that a hearing on any issue is required, in which case, the Division is required to issue a report and recommendation to the Commission which report shall initiate a casino license resubmission hearing. Additionally, section 87 of the Act authorizes the Director of the Division to reopen a casino license hearing at any time.

Each casino licensee has a continuing obligation to maintain its financial stability in accordance with the criteria set forth in N.J.S.A. 5:12-84a(1) through (5) as noted above. Specifically, Division regulation N.J.A.C. 13:69C-4.4(a) through (g) requires each casino licensee to:

- file a statement of compliance with the criteria set forth in section 84a(1) through (5) of the Act which shall be included in the casino licensee’s quarterly reports;
- no later than 90 days after the commencement of each fiscal year, file with the Division financial projections for that fiscal year which at a minimum, shall include a statement of income, balance sheet, and statement of cash flows;
- at the end of each calendar year, file with the Division a detailed analysis regarding compliance with capital expenditure and maintenance obligations;
- each casino licensee and holding company shall file with the Division such other information as it deems material to a showing of financial stability;
- report immediately to the Division any event of default related to any debt obligation maintained by the casino licensee, affiliate or holding company, along with any plans to address or cure such default;
- electronically file with the Division its monthly internal financial statements within 5 days of completion, but in no event later than the end of the subsequent month;
- each casino licensee, affiliate or holding company, electronically file with the Division a copy of any compliance certificates when provided to lenders pursuant to any loans or debt instruments.

In the event that a casino licensee fails to demonstrate ongoing financial stability, the Division, pursuant to N.J.A.C. 13:69C-4.5 may take such action as is necessary to fulfill the purposes of the Act and to protect the public interest. Section 4.5 specifies options which include, but are not limited to:

- Establishing an appropriate cure period;
- Imposing reporting requirements in excess of those otherwise provided for in the Division’s rules;
- Placing such restrictions on the transfer of cash or the assumption of liabilities as is necessary to insure future compliance with the Act’s financial stability criteria;
- Requiring the maintenance of reasonable reserves or the establishment of dedicated or trust accounts to insure future compliance with the Act’s financial stability standards.
Discussion Points (Cont’d)

Section 4.5 of the Division’s regulations, also specifies, in accordance with the Act that the Division may move before the Commission to seek action, including, but not limited to the imposition of licensure conditions, revocation of licensure, and a request for the appointment of a conservator.

- **Question:** Do the reported financial imbalances of the Ocean Resort Casino soon after its opening suggest shortcomings in the review and analysis of financial documents submitted to the CCC as part of the casino’s application for a plenary casino license? When reviewing the casino’s application, was the CCC concerned about the casino’s financial viability?

Answer: In accordance with authority granted to the Commission and the Division as noted above, considerable leeway is given to the gaming regulatory authorities to ensure the integrity as well as stability of the Atlantic City gaming market.

In anticipation of obtaining a casino interest, AC Ocean Walk LLC (AC Ocean) filed an application on October 18, 2017 seeking casino licensure from the Commission. After acquiring the former Revel property and power plant from Glenn Straub’s Polo North Country Club, Inc. on January 4, 2018, AC Ocean and its holding and intermediary companies planned to reopen the former Revel Hotel and Casino (Revel) as the Ocean Resort Casino (Ocean Resort) with a proposed opening date of June 28, 2018.

Pursuant to its statutory directive, the Division filed a comprehensive report with the Commission on June 7, 2018 addressing AC Ocean’s petition for casino licensure. The Division’s report addressed the statutorily mandated qualifying criteria including the financial stability, integrity and honesty criteria detailed above and recommended that the Commission grant AC Ocean a casino license subject to 26 license conditions.

During hearings held on June 20 and June 21, 2018, the Commission considered the report of the Division and the testimony of the witnesses and by Resolution No. 18-06-21-00, granted an initial casino license to AC Ocean as of June 21, 2018.

The Commission qualified the following entities as holding companies of AC Ocean: AC Beachfront, AXOWMGR, TEN RE, Mile High, and the Family Partnership. The Family Partnership also was qualified as a financial source, along with JPMorgan Chase National Bank, N.A. (JPMorgan), as the lender under a $175 million term loan executed with AC Ocean and its affiliates on June, 4, 2018, and Luxor Capital Group LP (Luxor) as the lender under a $125.5 million loan executed with the Family Partnership as of January 4, 2018. Affiliates of Luxor held warrants to acquire all the Class C-1 units of beneficial interests in TEN RE. Additionally, Luxor held Series A Preferred Units in TEN RE due to an additional investment of $22.6 million in the form of a preferred equity contribution.

As noted, the Commission granted AC Ocean’s casino license subject to 26 conditions recommended by the Division. The conditions included numerous financial requirements, including Conditions 1 through 3 which required AC Ocean to: (1) maintain a Daily Operating Cash Balance of not less than $10 million; (2) maintain a Casino Bankroll of not less than $11 million; and (3) have direct access to a Working Capital Reserve and Debt Service Reserve of at least $20 million as of opening and $15 million thereafter. The conditions together effectively required AC Ocean to maintain cash reserves at a minimum of $36 million (Minimum Liquidity Condition) at all times after opening. Under Condition 4, AC Ocean was
Discussion Points (Cont'd)

required to immediately notify the Division if it did not have a combined Daily Operating Cash Balance, Casino Bankroll, Working Capital Reserve, and Debt Service Reserve that collectively totaled at least $36 million. To facilitate monitoring, additional conditions included:

- By no later than Wednesday of each week, AC Ocean must provide the Division with its weekly cash activity forecast. This report must detail actual deposits, disbursements, and cash balances for the preceding week, as well as projected deposits, disbursements, and cash balances on a daily basis for the next four weeks.
- Within 5 calendar days of the end of each month, AC Ocean must provide the Division with the month-end Daily Operating Cash Balance, Casino Bankroll balance, Working Capital Reserve balance and Debt Service Reserve balance.
- Within 20 calendar days of the end of each month, AC Ocean must provide the Division with a comparison of the actual income statement to the forecasted income statement submitted in support of the casino license application. Any variance in excess of 10% must contain an explanation.
- Within 20 calendar days of the end of each month, AC Ocean shall provide the Division with a Statement of Cash Flows for the prior month.
- AC Ocean must immediately notify the Division if it projects that its available funds will not be sufficient to address its projected cash needs for at least the next 90 days, along with a detailed plan to address the potential shortfall.
- AC Ocean and JPMorgan, as lender, shall not cease providing the financial support necessary for Ocean Resort to maintain its qualifications, including financial stability, and to meet its ongoing operational obligations without 45 days prior written notice of such action to the Division.

The financial conditions imposed with the granting of AC Ocean’s casino licensure worked as intended and allowed the Division direct and ongoing oversight of the financial condition of Ocean Resort.

On January 28, 2019, AC Ocean and its holding companies and entity qualifiers, individual qualifiers, casino service industry enterprise licensee, and financial source, Luxor Capital Group LP (Luxor) filed a petition (PRN 0281904) with the Commission seeking a declaratory ruling approving a Divestiture Trust Agreement; approving the transfer of certain interests in AC Ocean’s holding company TEN RE; and qualifying the proposed Divestiture Trustee. Approval was sought in order to consummate a proposed transaction whereby Luxor would invest $20 million in TEN RE, an AC Ocean holding company, in exchange for certain convertible notes which notes would be placed into the Divestiture Trust; all of the Deifik family interests, direct and through subsidiaries, would be irrevocably transferred to the Divestiture Trust and Luxor would make a $50 million junior mezzanine loan to TEN RE, the proceeds of which would be used to reduce the principal balance owed by AC Ocean to JPMorgan. The $20 million from Luxor would be used by AC Ocean to increase liquidity to meet the Minimum Liquidity Conditions and reduce its accounts payable. Additionally, Luxor’s $50 million investment would repay an equivalent portion of the existing JPMorgan Term loan resulting in decreased cash interest payments.

By report dated January 29, 2019 the Division reported to the Commission that AC Ocean experienced issues in complying with the Minimum Liquidity Condition in mid-October 2018 and that it sought relief from the Division as to the $36 million requirement. The Division
Discussion Points (Cont’d)

reported that it approved a temporary reduction of the Minimum Liquidity Condition to $31 million for a seven-day period and required that AC Ocean provide a plan for compliance with the $36 million Minimum Liquidity Condition requirement by October 31, 2018. The Division also reported that while AC Ocean pursued various funding alternatives to meet the Minimum Liquidity Condition, including pursuing equity contributions from potential investors, AC Ocean sought an extension of the waiver of the Minimum Liquidity Condition for an additional 30 days, or through November 30, 2018. AC Ocean also sought an additional temporary waiver until January 15, 2019. As AC Ocean was at that time in extensive discussions with its lenders regarding a long term solution to the Financial Minimum Liquidity Conditions, the Division declined to act on the request for a further extension, instead opting to closely monitor the financial situation at AC Ocean, simultaneously indicating to all concerned parties that a resolution was essential in the near term in light of liquidity and accounts payable trends.

At its February 6, 2019 meeting, the Commission considered the Division’s report and presentations and approved the Restructuring Proposal, the Divestiture Agreement and qualified the Trustee. The 26 Casino License conditions were re-imposed and several additional oversight conditions, relative to Luxor and the Divestiture Trustee’s new roles, were added.

• Question: Is the Ocean Resort Casino meeting the cash maintenance and financial reporting requirements imposed by the CCC resolution approved on February 6, 2019? Has the casino’s financial position improved since January 2019? If not, at what point will the CCC, in conjunction with the DGE, if applicable, determine that the casino is no longer a viable enterprise?

Answer: The Division continues to monitor AC Ocean consistent with the revised and updated Conditions imposed by the Commission in conjunction with the approval of AC Ocean’s Divestiture Trust (Res. No. 19-02-06-17) and its general financial review authority as noted above. Consistent with its general authority as noted above, the Division, at any time, may request the reopening of a casino license should circumstances so warrant.

Consistent with its filings as well as representations made at the February 6, 2019 Commission hearing, Luxor Capital intends to seek interim authorization to own the Ocean Resort pending plenary licensure. Interim casino authorization is governed by the provisions of N.J.S.A. 5:12-95.12 et seq. Interim Casino Authorization (ICA) requires the execution of a Trust Agreement and designation of a Trustee, which the Commission must qualify, to hold the casino interest pending plenary casino licensure. To grant ICA, the Commission, by clear and convincing evidence, must find that all required statements of compliance have been received; that the ICA trustee is qualified and that interim operation of the casino before plenary qualification will best serve the public interest. A report from the Division is expected prior to consideration of an ICA petition. An additional comprehensive report from the Division is mandated prior to consideration and determination of plenary licensure.

CASINO REINVESTMENT DEVELOPMENT AUTHORITY

30. The Casino Reinvestment Development Authority (CRDA) oversees the reinvestment of casino tax revenue in eligible community and economic development projects in Atlantic City and around the State. The investment alternative tax (IAT), a tax on casino gross gaming revenue, has historically been the primary source of funding for CRDA-sponsored projects.
Discussion Points (Cont'd)

P.L.2016, c.5 requires that beginning on May 27, 2016, and through December 31, 2026, IAT collections be reallocated to Atlantic City for the purpose of paying municipal debt service, except for: 1) IAT revenues previously pledged for the payment of CRDA debt service on bonds issued prior to May 27, 2016; and 2) for calendar years 2017 through 2021, IAT credits due to casino gaming properties whose payments in lieu of property taxes exceeded total real property taxes due and payable in calendar year 2015.

According to financial and operating data released by Atlantic City, the IAT generated $35.0 million in calendar year 2016 and $36.3 million in calendar year 2017. Adopted municipal budgets indicate that Atlantic City received IAT payments totaling $13.0 million and $13.8 million in calendar years 2016 and 2017, respectively. The city anticipated receiving an additional $6.7 million in calendar year 2018.

**Question:** Please discuss the impact of the redirection of IAT revenue on the CRDA's ability to finance community and economic development projects. Has the redirection of IAT revenue required the CRDA to delay or cancel the implementation of previously planned projects? If so, please detail the projects that have been delayed or cancelled. What criteria, assumptions, and projections did the CRDA use when deciding which projects should be delayed or cancelled? What changes, if any, has the CRDA made to its methods for evaluating and prioritizing projects that receive IAT funding in the face of limited financial resources?

**Answer:** In 2016, just before the implementation of the Atlantic City Recovery Act or the IAT redirection, the redevelopment of the Atlantic Club Casino was proposed to include the renovation and expansion of the structure. The renovation would include hotel room and casino floor space upgrades, conversion of some rooms to larger suites and “for sale” condominium units in the building. In addition to the renovation of the structure, an 86,000 square foot indoor water park on an adjacent parking lot would be constructed with a bridge connection to the hotel. A second indoor/outdoor wave or surfing Water Park was also proposed along the boardwalk. The overall cost of the project was over $100 million. The developers, after receiving site plan approval, reached out to CRDA for gap funding in the amount of $35 million. Knowing the impending legislative action would limit our ability to fund future projects, it was decided that we would not be able to provide the gap funding. This action essentially cancelled the entire project and the Atlantic Club sits abandoned today.

In early 2019, Showboat Resort requested $10 million to convert 400+ hotel rooms into market rate apartments. Due to CRDA lack of funds, the request was denied. Two hundred, one- and two-bedroom apartments were proposed. The project has not moved forward.

Resorts Casino Hotel requested the CRDA provide funding to assist them in acquiring land for an anticipated expansion of their facility. The request was denied due to the lack of funding.

Borale Development, LLC recently constructed, and has begun leasing, 250 market-rate apartments in a partnership with CRDA and NJHMFA. The developer has inquired about CRDA funding his second-phase which would include “for sale” residential condominiums.
 units on an adjacent parcel. We advised the developer that we do not have the funding to assist with the project at this time.

The development of an amusement facility that would include a vertical polar-coaster at Martin Luther King Boulevard and the Boardwalk requested funding to assist with their capital stack. With our reduced IAT funding sources, the request was denied.

The owner of a small group of retail shops on the Boardwalk near the Atlantic Club, requested funding for an amusement facility including a wave or surf pool in 2017. That request was denied.

In 2017, and again in 2018, a group of local property owners in the Ducktown section of Atlantic City requested $5 to $8 million of funding for a mixed use redevelopment. CRDA declined to fund the project due to lack of funds.

