

**2006
SPECIAL SESSION
JOINT LEGISLATIVE COMMITTEE**

**CONSTITUTIONAL
REFORM AND CITIZENS
PROPERTY TAX
CONSTITUTIONAL
CONVENTION**

FINAL REPORT

Co-Chairs:

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Members:

Senators: Fred H. Madden Jr. • Leonard Lance
Assemblymen: Louis M. Manzo • Richard A. Merkt

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I. Executive Summary

Pursuant to Assembly Concurrent Resolution No. 3, the Joint Legislative Committee on Constitutional Reform and Citizens Property Tax Constitutional Convention was charged with reviewing and formulating proposals to address property tax reform through amendments to the State Constitution, as well as other proposals deemed appropriate. The Joint Committee was to determine whether any such amendments should be submitted directly to the voters or referred to a citizens property tax convention.

The Joint Legislative Committee on Constitutional Reform and Citizens Property Tax Constitutional Convention finds:

- Property taxes in this State are the largest single source of State and local revenues, raising approximately \$20 billion annually.
- While, on average, the property tax burden represents slightly more than five percent of personal income, there is a wide degree of variance in this regard among jurisdictions and individual taxpayers.
- Enhanced, direct property tax relief correlated to property tax liabilities on primary residences and taxpayer income is the best method of providing targeted, immediate relief to New Jerseyans who suffer a disproportionately high property tax burden.
- The existing property tax deductions and exemptions for senior citizens, disabled persons, and veterans provide important benefits to populations that are strongly impacted by property taxes, and must be preserved.
- While the existing farmland assessment program has helped preserve invaluable farmland and improved the quality of life for all New Jerseyans, the “two-year look back” provision appears to favor land speculation and should be modified.
- Efforts to understand and reform New Jersey’s system of State and local taxes are impeded by the lack of generally available comprehensive data on the incidence of taxation and the revenues foregone by various exemptions, deductions, and credits.
- Long term property tax relief will only be achieved through implementation of stricter controls on spending at all levels of government, institutional reforms which allow for

the on-going examination of State tax and fiscal policy, and the comprehensive reform proposals of the four Joint Committees.

The Joint Legislative Committee on Constitutional Reform and Citizens Property Tax Constitutional Convention recommends:

- *Recommendation 1:* The current homestead rebate should be replaced by a system of credits and the benefit should be increased to 20% for as many taxpayers as resources allow.
- *Recommendation 2:* Maintain the senior citizens' and disabled persons' property tax deduction, the veterans' property tax deduction and the veterans' property tax exemption in their current form.
- *Recommendation 3:* The Legislature and Governor should cooperatively develop a property tax levy cap that does not lead to unintended, adverse consequences.
- *Recommendation 4:* Preserve the Uniformity Clause.
- *Recommendation 5:* Extend the roll-back period and impose conveyance tax on certain farmland sales.
- *Recommendation 6:* Make no Constitutional amendments to the exemptions for real property, and refer exemption statutes to Tax Policy Study Commission for future clarification.
- *Recommendation 7:* The Legislature should consider the establishment of the Office of State Comptroller subject to a finding that the creation of the office would not duplicate or undermine existing oversight agencies and functions.
- *Recommendation 8:* The Legislature should establish a tax policy study commission to engage in ongoing study of the tax structure and fiscal policies of the State.
- *Recommendation 9:* The Legislature should not authorize additional general local option taxes at this time.
- *Recommendation 10:* The Debt Limitation Clause should not be amended at this time.
- *Recommendation 11:* The Legislature should review and adopt the recommendations of the Joint Committees to avoid the need for a Citizens Constitutional convention.

II. Introduction

On June 6, 2006, New Jersey Senate President Richard J. Codey and Assembly Speaker Joseph J. Roberts, Jr. announced “an unprecedented special legislative session” that would work throughout the summer and fall to enact reforms aimed at reducing New Jersey's property tax burden. The session began on July 28, when Governor Jon S. Corzine addressed a Joint Session of the Legislature, noting that New Jersey's property tax levy currently totals \$20 billion and provides 46 percent of the State's tax revenues. Without changes to the present system, that amount will reach nearly \$40 billion within a decade.

