



ANALYSIS OF THE NEW JERSEY BUDGET

**DEPARTMENT
OF STATE**

FISCAL YEAR

2009 - 2010

NEW JERSEY STATE LEGISLATURE

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DEPARTMENT OF STATE

Budget Pages..... C-7; C-16; C-25 to C-26; D-303 to D-360

Fiscal Summary (\$000)

	Expended FY 2008	Adjusted Appropriation FY 2009	Recommended FY 2010	Percent Change 2009-10
State Budgeted	\$1,332,770	\$1,283,674	\$1,258,396	(2.0%)
Federal Funds	37,883	31,252	67,010	114.4%
<u>Other</u>	<u>37,626</u>	<u>24,073</u>	<u>24,987</u>	<u>3.8%</u>
Grand Total	\$1,408,279	\$1,338,999	\$1,350,393	0.9%

Personnel Summary - Positions By Funding Source

	Actual FY 2008	Revised FY 2009	Funded FY 2010	Percent Change 2009-10
State	378	355	352	(0.8%)
Federal	215	207	209	1.0%
Other	108	98	97	(1.0%)
<u>Colleges & Univ's.*</u>	<u>20,216</u>	<u>21,948</u>	<u>23,866</u>	<u>9.1%</u>
Total Positions	20,917	22,608	24,524	8.9%

FY 2008 (as of December) and revised FY 2009 (as of January) personnel data reflect actual payroll counts. FY 2010 data reflect the number of positions funded.

*Position data for Colleges and Universities is displayed as "State-funded" positions for the three years.

Note: In order to be consistent with the data as it is displayed in the Governor's budget, the funding and position data that are budgeted in the Department of State for Higher Educational Services are included in the above tables. Other explanatory material is not included in this analysis but is contained in a separate analysis of "Higher Educational Services."

Key Points

- The Governor's FY 2010 budget recommendation for the Department of State, excluding Higher Educational Services, totals \$76.4 million, a decrease of \$22.7 million (22.9 percent) from the FY 2009 adjusted appropriation of \$99.1 million. Included in the budget proposal is \$29.3 million for Direct State Services, a 14.3 percent or \$4.9 million decrease; \$23.7 million for Grants-In-Aid, a 21.3 percent or \$6.4 million decrease; and \$23.4 million for State Aid, a 32.7 percent or \$11.4 million decrease.

Key Points (Cont'd)

- **Hotel and Motel Occupancy Tax dedication for cultural and tourism activities:** P.L.2003, c. 114 imposes a hotel and motel occupancy tax. A minimum amount of the revenue generated from the tax is required to annually fund cultural project grants through the New Jersey State Council on the Arts, New Jersey Historical Commission grants, advertising and promotion in the Division of Travel and Tourism, and the New Jersey Cultural Trust. Under the law, if the minimum amounts are not appropriated in any fiscal year, then no later than 10 days after the enactment of the annual appropriations act, the Director of the Division of Taxation is to notify each person required to collect the tax that the tax will no longer be paid or collected ("poison pill" provision). The Governor's FY 2010 budget recommendation for those agencies is \$25.9 million: \$14.4 million for Cultural Projects in the New Jersey State Council on the Arts (\$16 million required); \$2.5 million for the New Jersey Historical Commission (\$2.7 million required); \$8.5 million for tourism advertising and promotion in the Division of Travel and Tourism (\$9 million required); and \$466,000 for the New Jersey Cultural Trust (\$500,000 required). Hence, these amounts would appear to trigger the law's "poison pill" provision; however, FY 2010 recommended language in the general provisions of the Governor's FY 2010 budget is intended to suspend such statutory "poison pill" provisions for the duration of the fiscal year. According to the Governor's estimated Schedule 1 State Revenue projections, the State will receive \$80 million in FY 2009 and \$85 million in FY 2010 from the hotel and motel occupancy tax.
- **New Jersey State Council on the Arts:** The Governor's FY 2010 budget recommendation of \$17.1 million for the New Jersey State Council on the Arts represents a \$5 million (22.8 percent) decrease from the FY 2009 adjusted appropriation of \$22.1 million. As indicated above, funding for the Council's Cultural Projects grants is reduced by \$4.8 million (25 percent), from \$19.2 million in FY 2009 to \$14.4 million in FY 2010. Grants-In-Aid funding for the Newark Museum is recommended to be reduced by \$243,000 (or 10 percent), from \$2.43 million in FY 2009 to \$2.19 million in FY 2010.
- **Historical Resources:** Total State funding for Historical Resources, which includes funding for the New Jersey Historical Commission, is recommended to decrease by \$896,000 (21.6 percent) from the FY 2009 adjusted appropriation of \$4.2 million to \$3.3 million in FY 2010. As indicated above, this decrease is primarily attributable to an \$826,000 (or 25 percent) reduction in Grants-In-Aid funding for the New Jersey Historical Commission, from the FY 2009 adjusted appropriation of \$3.3 million to \$2.5 million in FY 2010.
- **Travel and Tourism:** As indicated above, the Governor's FY 2010 budget recommendation of \$8.5 million in Direct State Services funding for advertising and promotion (including the Cooperative Marketing Program) for the Division of Travel and Tourism represents a \$3.3 million (27.9 percent) decrease from the FY 2009 adjusted appropriation of \$11.8 million. FY 2010 recommended budget language on page D-353 directs that monies expended by the division for the Cooperative Marketing Program are to support programs which include a 25 percent match by private tourism, industry concerns, and non-State public entities, such as Visitors Bureaus and similar county and municipal agencies.