A group of investors requested assistance with the development of a Cigar Club and Restaurant. They requested funding to fit out the facility. Because the designs had not yet been completed, no specific dollar amount was discussed. This project was not funded due to the lack of funds.

Atlantic City’s grant consultant, along with the City of Atlantic City’s planning Director, requested CRDA fund a housing rehabilitation program in 2017. The request was $2 to $3 million to purchase abandoned homes, renovate, and hopefully sell to new owners. No money was available for the project.

The Absecon Lighthouse, the state’s tallest lighthouse and on the National Historic structure list, requested funding for a study and then funding to renovate the structure. It is CRDA’s understanding that the Lighthouse needs significant repairs and renovations with estimates running into the $1 - $2 million range. The CRDA was not able to make a commitment for funding due to the lack of funds.

A Midoil representative, requested assistance with land acquisition to construct an Asian themed 300 – 500 room hotel/casino on the beach along the inlet. CRDA was not able to assist due to lack of funds.

Funding was requested for the relocation of Sister Jean’s Kitchen, a food provider for impoverished residents of Atlantic City. CRDA initially set aside $1 million for the project. When the relocation costs expanded to $3 million, we were unable to fund the relocation. The facility has now closed with no new location.

Kentucky Avenue Renaissance Festival requested funding in August of 2017. The CRDA did not fund the event due to limited budget.

Purchase of rooming houses and relocation of the residents. The City of AC approached CRDA to fund the purchase of several of the worst facilities and to relocate the residents outside of the Tourism District. The funding need was running into several million dollars when it was determined CRDA would not be able to fully-fund the relocation efforts due to our limited budget.
Discussion Points (Cont’d)

CRDA receives multiple requests for funding of development projects, community development projects, urban art projects, small business improvement grants, and demolition funding for abandoned properties every month. For the most part these cannot be approved unless the request is small or it is a non-profit public service entity.

31. P.L.2011, c.18, in pertinent part, directed the CRDA to enter into a public-private partnership with a not-for-profit corporation consisting of a majority of New Jersey casino licensees whose investors have invested a minimum of $1 billion in Atlantic City. The corporation would be responsible for the development and implementation of a national five-year marketing program to develop a brand identity for Atlantic City and the Atlantic City Tourism District. The resultant partnership was known as the Atlantic City Alliance.

Each corporation member was required to make a contribution to the corporation. The total amount assessed upon all casino licensees was $30 million per year. P.L.2011, c.18 also authorized the CRDA to impose fees upon casino licensees if the corporation did not exist or failed to perform its obligations under the public-private partnership agreement. The total fees assessed would be no less than $30 million.

P.L.2016, c.5 abolished the alliance and removed the CRDA’s right to impose a fee upon casino licensees in the event that the alliance failed to perform its obligations. The law requires the funds that would have been collectable under P.L.2011, c.18 and future annual reduced amounts to be reallocated to support Atlantic City municipal budgets through 2023.

• Question: Please discuss the impact of P.L.2016, c.5 on the CRDA’s tourism and marketing operations. Has the CRDA established a new tourism and marketing entity? What financial resources are available to support Atlantic City tourism and marketing efforts? For calendar years 2016, 2017, and 2018, respectively, please provide a summary of tourism and marketing activities undertaken by the CRDA and any new entity, as well as total tourism and marketing expenditures.

Answer: P.L.2016, c.5 had a significant impact on the tourism and marketing of Atlantic City. While the CRDA Communications and Marketing Department took possession of the assets from the Atlantic City Alliance, (ACA), they were not given the budget or the responsibility of marketing the destination.

It was determined by the current administration at that time, to have the casino industry market itself, which left a huge void in the marketplace. In turn, many small tourism businesses and the destination suffered financially.

In 2016, 2017 and 2018, the CRDA was not given any resources to put together a cohesive marketing campaign to promote tourism throughout the tristate region, which had directly resulted in a downturn in overall annual visits and loss of revenue to competitive gaming and tourism destinations. The CRDA marketing department made a concentrated effort to redirect their focus through public relations initiatives to get information out about the destination after the abrupt dissolution of the ACA and their marketing initiatives.

Due to the lack of funding and decrease in staffing level, the department continued to try and somewhat fill the void left by the departure of the ACA. Existing staff operated at a minimal level by becoming more of a marketing services agency assisting Meet AC with
graphic and printing needs for the meetings and conventions market and assisted in events throughout the city like the beach concerts, Kennedy Plaza summer concert series, Atlantic City Airshow, and the Miss America competition. The marketing department also continued to operate the two visitor welcome centers, visitor services call center and produced Atlantic City Restaurant Week (which is in its 11th year) and the Atlantic City Host Awards, (in its 21st year). In 2017, the CRDA was able to add a Social Media Coordinator to begin reengaging visitors and potential visitors to Atlantic City through multiple social media platforms.

Finally, in 2019, under Governor Murphy, the CRDA marketing department’s budget was increased to $3.6 million (almost double from the previous three years) and 1.25% of sports betting in Atlantic City was directed to market the destination.

While the overall budget is still significantly lower than the ACA’s $30 million, the team identified the following five key objectives to once again begin marketing the destination.

1) Re-Establish “Do AC” back into the destination marketplace
   a. Redefine and expand target market audiences, i.e. the growing drive-in feeder markets in Philadelphia, New York, Baltimore/Washington area; LBGT, family, bachelor/bachelorette, etc.
      i. Represent the destination at strategic consumer tradeshows
         1. Promote the positive changes in Atlantic City (i.e. new casino/hotels; new private investment in non-gaming amenities and attractions).
         2. Promote the region’s extensive golf amenities and attractions.
      
      ii. Represent the destination at strategic travel media tradeshows
         1. Promote the positive changes in Atlantic City (i.e. new casino/hotels; new private investment in non-gaming amenities and attractions).
         2. Create a cohesive visiting journalist and media Familiarization Tour program for the destination.
         3. Utilize new methods to communicate with members of the media by monitoring traditional and online news organizations, outlets and sources.

   b. Host media opportunities in feeder markets to engage journalists in their own environment, making it easier for them to attend to learn more about the Atlantic City destination.
      i. Host Atlantic City media luncheons in venues in New York City, Philadelphia, Washington/Baltimore.

   c. Continue to promote awareness of Atlantic City as a vacation destination to international visitors in coordination with marketing partners and regional tourism bureaus to represent the destination and region to the Canadian Market.
      i. Represent the destination at international consumer tradeshows in Canada and the U.K.
      ii. Promote the region’s extensive golf amenities and attractions.

2) Provide an effective and sustained digital marketing strategy by presenting products, services and videos.
Discussion Points (Cont'd)

a. Build new leisure, corporate, Atlantic City Restaurant Week and ancillary websites
   b. Update and maintain Webdam assets to keep current for media, stakeholders, partners and partner extranet.
      i. Coordinate new destination photo shoot and new b-roll video filming, incorporating new casino/hotels, skyline, attractions, restaurants to refresh existing stock photos and available video.
   c. Continue to expand input on social media platforms (Facebook, Twitter, YouTube, and Instagram) for CRDA projects and Atlantic City tourism initiatives.
      i. Create inviting contests and social media programs with tourism partners.
      ii. Explore new and emerging social media outlets to maximize exposure.

3) Provide a year-round atmosphere of public entertainment and fun activities.
   a. Create a cohesive city-wide entertainment program to enhance the visitor experiences
      i. Present nightly summer entertainment offerings at Kennedy Plaza
      ii. Present larger summer entertainment events on the beach, at Boardwalk Hall and other entertainment venues throughout the destination.
   b. Continue presenting Atlantic City signature events including Atlantic City Restaurant Week, Atlantic City Host Awards, Atlantic City Airshow, etc.

4) Build Database for visitor engagement and expand/enhance visitor services
   a. Utilize new Geospatial technology
      i. Categorize current Atlantic City visitor profiles and retarget marketing communications messaging based on customer preferences.
      ii. Strategically place data entry points in locations identified as potential new visitors to the destination.

5) Increase participation in the Marketing Partnership Program
   a. Retool the current program to enhance the services available
      i. New tiered, fee-based program with enhanced services
   b. Re-introduce the inclusion of marketing partners representing the destination at tradeshows and media luncheons and other opportunities.

OFFICE OF THE PUBLIC DEFENDER

32. The **Office of the Public Defender (OPD)** provides legal representation to indigent defendants who are formally charged with the commission of an indictable offense. Bills\(^3\) currently pending before the Legislature would decriminalize the possession, purchase, transportation, and consumption of lawfully acquired cannabis items in certain amounts by persons 21 years of age or older. In addition, the bills decriminalize the possession of small amounts of illegal marijuana or hashish and establish a legal presumption that the possession and distribution of marijuana or hashish is lawful, so long as the amount possessed or distributed does not exceed the lawful amount of cannabis or cannabis resin a person may possess or transfer under the bills.

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\(^3\) See the Assembly Committee Substitute for Assembly Bill No. 4497 and the Senate Committee Substitute for Senate Bill No. 2703.
Discussion Points (Cont’d)

• Question: Please discuss the potential impact of the proposed adult-use cannabis legalization bills on the OPD. Does the OPD anticipate that enactment of this legislation would lower the office’s caseload, thereby rendering staff reductions and cost savings feasible? Would the enactment of the bills allow the reallocation of resources from criminal trials to other areas that fall within the purview of the OPD?

Answer: The proposed adult-use cannabis legalization bills would not affect OPD’s caseload. The legislation proposes to decriminalize the possession of small amounts of marijuana and marijuana paraphernalia for persons 21 or older. Those charges, which are considered disorderly-person offenses, are currently heard in municipal court. OPD does not handle municipal court cases. Our statutory mandate extends only to indigent clients charged with indictable offenses, i.e., offenses that are heard in the Superior Court of New Jersey. As a result, the legislation, if approved, would not lead to a reduced caseload for OPD; nor would there be a need for an internal reallocation of resources.

• Question: How many clients represented by the OPD were charged with any of the offenses that would be decriminalized under the current version of the proposed adult-use cannabis legalization bills in each of FY 2014 through FY 2018? These clients represented what percentage of the OPD’s criminal caseload? What is the total amount the OPD expended for services provided to these clients in each of FY 2014 through FY 2018? What is the total amount charged to these clients in each of these fiscal years? What amount has been paid and what amount remains outstanding?

Answer: Because the OPD does not represent clients on disorderly-person offenses (as noted, the possession of small amounts of marijuana and drug paraphernalia are graded as disorderly-person offenses), we do not track this data. The adult-use cannabis legalization bills, therefore, will have no impact, fiscal or otherwise, on our practice.

33. The OPD’s Division of Mental Health Advocacy promotes, advocates, and ensures the adequacy of the care received, and the quality of life experienced, by persons with mental illness, including residents within State mental health facilities. The division may represent the interests of indigent persons admitted to mental hospitals in such litigation as will best advance the interests of the admittees as a class on an issue of general application to them.

On December 17, 2018, the Division of Mental Advocacy, supported by the Office of the Public Defender and outside counsel, filed a class action lawsuit against the State of New Jersey on behalf of several individuals with serious mental illnesses currently or previously confined to Greystone Park Psychiatric Hospital, or who are at serious risk of being confined to Greystone Hospital. The lawsuit alleges that a dangerous level of overcrowding, chronic administrative failures, inability of doctors to spend sufficient time with patients, and poor staffing levels have resulted in a significant increase in violent incidents, suicide attempts, drug overdoses, and fatal medication mismanagement. The plaintiffs assert that the State has created an “atmosphere of terror and retaliation” in order to intimidate staff; exacerbated the harmful, life-threatening conditions at Greystone Hospital; and engaged in fraudulent and reckless conduct hidden from staff, the courts, and the public. The lawsuit claims that the State’s conduct violates the federal and State constitutions, the “Americans with Disabilities Act,” the “Rehabilitation Act of 1973,” State laws governing the treatment of patients, and State laws governing involuntary psychiatric commitment.
Discussion Points (Cont'd)

• **Question:** Please provide an update regarding the status of the Division of Mental Health Advocacy’s lawsuit against the State with respect to conditions at Greystone Park Psychiatric Hospital. Has the State responded to the division’s filing? Have briefing or filing deadlines and oral arguments been scheduled? What are the expected decision date and the division’s expectation of likelihood of success? What has been the division’s cost to date of engaging in the court proceeding?

Answer: By way of clarification, the Division of Mental Health Advocacy is part of the Office of the Public Defender (OPD) and OPD authorized the lawsuit and is the attorney of record. The status of the lawsuit is that a judge has been assigned and the Office of the Attorney General has entered an appearance on behalf of all named defendants. The Court has set May 6, 2019 as the date by which the defendants’ response to the complaint and any motions to dismiss must be filed. Any opposition to the defendants filing must be filed by the plaintiffs on or before June 30, 2019. Any reply must be filed by the defendants on or before June 17, 2019. The Judge has not scheduled any dates for oral argument at this time.

The Division/OPD is confident that if put to its proofs it can sustain all the allegations contained in the legal complaint. There have been no additional personnel costs incurred as a result of this litigation, in that the work has been performed by existing Division staff or by private co-counsel, which has donated its time in anticipation of receiving possible legal fees at the conclusion of this matter. The Division/OPD is seeking only injunctive relief in this case and has not requested monetary damages.

• **Question:** To what extent have there been any attempts to reach a settlement with the State, especially considering the recent initiation by the Department of Health of a comprehensive reform process concerning the State-operated psychiatric hospitals? What is the division’s assessment of the reforms the Department of Health has already begun to implement at the psychiatric hospitals and the department’s vision for reforming the psychiatric hospital system?

Answer: The Division/OPD and the Attorney General’s Office have been actively engaged in settlement negotiations since the inception of the litigation.

The Division/OPD is aware of the “NJ Health Action Plan: Response to Executive Assessment of NJ State Psychiatric Hospitals” (August 22, 2018). Progress has been made with regard to the implementation of this plan, especially in the areas of filling leadership vacancies with permanent personnel and reducing the patient census. The Division believes that Greystone still needs to hire more psychiatrists, it needs to provide more medical equipment and to enhance the provision of medical services, and it needs to implement structural changes to reduce the risk of patient suicide attempts. Violence prevention must be enhanced and long-delayed fire-proofing needs to be accomplished.