After the Governor's address, Assembly Concurrent Resolution No. 3 was passed by both Houses. It created four bicameral, bipartisan Joint Committees to review and formulate proposals to reform property taxes: (1) the Joint Legislative Committee on Public School Funding Reform, to address public school funding and expenses; (2) the Joint Legislative Committee on Government Consolidation and Shared Services, to address shared services and regionalized functions at all government levels; (3) the Joint Legislative Committee on Public Employee Benefits Reform, to control pension system abuses and the costs of public employee benefits; and (4) the Joint Legislative Committee on Constitutional Reform and Citizens Property Tax Constitutional Convention, to consider property tax reform through amendments to the State Constitution and other proposals.

The four Joint Committees followed an open and inclusive process. Throughout the State and at various hours, they held 32 public meetings, broadcast live and archived on the Internet, and nine public hearings. They solicited testimony in person and through teleconferencing from State and national experts, academics, practitioners, and officials; reviewed thousands of pages of background material; and received over 3,700 public emails. Both partisan and nonpartisan staff contributed research and policy analysis to the work of the Joint Committees and their members. The following is the report of the Joint Legislative Committee on Constitutional Reform and Citizens Property Tax Constitutional Convention (hereafter “Joint Committee”).

III. Background:

Joint Committee Members

As required by Assembly Concurrent Resolution No. 3, the Joint Committee consists of six legislative members. Senators Bernard F. Kenny Jr., Leonard Lance and Fred H. Madden Jr. were appointed by Senate President Codey, who also designated Senator Kenny as co-chairperson. Assemblymen John J. Burzichelli, Louis M. Manzo and Richard A. Merkt were appointed by General Assembly Speaker Roberts, who also designated Assemblyman Burzichelli as co-chairperson.

Joint Committee Charge

It is the duty of the Joint Committee to review and formulate proposals that address property tax reform through amendments to the Constitution of the State of New Jersey. The Joint Committee is also charged with determining whether amendments to the State Constitution should be recommended to the Legislature for submission directly to the voters, or whether such amendments should be referred to a citizens property tax Constitutional convention to be convened for the purpose of reforming the system of property taxation.

Materials Provided to Joint Committee

To facilitate and inform the Joint Committee's work, binders containing pertinent information were compiled for each member by the staff of the Office of Legislative Services. The binders begin with a copy of Assembly Concurrent Resolution No. 3. They include information from past New Jersey property tax reform efforts, including commissions and conventions, as well as information on property tax systems of other states and on property tax policy in general. The binders also contain documents explaining current New Jersey property tax laws.

Joint Committee Plan

To provide the public with as much access to the Joint Committee's deliberations as possible, the members adopted a work plan to ensure discussions on relevant topics.

Regarding property tax reform, the Joint Committee held meetings on topics such as Constitutional property tax provisions and exemptions, local option taxes and tax and expenditure limitations. Regarding a Constitutional convention, the Joint Committee discussed options for convening a convention, as well as benefits and drawbacks to a convention.

In addition, at the start of the Special Session an e-mail forum was established through which the public could offer comments and suggestions to the Legislature on the issues being undertaken by any of the four joint committees. This forum was publicized in a number of ways, including joint press releases from the Senate and the Assembly and radio news broadcasts. A press release was also prepared for Assembly members to distribute to their local outlets to garner feedback and input.

Summary of Comments Received by Electronic Mail

The e-mail responses from the public were immediate, with over one thousand e-mails directed to the Joint Committee. Although the e-mails covered a wide range of topics, the most relevant have been categorized and grouped as follows:

- 162 suggesting changes to our current tax structure
- 33 on the assessment of real property
- 23 on current exemptions to real property taxation
- 22 suggesting amendments to the State Constitution
- 20 suggested eliminating property tax rebates
- 18 supporting the SMART Bill

As expressed by the public, the primary sentiments on these topics may be summarized as follows:

- **ASSESSMENTS**

Maintain the current method of uniform assessed valuation as the primary method for determining the amount of property tax one pays.

- **FARMLAND ASSESSMENTS**

The current method by which farmland is assessed and a land owner qualifies for a farmland assessment is outdated and should be overhauled. There are property owners who take advantage of the assessment by qualifying for the assessment though not actually farming. There should be a specific amount of income, from farming the land, in order to qualify.