Key Points (Cont'd)

- **The Office of Secretary of State:** The Governor's FY 2010 budget recommendation of \$4.9 million for the Office of the Secretary of State represents a \$300,000 (5.4 percent) decrease from the FY 2009 adjusted appropriation of \$5.2 million. Grants-In-Aid funding for the Office of Faith-Based Initiatives is recommended to decrease \$150,000 (10 percent) from the FY 2009 adjusted appropriation of \$1.5 million to the recommended amount of \$1.35 million in FY 2010, and, as indicated above, funding for the New Jersey Cultural Trust is recommended to decrease by 25 percent, from the FY 2009 adjusted appropriation of \$621,000 to the FY 2010 proposed amount of \$466,000.
- **Division of State Museum:** The Governor's FY 2010 budget recommends \$5.56 million to fund the Division of State Museum, a \$1.11 million (16.6 percent) decrease from the FY 2009 adjusted appropriation of \$6.67 million. A FY 2009 supplemental appropriation of \$890,000 in Direct State Services funding associated with the re-opening of the State Museum, which was closed for renovations from May 2003 to May 2008, is not recommended for continuation; however, recommended language in the Governor's FY 2010 budget appropriates \$890,000 to the State Museum for those same purposes. The remainder of the reduction is reflected in a \$75,000 decrease in Direct State Services funding for maintenance of the Old Barracks Museum; and a \$150,000 reduction in Grants-In-Aid funding for the Battleship New Jersey Museum.
- **Public Broadcast Authority:** The Governor's FY 2010 budget recommendation of \$4 million in Direct State Services funding for the New Jersey Public Broadcasting Authority (New Jersey Network) represents the same amount as the FY 2009 adjusted appropriation. As in FY 2009, recommended budget language (on page D-443, Interdepartmental Accounts) appropriates to the Household and Security Account \$526,000 from Public Broadcasting Services for utility, security, and building maintenance costs. The majority of NJN's funding comes from "off budget sources." In FY 2010, NJN anticipates \$13.2 million in "Other Funds," such as restricted underwriting grants (\$4 million) and the Corporation for Public Broadcasting (\$3 million).
- **Division of State Library:** The Governor's FY 2010 budget recommendation of \$22.7 million for the Division of State Library represents a \$2 million (8 percent) decrease from the FY 2009 adjusted appropriation of \$24.7 million. The Governor's FY 2010 Budget recommends a \$551,000 (27.6 percent) reduction in Direct State Services funding for the "Knowledge Initiative," from the FY 2009 adjusted appropriation of \$2 million to the FY 2010 recommended amount of \$1.449 million. State Aid funding is recommended to decrease by \$1.4 million (7.9 percent), from the FY 2009 adjusted appropriation of \$17.8 million to \$16.4 million in FY 2010. Most of that reduction is reflected in the "Per Capita Library Aid" account, which is reduced by \$797,000 (10 percent) from the current level of \$8 million to \$7.2 million in FY 2010. These monies provide financial assistance to approximately 300 libraries on a per capita basis.
- **Records Management:** For FY 2010, the Governor's Budget projects total New Jersey Public Records Preservation collections of \$29.5 million. Of that amount, \$17.1 million represents the State's share of these revenues, with \$2.46 million of that amount being appropriated for the Division of Archives and Records Management (DARM) Direct State Services budget, a decrease of \$100,000 or 3.9 percent from the FY 2009 adjusted appropriation of \$2.56 million. Proposed budget language (in the Department of

Key Points (Cont'd)

- Treasury) provides for the transfer of the balance of collections, or \$12.4 million, from the New Jersey Public Records Preservation Account to the Department of State for the local and county government's share, an increase of \$1.2 million over the \$11.2 million allocated for this purpose in FY 2009. These transferred funds, less \$1.3 million appropriated for DARM's microfilm unit, are used by DARM to provide grants through two programs aimed at helping municipalities and counties develop and build infrastructure to support strategic and emergency records management, preservation and storage: the Public Archives and Records Infrastructure Support (PARIS) programs and Records Disaster Recovery Triage (Records DIRECT) program.
- **Election Management and Coordination:** The Governor's FY 2010 budget recommendation of \$7 million in State Aid funding for Election Management and Coordination represents a \$10 million (58.7 percent) reduction from the FY 2009 adjusted appropriation of \$17 million. This decrease in funding is entirely attributable to the elimination of funding for the Voter Verified Paper Audit Trail (VVPAT). The State had previously appropriated \$20 million over two fiscal years (FY 2008 and FY 2009) to implement VVPAT technology. However, the list of FY 2009 budget reductions released by the Governor on January 5, 2009 includes lapsing \$19 million of that funding. Also, on March 6, 2009, the Legislature enacted P.L.2009, c. 17 suspending the requirement that voting machines produce an individual permanent paper record for each vote cast until such time as sufficient federal or State funding becomes available.

Background Paper:

- An Update Concerning the Voter-Verified Paper Audit Trail.....p. 17-20

Fiscal and Personnel Summary

AGENCY FUNDING BY SOURCE OF FUNDS (\$000)

	Expended FY 2008	Adj. Approp. FY 2009	Recom. FY 2010	Percent Change	
				2008-10	2009-10
General Fund					
Direct State Services	\$41,901	\$36,636	\$31,469	(24.9%)	(14.1%)
Grants-In-Aid	1,253,686	1,212,182	1,203,478	(4.0%)	(0.7%)
State Aid	36,781	34,856	23,449	(36.2%)	(32.7%)
Capital Construction	402	0	0	(100.0%)	0.0%
Debt Service	0	0	0	0.0%	0.0%
Sub-Total	\$1,332,770	\$1,283,674	\$1,258,396	(5.6%)	(2.0%)
Property Tax Relief Fund					
Direct State Services	\$0	\$0	\$0	0.0%	0.0%
Grants-In-Aid	0	0	0	0.0%	0.0%
State Aid	0	0	0	0.0%	0.0%
Sub-Total	\$0	\$0	\$0	0.0%	0.0%
Casino Revenue Fund	\$0	\$0	\$0	0.0%	0.0%
Casino Control Fund	\$0	\$0	\$0	0.0%	0.0%
State Total	\$1,332,770	\$1,283,674	\$1,258,396	(5.6%)	(2.0%)
Federal Funds	\$37,883	\$31,252	\$67,010	76.9%	114.4%
Other Funds	\$37,626	\$24,073	\$24,987	(33.6%)	3.8%
Grand Total	\$1,408,279	\$1,338,999	\$1,350,393	(4.1%)	0.9%

PERSONNEL SUMMARY - POSITIONS BY FUNDING SOURCE

	Actual FY 2008	Revised FY 2009	Funded FY 2010	Percent Change	
				2008-10	2009-10
State	378	355	352	(6.9%)	(0.8%)
Federal	215	207	209	(2.8%)	1.0%
All Other	108	98	97	(10.2%)	(1.0%)
Colleges and Universities*	20,216	21,948	23,866	18.1%	9.1%
Total Positions	20,917	22,608	24,524	17.2%	8.9%

FY 2008 (as of December) and revised FY 2009 (as of January) personnel data reflect actual payroll counts. FY 2010 data reflect the number of positions funded.