• **Question:** Please discuss the division’s ongoing role in monitoring conditions at Greystone Hospital.

Answer: Division employees are present at Greystone at least three days a week preparing for, or attending, civil commitment hearings. The Division monitors conditions at Greystone
by maintaining contact with patients, hospital staff, community mental health associations, and family members.

34. Current law requires the OPD to bill clients for the reasonable value of services rendered. Until October 2014, the OPD charged its clients for representation by designated counsel and investigators on a per hour basis and for all litigation expenses at actual cost. Defendants were also charged an administrative fee to help defray the costs associated with opening a case file and beginning client representation. In October 2014, the OPD adopted a new rule (N.J.A.C.17:39-3) that eliminated the administrative fee and established flat fee billing rates for OPD services with rates varying based on the case type and degree of associated crime. In the rule proposal published in the New Jersey Register, the OPD noted that knowing the total actual cost for legal representation prior to the rendering of services will enable clients to commence payments sooner and may decrease the need to enact a lien if full payment is received prior to the disposition of the case. The OPD anticipated that the new fee schedule would allow a higher percentage of clients to pay for services and the OPD to achieve debt collection and administration savings.

- **Question:** Please compare the efficacy of the flat fee schedule for OPD services to that of the hourly fee schedule used prior to October 2014. Has the new schedule allowed more clients to pay the full amount they owe to the OPD? Has the OPD experienced a decline in the number of liens filed against clients for non-payment of fees? To what extent, if any, has the new fee schedule allowed the OPD to achieve administrative savings and efficiencies?

**Answer:** OPD collections increased 6% or $819,999 more for the four-year period ending June 2018 after the implementation of the Flat Fee Program, versus the four-year period ending June 2014. Specifically, the OPD collected a total of $14.264 million with the new flat fee billing schedule versus $13.444 million with the old hourly fee billing schedule.

The new flat fee schedule has enabled (only) 158 more clients (1,185 versus 1,027) to pay their full amount at the end of their case so a lien would not have to be filed in Superior Court. We did not experience a reduction in the number of liens filed against clients for non-payment of fees.

The new Flat Fee billing method reduced the number of administrative hours expended by each staff attorney by no longer requiring them to provide detailed time sheets to support client billings. Staff attorneys now have more time to prepare for their clients.

Additionally, regional office clerical staff are closing cases in a timelier fashion because they no longer must track, collect and input actual billable hours into the OPD case management system before clients can be billed. These administrative efficiencies also allow the Public Defender to maintain the same regional office clerical staffing counts without any increase in clerical staff for the last four fiscal years.

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**OMBUDSMAN FOR INDIVIDUALS WITH INTELLECTUAL OR DEVELOPMENTAL DISABILITIES AND THEIR FAMILIES**

35. P.L.2017, c.269 established the Office of the Ombudsman for Individuals with Intellectual or Developmental Disabilities and their Families as an agency in, but not of, the Department of the Treasury. The ombudsman serves as a resource to provide information
and support to individuals with intellectual or developmental disabilities and their families. On April 19, 2018, the Governor appointed the first Ombudsman for Individuals with Intellectual or Developmental Disabilities. General Provision No. 97 of the FY 2019 Appropriations Act authorizes the appropriation of such additional amounts as are necessary to establish the ombudsman’s office. The language is recommended to be continued in FY 2020. In addition, the Governor proposes a FY 2020 funding level of $329,000.

In response to a FY 2019 OLS Discussion Point, the department noted that it had established office space for the ombudsman that would allow for expansion as the office’s function evolves and staffing requirements become clearer. The office receives administrative support through the Department of the Treasury. The department anticipated that decisions regarding the ultimate shape and size of the office would be made in late 2018 or early 2019 following a thorough assessment and determination of its needs.

- **Question:** What amount does the department anticipate will be expended in FY 2019 for the Office of the Ombudsman for Individuals with Intellectual or Developmental Disabilities and their Families? What additional steps have been taken to establish this new office? How many personnel have been hired for the office? How many personnel does the department anticipate will be hired for the office in FY 2020? When does the department anticipate that the office will be fully operational? Has a FY 2020 spending plan for the office been prepared? If so, please provide a copy of the spending plan. Please provide a summary of the office’s activities in the current fiscal year, and its anticipated activities in FY 2020.

**Answer:** The Office of the Ombudsman for Individuals with Intellectual or Developmental Disabilities and their Families is expected to expend about $170,000 in FY 2019. The Ombudsman wanted to take the time necessary determine how best to organize the important work of the office and to staff it accordingly.

As of the end of April, 2019, there is one person, the Ombudsman, in the office. In FY 2020, the office anticipates hiring two additional staff members to be fully operational by the fall of 2019. The spending plan for FY 2020 includes $273,412 for salaries of the three staff, and an additional $55,588 for non-salaries, for a total budget of $329,000.

This first fiscal year (FY 2019) has largely been devoted to (1) helping individuals and families get the services and supports they need, (2) working to improve the State’s overall system of care and (3) determining a plan of action for the Office. Much of this work was outlined in the Ombudsman’s annual report, which was submitted to the Governor and Members of the Legislature in early March.

As we move into FY 2020 and add one staff member for full-time administrative support and an additional staff member who will be responsible for both substantive and administrative work, it is anticipated that the Office will be able to take its important work to the next level – reaching and helping more individuals and families and working to make more improvements to the State’s system of care.
36. A language provision in the FY 2019 Appropriations Act authorizes the appropriation of up to $2.1 million in Grants-in-Aid funding for the provision of legal assistance to individuals facing detention or deportation based on their immigration status. The Governor’s FY 2020 Budget recommends continuation of the FY 2019 language provision.

On November 19, 2018, the Governor announced that the program would be administered through a consortium of providers. As the principal contractor, Legal Services of New Jersey (LSNJ) was allocated $925,000 for direct representation services to eligible immigrants. The remaining funds were sub-granted to the American Friends Service Committee ($925,000) and Rutgers Law and Seton Hall University Law School ($125,000 each). The grant agreement requires LSNJ and the sub-grantees to provide legal services to persons with income at or below 250 percent of the federal poverty level who are facing detention or deportation due their immigration status. In addition, the grant agreement authorizes LSNJ and the sub-grantees, within the limits of available resources, to provide assistance to legal permanent residents with significant barriers to filing for naturalization on their own (such as homelessness or severe mental health conditions, or an inability to read or write). The deadline to expend all FY 2019 grant moneys is October 31, 2019.

- **Question:** How many individuals have been provided legal services by each entity through this program in FY 2019 to date? How many persons receiving legal assistance were eligible to remain in the United States and how many were not? How many persons have been permitted to remain in the United States because they were provided legal assistance through this program? How many additional persons are anticipated to receive assistance in FY 2020? Does the department anticipate that the entire FY 2019 allocation of $2.1 million will be expended by October 31, 2019?

- **Question:** How many legal permanent residents with significant barriers to filing for naturalization on their own have received assistance? What percentage of immigrants assisted through the $2.1 million appropriation received assistance for naturalization proceedings? Given that the language provision authorized the expenditure of the $2.1 million for legal assistance to individuals facing detention or deportation based on their immigration status, please specify the legal authority for using the appropriation to assist immigrants with naturalization proceedings.

**Answer:** Response to the above questions are below:

To date, only one quarter of activity is complete for the FY 2019 grant cycle. During the first quarter, the grantee and three sub-grantees met with a total of 195 individuals and opened 91 new cases. Representation was declined in 103 cases because the individuals secured other legal representation and was declined in one case due to a conflict of interest. It is premature to assess how many of the individuals receiving legal assistance were able to stay in the United States or to quantify the impact of the legal assistance provided specifically through this grant. It is also premature to speculate how many individuals are anticipated to receive assistance in FY 2020 based on the results of one quarter in FY 2019. Based on the spending plans submitted by the grantee and sub-grantees, the entirety of the $2.1 million will be spent by October 31, 2019.
Discussion Points (Cont'd)

It is too soon to measure the number of individuals who have or will receive legal assistance. All four of the organizations include immigration law within their scope of practice and can provide legal assistance to legal permanent residents with significant barriers to filing for naturalization provided they meet each organization's representation requirements. The legal authority to use this appropriation to assist immigrants is derived from a language provision in P.L. 2018, c. 53, the Fiscal Year 2019 Appropriations Act.
2015 State Volume Cap Report

STATE OF NEW JERSEY
Department of Treasury
Office of Public Finance
April 2016
Annual Report on 2015 New Jersey State Volume Cap

I. Background Information

The federal government, as authorized through the Internal Revenue Service ("IRS") and under the Internal Revenue Code of 1986, as amended (the "Code"), grants state and local governments the ability to issue tax-exempt private activity bonds for qualified purposes on behalf of entities other than the governmental agency issuing the bonds. These bonds are known as Tax-Exempt Private Activity Bonds ("TEPABs"). The qualified purposes for which these bonds can be issued are defined under Sections 142-144 and 1394 of the Code. The issuance of TEPABs by states for these qualified purposes is formulaically limited to a defined maximum amount during a calendar year. This limit is known as the state volume cap limit and is defined under Section 146 of the Code.

Historically, the state volume cap limit has consisted solely of TEPABs defined under Section 146 of the Code ("General State Volume Cap"). However, the Code was amended and supplemented by the American Recovery and Reinvestment Act of 2009, P.L. No.111-5 ("ARRA"). This federal assistance Act authorized the issuance of certain tax-exempt, tax-credit and tax subsidy bonds, including Qualified Energy Conservation Bonds ("QECBs"), Qualified School Construction Bonds ("QSCBs"), Qualified Zone Academy Bonds ("QZABs"), Recovery Zone Economic Development Bonds ("RZEDBs") and Recovery Zone Facility Bonds ("RZFBs") and provided for volume cap limitations on such bonds. The QZABs, RZEDBs and RZFBs programs have since expired. Under ARRA, some allocations of the annual volume limits on certain bonds have been made directly to the State, while others have been made directly to local issuers, including municipalities and counties.

As outlined above, each component of the currently available federal allocations was created under a separate authorization governing its distinct bonding capacity, usage and carryforward limitations. A brief overview of the components listed, are described below.

Federal Allocations:

- General State Volume Cap
- American Recovery and Reinvestment Act of 2009 - Authorized bonds with cap limits:
  - Qualified Energy Conservation Bonds
  - Qualified School Construction Bonds
General State Volume Cap

Usage Limitations:

The State's General State Volume Cap was authorized in 1986 under Section 146 of the Code. As defined by Section 146, the State can use General State Volume Cap to finance a limited range of activities. Among the uses that qualify for General State Volume Cap are the sale of exempt facilities bonds, which encompass a variety of projects including among others, qualified residential projects, sewage and solid waste disposal facility projects, and electric energy and gas facility projects. Also, the sale of qualified student loan bonds, qualified redevelopment bonds, qualified mortgage bonds, and small issue industrial development bonds comply with these rules.

Capacity Limitations:

Per Section 146, the established federal formula for determining general volume cap limits per State by calendar year is an amount equal to $75, plus an annual cost of living adjustment, multiplied by the State population according to the U.S. Census Bureau.

In the case of the State of New Jersey for calendar year 2015, the volume cap ceiling was set at $893,817,500. This amount was based on the formula outlined above at an amount equal to the product of $100 per person and the U.S. Census Bureau population estimate for New Jersey in 2014 of 8,938,175.

Carryforward Limitations:

Section 146 sets forth a carryforward mechanism for any unused General State Volume Cap. These carryforward rules require that an issuing authority must identify the usage category and the corresponding amount of unused cap for which the carryforward is being elected. The issuing authority then has the three (3) following calendar years to issue bonds, not to exceed the stated amount, for the elected purpose.

ARRA Volume Cap Programs

Qualified Energy Conservation Bonds

Usage Limitations:

QECBs are authorized under Section 54D of the Code for the purpose of financing projects for qualified conservation purposes. "Qualified conservation purposes" are defined in more detail in section 54D(f) of the Code. QECBs are federal tax credit bonds.
Capacity Limitations:

Code Section 54D(d), as amended by ARRA, authorizes a maximum national volume cap limitation for the QECB program of $3.2 billion.

The QECB volume cap allocation for the State is $90,078,000. There is currently no time limit on the use of this volume cap allocation. On April 29, 2011, pursuant to Code Section 54(e)(2), the State reallocated this volume cap to large local governments within the State. After making these allocations, the remaining cap ($1,651,397.65) was allocated to the State.

Carryforward Limitations:

The QECB program will end after each state allocation of the national volume cap for the program is exhausted, if no action is taken by the federal government to reauthorize the program.

Qualified School Construction Bonds

Usage Limitations:

QSCBs are a type of federal tax credit bond authorized under Section 54F of the Code to finance qualified school construction projects. QSCBs are federal tax credit bonds. The QSCBs must be issued by the state or local government within the jurisdiction in which the school is located. The issuer must designate the bonds as QSCBs for purposes of Code Section 54F.

Capacity Limitations:

Pursuant to Section 54F(e) of the Code, the national bond limitation authorization was $11 billion for calendar year 2009 and $11 billion for calendar year 2010.

The annual $11 billion QSCB allocation was allocated among the states in proportion to the respective amounts each state is eligible to receive under section 1124 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333) for the most recent fiscal year ending before such calendar year. Each state will allocate this amount to issuers within that state. The State of New Jersey received a total of $439,183,000.

Carryforward Limitations:

Under Section 54F(e) of the Code, a state may carryforward its unused QSCB volume cap for 2009 or 2010 to the next calendar year. QSCB volume cap allocated to a state does not expire. Large local educational agencies are not authorized to carryforward their unused QSCB volume cap. However, pursuant to Section 54F(d) of the Code, a large local educational agency may reallocate any unused volume cap for a calendar year to the state in which it is located for use during such calendar year.
II. The New Jersey Bond Volume Cap Allocation Act

The New Jersey Bond Volume Cap Allocation Act, L. 1987, c. 393, as amended by L. 2009, c. 76 (the "Act") addresses the treatment and allocation of the State Volume Cap Limits, including the ARRA Volume Cap Limits, granted each calendar year or as otherwise provided in the Code. As summarized in N.J.S.A. 49:2A-2(h), the Legislature recognized that "there is a Statewide need to assure that the limited amount of tax exempt private activity bond financing and other types of tax-exempt, tax-credit or tax subsidy bond financings which are now authorized under the Code or may be authorized under the Code in the future, is used in the most effective manner by issuers of bonds in the State in order to provide the greatest benefits to the State, and that need can best be met by authorizing the Governor to continue to allocate portions of the State's volume cap among issuers."