- **ELIMINATION OF PROPERTY TAX REBATES**

Tax rebates should be eliminated. Instead of raising taxes each year and giving a portion of it back, reduce property taxes by the amount of the rebate. A simple set of formulas could be created and then incorporated into the current tax calculations. This would eliminate the administrative costs created by the rebate system.

- **PROPERTY TAXES BASED ON ABILITY TO PAY**

Property taxes are only fair if based on one's ability to pay. If the amount of property taxes were based on a homeowner's income, seniors, low income families, and disabled persons would be able to afford their homes and schools. An income tax-based system is a more equitable option.

Many people are leaving the State because they cannot afford their property taxes, not because they are unable to afford their homes. Moving to an income tax-based system would be an easy way to create a fair and more equitable property tax system and prevent the mass exodus that is underway.

IV. Summary of Meetings

The Joint Committee first met on August 4, 2006 and subsequently held seven public meetings and two public hearings. Among those testifying before the Joint Committee were staff of the Office of Legislative Services of the New Jersey State Legislature; representatives of the National Conference of State Legislatures; representatives of the business community; Robert F. Williams, Associate Director, Center for the State Constitution Studies, Rutgers-Camden, The State University of New Jersey; Susan Bass Levin, Commissioner of the Department of Community Affairs; Iris J. Lav, Deputy Director, Center on Budget and Policy Priorities; members of the New Jersey League of Municipalities; Gregg M. Edwards, President, Center for Policy Research of New Jersey; Joyce Powell, President, New Jersey Education Association; and the following legislators: Senator Diane B. Allen, Assemblyman Louis M. Manzo, and Assemblyman Richard A. Merkt.

Overview of Local Property Tax Burden

August 4, 2006 Meeting of the Joint Legislative Committee on
Constitutional Reform and Citizens Property Tax Constitutional Convention

The first meeting of the Joint Legislative Committee on Constitutional Reform and Citizens Property Tax Constitutional Convention was convened on August 4, 2006. The members of the Joint Committee initiated the proceedings with a series of introductory remarks, an overview of the central issues and concerns, and a summary of their goals and objectives. Collectively, the representatives expressed their commitment to a bipartisan approach in evaluating the New Jersey Constitution and reforming real property taxation. After describing the parameters of future hearings, the Joint Committee invited David J. Rosen, Legislative Budget and Finance Officer, to outline real property taxation within the context of New Jersey's tax system and to discuss various Constitutional issues related to property taxation.

Dr. Rosen presented the Joint Committee with assorted factual data and statistical information to illustrate the current state of property taxation in New Jersey. His testimony included the following information:

- New Jersey's property tax is the largest State or local revenue source, raising nearly \$20 billion each year.
- Property taxes are twice the size of the income tax, approximately three times the size of the sales tax, and considerably larger than the corporation business tax.
- An estimated 72 percent of local property tax is assessed against residential properties, with the remainder distributed between commercial and industrial properties.
- On average, the property tax represents slightly more than five percent of personal income.

- The total property tax levy per capita, adjusted for inflation, has remained fairly consistent over the last three decades, fluctuating between four and six percent of personal income.
- New Jersey ranks first in property tax per capita and third in property tax as a percentage of personal income.
- Based on Statewide figures, 55 percent of property tax revenue is distributed to local school districts, 26 percent to municipalities, and 19 percent to county governments.

In addition to providing background information, Dr. Rosen evaluated New Jersey's dependence on property taxes, discussed the major concerns associated with the tax, and suggested approaches to reducing dependency on property taxation.

- In terms of dependency, Dr. Rosen noted that property taxation is a local tax tied to local needs with local control. Unlike the State's other primary sources of revenue, property taxation provides local governments with an influx of reliable annual receipts, not subject to sudden increases or dramatic decreases due to economic conditions.
- In terms of major concerns, Dr. Rosen highlighted that property taxation created a disproportionate dependence on a single revenue source and explained that the tax was not connected to an individual's ability to pay. He also described how property taxation established a wide variance in the tax burden among jurisdictions and commented on the ability of the tax to distort land use decisions throughout the State.
- In terms of reducing dependency, Dr. Rosen suggested several approaches that could be adopted at the State and local levels, including: reducing or limiting local spending, shifting State spending to increase State Aid, and replacing the property tax with alternative sources of revenue.