*Position data is displayed as "State-funded" positions for the three years.

AFFIRMATIVE ACTION DATA

Total Minority Percent					
Office of the Secretary of State	59.5%	48.2%	49.6%	----	----
Commission on Higher Ed.	44.0%	44.0%	42.0%	----	----
Higher Ed. Student Assist. Auth.	30.4%	30.9%	30.9%	----	----

Significant Changes/New Programs (\$000)

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 2009</u>	<u>Recomm.</u> <u>FY 2010</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
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CULTURAL AND INTELLECTUAL DEVELOPMENT

DIRECT STATE SERVICES

Services Other Than Personal	\$1,434	\$544	(\$890)	(62.1%)	D-352
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This reduction is attributable to the elimination of \$890,000 is supplemental funding, authorized by language in the FY 2009 budget, to the State Museum for re-opening costs. The State Museum was closed for renovations from May 2003 to May 2008, and the supplemental appropriation was used to cover a portion of the additional costs related to re-opening including an advertising campaign, infrastructure improvements (new wiring, phones, etc.), and costs associated with conservation as artifacts were moved out of storage and back on display at the State Museum. While the FY 2010 budget would appropriate \$544,000 to the State Museum for additional costs related to re-opening, a reduction of \$890,000 (62.1 percent), this reduction would be offset in FY 2010 by up to \$890,000 through proposed budget language.

Special Purpose:

Travel and Tourism:

Advertising and Promotion TOTAL	\$11,799	\$8,512	(\$3,287)	(27.9%)	D-351, D-352
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The Governor's FY 2010 budget recommendation of \$8.5 million in Direct State Services funding for advertising and promotion (including the Cooperative Marketing Program) for the Division of Travel and Tourism represents a \$3.3 million (27.9 percent) decrease from the FY 2009 adjusted appropriation of \$11.8 million. Under P.L.2003, c.114, a minimum amount of revenue generated from the hotel and motel occupancy tax, \$9 million, is required to be appropriated for tourism advertising and promotion in the Division of Travel and Tourism or the tax will no longer be paid or collected ("poison pill" provision). FY 2010 recommended language in the general provisions of the Governor's FY 2010 budget (page F-8) is intended to suspend such statutory "poison pill" provisions during FY 2010.

GRANTS-IN-AID

Support of the Arts	\$21,684	\$16,628	(\$5,056)	(23.3%)	D-352
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The New Jersey State Council on the Arts provides financial grants to arts organizations and artists in New Jersey whose projects show professional merit and promise. The Governor's FY 2010 budget recommendation of \$16.6 million in Grants-In-Aid funding for the New Jersey State Council on the Arts represents a \$5.1 million (23.3 percent) decrease from the FY 2009 adjusted appropriation of \$21.7 million.

Funding for the Council's Cultural Projects grants is recommended to decrease by 25 percent or \$4.8 million, from \$19.2 million in FY 2009 to \$14.4 million in FY 2010. Under P.L.2003, c.114, a minimum amount of revenue generated from the hotel and motel occupancy tax, \$16 million, is required to be appropriated for the Council's Cultural Projects grants or the tax will no longer be paid or collected ("poison pill" provision). However, recommended language in

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

<u>Budget Item</u>	<u>Adj. Approp. FY 2009</u>	<u>Recomm. FY 2010</u>	<u>Dollar Change</u>	<u>Percent Change</u>	<u>Budget Page</u>
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the general provisions of the Governor's FY 2010 budget (page F-8) is intended to suspend such statutory poison pill provisions during FY 2010.

Development of Historical Resources	\$3,869	\$2,973	(\$896)	(23.2%)	D-352
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The Governor's FY 2010 recommended budget of \$3 million in Grants-In-Aid funding for Historical Resources Development represents a \$896,000 (23.2 percent) decrease from the FY 2009 adjusted appropriation of \$3.9 million. Within this program class, funding for the New Jersey Historical Commission agency grants decreases by \$800,000 or 25 percent, from \$3.3 million in FY 2009 to \$2.5 million in FY 2010. In addition, funding for the Ellis Island New Jersey Foundation decreases by \$45,000 or 10 percent, from the FY 2009 adjusted appropriation of \$450,000 to \$405,000 in FY 2010, and funding for the New Jersey Council for the Humanities decreases by \$25,000 or 25 percent, from the FY 2009 adjusted appropriation of \$100,000 to \$75,000 in FY 2010. Under P.L.2003, c.114, a minimum amount of revenue generated from the hotel and motel occupancy tax, \$2.7 million, is required to be appropriated for New Jersey Historical Commission grants or the tax will no longer be paid or collected ("poison pill" provision). However, recommended language in the general provisions of the Governor's FY 2010 budget (page F-8) is intended to suspend such statutory "poison pill" provisions during FY 2010.

DIVISION OF STATE LIBRARY

DIRECT STATE SERVICES

Special Purpose:

Knowledge Initiative	\$2,000	\$1,449	(\$551)	(27.6%)	D-355
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The Governor's FY 2010 Budget recommends \$1.45 million in Direct State Services funding for the Knowledge Initiative (KI) Project, a \$551,000 (27.6 percent) reduction from the FY 2009 adjusted appropriation of \$2 million. Of the adjusted amount, however, \$390,000 has been placed in reserve as a planned spending reduction in FY 2009 (Budget in Brief Appendix II p. 17). The State Library had requested KI funding of \$3.25 million in FY 2010. This initiative is designed to fund proprietary databases offered at colleges and universities in the State, the State Library, public libraries, and to business incubators and small businesses served by the New Jersey Economic Development Authority.