The Act also provides, in N.J.S.A. 49:2A-4(a), the Governor with the authority to establish a procedure for allocation of the State Volume Cap. According to the statute, any allocation procedure the Governor establishes requires the entire State Volume Cap to be allocated to the Department of the Treasury for reallocation by the State Treasurer. Executive Order No. 185 (Kean 1985) (Executive Order 185) allocated the entire State Volume Cap for 1988 and for each year thereafter to Treasury as required by L. 1987, c. 393 and remains in effect. Executive Order No. 167 (Corzine 2010) (Executive Order 167) allocates the ARRA Volume Cap received by the State directly from the federal government to the Department of the Treasury to be held by the State Treasurer. It further provides that the State Treasurer may allocate all or any part of the ARRA Volume Cap among State Entities (as defined in Executive Order No. 147 (Kean 1986) ("Executive Order 147")) or Local Government Units authorized to issue ARRA Tax-Credit Bonds or ARRA Tax Subsidy Bonds (all as defined in Executive Order 167). The State Treasurer will set the terms and conditions for receiving an allocation of ARRA Volume Cap, reallocating ARRA Volume Cap and carryforward of ARRA Volume Cap.

III. Procedures for the Allocation of the State Volume Cap Limits

General State Volume Cap

The Office of Public Finance, a division of the New Jersey Department of the Treasury, on behalf of the State Treasurer, manages the State Volume Cap program. At the start of each calendar year, the Office of Public Finance determines the annual State Volume Cap Limits in accordance with the applicable Code provisions. The Office of Public Finance then conducts an informal survey of certain State and local agencies that are frequent issuing entities for the eligible purposes defined by the Code as to their expected issuing needs for the calendar year. As the agency's needs are made known, the Office of Public Finance begins accepting requests for allocations of portions of the State Volume Cap Limit.
Applications or requests for allocations of the State Volume Cap are generally drafted by counsel and/or an executive in charge of financial matters within the requesting issuing entity. These requests typically outline the issuing agency's anticipated financing needs, including, as applicable, the intended borrower and the specific project toward which the cap will be used, the anticipated par amount/issue price of bonds to be sold and an affirmation of the tax-exempt status of the project. Upon receipt of such requests, the Office of Public Finance reviews them and makes a recommendation to the State Treasurer regarding their approval.

At the end of each calendar year, the Office of Public Finance conducts a brief survey with each agency that accepted a portion of State Volume Cap during the calendar year. This survey serves to inform Treasury of the amount of the State Volume Cap allocation that will be used by the end of that year and what, if any, foreseeable issuing needs agencies may have in the upcoming calendar year. Upon receipt of the survey responses, the Office of Public Finance prepares an Annual Report summarizing this usage, grants carryforward approvals where applicable, and directs the issuing agencies to file the appropriate IRS forms as to their volume cap usage.

Award Methodology for General State Volume Cap

In some cases, certain State issuers of TEPABs with large issuing needs are awarded, upon written request, a large allocation of General State Volume Cap at the beginning of the calendar year. During the year, an agency in this category will draw upon the large allocation to satisfy its many smaller issuing obligations throughout the year. State entities in this category are the New Jersey Economic Development Authority ("EDA"), the Higher Education Student Assistance Authority ("HESAA") and the New Jersey Housing and Mortgage Finance Agency ("HMFA") (collectively the "State Agencies"). These entities issue a high volume of TEPABs, particularly small issue industrial development bonds, qualified student loan bonds, qualified mortgage bonds and exempt facility bonds, respectively.

The EDA board meets on a monthly basis and considers approval of the sale of various small issue industrial development bonds, among others, that require the use of its upfront allocation. Upon the EDA board's approval, Treasury is notified of the pending sales through certifications prepared by the EDA which are then reviewed for the State Treasurer's approval. Typically, HESAA uses its upfront allocation to issue qualified student loan bonds on behalf of citizens of the State in a single annual bond issue. Similarly, HMFA uses its allocation to issue either qualified mortgage bonds or exempt facility bonds for the purpose of qualified residential rental projects on behalf of the citizens of the State in one or more series of bond issues.

With the exception of the upfront allocations for these entities, all other allocations of State Volume Cap are awarded based on a review of submitted written requests from other issuers that outline the specific project and intended use of the allocation. In keeping with Treasury's policy of the last several years, the current allocation award policy is to award volume cap on a first-come, first-served basis.
Allocations of State Volume Cap among the various issuing entities are recorded and monitored carefully throughout the year.

All State Volume Cap allocated during the calendar year is issued with specific notification of the calendar year-end expiration. Notification is also given that if the bonds are not sold in the full amount of the allocation, or at all, within the period beginning the day the allocation is awarded and the last calendar day of that same year, the entity will lose its authorization to issue bonds under that allocation. In these cases, the State Treasurer rescinds the allocation and either reallocates it or grants carryforward allocations to other State Agencies.

ARRA Volume Cap Programs

Executive Order No. 167 (Corzine 2010) (Executive Order 167) allocated the ARRA Volume Cap received by the State directly from the federal government to the Department of the Treasury to be held by the State Treasurer for reallocation of all or any part of the ARRA Volume Cap among State Entities or Local Government Units authorized to issue ARRA Tax-Credit Bonds or ARRA Tax Subsidy Bonds.

IV. Carryforward Policies

If the bonds that have been allocated State Volume Cap are not sold by the expiration deadline, the IRS, in certain instances, affords the State the right to permit extensions or carryforward elections of certain types of unused State Volume Cap.

General State Volume Cap

The State’s carryforward policy for General State Volume Cap ("General State Volume Cap Carryforward" policy) allows the State Agencies that have not sold all of the bonds pursuant to their allocations, to carryforward that amount of unused General State Volume Cap for a three-year period, as authorized by the Code.

State policy does not allow county and municipal issuers to carryforward any amount of unused General State Volume Cap allocated to them. If a county or municipal issuer does not use its General State Volume Cap allocation by year-end, the State Treasurer rescinds the allocation and reallocates it to a State Agency with regular TEPAB issuing needs. If local issuers have projects pending that require allocation of General State Volume Cap, the local issuers are invited to apply for allocations of General State Volume Cap from the upcoming year. Priority is given to these issuers for General State Volume Cap allocations from the upcoming year.
ARRA Volume Cap

Qualified School Construction Bonds: Under Section 54F(e) of the Code, a state may carryforward its unused QSCB volume cap for 2009 or 2010 to the next calendar year. QSCB volume cap may be brought forward indefinitely. Large local educational agencies are not authorized to carryforward their unused QSCB volume cap. However, pursuant to Section 54F(d) of the Code, a large local educational agency may reallocate any unused volume cap for a calendar year to the state in which it is located for use during such calendar year.

Qualified Energy Conservation Bonds: The Code does not impose a time limit on the issuance of the QECBs.

V. Usage of State Volume Cap in 2015

General State Volume Cap Limit for New Jersey

- The federal formula for calculating general volume cap limits per state in calendar year 2015 was $100 (plus a cost of living adjustment) per person using population estimates released by the U.S. Census Bureau.

- The 2015 General State Volume Cap limit for New Jersey was based on this formula, incorporating a cost of living adjustment, with the U.S. Census Bureau population estimate for 2014 being 8,938,175.

- Determined by the formula given above, the total dollar amount of General State Volume Cap for the State of New Jersey for calendar year 2015 was $893,817,500.

- 2015 General State Volume Cap usage is summarized in Attachment I.

VI. State Volume Cap Allocations for 2016

General State Volume Cap

- The State has been awarded, based on a revised federal formula of $100 per person using the U.S. Census Bureau population estimate from 2015 (8,958,013), a General State Volume Cap limit for calendar year 2016 in the amount of $895,801,300.
• As of April 1, 2016, $660,502,838 of 2016 General State Volume Cap allocations have been awarded.
## State of New Jersey
### Allocation and Use of 2015 General State Volume Cap

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* At the end of 2015, HSBA was allocated $158,487,500 of previously unallocated 2015 Volume Cap and $28,693,500 2015 Volume Cap which was returned or unused by other issuers.

** At the end of 2015, FCEPA was allocated $5,493,462 of 2015 Volume Cap which was returned or unused by other issuers.
2016 State Volume Cap Report

STATE OF NEW JERSEY
Department of Treasury
Office of Public Finance
May 2017
Annual Report on 2016 New Jersey State Volume Cap

I. Background Information

The federal government, as authorized through the Internal Revenue Service ("IRS") and under the Internal Revenue Code of 1986, as amended (the "Code"), grants state and local governments the ability to issue tax-exempt private activity bonds for qualified purposes on behalf of entities other than the governmental agency issuing the bonds. These bonds are known as Tax-Exempt Private Activity Bonds ("TEPABs"). The qualified purposes for which these bonds can be issued are defined under Sections 142-144 and 1394 of the Code. The issuance of TEPABs by states for these qualified purposes is formulaically limited to a defined maximum amount during a calendar year. This limit is known as the state volume cap limit and is defined under Section 146 of the Code.

Historically, the state volume cap limit has consisted solely of TEPABs defined under Section 146 of the Code ("General State Volume Cap"). However, the Code was amended and supplemented by the American Recovery and Reinvestment Act of 2009, P.L. No.111-5 ("ARRA"). This federal assistance Act authorized the issuance of certain tax-exempt, tax-credit and tax subsidy bonds, including Qualified Energy Conservation Bonds ("QECBs"), Qualified School Construction Bonds ("QSCBs"), Qualified Zone Academy Bonds ("QZABs"), Recovery Zone Economic Development Bonds ("RZEDBs") and Recovery Zone Facility Bonds ("RZFBs") and provided for volume cap limitations on such bonds. The QZABs, RZEDBs and RZFBs programs have since expired. Under ARRA, some allocations of the annual volume limits on certain bonds have been made directly to the State, while others have been made directly to local issuers, including municipalities and counties.

As outlined above, each component of the currently available federal allocations was created under a separate authorization governing its distinct bonding capacity, usage and carryforward limitations. A brief overview of the components listed, are described below.

Federal Allocations:

- General State Volume Cap
- American Recovery and Reinvestment Act of 2009 - Authorized bonds with cap limits:
  - Qualified Energy Conservation Bonds
  - Qualified School Construction Bonds
General State Volume Cap

Usage Limitations:

The State's General State Volume Cap was authorized in 1986 under Section 146 of the Code. As defined by Section 146, the State can use General State Volume Cap to finance a limited range of activities. Among the uses that qualify for General State Volume Cap are the sale of exempt facilities bonds, which encompass a variety of projects including among others, qualified residential projects, sewage and solid waste disposal facility projects, and electric energy and gas facility projects. Also, the sale of qualified student loan bonds, qualified redevelopment bonds, qualified mortgage bonds, and small issue industrial development bonds comply with these rules.

Capacity Limitations:

Per Section 146, the established federal formula for determining general volume cap limits per State by calendar year is an amount equal to $75, plus an annual cost of living adjustment, multiplied by the State population according to the U.S. Census Bureau.

In the case of the State of New Jersey for calendar year 2016, the volume cap ceiling was set at $895,801,300. This amount was based on the formula outlined above at an amount equal to the product of $100 per person and the U.S. Census Bureau population estimate for New Jersey in 2015 of 8,958,013.

Carryforward Limitations:

Section 146 sets forth a carryforward mechanism for any unused General State Volume Cap. These carryforward rules require that an issuing authority must identify the usage category and the corresponding amount of unused cap for which the carryforward is being elected. The issuing authority then has the three (3) following calendar years to issue bonds, not to exceed the stated amount, for the elected purpose.

ARRA Volume Cap Programs

Qualified Energy Conservation Bonds

Usage Limitations:

QECBs are authorized under Section 54D of the Code for the purpose of financing projects for qualified conservation purposes. "Qualified conservation purposes" are defined in more detail in section 54D(f) of the Code. QECBs are federal tax credit bonds.
Capacity Limitations:

Code Section 54D(d), as amended by ARRA, authorizes a maximum national volume cap limitation for the QECB program of $3.2 billion.

The QECB volume cap allocation for the State is $90,078,000. There is currently no time limit on the use of this volume cap allocation. On April 29, 2011, pursuant to Code Section 54(e)(2), the State reallocated this volume cap to large local governments within the State. After making these allocations, the remaining cap ($1,651,397.65) was allocated to the State.

Carryforward Limitations:

The QECB program will end after each state allocation of the national volume cap for the program is exhausted, if no action is taken by the federal government to reauthorize the program.

Qualified School Construction Bonds

Usage Limitations:

QSCBs are a type of federal tax credit bond authorized under Section 54F of the Code to finance qualified school construction projects. QSCBs are federal tax credit bonds. The QSCBs must be issued by the state or local government within the jurisdiction in which the school is located. The issuer must designate the bonds as QSCBs for purposes of Code Section 54F.

Capacity Limitations:

Pursuant to Section 54F(c) of the Code, the national bond limitation authorization was $11 billion for calendar year 2009 and $11 billion for calendar year 2010.

The annual $11 billion QSCB allocation was allocated among the states in proportion to the respective amounts each state is eligible to receive under section 1124 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333) for the most recent fiscal year ending before such calendar year. Each state will allocate this amount to issuers within that state. The State of New Jersey received a total of $439,183,000.

Carryforward Limitations:

Under Section 54F(e) of the Code, a state may carryforward its unused QSCB volume cap for 2009 or 2010 to the next calendar year. QSCB volume cap allocated to a state does not expire. Large local educational agencies are not authorized to carryforward their unused QSCB volume cap. However, pursuant to Section 54F(d) of the Code, a large local educational agency may reallocate any unused volume cap for a calendar year to the state in which it is located for use during such calendar year.
II. The New Jersey Bond Volume Cap Allocation Act

The New Jersey Bond Volume Cap Allocation Act, L. 1987, c. 393, as amended by L. 2009, c. 76 (the "Act") addresses the treatment and allocation of the State Volume Cap Limits, including the ARRA Volume Cap Limits, granted each calendar year or as otherwise provided in the Code. As summarized in N.J.S.A. 49:2A-2(h), the Legislature recognized that "[t]here is a Statewide need to assure that the limited amount of tax exempt private activity bond financing and other types of tax-exempt, tax-credit or tax subsidy bond financings which are now authorized under the Code or may be authorized under the Code in the future, is used in the most effective manner by issuers of bonds in the State in order to provide the greatest benefits to the State, and that need can best be met by authorizing the Governor to continue to allocate portions of the State's volume cap among issuers."