STATE AID

Per Capita Library Aid	\$7,973	\$7,176	(\$797)	(10.0%)	D-356
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This reduction comprises a 10 percent across-the-board cut to this aid program. The State Library had requested per capita library aid funding of \$10 million in FY 2010. These monies provide financial assistance to approximately 300 libraries on a per capita basis to ensure the libraries are funded at a level to provide certain minimal standards, including requirements in the hours of operation, number of staff, and materials. Per capita library aid was also reduced

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

<u>Budget Item</u>	<u>Adj. Approp. FY 2009</u>	<u>Recomm. FY 2010</u>	<u>Dollar Change</u>	<u>Percent Change</u>	<u>Budget Page</u>
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by approximately 10 percent in FY 2009. It is unclear how the FY 2010 reduction will affect each library receiving aid under this program.

GENERAL GOVERNMENT SERVICES

DIRECT STATE SERVICES

Amistad Commission	\$0	\$100	\$100	—	D-358
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The Governor's FY 2010 Budget recommends \$100,000 in Direct State Services funding for the Amistad Commission. In FY 2009, the Amistad Commission was not recommended to receive Direct State Services funding as the commission had an FY 2008 accumulation of unexpended balances which carried forward to FY 2009.

The Amistad Commission, established pursuant to P.L.2002, c.75, is responsible for the creation and implementation of education and awareness programs aimed at memorializing events concerning the enslavement of Africans and their descendants in America.

GRANTS-IN-AID

Cultural Trust	\$621	\$466	(\$155)	(25.0%)	D-358
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The Governor's FY 2010 budget recommendation of \$466,000 for the New Jersey Cultural Trust is a \$155,000 (25 percent) reduction from the FY 2009 adjusted appropriation of \$621,000. Under P.L.2003, c.114, a minimum amount of revenue generated from the hotel and motel occupancy tax, \$500,000, is required to be appropriated to the New Jersey Cultural Trust or the tax will no longer be paid or collected ("poison pill" provision). However, recommended language in the general provisions of the Governor's FY 2010 budget (page F-8) is intended to suspend such statutory "poison pill" provisions during FY 2010.

STATE AID

Election Management and Coordination	\$17,030	\$7,030	(\$10,000)	(58.7%)	D-358
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The Governor's FY 2010 budget recommendation of \$7 million in State Aid funding for Election Management and Coordination represents a \$10 million (58.7 percent) reduction from the FY 2009 adjusted appropriation of \$17 million. This decrease in funding is entirely attributable to the elimination of funding for the Voter Verified Paper Audit Trail (VVPAT). The State had previously appropriated \$20 million over two fiscal years (FY 2008 and FY 2009) to implement VVPAT technology. However, \$19 million of that appropriation has been listed on the Governor's FY 2009 Planned Spending Reductions. Also, on March 6, 2009, the Legislature enacted P.L.2009, c.17 suspending the requirement that voting machines produce an

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

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 2009</u>	<u>Recomm.</u> <u>FY 2010</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
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individual permanent paper record for each vote cast (VVPAT) until such time as sufficient federal or State funding is available.

Language Provisions

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The unexpended balance at the end of the preceding fiscal year in the Presidential Primary account is appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting. In addition there are appropriated from the General Fund such additional sums as may be required for county and municipal costs of the Presidential Primary, as certified by the Commissioner of Registration of each county, and certified by the Office of the Secretary of State, subject to the approval of the Director of the Division of Budget and Accounting.

No comparable language.

Explanation

Under the FY 2009 language, the unexpended FY 2008 balance in the Presidential Primary account was appropriated for the same purpose. The language also appropriated from the General Fund additional sums that were required for the county and municipal costs of the Presidential Primary. The Division of Elections requested this FY 2009 language because reimbursements to counties for election expenses are disbursed only after the actual Presidential Primary expenses are certified by each county's Commissioner of Registration and the Secretary of State, and the reimbursements may not have been completed by the end of FY 2008.

This language is no longer necessary because reimbursements to the counties have been completed.

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Notwithstanding the provisions of any law or regulation to the contrary, up to 40% of the receipts deposited in the New Jersey Public Records Preservation account in the Department of the Treasury are appropriated, subject to the approval of the Director of the Division of Budget and Accounting, and allocated as grants to counties and municipalities for the management, storage,

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Notwithstanding the provisions of any law or regulation to the contrary, up to 40% of the receipts deposited in the New Jersey Public Records Preservation account in the Department of the Treasury are appropriated, subject to the approval of the Director of the Division of Budget and Accounting, and allocated as grants to counties and municipalities for the management, storage,

Language Provisions (Cont'd)

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and preservation of public records based on regulations promulgated by the Division of Archives and Records Management and approved by the State Treasurer. Of the amount so appropriated, an amount not to exceed **[\$100,000]** may be used for the administrative expenses of this grant program, subject to the approval of the Director of the Division of Budget and Accounting.

2010 Budget Recommendations

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and preservation of public records based on regulations promulgated by the Division of Archives and Records Management and approved by the State Treasurer. Of the amount so appropriated, an amount not to exceed \$200,000 may be used for the administrative expenses of this grant program, to include maintenance of records retention software, subject to the approval of the Director of the Division of Budget and Accounting.

Explanation

The existing and proposed language provide that up to 40 percent of the funding for the New Jersey Public Records Preservation account will be allocated as grants to counties and municipalities for the management, storage and preservation of records. The FY 2009 language allocated \$100,000 of the appropriated amount for the administrative expenses of the program. The FY 2010 recommended language increases the allocation to \$200,000 and includes the costs associated with the maintenance of records retention software within administrative expenses.

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No comparable language.

2010 Budget Recommendations

p. F-8

Notwithstanding any other law or regulation to the contrary, because of the economic downturn and the crisis in the financial markets, it is not possible in Fiscal Year 2010 to appropriate monies to fund all programs authorized by statute. As a result, the Governor's Budget Message and Recommendations for Fiscal Year 2010 recommended, and the Legislature agrees, that either no State funding or less than the statutorily-required amount be appropriated for certain of these statutory programs. To the extent that these or other statutory programs have not received all or some appropriations for Fiscal Year 2010 in this Appropriations Act which would be required to carry out these statutory programs, such

Language Provisions (Cont'd)

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lack of appropriations represents the intent of the Legislature to suspend in full or in part the operation of the statutory programs, including any statutorily-imposed restrictions or limitations on the collection of State revenue that is related to the funding of those programs.

Explanation

The intent of this language is to prevent the operation of the "poison pill" provision of P.L.2003, c.114 which would suspend the hotel and motel occupancy tax. A minimum amount of the revenue generated from the tax is required to annually fund cultural project grants through the New Jersey State Council on the Arts, New Jersey Historical Commission grants, advertising and promotion in the Division of Travel and Tourism, and the New Jersey Cultural Trust. Under the law, if the minimum amounts are not appropriated in any fiscal year, then no later than 10 days after the enactment of the annual appropriations act, the Director of the Division of Taxation is to notify each person required to collect the tax that the tax will no longer be paid or collected. The Governor's FY 2010 budget recommendation for these agencies is \$25.9 million: \$14.4 million for Cultural Projects in the New Jersey State Council on the Arts (\$16 million required); \$2.5 million for the New Jersey Historical Commission (\$2.7 million required); \$8.5 million for tourism advertising and promotion in the Division of Travel and Tourism (\$9 million required); and \$466,000 for the New Jersey Cultural Trust (\$500,000 required). Hence, as the amounts recommended are less than the statutory minimum, this language is intended to override the "poison pill" provision of the statute for the one year in which the FY 2010 budget is in effect.

Discussion Points

1. The Governor's budget incorporates an estimated \$5.183 billion over two fiscal years in federal stimulus funding provided by the American Recovery and Reinvestment Act (ARRA) of 2009. According to a table on page 42 of the Governor's abbreviated budget, the State will use \$3.074 billion (\$854 million in FY 2009 and \$2.220 billion in FY 2010) from ARRA for budget relief. In addition to these funds which will offset revenue shortfalls, \$2.109 billion will be used for new or expanded programs or initiatives. The ARRA allocates funds to states both by formula and by competitive awards. Most Executive departments anticipate stimulus funding in either FY 2009, FY 2010 or both.

- **Question:** Please itemize the federal stimulus funding, if any, other than portions of the \$3.074 billion allocated for budget relief, included in the department's budget, by fiscal year and federal program, setting forth program goals and eligible uses together with the amount for state administrative expenses and the amount for allocation to local public and private recipients, respectively. Please identify intended and actual recipients and the process by which the department determines recipients and funding awards. Are there ARRA funds that flow through your department for which the State has no discretion? Please also set forth the timetable for obtaining federal approval of funding, obligation and allocation of funding to recipients, and use by recipients. Could any of this funding be used to offset other State appropriations, and if so, what programs and in what amount? What additional positions, if any, have been and will be hired with these funds? If this money is being used for new or expanded activities, will the new or expanded activities be continued in FY 2011? If so, how will they be funded?
- **Question:** In addition to funding incorporated in the FY 2010 budget, what specific competitive grant opportunities has the department identified that it is eligible to pursue, has applied for, and has been awarded, respectively?

2. Over the past several years, the overall staffing level in the Executive branch has been reduced through restrictions on hiring and an early retirement program. The FY 2010 budget proposal envisions continuation of the hiring restrictions coupled with possible furloughs or further reductions in positions.

- **Question:** How has the reduction in staffing affected your department? What strategies has the department employed to deal with staff reductions? What projects, work products or functions has the department discontinued or deferred because of staffing levels? Will the department be able to accommodate furloughs in FY 2010 without increasing spending for overtime?

3. The FY 2009 appropriations act anticipated that \$25 million in procurement savings would be achieved by Executive departments. A chart on page 75 of the Budget in Brief categorizes those savings and indicates they will continue into FY 2010. The FY 2010 budget includes another \$25 million from procurement savings (Budget in Brief, Appendix I, page 8).

- **Question:** Please indicate the FY 2009 amount of procurement savings achieved by your department, by the categories set forth in the referenced table, and the sources of those savings by department program. What is the annual amount of these savings as continued into FY 2010? How have these reductions affected the

Discussion Points (Cont'd)

department? What projects, work products or functions has the department discontinued or deferred in order to achieve these savings?

4. P.L.2003, c.114, enacted on July 1, 2003, imposes a hotel and motel occupancy tax. A minimum amount of the revenue generated from the tax is required to annually fund cultural project grants through the New Jersey State Council on the Arts, New Jersey Historical Commission grants, advertising and promotion in the Division of Travel and Tourism, and the New Jersey Cultural Trust. Specifically, the law requires 40 percent of the revenue collected, or a combined minimum total of \$28.2 million, be appropriated for these purposes. Under the law, if the minimum amounts are not appropriated in any fiscal year, then no later than 10 days after the enactment of the annual appropriations act, the Director of the Division of Taxation is to notify each person required to collect the tax that the tax will no longer be paid or collected ("poison pill" provision).

The Governor's FY 2010 recommended appropriation of \$25.9 million for cultural grants and tourism promotion (including \$14.4 million for Cultural Projects in the New Jersey State Council on the Arts, \$2.5 million for the New Jersey Historical Commission, \$8.5 million for tourism advertising and promotion in the Division of Travel and Tourism, and \$466,000 for the New Jersey Cultural Trust) would appear to trigger the law's "poison pill" provision. However, recommended language in the general provisions of the Governor's FY 2010 budget (page F-8) would suspend such statutory "poison pill" provisions.