The Act also provides, in N.J.S.A. 49:2A-4(a), the Governor with the authority to establish a procedure for allocation of the State Volume Cap. According to the statute, any allocation procedure the Governor establishes requires the entire State Volume Cap to be allocated to the Department of the Treasury for reallocation by the State Treasurer. Executive Order No. 185 (Kean 1985) (Executive Order 185) allocated the entire State Volume Cap for 1988 and for each year thereafter to Treasury as required by L. 1987, c. 393 and remains in effect. Executive Order No. 167 (Corzine 2010) (Executive Order 167) allocates the ARRA Volume Cap received by the State directly from the federal government to the Department of the Treasury to be held by the State Treasurer. It further provides that the State Treasurer may allocate all or any part of the ARRA Volume Cap among State Entities (as defined in Executive Order No. 147 (Kean 1986) ("Executive Order 147"). Local Government Units authorized to issue ARRA Tax-Credit Bonds or ARRA Tax Subsidy Bonds (all as defined in Executive Order 167). The State Treasurer will set the terms and conditions for receiving an allocation of ARRA Volume Cap, reallocating ARRA Volume Cap and carryforward of ARRA Volume Cap.

III. Procedures for the Allocation of the State Volume Cap Limits

General State Volume Cap

The Office of Public Finance, a division of the New Jersey Department of the Treasury, on behalf of the State Treasurer, manages the State Volume Cap program. At the start of each calendar year, the Office of Public Finance determines the annual State Volume Cap Limits in accordance with the applicable Code provisions. The Office of Public Finance then conducts an informal survey of certain State and local agencies that are frequent issuing entities for the eligible purposes defined by the Code as to their expected issuing needs for the calendar year. As the agency's needs are made known, the Office of Public Finance begins accepting requests for allocations of portions of the State Volume Cap Limit.

Applications or requests for allocations of the State Volume Cap are generally drafted by counsel and/or an executive in charge of financial matters within the
requesting issuing entity. These requests typically outline the issuing agency's anticipated financing needs, including, as applicable, the intended borrower and the specific project toward which the cap will be used, the anticipated par amount/issue price of bonds to be sold and an affirmation of the tax-exempt status of the project. Upon receipt of such requests, the Office of Public Finance reviews them and makes a recommendation to the State Treasurer regarding their approval.

At the end of each calendar year, the Office of Public Finance conducts a brief survey with each agency that accepted a portion of State Volume Cap during the calendar year. This survey serves to inform Treasury of the amount of the State Volume Cap allocation that will be used by the end of that year and what, if any, foreseeable issuing needs agencies may have in the upcoming calendar year. Upon receipt of the survey responses, the Office of Public Finance prepares an Annual Report summarizing this usage, grants carryforward approvals where applicable, and directs the issuing agencies to file the appropriate IRS forms as to their volume cap usage.

**Award Methodology for General State Volume Cap**

In some cases, certain State issuers of TEPABs with large issuing needs are awarded, upon written request, a large allocation of General State Volume Cap at the beginning of the calendar year. During the year, an agency in this category will draw upon the large allocation to satisfy its many smaller issuing obligations throughout the year. State entities in this category are the New Jersey Economic Development Authority ("EDA"), the Higher Education Student Assistance Authority ("HESAA") and the New Jersey Housing and Mortgage Finance Agency ("HMFA") (collectively the "State Agencies"). These entities issue a high volume of TEPABs, particularly small issue industrial development bonds, qualified student loan bonds, qualified mortgage bonds and exempt facility bonds, respectively.

The EDA board meets on a monthly basis and considers approval of the sale of various small issue industrial development bonds, among others, that require the use of its upfront allocation. Upon the EDA board’s approval, Treasury is notified of the pending sales through certifications prepared by the EDA which are then reviewed for the State Treasurer’s approval. Typically, HESAA uses its upfront allocation to issue qualified student loan bonds on behalf of citizens of the State in a single annual bond issue. Similarly, HMFA uses its allocation to issue either qualified mortgage bonds or exempt facility bonds for the purpose of qualified residential rental projects on behalf of the citizens of the State in one or more series of bond issues.

With the exception of the upfront allocations for these entities, all other allocations of State Volume Cap are awarded based on a review of submitted written requests from other issuers that outline the specific project and intended use of the allocation. In keeping with Treasury’s policy of the last several years, the current allocation award policy is to award volume cap on a first-come, first-served basis. Allocations of State Volume Cap among the various issuing entities are recorded and monitored carefully throughout the year.
ARRA Volume Cap

Qualified School Construction Bonds: Under Section 54F(e) of the Code, a state may carryforward its unused QSCB volume cap for 2009 or 2010 to the next calendar year. QSCB volume cap may be brought forward indefinitely. Large local educational agencies are not authorized to carryforward their unused QSCB volume cap. However, pursuant to Section 54F(d) of the Code, a large local educational agency may reallocate any unused volume cap for a calendar year to the state in which it is located for use during such calendar year.

Qualified Energy Conservation Bonds: The Code does not impose a time limit on the issuance of the QECBs.

V. Usage of State Volume Cap in 2016

General State Volume Cap Limit for New Jersey

- The federal formula for calculating general volume cap limits per state in calendar year 2016 was $100 (plus a cost of living adjustment) per person using population estimates released by the U.S. Census Bureau.

- The 2016 General State Volume Cap limit for New Jersey was based on this formula, incorporating a cost of living adjustment, with the U.S. Census Bureau population estimate for 2015 being 8,958,013.

- Determined by the formula given above, the total dollar amount of General State Volume Cap for the State of New Jersey for calendar year 2016 was $895,801,300.

- 2016 General State Volume Cap usage is summarized in Attachment I.

VI. State Volume Cap Allocations for 2017

General State Volume Cap

- The State has been awarded, based on a revised federal formula of $100 per person using the U.S. Census Bureau population estimate from 2016 (8,944,469), a General State Volume Cap limit for calendar year 2017 in the amount of $894,446,900.
As of May 1, 2017, $695,909,817 of 2017 General State Volume Cap allocations have been awarded.

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Annual Report on 2017 New Jersey State Volume Cap

I. Background Information

The federal government, as authorized through the Internal Revenue Service ("IRS") and under the Internal Revenue Code of 1986, as amended (the "Code"), grants state and local governments the ability to issue tax-exempt private activity bonds for qualified purposes on behalf of entities other than the governmental agency issuing the bonds. These bonds are known as Tax-Exempt Private Activity Bonds ("TEPABs"). The qualified purposes for which these bonds can be issued are defined under Sections 142-144 and 1394 of the Code. The issuance of TEPABs by states for these qualified purposes is formulaically limited to a defined maximum amount during a calendar year. This limit is known as the state volume cap limit and is defined under Section 146 of the Code.

Historically, the state volume cap limit has consisted solely of TEPABs defined under Section 146 of the Code ("General State Volume Cap"). However, the Code was amended and supplemented by the American Recovery and Reinvestment Act of 2009, P.L. No.111-5 ("ARRA"). This federal assistance Act authorized the issuance of certain tax-exempt, tax-credit and tax subsidy bonds, including Qualified Energy Conservation Bonds ("QECBs"), Qualified School Construction Bonds ("QSCBs"), Qualified Zone Academy Bonds ("QZABs"), Recovery Zone Economic Development Bonds ("RZEDBs") and Recovery Zone Facility Bonds ("RZFBs") and provided for volume cap limitations on such bonds. The QZABs, RZEDBs and RZFBs programs have since expired. In addition, the Tax Cuts and Jobs Act (HR1), which was signed into law by President Trump on December 22, 2017, eliminated unused authority for QECBs and QSCBs effective January 1, 2018. This change has occurred as a result of section 13404 of the Tax Cuts and Jobs Act, which repeals tax credit bonds. Therefore, ARRA bonds are no longer discussed further in this report.

General State Volume Cap

Usage Limitations:

The State's General State Volume Cap was authorized in 1986 under Section 146 of the Code. As defined by Section 146, the State can use General State Volume Cap to finance a limited range of activities. Among the uses that qualify for General State Volume Cap are the sale of exempt facilities bonds, which encompass a variety of projects including among others, qualified residential projects, sewage and solid waste disposal facility projects, and electric energy and gas facility projects. Also, the sale of qualified student loan bonds, qualified redevelopment bonds, qualified mortgage bonds, and small issue industrial development bonds comply with these rules.
Capacity Limitations:

Per Section 146, the established federal formula for determining general volume cap limits per State by calendar year is an amount equal to $75, plus an annual cost of living adjustment, multiplied by the State population according to the U.S. Census Bureau.

In the case of the State of New Jersey for calendar year 2017, the volume cap ceiling was set at $894,446,900. This amount was based on the formula outlined above at an amount equal to the product of $100 per person and the U.S. Census Bureau population estimate for New Jersey in 2016 of 8,944,469.

Carryforward Limitations:

Section 146 sets forth a carryforward mechanism for any unused General State Volume Cap. These carryforward rules require that an issuing authority must identify the usage category and the corresponding amount of unused cap for which the carryforward is being elected. The issuing authority then has the three (3) following calendar years to issue bonds, not to exceed the stated amount, for the elected purpose.

II. The New Jersey Bond Volume Cap Allocation Act

The New Jersey Bond Volume Cap Allocation Act, L. 1987, c. 393 (the “Act”) addresses the treatment and allocation of the State Volume Cap Limits granted each calendar year or as otherwise provided in the Code. As summarized in N.J.S.A. 49:2A-2(h), the Legislature recognized that “[t]here is a Statewide need to assure that the limited amount of tax exempt private activity bond financing and other types of tax-exempt, tax-credit or tax subsidy bond financings which are now authorized under the Code or may be authorized under the Code in the future, is used in the most effective manner by issuers of bonds in the State in order to provide the greatest benefits to the State, and that need can best be met by authorizing the Governor to continue to allocate portions of the State's volume cap among issuers.”

The Act also provides, in N.J.S.A. 49:2A-4(a), the Governor with the authority to establish a procedure for allocation of the State Volume Cap. According to the statute, any allocation procedure the Governor establishes requires the entire State Volume Cap to be allocated to the Department of the Treasury for reallocation by the State Treasurer. Executive Order No. 185 (Kean 1985) (Executive Order 185) allocated the entire State Volume Cap for 1988 and for each year thereafter to Treasury as required by L. 1987, c. 393 and remains in effect.
III. Procedures for the Allocation of the State Volume Cap Limits

The Office of Public Finance, a division of the New Jersey Department of the Treasury, on behalf of the State Treasurer, manages the State Volume Cap program. At the start of each calendar year, the Office of Public Finance determines the annual State Volume Cap Limits in accordance with the applicable Code provisions. The Office of Public Finance then conducts an informal survey of certain State and local agencies that are frequent issuing entities for the eligible purposes defined by the Code as to their expected issuing needs for the calendar year. As the agency’s needs are made known, the Office of Public Finance begins accepting requests for allocations of portions of the State Volume Cap Limit.

Applications or requests for allocations of the State Volume Cap are generally drafted by counsel and/or an executive in charge of financial matters within the requesting issuing entity. These requests typically outline the issuing agency’s anticipated financing needs, including, as applicable, the intended borrower and the specific project toward which the cap will be used, the anticipated par amount/issue price of bonds to be sold and an affirmation of the tax-exempt status of the project. Upon receipt of such requests, the Office of Public Finance reviews them and makes a recommendation to the State Treasurer regarding their approval.

At the end of each calendar year, the Office of Public Finance conducts a brief survey with each agency that accepted a portion of State Volume Cap during the calendar year. This survey serves to inform Treasury of the amount of the State Volume Cap allocation that will be used by the end of that year and what, if any, foreseeable issuing needs agencies may have in the upcoming calendar year. Upon receipt of the survey responses, the Office of Public Finance prepares an Annual Report summarizing this usage, grants carryforward approvals where applicable, and directs the issuing agencies to file the appropriate IRS forms as to their volume cap usage.

Award Methodology for General State Volume Cap

In some cases, certain State issuers of TEPABs with large issuing needs are awarded, upon written request, a large allocation of General State Volume Cap at the beginning of the calendar year. During the year, an agency in this category will draw upon the large allocation to satisfy its many smaller issuing obligations throughout the year. State entities in this category are the New Jersey Economic Development Authority ("EDA"), the Higher Education Student Assistance Authority ("HESAA") and the New Jersey Housing and Mortgage Finance Agency ("HMFA") (collectively the "State Agencies"). These entities issue a high volume of TEPABs, particularly small issue industrial development bonds, qualified student loan bonds, qualified mortgage bonds and exempt facility bonds, respectively.

The EDA board meets on a monthly basis and considers approval of the sale of various small issue industrial development bonds, among others, that require the use of its upfront allocation. Upon the EDA board’s approval, Treasury is notified of the
pending sales through certifications prepared by the EDA which are then reviewed for the State Treasurer's approval. Typically, HESAA uses its upfront allocation to issue qualified student loan bonds on behalf of citizens of the State in a single annual bond issue. Similarly, HMFA uses its allocation to issue either qualified mortgage bonds or exempt facility bonds for the purpose of qualified residential rental projects on behalf of the citizens of the State in one or more series of bond issues.

With the exception of the upfront allocations for these entities, all other allocations of State Volume Cap are awarded based on a review of submitted written requests from other issuers that outline the specific project and intended use of the allocation. In keeping with Treasury's policy of the last several years, the current allocation award policy is to award volume cap on a first-come, first-served basis. Allocations of State Volume Cap among the various issuing entities are recorded and monitored carefully throughout the year.

All State Volume Cap allocated during the calendar year is issued with specific notification of the calendar year-end expiration. Notification is also given that if the bonds are not sold in the full amount of the allocation, or at all, within the period beginning the day the allocation is awarded and the last calendar day of that same year, the entity will lose its authorization to issue bonds under that allocation. In these cases, the State Treasurer rescinds the allocation and either reallocates it or grants carryforward allocations to other State Agencies.