According to the Governor's Schedule 1 Revenue projections, the State anticipates approximately \$80 million in FY 2009 and \$85 million in FY 2010 from the hotel and motel occupancy tax.

- **Question:** How was the level of funding in the Governor's FY 2010 Recommended Budget determined for these agencies? What impact will the reduction in funding have on each agency's ability to operate effectively and fund grant programs? Based on applications for FY 2010 received to date, what percentage of bona fide funding requests could be approved and funded with the recommended appropriation? Have these agencies discussed and determined strategies for allocating FY 2010 funding?

5. The New Jersey Cultural Trust is a public-private initiative designed to create a permanent, stable and additional source of funding to: support private, non-profit arts, history and humanities organizations; finance important capital projects; and improve the organizational and financial management of cultural organizations. Under the "New Jersey Cultural Trust Act," P.L.2000, c.76, over a ten-year period beginning in FY 2001, \$100 million in State funds was to be committed to match private contributions to qualified organizations to supplement funding for the arts, historical groups, and the humanities. According to the Trust, to date, the State has contributed \$27 million toward the purposes of the Trust, far below the amount prescribed by the legislation, while the private sector has contributed \$38.5 million certified to date.

As an incentive to encourage large gift donations, when a private entity makes a "certified" donation valued at \$100,000 and above to the endowment of a qualified organization, the State, under the statute, was to have matched the donation, with 80 percent of the State match going to the Cultural Trust Fund, and the remaining 20 percent going

Discussion Points (Cont'd)

directly to the qualified organization's endowment. Thus, a donation of \$100,000 would actually generate \$120,000 for an organization's endowment. The certification process has been on hold since the State match was last made in FY 2003.

The Governor's FY 2010 Budget Recommendation of \$466,000 for the New Jersey Cultural Trust represents a 25 percent decrease from the FY 2009 adjusted appropriation of \$621,000.

- **Question:** Please provide an update on the New Jersey Cultural Trust Fund. What amount of private donations has been received but not certified since the certification process was placed on hold? How has the State's failure to satisfy the State match requirement under the "New Jersey Cultural Trust Act," affected qualified cultural organizations' ability to secure private donations?

6. The Governor's FY 2010 Budget recommends \$1.45 million (page D-355) in Direct State Services funding for the Knowledge Initiative Project (KI), a \$550,000 (27.5 percent) reduction from the FY 2009 adjusted appropriation of \$2.0 million. Also, a lapse of \$390,000 in FY 2009 program "savings" (Budget in Brief Appendix II p. 17) is planned. The State Library had requested KI funding of \$3.25 million for FY 2010. This initiative is designed to fund proprietary databases offered at colleges and universities in the State, the State Library, public libraries, and to business incubators and small businesses served by the New Jersey Economic Development Authority.

- **Question:** Please provide an update on the KI Project, including information on the specific databases selected, contract terms and costs, and the benefits the initiative has had to the State generally and to the specific communities served. Specifically, who has access to the programs made available through the initiative and how many people and businesses are utilizing these services? How will the decrease in funding in FY 2009 and FY 2010, respectively, impact which products will be made available? In light of the current economic crisis and the support that the KI Project provides to small businesses, is the reduction short-sighted from an economic stimulus perspective?

7a. The Governor's FY 2010 Budget recommends decreasing State Aid for the Division of State Library by \$1.4 million (7.9 percent), from the FY 2009 adjusted appropriation of \$17.8 million to \$16.4 million in FY 2010. Most of that reduction is reflected in the "Per Capita Library Aid" account, which is reduced by \$800,000 (10 percent) from the current level of \$8 million to \$7.2 million in FY 2010. The State Library had requested per capita library aid funding of \$10 million in FY 2010. (In FY 2009 the Governor recommended reducing per capita library aid by 11 percent.) These monies provide financial assistance to approximately 300 libraries on a per capita basis.

- **Question:** Please describe the impact the reduction in funding will have on the ability of libraries to provide "minimal" standards. Please provide a spreadsheet summary on the per capita aid distributed to each of the public libraries in FY 2009 and estimate the distribution of aid to each library for FY 2010.

7b. The Governor's FY 2010 Budget Recommendation includes \$3.73 million in Direct State Services funding for salaries and wages for the Division of State Library, the same level of

Discussion Points (Cont'd)

funding as the FY 2009 adjusted appropriation. The State Library had requested \$6.25 million in funding for salaries and wages in FY 2010.

- **Question:** Please discuss why the State Library requested such a significant (\$2.52 million or 67.4 percent) increase in funding for this program class. How will the flat-funded FY 2010 recommended appropriation impact the State Library's ability to operate effectively?

8. In 2008, travel and tourism in New Jersey generated industry revenues of \$38.8 billion, down \$700 million (1.6 percent) from the record high amount of \$39.5 billion set in 2007. According to a press release issued by the Office of the Secretary of State on April 2, 2009, tourism generated \$7.7 billion in federal, State, and local tax revenue, and without that revenue each New Jersey household would pay an additional \$1,427 in taxes. Also according to that press release, in 2008, 10.9 percent of the State's total employment (approximately 443,000 direct and indirect jobs) was created by travel and tourism activity. The Governor's FY 2010 budget recommendation of \$8.5 million in Direct State Services funding for advertising and promotion (including the Cooperative Marketing Program) for the Division of Travel and Tourism represents a \$3.3 million (27.8 percent) decrease from the FY 2009 adjusted appropriation of \$11.8 million.

As mentioned in Discussion Point 4 above, according to the Executive, recommended language in the general provisions of the Governor's FY 2010 budget (page F-8) suspends the "poison pill" provision of P.L.2003, c.114 (hotel and motel occupancy tax) that would require funding tourism advertising and promotion at a minimum of \$9 million annually.

- **Question:** Considering the amount of revenue that New Jersey's travel and tourism industry generates, why is tourism advertising and promotion recommended for such a significant reduction in funding from the FY 2009 adjusted appropriation level? What specific impact will the recommended reduction in the Division of Travel and Tourism's advertising budget have on its promotional, educational and informational programs? Please indicate how the current year appropriations have or will be expended under the Advertising and Promotion and the Cooperative Marketing Programs? Please describe the division's current year advertising and promotion campaigns in your response.
- **Question:** Please indicate how the funds appropriated for advertising and promotion are allocated either by county or by tourism region of the State (i.e., Skylands region, Shore region, etc.). How will the division ensure that all sectors of the travel and tourism industry – arts, history, culture, accommodations, eco-tourism, agri-tourism, sports, amusements, restaurants, casinos, and State parks – are well-represented in an advertisement campaign at the proposed level of funding?

Background Paper: An Update Concerning the Voter-Verified Paper Audit Trail

Budget Pages.... D-358 and D-360

On October 29, 2002, President Bush signed into law the "Help America Vote Act of 2002" (HAVA). Established to address the controversy surrounding the 2000 U.S. Presidential election, HAVA is designed to provide funds to states to: replace punch card voting systems, create an Election Assistance Commission (EAC) to assist in the administration of federal elections, and establish minimum election administration standards for states and local governments responsible for the administration of federal elections. Under the provisions of HAVA, all states and localities are required to upgrade certain aspects of their election procedures, including their voting machines, registration processes, and poll worker training. The specifics of implementation are left up to each state.

To be eligible for federal HAVA funding, each state must submit a plan detailing how the funds will be used and distributed. New Jersey filed a Statewide plan to implement the provisions of HAVA with the Federal Election Commission (the depository for HAVA state plans prior to the establishment of the Election Assistance Commission) on August 15, 2003. The plan detailed the manner in which the State intended to meet the requirements of HAVA, including: providing for compliant voting systems, developing a Statewide voter registration system ("SVRS"), implementing provisional balloting, distributing voter information in the polling place, and establishing a State administrative grievance procedure.

The apportionment of federal HAVA funds for New Jersey totaled \$101.4 million, and as of fiscal year 2009, the State has received \$84.9 million. The State's HAVA account has received an additional \$6.2 million from investment earnings, for a total of \$91.1 million. Of the \$91.1 million, \$73.8 million has been expended or encumbered, leaving a balance of \$17.3 million.

Although not mandated to do so by HAVA, New Jersey required that each voting machine produce an individual permanent record for each vote cast. This issue was brought into the national spotlight by New Jersey Congressman Rush Holt, who introduced federal legislation in 2004 requiring a corresponding paper record for all votes cast on an electronic voting system. At the same time as Congressman Holt's initiative, the issue of a voter-verified paper record, also known as a voter-verified paper audit trail (VVPAT), became the subject of State litigation. Just prior to the general election in 2004, a lawsuit was filed, Gusciora v. McGreevey, in which the plaintiffs sought to prevent the use of touch-screen direct record electronic (DRE) voting machines, claiming that the DREs were so unreliable that they could not be entrusted to count votes accurately and were thus a violation of the constitutional right to vote. The plaintiffs demanded that the State only use DREs with VVPAT capability.

On July 7, 2005, the State enacted P.L.2005, c.137 requiring that by January 1, 2008 a VVPAT be created for each vote cast in an election. Under the law, the paper record must be made available for inspection and verification by the voter at the time the vote is cast and preserved for later use in any manual audit or recount. To effectuate the statute, the Attorney General established criteria for the design and use of a voter-verified paper record system (VVPRS) in conjunction with the State's existing DREs. (The Division of Elections was transferred from the Department of Law and Public Safety to the Department of State on April

Background Paper: An Update Concerning the Voter-Verified Paper Audit Trail (Cont'd)

1, 2008 pursuant to P.L.2007, c.254. Therefore, it is now the Secretary of State and not the Attorney General who is responsible for overseeing the implementation of VVPRS.) Since the DREs used in 18 of the State's 21 counties were originally designed without VVPAT capability, approximately 11,000 voting machines in New Jersey must be reconfigured and retrofitted to accommodate the VVPRS.

In response to a question raised in the Office of Legislative Services' (OLS) FY 2008-2009 budget analysis for the Department of State, the department estimated the cost of providing a voter-verified paper record system in all of the 21 counties to be approximately \$25 million. In its response, the department stated that although New Jersey had not received federal funding specifically for VVPRS, it was the department's understanding that states which have met all the mandated requirements under HAVA may dedicate any remaining funds for purposes such as retrofitting machines with paper trail technology. The Election Assistance Commission, which oversees HAVA spending by the states, issued an opinion letter to the State of Florida wherein it confirmed that upon certifying that it has met all of the HAVA requirements, a State could use excess funds for the purpose of retrofitting voting machines. In light of the commission's opinion, the department indicated at that time that New Jersey had earmarked approximately \$15 million (of the remaining \$17.3 million of the original apportionment of \$101.4 million) to retrofit the State's existing voting machines with VVPAT technology. To make up the difference, the department indicated that the State appropriated \$20 million over two fiscal years (FY 2008 and FY 2009) for VVPAT. However, in light of the current fiscal crisis, \$19 million of that appropriation has been listed on the Governor's FY 2009 Planned Spending Reductions, which was released on January 5, 2009. Also, the Department of State has recently indicated that the \$15 million of the HAVA funds which it had earmarked as discussed above for the VVPAT technology retrofit are in fact unavailable for this purpose as the funds will be needed by the Division of Elections to comply with federal HAVA requirements.

In accordance with the guidelines established by the Attorney General, it was determined that a DRE with VVPAT capability would consist of the following components: a printer that prints the voter's DRE selection on a paper record; a paper record display unit that allows a voter to view his paper record while preventing the voter from directly handling the paper record; paper to be used as a voter-verified paper record; and a storage unit to securely store all paper records. Although the criteria for VVPAT for DREs allowed for various configurations, the voter would have the ability to verify his selection on a paper record in a private manner. In addition, the records were permitted to be printed and stored by two different methods: (1) the "cut and drop" method in which the VVPRS cuts and drops into a storage unit; or (2) a "continuous spool" method which allows the voter to view his paper record on a spool-to-spool paper roll in a manner that fully protects the secrecy of all cast votes. New Jersey opted for the "cut and drop" method. This technology is unique to New Jersey – all other states with VVPRS use the "spool-to-spool" design which does not require the paper to be cut after each ballot is cast.