IV. Carryforward Policies

If the bonds that have been allocated State Volume Cap are not sold by the expiration deadline, the IRS, in certain instances, affords the State the right to permit extensions or carryforward elections of certain types of unused State Volume Cap.

The State’s carryforward policy for General State Volume Cap (“General State Volume Cap Carryforward" policy) allows the State Agencies that have not sold all of the bonds pursuant to their allocations, to carryforward that amount of unused General State Volume Cap for a three-year period, as authorized by the Code.

State policy does not allow county and municipal issuers to carryforward any amount of unused General State Volume Cap allocated to them. If a county or municipal issuer does not use its General State Volume Cap allocation by year-end, the State Treasurer rescinds the allocation and reallocates it to a State Agency with regular TEPAB issuing needs. If local issuers have projects pending that require allocation of General State Volume Cap, the local issuers are invited to apply for allocations of General State Volume Cap from the upcoming year. Priority is given to these issuers for General State Volume Cap allocations from the upcoming year.
V. Usage of State Volume Cap in 2017

General State Volume Cap Limit for New Jersey

- The federal formula for calculating general volume cap limits per state in calendar year 2017 was $100 (plus a cost of living adjustment) per person using population estimates released by the U.S. Census Bureau.

- The 2017 General State Volume Cap limit for New Jersey was based on this formula, incorporating a cost of living adjustment, with the U.S. Census Bureau population estimate for 2016 being 8,944,469.

- Determined by the formula given above, the total dollar amount of General State Volume Cap for the State of New Jersey for calendar year 2017 was $894,446,900.

- 2017 General State Volume Cap usage is summarized in Attachment I.

VI. State Volume Cap Allocations for 2018

General State Volume Cap

- The State has been awarded, based on a revised federal formula of $105 per person using the U.S. Census Bureau population estimate from 2017 (9,005,644), a General State Volume Cap limit for calendar year 2017 in the amount of $945,592,620.

- As of June 1, 2018, $688,353,453 of 2018 General State Volume Cap allocations have been awarded.

* * *

- 5 -
## State of New Jersey
### Allocation and Use of 2017 General State Volume Cap

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**Total 2017 Cap (HRI Level)** $894,466,500

**Total Carryforward 2014-2016 Cap** 883,610,052

**Total Available Cap** 894,466,500

**Iss. 2017 Cap Allocated** (738,599,817)

**Less: Carryforward Cap** (803,010,025)

**Total 2017 Cap Unallocated** 156,594,614

**Rec. Returned Cap**

**Remaining Cap for Available for Allocation**

*Allocated to BEFAA on December 22, 2017 to be carried forward.*
## NEW JERSEY OFFSHORE VOLUNTARY COMPLIANCE INITIATIVE

### SUMMARY

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<th>REJECTED</th>
<th>SETTLED / CASES CLOSED</th>
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## 2015 Homestead Homeowner Rebates by Income (Seniors) as of 11/14/18

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<th>1000.01-1049.99</th>
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### 2015 Homestead Homeowner Rebates by Income (Non-seniors) as of 11/14/18

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### 2016 Homestead Homeowner Rebates by Income (Seniors) as of 04/17/19

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(All Incomes)
### 2016 Homestead Homeowner Rebates by Income as of 04/17/19

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(All Incomes)
### 2016 Homestead Homeowner Rebates by Income (Non-seniors) as of 04/17/19

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#### 2018 12.5% & 100% NJ PREMIUM COMPONENT DATA SUMMARY - IPT REPORT

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5/10/2019
March 11, 2019

The Honorable Philip Murphy
Governor of New Jersey

The Honorable Stephen M. Sweeney
President, New Jersey Senate

The Honorable Thomas H. Kean, Jr.
Minority Leader, New Jersey Senate

The Honorable Craig Coughlin
Speaker, New Jersey Assembly

The Honorable Jon M. Bramnick
Minority Leader, New Jersey Assembly

The Honorable Carole Johnson
Commissioner, New Jersey Department of Human Services

The Honorable Christine Norbut Beyer
Commissioner, New Jersey Department of Children and Families

Pursuant to P.L. 2017, c.269 (c.30:1AA-9.1-9.3), I am submitting the attached annual report to you concerning the work done by our office during 2018. I can also provide you with an online copy with live links to some of the information referenced.

The report has been reviewed by the Department of Children and Families and the Department of Human Services, which will issue responses in the coming days.

If possible, I would welcome an opportunity to discuss the details of this report with you.

Regardless, I appreciate your consideration of my observations and recommendations. And I appreciate the support you and your staffs have given to my office. It has been invaluable to the work we are doing and to the people we are serving.

Sincerely,

Paul S. Aronsohn
Ombudsman
Ombudsman for Individuals with Intellectual or Developmental Disabilities and Their Families
Annual Report for 2018

Submitted March 11, 2019

Paul S. Aronsohn
Ombudsman
Ombudsman for Individuals with Intellectual or Developmental Disabilities and Their Families

Annual Report for 2018

Submitted March 11, 2019

According to P.L. 2017, c.269 (c:30:1AA-9.1-9.3), the Ombudsman for Individuals with Intellectual or Developmental Disabilities and Their Families ("Ombudsman") is required to "issue a written report annually to the Commissioner of Human Services and the Commissioner of Children and Families. The report shall include a summary of the services the ombudsman provided during the year, and any specific recommendations the ombudsman deems appropriate and necessary concerning the State’s implementation of procedures with respect to providing individuals with intellectual or developmental disabilities with services and supports. The ombudsman also shall issue the report prepared pursuant to subsection a. of this section to the Governor, and pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1) to the Legislature."

Background

The Office of the Ombudsman for Individuals with Intellectual or Developmental Disabilities and Their Families ("Office of the Ombudsman") was established on January 8, 2018.

On April 16, 2018, Governor Phil Murphy appointed me to the position of Ombudsman.

The legislation creating the office outlines specific responsibilities, which can be grouped into 3 categories:

(1) Assisting individuals and families to navigate New Jersey’s system of care to get the services and supports they need and deserve;

(2) Working with individuals and families to identify opportunities for improving the system; and

(3) Helping to ensure that the voice of individuals and families is heard in a meaningful way in decisions that directly affect them as well as in larger policy discussions.

From the start, the work of our office has been premised on and driven by the understanding that while many of us have special needs, all of us – each and every single one of us – has special gifts and that we all deserve the opportunity to be safe, to be healthy and to reach our full potential.

To this end, I have been working with people throughout New Jersey’s vibrant and diverse disability community to help ensure that the “system” is both responsive and effective. That includes many of my colleagues in the Murphy Administration as well as in the State Legislature. That includes everyone from providers to educators to advocates. And that, of course, includes many individuals and their families – the unsung heroes at the center of it all, whose lives are at once challenging and inspiring.

Together, we have accomplished a great deal. Together, we have a lot more work to do.
Summary of 2018 Services Provided

During our first year (8 ½ months), my primary focus was two-fold: (1) helping individuals/families get the services and supports they needed; and (2) working to improve the system. One was immediate. One was longer-term. Both required a great deal of outreach to people throughout our State — people who could benefit from more services and supports as well as people who could provide them assistance and expertise.

Since this is a new office, such outreach was -- and remains -- essential.

To that end, I tried to be anywhere and everywhere. Meeting with people. Participating in events. Visiting day programs, worksites, schools, hospitals and family living rooms. Sometimes I spoke. Most often, I just tried listening.

Through this outreach, I visited with families where they live and met with government officials, advocates, providers and school officials where they work. In fact, during the first 8 ½ months of our office’s operation --

- I drove more than 23,000 miles and visited about 130 towns in all 21 counties.
- I met and worked with 57 state legislators or their staffs as well as most county disability directors and a few municipal officials.
- I met and worked with more than 20 advocacy organizations and more than 60 providers.
- I participated in about 70 events.
- I visited two Developmental Centers in New Jersey and the Kennedy Krieger Institute in Maryland.
- I co-authored 3 opinion pieces concerning Bergen County’s Disability Services Division, the one year anniversary of the Stephen Komninos law and the Administration’s commitment to employment opportunities for people with disabilities.
- And most importantly, I directly connected with more than 150 individuals/families.

The purpose of my outreach to individuals and families was to make them aware of our office and our mission to serve them. It was also to give me the opportunity to learn their stories and experiences. And when possible, it was to work through issues important to them – issues ranging from special education for children to day programs for adults, from in-home supports to residential placements, from employment resources to transportation challenges. I worked to connect the Individuals and families with the right government officials or community resources. I worked to help them resolve disagreements or find alternative solutions. I worked to help ensure that their voices were heard by all of us charged with serving them.

The purpose of my outreach to everyone else was to introduce myself and extend my hand in partnership. This allowed me to tap into the experience and expertise of people, whose commitment is real and deep and whose knowledge of disability issues is invaluable. This also led to several opportunities to collaborate on a range of issues important to specific individuals and families as well as the disability community as a whole.

Below is a discussion of some of those issues.
Observations & Recommendations

New Jersey’s system of care for individuals with intellectual or developmental disabilities is a tale of two systems – one good, one not good enough.

To begin, the system benefits from some really great, really dedicated people, who come to work each day determined to make a positive difference in people’s lives. Some work in government. Some work in our non-profit community and in our schools, our hospitals, our provider agencies and our homes. Collectively as well as individually, they are the lifeblood of our system of care. They are passionate. They are purposeful. They are the reason that so many New Jerseyans with disabilities live safe, fulfilling lives.

We also have many really good, really necessary programs and services. That’s true for children as well as adults. Some are provided through our school districts. Some are provided through departments and agencies at all levels of government. And while a straightforward state-by-state comparison is not easy to accomplish, it is clear that New Jersey devotes a significant amount of resources – money, time and people – to supporting and improving the lives of individuals with intellectual or developmental disabilities.

However, good is certainly not good enough, and there is a real need for improvement – a real need to address shortcomings and repair cracks in the system through which many individuals and families fall. In fact, fixing the system must be an imperative, because frankly, lives depend on it. This is particularly true with respect to the way government – at all levels – provides services and supports.

Fortunately, this is a view shared throughout the Murphy Administration as well as the State Legislature. Everyone seems committed to “getting it right” – to building on successes, while making necessary changes. And everyone seems to recognize that this will take a real partnership among the key players in Trenton as well as with other government officials, advocates, providers, educators, individuals and families throughout our State.

But let’s be clear – we have our work cut out for us. After years of systemic changes and resource cuts, the Murphy Administration was handed a system in considerable disrepair – one that was far from meeting the needs of many New Jersey individuals and families.

It was against this backdrop that the Office of the Ombudsman was established by the legislature “to serve as a resource to provide information and support to individuals with intellectual or developmental disabilities and their families.” And it was against this backdrop that I and my colleagues in the Administration began our work.

General Observations

Again, during my first year (8 ½ months) in office, I had the opportunity to connect with numerous individuals and families. Through them, I learned so much about New Jersey’s system of care – about its strengths as well as its weaknesses. I also had the opportunity to work with numerous other stakeholders, including my colleagues in the Administration and the State Legislature. With them, I have had many discussions about what needs to be done to make the system better, stronger and more responsive to the people it is supposed to serve.

Granted, I recognize that people generally reach out to the Office of the Ombudsman when there is a problem or a concern, rather than when things are going well. That is how it should be. That is why the office exists. But that means my focus has been largely on the challenges faced by individuals and families – their frustrations as well as their unmet needs – instead of the many success stories.

Based on all of this, I offer the following general observations – in no particular order.

[5]
Need for Simplification: New Jersey’s system of services and supports is too confusing. There are so many programs with so many names and so many acronyms offered by so many offices in so many departments in so many different ways with so many differences in timelines, requirements and eligibility criteria. This is true at every level of government, but most pronounced in Trenton. And this bureaucratic complexity often leaves everyone – people who work in the system as well as those who depend on it – confused, frustrated and underserved. In fact, for many individuals and families, it seems to be the biggest barrier to services and supports.

Although much of this complexity stems from federal law and regulation, there is no question – we need to do better. We need to simplify the system as much as we can at the State, County and Municipal levels – making it more user-friendly and more accessible.

To that end, if possible, we should undertake a comprehensive, zero-based budgeting type review of the State’s system of services and supports for people with intellectual or developmental disabilities. Starting with a figurative blank piece of paper, we should explore ways to streamline the system – making it more efficient and more effective. In so doing –

- We should think aspirationally and strategically about “what” a gold standard system of care would look like, placing a premium on common sense and customer service.

- We should include in the review all levels of New Jersey government – State, County and Municipal – underscoring the need for alignment.

- We should look across the country at other systems of care, identifying opportunities to learn from others’ successes and mistakes.

- We should explore the possibility of a single-point-of-entry for the entire system – something that could reduce the complexity, the paperwork and the costs associated with providing and receiving services and supports.

- And we should make sure that individuals and families are central to this review process.

In the meantime, there are many steps that could and should be taken to simplify our communications and streamline our processes. For my part, I have begun developing a one-stop website for individuals with intellectual or developmental disabilities and their families – an easy-to-use online portal of timely and useful information on the full range of relevant issues, including housing, transportation, education, employment and emergency preparedness.

Need for a Sense of Urgency: Families with disability are often overwhelmed. Like other families, they need to contend with a full range of daily pressures and challenges, but unlike others, they also have to worry about and care for at least one family member – child or adult – with a disability. The toll taken on these families is often physical, emotional and financial. For many of them, the challenges are 24/7. For many of them, there are no weekends or vacations or visits to restaurants. And it is this reality that must guide and drive the efforts of every single person working on disability issues.

- That means being as responsive as possible – making every effort to provide solutions, answer questions and return calls / emails in a timely manner.

- That means being sensitive to the stressful position families are in when they feel the need to advocate for their loved ones, while fearing retribution for doing so.

- Essentially, that means recognizing and sharing the families’ sense of urgency – each day, every day.
The best way to do all of this is to ensure that government officials stay close to the individuals and families we serve. The existing forums for receiving individual/family input – such as the Family Support Organizations and the Regional Family Support Planning Councils – are very good, but they are not good enough. And while many government officials try to maintain a personal connection, the demands of their jobs too often keep them behind desks and in meetings.