Although the paper trail requirement was initially to be implemented by January 1, 2008, various technological problems associated with retrofitting the machinery, combined with the high cost of retrofitting the DREs, led the Legislature to amend the law and postpone the VVPAT deadline on two separate occasions. The more recent enactment of P.L.2008, c.18 extended the deadline to January 1, 2009.

Background Paper: An Update Concerning the Voter-Verified Paper Audit Trail (Cont'd)

On June 20, 2008, the State Voting Machine Examination Committee (in the Division of Elections) issued a report recommending the certification of the AVC Advantage DRE Voting Machine combined with the APS Verivote Printer attachment. Although the committee recommended the VVPRS certification, it also noted several concerns. Specifically, the committee stated that the "devices are very new...and add an additional level of complexity to the voting process, as well as expense, and problems should be anticipated, at least for the first several rounds of voting, given the fact that the poll workers are unfamiliar with these devices and that the technology has a limited operating history."

Legislation was introduced in both the Senate (Senate Bill No. 2380) and the General Assembly (Assembly Bill No. 3458(1R)) to remove the requirement that voting machines produce a VVPAT by January 1, 2009, and instead create a pilot program in the Department of State to study the feasibility of retrofitting the State's current voting machines. (A-3458(1R) also allowed a county board of elections to participate in an additional component of the pilot program by using optical scan voting machines.) Under the bills, the pilot program would consist of retrofitting voting machines in one municipality, which has no more than 10 election districts, in each county for the June 2, 2009 primary election. If the secretary determined that all voting machines in the State should be certified with a voter-verified paper record, then the secretary would produce an implementation schedule to retrofit the machines no later than the general election to be held on November 2, 2010. While A-3458(1R) was reported favorably by both the Assembly State Government Committee (November 13, 2008) and the Assembly Appropriations Committee (December 8, 2008), the Senate bill failed to pass in the Senate on December 15, 2008.

Subsequent to the Senate vote, Secretary Wells announced on January 5, 2009 her decision that electronic voting machines in 18 counties would be retrofitted with attachments to provide a paper trail. The State would pay for the required upgrades (to be manufactured by Sequoia Voting Systems) and finance poll worker training. However, the source of the State appropriations for those efforts was unclear. As previously noted, although New Jersey appropriated \$20 million over two years for VVPAT, \$19 million of that appropriation has been listed on the Governor's FY 2009 Planned Spending Reductions. According to press reports, Sequoia Voting Systems had hoped to have the enhanced machines ready for the November 2009 general election.

However, on March 6, 2009, the State enacted P.L.2009, c.17 suspending the requirement that voting machines produce an individual permanent paper record for each vote cast. Under the law, the January 1, 2009 deadline is suspended until: (1) the Secretary of State and State Treasurer certify in writing that sufficient funds have been provided by the federal government to offset the entire cost of retrofitting the machines; or (2) the annual appropriation act contains an appropriation of sufficient funds to ensure that each machine is retrofitted and that the funds have not been reserved by the Governor under a spending reduction plan; or (3) both conditions (1) and (2) are met. Citing the current economic crisis and an anticipated budget gap, the State directed the funds originally proposed to fund the VVPAT technology to instead be placed in reserve to help the State meet its fiscal obligations and balance its FY 2009 budget. The Department of State has estimated the cost of providing a voter-verified paper record system throughout the State to be approximately \$25 -\$30 million.

The Governor's FY 2010 recommended budget does not include any additional funding for implementing VVPAT technology. As previously indicated, the list of FY 2009 budget

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reductions released on January 5, 2009 reduced the appropriation to \$1 million. Although State funding for VVPAT is not recommended in FY 2010, recommended budget language on page D-360 directs that the unexpended balance at the end of the preceding fiscal year in the VVPAT account is appropriated for the same purpose. The language refers to the \$1 million that remains from the original \$20 million. According to the Office of Management and Budget, the \$1 million in funding is to allow the Division of Elections to continue VVPAT development and testing

The myriad of technological problems and inconsistencies that have arisen as the machines are retrofitted, combined with the high costs associated for the retrofit (without any real assurance that the retrofitted DREs will work properly), and a series of missed statutory deadlines for implementing the VVPAT, has led to the suggestion that the State cease retrofitting the DREs and instead pursue optical scan voting machines. In this system, instead of looking at a computer screen, voters would be given a paper ballot. Upon making their selections by hand using a pencil or some other marking device, the ballot would be scanned by the voting machine and counted as a vote, with the ballot itself deposited into a ballot box and retained by election officials for later use in any manual audit or recount.

According to the Secretary of State, the cost of converting all voting machines in the State to optical scan and paper ballots would be approximately \$80 million. The Secretary's estimate, however, focused primarily on the costs associated with hardware and did not take into consideration other costs that could be necessary with the conversion. In addition to hardware, hardware accessories, and ballot costs, the conversion may also require: (1) election management software to be purchased and installed; (2) implementation services; (3) system training services; (4) election day support; (5) election day supplies; and (6) ongoing maintenance and support services. Also, ballot costs in New Jersey are higher than in other states because many counties in New Jersey use "full face" ballots, which are more expensive to produce. The State's cost to support the conversion would be dependent on the allocation of the costs between the State and local governments. It should be noted that 17 counties are currently using optical scanners to count absentee ballots, and to the extent that these existing machines and software are compatible with newer optical scan technology for election management, some of the hardware and software costs could be reduced.

The State has indicated that there are currently insufficient funds available to pay for either a retrofit of all the existing DRE voting machines or to change to any other alternative voting system that produces a paper trail of the votes cast.

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Individuals wishing information and committee schedules on the FY 2010 budget are encouraged to contact:

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