We should therefore find more ways for government officials – at all levels – to see, hear and feel the challenges faced by individuals and families by visiting them in their homes, schools, hospitals and workplaces. We should also be more responsive to individuals and families – not making them wait for decisions or for policy reviews, recognizing that time is a most precious commodity for them.

**Need for More Disability Perspectives:** New Jersey is home to tens of thousands of individuals with intellectual or developmental disabilities. They live in every community. They are a part of practically every family. Yet, despite best intentions, it seems that elected officials rarely talk about them, and government policies rarely consider them. Even in an age when practically everyone’s rights are being asserted and every group’s priorities are being advanced, there often remains a deafening silence in official circles when it comes to people with intellectual or developmental disabilities and their families – an inadvertent, albeit consequential reality that often leads to conversations and decisions void of any real consideration of their rights, priorities, challenges and opportunities. That’s true in Washington. That’s true in Trenton. And that’s true in communities throughout our State. Among other things, this explains the recent discussion about banning plastic straws in public restaurants and cafes – a seemingly well-meaning environmental proposal that would inadvertently discriminate against those with physical disabilities who depend on plastic straws for nourishment or hydration.

To remedy this, we need to make people with intellectual or developmental disabilities and their families more of a priority in everything we do -- from our policy initiatives to our communications, from our hiring practices to our choice of venues for public presentations. That means bringing them into the conversation more frequently and more earnestly. That means fully considering their perspectives.

One idea that is being explored in Washington – and could be explored here in New Jersey – is the establishment of an “Office of Disability Policy” which would create a mechanism for reviewing every proposed federal policy and piece of legislation for its impact on people with disabilities and their families. Another idea would be to make more of a concerted effort to hire people with disabilities and family members, who would bring their important perspective to their government offices -- strengthening the work environment and informing all policy decisions by having a real “seat at the table”.

Regardless of what we do, we not only need to seek out and listen to more individuals and families; we also need to make sure that the perspectives sought represent the diversity of New Jersey’s disability community. From self-advocates to families with severe behavior disorders to those who do not generally have the time or wherewithal to attend government or parent group meetings -- every voice must be heard.

**Need for More Choice:** It is important to remember that people with disabilities – like all other people – have their own needs, preferences, likes and dislikes. That’s true with respect to housing, employment and all other issues. Yet, too often, the services and supports provided incorrectly assume that “one size fits all”. This is particularly evident with respect to the well-intentioned, but sometimes misguided push toward “integration” into the larger community – something which is generally an important goal, but it may not be the choice of all people in all situations at all times. Yes, individuals with intellectual or developmental disabilities should have every opportunity to live, work and play alongside individuals without disabilities. But yes, too, they should also have every opportunity not to do so. Again, everyone deserves choice.
To this end, we need to make the system truly “person-centered” by building more flexibility into the system. More housing options. More employment options. And more opportunities for individuals and families to tailor service plans/budgets to best meet their needs.

Need for Exceptions Procedures: Similarly, we need to get away from the business of saying “no” to individuals and families in need of services and supports. Clear policies are good and important, but in the world of human services, they should serve as guidelines, rather than as final decisions. Each person is unique. Each situation is different. We need to understand that, embrace that and work that into our approach to individuals and families in need. Again, saying “no” to someone should be the absolute exception to the rule, rather than a seemingly easy default.

To that end, we should explore the establishment of formal, transparent “exceptions” procedures in each of our departments and divisions — procedures that would be activated as needed and that would give due consideration to requests that fall outside of our official policies. They should be time-sensitive. They should be “person-centered”. They should be designed to get to “yes” whenever possible and reasonable. We need to move away from a “system-centered” approach, whereby the imperatives of the system — budgets, current policies, past practices, fear of precedents, etc. — drive decision-making, and instead, we need to focus more on the imperatives of individuals and their families — their needs and their rights.

Granted, we can’t do everything for everyone, but we should do everything humanly possible.

Need for More Intergovernmental Collaboration: Too many individuals and families do not get the services and supports they need, because they do not know “what” is available or “how” to access it. (As one parent put it, “They don’t know what they don’t know.”) For some, the complexity of the system is the problem. For some, the overwhelming demands of daily life leave them neither the time nor the capacity to effectively seek out needed resources.

Regardless, one way to address this knowledge and service gap would be to strengthen the relationship between officials at various levels of government — State, County and Municipal — through greater collaboration and better alignment of missions and resources. This would inevitably lead to a system that is clearer, more consistent and more accessible to the people who need it.

To this end, County disability offices seem uniquely positioned to play a central role. They not only serve as a “point of entry” into the system for many individuals and families; they also serve as a “go to” place for Municipal officials. As such, County disability offices could be an invaluable partner for State officials in our efforts to make information more readily available and to connect us more effectively with the people we serve.

In Bergen County, for example, an initiative to establish “access for all” committees in each of the municipalities has helped bridge the knowledge and service gap by creating meaningful linkages between the two levels of government — linkages that help make County and State resources more available to the individuals and families who need them. By developing and leveraging such platforms, we could establish lines of communication across the State that are direct, interactive and results-oriented.

Need for More Transparency: Many families speak of the need for greater transparency in various aspects of the system. With respect to government, the focus is often on the need for more transparency regarding policy-making, service/support denials and investigations of abuse and neglect. With respect to providers, the focus is often on the need for more transparency regarding the expenditure of “Individual Budgets” — the spending of public money — as well as the expenditure of “Individual Contributions” — the spending of personal money, which is used to cover the costs of living expenses, such as food and utilities.
We should explore ways to increase transparency across the board, particularly in the areas identified above: policies, denials, investigations, the expenditure of public funds and the expenditure of personal funds. Doing so would certainly lead to better policies and better accountability.

Need for More Innovation: Throughout the larger disability community, providers and advocates are pursuing innovative approaches to serving those with intellectual or developmental disabilities and their families. Some are using cameras in group homes and vehicles to enhance the safety and security of residents, while providing protections for staff members. Some are exploring the use of “telemedicine” — a potentially easy-to-use, cost effective way to bring medical expertise to residential settings in a timely manner. Some are providing “coordinated care” — a practical way to make health care more accessible to those who need it by effectively co-locating practices. (One organization is even promoting “medical-legal partnerships” which embed attorneys into coordinated care discussions of health and social needs.) These are just a few examples of the important, promising work being done by people and organizations throughout our State.

We should embrace and support such innovation. Through new policies and new pilot programs, we should take our service to those with disabilities to the next level by thinking outside-the-box and by supporting those who are already doing so. Our system of care — like any system anywhere — can always benefit from new thinking and new approaches. To that end, we should better utilize cameras, explore telemedicine and support coordinated care models. And we should seek other such innovative opportunities to improve the lives of the individuals and families we serve.

Need for Better Communication: Cutting across these observations is the need for better communications.

- Regarding simplification, we need to communicate with more clarity and more consistency.
- Regarding a sense of urgency, we need to do a better job answering calls and emails as well as engaging in more direct, personal contact with the people we serve.
- Regarding a disability perspective, we need to take greater care with respect to both the substance and the process of our communications — what we say and how we say it — and create more opportunities for more voices to be heard.
- Regarding choice, we need to use multiple platforms for communicating, recognizing that people get their information in different forms and in different languages.
- Regarding intergovernmental collaboration, we need to facilitate better information sharing between different levels of government, which would inevitably lead to better information flow to individuals and families.
- Regarding transparency, we need to increase the quantity and quality of our communications — making sure that individuals, families and the public more generally have real insight into the development and execution of government policies and practices.
- Regarding innovation, we need to leverage the latest in communication technology, including telemedicine.

Specific Observations

In addition to these systemic observations, below are several more specific issues that have been brought to our attention. They are listed in alphabetical order.
Important Note: The absence of an issue/situation from my list below does not—in any way—speak to its relative importance or its possible need for attention. The list below represents many of the issues/situations repeatedly brought to my attention over the past year.

**Aging:** Generally speaking, people with intellectual or developmental disabilities are living longer—a wonderful, positive development that carries with it both opportunities as well as challenges. Among the latter is the need to think differently about the services and supports available to them and their families. That includes residential options with bedrooms on the first floor. That includes access to medical care that is more readily available and attuned to the early onset of everything from dementia to vision and hearing loss. And that includes a host of other accommodations, including day programs that are tailored to the needs and preferences of older individuals.

This is increasingly a topic of conversation in government offices as well as in the non-profit and provider communities. In fact, last year, one organization hosted an important **two-day conference** about “aging in place” for those with intellectual or developmental disabilities. Another has **provided training**. Going forward, we should encourage such conversations and make sure that this topic is central to the thinking and planning of government—both at all levels—as well as the provider community. We have both an obligation and an opportunity.

**Deaf / Hearing Loss:** It is estimated that approximately **850,000 New Jerseyans** have some form of hearing loss, ranging from those born deaf to those who experience hearing loss later in life. This includes many individuals with intellectual or developmental disabilities as well as many of their caregivers. Yet, it seems that much of our official communications—from website videos and webinars to public meetings featuring government officials—fail to provide proper accommodations.

Going forward, we should work to meet the needs of those who are deaf or have hearing loss through better use of interpreters and appropriate technology. As one advocate explained, “Captioning is for those with hearing loss like a ramp is for those with a wheelchair. It provides access.”

**Department of Children & Families—** Since 2013, the Department of Children and Families (DCF) has been responsible for providing services and supports to children with intellectual or developmental disabilities. Through its Children's System of Care (CSOC), DCF provides a range of vital services, including in-home supports, group home placement, respite, and summer camp. However, families have often complained that DCF—although completely well-intentioned—seems to approach their children’s situation through a mental health prism and with a focus on “fixing” behavioral issues, rather than with an appreciation for the life-span nature of the disability. Some DCF officials have acknowledged this, noting the Department’s traditional focus on emotional and behavioral health; others have pointed to the system’s contracted partners—the Case Management Organizations (CMO) and PerformCare—for sometimes taking short-term approaches to families’ long-term situations.

Real or perceived, this apparent “cultural” predisposition should be addressed. It is absolutely essential for everyone involved to understand the very real differences between intellectual or developmental disabilities on one hand and mental health and behavioral issues on the other. And it is absolutely essential for parents to believe that their children’s welfare is being protected and promoted by people who fully understand the nature of their disabilities.

Recognizing all of this, DCF leadership recently established the Office of Family Voice to connect parents more closely with the Department and has taken additional important steps. Moreover, my almost daily contacts with the Department have demonstrated to me—in very real, very meaningful ways—that CSOC is staffed by professionals who are truly mission-focused and person-centered.
Department of Human Services: The Department of Human Services (DHS) is not only home to the Division of Developmental Disabilities (DDD) – which provides services and supports to adults aged 21 and over – but also a host of other divisions and offices important to individuals with intellectual and developmental disabilities. More than most departments, DHS is driven by a human imperative to assist people living challenging lives – a responsibility taken very seriously by professionals throughout the organization.

Yet, although many people recognize the enormous demands placed on the Department, many have also criticized it for poor customer service and a lack of transparency. Specifically, they have expressed frustration over unreturned calls / emails, inconsistent responses and denied requests with no justification.

To be sure, this criticism is not new, is not isolated to DHS alone and does not reflect the many people who have had very positive experiences with the Department – experiences that provided them and their families with much needed services and supports. Again, people generally reach out to the Office of the Ombudsman when there is a problem or a concern, not when things are going well.

Nonetheless, the criticism needs to be taken seriously. Perceptions matter. DHS is in the people business and is responsible for working through very personal, very time-sensitive, often very difficult situations. This requires an exceptional level of responsiveness, and it requires an extraordinary amount of trust – real and perceived.

Importantly, the people I have worked with in the Department fully understand this and continuously strive to meet these high standards. Importantly, too, the Department’s leadership recently created the position of “Family Outreach” liaison in DDD to work directly with families.

Direct Support Professionals: For many people with disabilities, direct support professionals (DSP) play an indispensable role in their lives – one that is very personal, very physical and generally very demanding. From hygiene to transportation to home management, the support they provide often makes it possible for people with disabilities to lead safe, independent, fulfilling lives. Yet, most DSPs are underpaid, undertrained and underappreciated. In fact, the average salary nationally is about $10.72 per hour, less than what many people earn doing far less difficult, far less sensitive jobs. This has led to a real national crisis with nearly 50% of DSPs requiring some type of means-tested government assistance – including Medicaid, food stamps, rental subsidies – to compensate for low salaries and a near 50% annual turnover rate, which impacts the quality of care provided to those who depend on them.

Going forward, in New Jersey, we need to increase the compensation and training provided to DSPs, while making sure that we hold them to high standards. Last year’s increase in State funding for DSPs was a significant first step, but we need to do more. Some have suggested the need to professionalize the DSP workforce, creating a career path that includes more appropriate compensation packages, training and standards. I have been part of a small cross-sectional group of the disability community that has begun informally exploring this approach. We should encourage this effort as well any other initiative seeking to mitigate the crisis, which will only grow more acute as the need for DSPs continues to increase alongside an aging population.

Education: While DCF plays an important role in the lives of many families with children (under age 21), school districts usually play an even more important, more far-reaching role – one that is rooted in the federal Individuals with Disabilities Education Act (IDEA) as well as corresponding New Jersey law. Many children receive their education and related services “in-district” through their local schools. Others rely on “out-of-district” schools – public or private – in other parts of the State or possibly in another State, depending on the residential needs of the student. Regardless of the situation, it is critical for the family and their local school district to work together – in partnership – for the benefit of the child. Unfortunately, however, that is not always the case, leaving parents and local school administrations too often at odds and too often in court – a reality that places an even greater burden on already over-burdened families.
Clearly, the relationship between local school districts and families should not be contentious. Clearly, too, local school districts should do everything possible to meet their obligations — legal as well as moral — and families should be aware of their rights and how best to exercise them. Our goal should be to create an environment in which educators and parents are able to focus exclusively on the needs and rights of the students, rather than having to worry about rationing limited resources.

Over the past year, I have had the opportunity to participate in meetings with Department of Education (DOE) leadership and have been really impressed with their commitment to this goal and to thoughtfully and effectively addressing the underlying tensions.

Employment: N.J. is an "Employment First" State that recognizes everyone's ability to work in a competitive, community-based environment, and N.J.'s Department of Labor and Workforce Development provides important supports to help make that a reality — a mission embodied by the Department's professionals in Trenton as well as those based throughout the State. Yet, too many individuals with intellectual or developmental disabilities are either unemployed or underemployed. Notwithstanding the skills and talent they are able to bring to a job, the challenges they face are real. Cultural barriers often prevent employers from recruiting them or providing workplaces accessible to them. Systemic complexities often prevent them from accessing -- or even knowing about -- resources available through State and County government. And transportation challenges often prevent them from getting and keeping their jobs.

Without question, we need to address these cultural, systemic and transportation challenges. Specifically, we need to do more to educate employers about the benefits of hiring people with intellectual or developmental disabilities as well as the ease with which they can make accommodations in their workplaces. We need to simplify the employment-related services and supports provided by government, making them far more understandable and more readily accessible to those who need them. And we need to double-down on our efforts to improve the transportation options available (see Transportation below).

The reason for doing all of this is simple: Making meaningful employment a reality for people with disabilities is not just the right thing to do; it is also the smart thing to do. It's good for the individuals. It's good for the workplaces. It's good for our overall economy.

Fee-For-Service System: DHS is still transitioning into the Medicaid Fee-for-Service (FFS) model, which was adopted a few years ago to increase the system's resources, efficiency and effectiveness. Not surprisingly, however, this transition has posed challenges for many of those who provide services and supports as well as those who depend on them. For some providers, it has meant more work, but less funding. For some individuals and families, it has meant more complication, but less services and less flexibility.

Recognizing that any such major change would inevitably cause complications, the State Legislature adopted legislation in May 2017 to establish an independent board to monitor, evaluate and make recommendations about the transition. In December, Governor Murphy appointed members to that board, who held their first meeting last month.

This is a very positive development, because the Independent Developmental Disability Fee-for-Service Transition Oversight Board provides the first real opportunity for us to have an informed, public discussion about the impact that the FFS approach is having on the delivery of services and supports. To that end, the Board should (1) make it a priority to engage as many individuals and families in the discussion; and (2) conduct a full financial analysis of all providers, highlighting and explaining the impact on their bottom lines -- good and bad -- as well as on their provision of services. I also suggest that the Board pay particular attention to transportation rates -- the FFS issue most frequently brought to my attention -- as well as the need for a fairer way to determine providers' catchment areas. In this regard, consideration should be given to the additional costs associated with transporting those with severe behaviors or those who require wheelchair accessible vehicles.
Fiscal Intermediary: Many families complain about Public Partnerships, LLC (PPL), which was contracted in 2017 to serve as the fiscal intermediary for those seeking to “self-direct” their services. The complaints have focused on poor customer service as well as poor overall performance — all of which have led to a range of bad outcomes, including families spending an inordinate amount of time calling and emailing and submitting and re-submitting paperwork; self-directed employees not getting paid the correct salary or not getting paid on time; and as a result, individuals not always getting the services they need. Several people have also expressed concerns regarding the fact that the current fiscal intermediary arrangement has led to two seemingly unintended consequences: an undue legal liability on families and a loss of benefits (including healthcare coverage) for self-directed employees.

Taken together, many of these complaints and concerns were reflected in a request last summer from Disability Rights New Jersey for the State Comptroller to investigate the situation.

To be sure, during the second half of the year, there seemed to be a decrease in the number of complaints, but I do not know if that is because the process is working better and/or because families are reporting less often, due to frustration and resignation. Regardless, DHS and PPL are well aware of the complaints and problems and have been working closely for several months to address them.

Going forward, DHS and PPL should continue these efforts and should more regularly and clearly publicly explain the steps that are being taken to improve the product and the process. Perhaps one way to do this would be for PPL to hold monthly webinars for families in which company officials could explain their efforts and answer questions. DHS should also consider a new fiscal intermediary arrangement — one that offers families more choice and flexibility, and one that addresses the legal liability and benefits concerns.

Guardianship: Guardianship is certainly one of the most important, most consequential issues, and decisions regarding it should never be taken lightly or without full information about its implications as well as other options available to individuals and their families. Although full guardianship is sometimes necessary, families should always explore other options that could allow the individual to remain as independent as possible. From Supported Decision-Making to general Guardianship, there is a full spectrum of possibilities that should be considered. Yet, many families struggle to understand this issue and many struggle with the resources (namely time and money) associated with it.

We need to find a way to make this issue more accessible to individuals with intellectual or developmental disabilities and their families. That means more education about the range of options available. That means making the process less expensive and less cumbersome. Again, this is one of the most important issues affecting people with intellectual or developmental disabilities, and we need to get it right.

Health Care: Accessing health care services — physical, mental, behavioral and dental — is a serious challenge for many individuals with intellectual or developmental disabilities. It seems that too few health professionals are trained to work with them. Too few are willing to put in the extra time it often takes to provide care for them. And too few accept Medicaid or even (with respect to psychiatrists) private insurance.

Clearly, this is neither right nor sustainable. Everyone needs and deserves access to quality health care.

Fortunately, there are important efforts underway to promote such access, including the “coordinated care” approach previously referenced. But we also need more fundamental, systemic approaches that go to the heart of the problem by changing both expectations and responsibilities. To this end, one idea worth exploring would be to ensure that all health professionals — present and future — receive training with respect to individuals with intellectual or developmental disabilities, perhaps making it part of their curriculum in New Jersey medical and dental schools.
Housing: For all parents, the decision to place their child in an out-of-home residence is painfully difficult. Parents of young children do so with only the greatest reluctance and only after exhausting any and all in-home resources. Conversely, parents of adult children do so with a sense of urgency, knowing that — among other things — they must do everything possible to prepare for the day when they are not around to provide for their loved ones. In all situations, the pain of the decision is compounded by the uncertainty about the availability of a safe, secure and appropriate residential setting.

Recognizing this, DHS and DCF have both begun taking steps to increase the availability of housing for individuals with intellectual or developmental disabilities. In so doing, they should place their emphasis on growing the number, location and type of residential possibilities. Here, again, efforts should be driven by the fact that one size does not fit all — that we need not just more group homes but also more campus, farmstead and apartment community options — as well as by the fact that greater geographical diversity will make it more possible for families to live closer together.

MLTSS: NJ's Managed Long Term Services and Supports (MLTSS) is a Medicaid funded program that provides comprehensive services and supports through 5 managed care organizations. Although many people associate the program with seniors who need a “nursing home level of care”, the program is also available to children who require skilled nursing and/or a life supporting/sustaining medical device. I have had limited experience with MLTSS, but it is clear that this program — and most importantly, the people who depend on it — suffer from a lack of skilled nurses. In fact, I have repeatedly heard from parents who are doing everything possible to care for their children at home, but whose challenge is made more difficult by a seemingly constant turnover in nurses as well as actual gaps in the hours of coverage provided.

Somehow, we need to fix this problem. If we are serious about providing parents with the resources needed to keep their children at home, we need to take steps to ensure that skilled nurses are available to them.

NJCAT: Many families complain about the N.J. Comprehensive Assessment Tool (NJCAT) used by DDD to help determine an individual’s level of need for supports and services which, in turn, determines the DDD budget assigned to an individual. Some have claimed that the NJCAT is biased. Some have suggested that the questions asked and the choices offered are too limited, thus preventing an accurate picture from being drawn. And many have complained that determinations made from it are subjective, depending on “who” fills out the questionnaire and “who” evaluates its results.

Taken together, it is clear that the NJCAT (substance as well as process) needs to be fixed — a point fully recognized by DDD officials, who initiated a review last year.

Going forward, my hope is that the review includes individuals and family members who can inform this initiative and that DDD tells the public soonest about its estimated timeline for offering a new NJCAT and any changes to the process regarding assessments and reassessments. My hope, too, is that among the outcomes of the review would be a more standardized process — one that makes it possible (if not advisable) for DDD to be directly involved in the administration of the NJCAT with all individuals and families.

Severe Behavior Disorders: Many NJ families include someone with a severe behavior disorder -- someone with a dual-diagnosis of an intellectual or developmental disability as well as a co-occurring mental health illness. Some are self-injurious. Some are aggressive to others. Many, if not all, suffer from a dearth of services and supports, because generally speaking, New Jersey lacks the capacity to properly provide for them. In fact, too often we hear stories of people with a severe behavior disorders unable to find a school or day program capable of serving them. And too often we hear stories of them having a behavioral crisis and ending up in situations -- or rather, real life vicious cycles -- that only aggravate their condition: the police are called; an ambulance takes the person to an emergency room; the doctors are unable to treat the person, who remains in the emergency department for anywhere between 3 hours and 3 weeks before being discharged on a mix of psychotropic medicines.
We need to build capacity—crisis response, stabilization, hospitals, schools, day programs and personal assistants—that can effectively provide services and supports to those with severe behavior disorders. To that end, we should revisit the 2008 report of the Department of Human Services Dual-Diagnosis Task Force, taking a fresh look at its recommendations. We should also give consideration to a recent proposal for a system of care for adults with several behavior disorders—a proposal based on the Kennedy Krieger Institute’s Neurobehavioral Unit in Maryland and which includes a full spectrum of services and supports, including a mobile response capability and a behavioral step-down home.

Granted, this would be a huge undertaking, but with the nation’s highest autism rate—1 in 34 children—and with many of them suffering with severe behaviors, we need to think big and be willing to make the necessary investments of time and money. In this context, Governor Murphy’s FY2020 proposal for new funding to address this issue is a very welcome, very significant step forward.

That said, this is not just about taking the long view; it’s also about dealing with a crisis that currently exists. To that end, we should also pursue specific measures to immediately mitigate the situations faced by people and families with severe behaviors. One parent suggested that all hospital emergency departments should include a “quiet” room that would provide a relatively calm space for those with behavioral challenges awaiting medical care. Another idea floated—and apparently already being pursued by DDD—is to use some of the excess capacity and resources in the Developmental Centers to provide temporary, short-term stabilization for those having a severe behavioral crisis.

**Stephen Komminos Law:** In October 2017, the Stephen Komminos law was enacted. In May 2018, it went into effect. The landmark law established policies and procedures for protecting those with intellectual or developmental disabilities. Specifically, it put in place several important measures for helping to prevent abuse and neglect in residential and day programs—measures such as unannounced DHS site visits to such programs, drug testing of direct care staff and strict notification requirements to parents/guardians as well as to DHS.

Implementation of this law requires a great deal of resources—namely time, personnel and money—and by all indications, it is off to a strong start. DHS and the provider community have done a really good job thus far. However, it is not clear why this law only applies to adult (aged 21 and over) residential and community programs, and so we should explore the expansion of this law to children’s group homes and programs.

**Support Coordinators:** Support Coordinators play an absolutely vital role in New Jersey’s system of care. They serve as a lifeline to the community for adults with intellectual or developmental disabilities and their families—helping to develop the Individual Service Plan, locating the appropriate service providers and serving as an overall resource for information and assistance. They also serve as the primary intermediary between individuals/families and DHS. Unfortunately, however, too many of them are underpaid, undertrained, but overworked.

My hope is that the Independent Developmental Disability Fee-for-Service Transition Oversight Board will include a review of Support Coordination compensation and that DHS will revisit the responsibilities and training associated with this critical component of the system.

**Transitions:** Too many families face the proverbial “cliff” as their children transition from childhood to adulthood. Up to age 21, children with intellectual or developmental disabilities receive most of their services and supports in the form of an entitlement. From that point forward, however, nothing is guaranteed, and adults need to seek and qualify for their services and supports. Yet, for whatever reason, too many families are not aware of the steps that need to be taken to prepare their children for the challenges and opportunities that lay ahead. We need to fix this. We need to make the transition from childhood to adulthood as seamless as possible.
Serious conversations within the Administration have already begun on this important issue – conversations that will hopefully lead to a more standardized process that makes the transition seamless for every special needs student in every school district. Going forward, we should formalize these conversations and make sure that all of the right people – including families – are at the table. And among the possible outcomes, consideration should be given to the development of an easy-to-use, one-stop website repository for timely transition information for families.

**Transportation:** From a quality of life perspective, transportation poses one of the greatest challenges and greatest opportunities. For individuals with intellectual or developmental disabilities, the shortage of accessible and affordable transportation makes their involvement in the community – through employment or day programs -- difficult, if not impossible. In fact, the challenge often has a devastating emotional, physical and financial impact on them and their families.

To be sure, there are valuable resources available to people with disabilities – most notably, NJ Transit’s Access Link, county-provided Community Transportation services and NJTIP@Rutgers – but despite best efforts, they clearly are not enough. Not even close.

From my experience, the people running our transportation organizations seem fully committed to the people they serve. They “get it” and work hard to fulfill their important missions. But New Jersey is a very challenging transportation State, and we need to think big and think differently. We need to convene regional conversations that bring together the best transportation minds to work through the challenges and the opportunities – conversations that would also benefit from a zero-based, blank paper approach.

Everything should be on the table.

**Recommendations**

Without question, none of this easy. Intellectual and developmental disabilities pose very real, very complex challenges for individuals and their families as well as for those of us who seek to provide them with services and supports.

Clearly, from a government perspective, one of the biggest challenges we face is that there are so many issues to address, but so few hours in the day and so few available dollars in the budget. Each of the observations – general as well as specific – speaks to an issue that is important to many individuals and families. And some of the observations have resource implications, thus making it impossible to do all that needs to be done in the short-term.

This makes it necessary to prioritize. This makes it necessary to be realistic about what we can achieve and when we can achieve it.

To that end, I have three recommendations:

1. The Administration should establish an interdepartmental group to review the observations and develop a plan of action. Under the auspices of the Governor’s office, the group should prioritize the steps to be taken to improve the system of care, differentiating between immediate and longer-term opportunities. The group should balance the Administration’s firm commitment to make necessary changes with very real budget imperatives, recognizing that some observations could require additional funding, some could be budget-neutral and some – such as, “the need for simplification” – could actually lead to budget savings.
2. The Administration should convene regular meetings of key Administration officials to address cross-cutting issues — those that require collaboration between and within Departments. This would include some of the issues contained in my general observations as well as those contained in more specific observations, such as with respect to “aging” and “transitions”.

3. The Administration should develop new ways for engaging individuals and families. Again, the existing forums are good, but not good enough. We need to reach more individuals and families, tapping further into the diversity of our disability community. And we need to give them a more permanent, more meaningful seat at the table.

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