Following his discussion of alternative approaches, Dr. Rosen focused the remainder of his testimony on the larger, Constitutional issues related to property taxation. His

testimony on this topic provided insight into the Uniformity Clause, exemptions based in whole or in part on Constitutional provisions, property tax abatements, and dedicated revenues, as well as past and pending legislation to amend the New Jersey Constitution.

The Property Tax Uniformity Clause in the New Jersey Constitution

August 17, 2006 Meeting of the Joint Legislative Committee on
Constitutional Reform and Citizens Property Tax Constitutional Convention

Robert F. Williams, Associate Director of the Center for State Constitution Studies and Distinguished Professor of Law at Rutgers-Camden, The State University of New Jersey is an expert in state constitutional law. Professor Williams presented information to the Joint Committee on the Uniformity Clause of the New Jersey Constitution, its origins, the exemptions to Uniformity Clause in the Constitution, and how New Jersey's Constitution compares to other states on the issue of uniformity.

Article VIII, Section 1, of the New Jersey Constitution mandates that all property, whether business, commercial or residential property, be taxed in a uniform way, at the same rate and assessment ratio. Professor Williams explained that similar clauses are very common in other state constitutions. In New Jersey, however, the clause is a specifically focused and rigid equal protection clause for property taxes. The Uniformity Clause bans the Legislature from using the property tax, or requiring local governments to use the property tax, as a tool of social or economic policy making, the way the Federal income tax has been used to encourage home ownership or encourage investment in manufacturing equipment. He explained that the motivation behind the Uniformity Clause was egalitarian.

Professor Williams noted that despite the egalitarian intent, the State does engage in social policy regarding the taxation of real property through various statutory and Constitutional exemptions to the Uniformity Clause. The Constitutional authority to enact statutory exemptions is not self-executing because those exemptions are not enforceable without implementing legislation enacted by this Legislature. The Constitutional exemptions are self-executing and are more permanent, as amendments to the Constitution are less frequent than are amendments to the statutes. The New Jersey

Constitution currently requires exemptions for property used exclusively for religious, educational, charitable, or cemetery purposes.

Professor Williams suggested that even if the Uniformity Clause were to be amended, the State Constitution provides other protections for property owners which they may be able to rely upon for equal treatment. For instance, the Equal Protection Clause of the federal constitution is incorporated into the New Jersey Constitution. Also, the ban against special legislation in Article IV of the New Jersey Constitution offers strong and judicially enforceable protection against legislation that only benefits select entities. These provisions may apply even if the Legislature or the people decide to delete the Uniformity Clause from the Constitution.

Following Professor Williams' presentation, the Joint Committee explored legislative options for property tax reform. While Professor Williams did not advocate one position over another with respect to the Uniformity Clause, he served as a valuable resource and engaged in discussion regarding the following proposals:

- 1) Amend the Uniformity Clause to allow non-uniform taxation. Specifically, classify property in various categories, like a number of states have done, in the Constitution directly. For example, the Tennessee state constitution lists about eight different categories of property and specifies the assessment ratio for each particular kind of properties;
- 2) Amend the Uniformity Clause to authorize the Legislature to set up a classification system where, within the class of residential, industrial, or commercial property, the property must be assessed and taxed at a uniform rate within that class, but not between classes;
- 3) Remove the Uniformity Clause. Kansas does not have a uniformity clause and their constitution authorizes their legislature to make classifications;

- 4) Allow local governments to share in some of the taxes that the State currently collects exclusively, for example, sales tax;
- 5) Form a single assessment unit at the State level, rather than allow local assessment.

In addition, Professor Williams discussed various procedural options with the Joint Committee regarding how to make any amendments to the Constitution sunset or how to authorize the question of whether to hold a Constitutional convention to come before the voters on a regular or recurring basis.

When discussing the concept of a constitutional convention, Professor Williams suggested that a Constitutional convention is unnecessary. He noted that though the idea of a citizens convention is attractive, it is very expensive, time-consuming, and it does not guarantee results. Instead, the Legislature may put a couple of proposals on the ballot and tie them together, which is a legitimate and historically preferred method, and does not require a Constitutional convention. He suggested every opportunity ought to be explored to ameliorate the need for a Constitutional convention. In addition, Professor Williams did not recommend a mandatory periodic review of the Constitution by convention, as such a requirement is too crude a mechanism, he stated rather that Constitutional issues should be addressed as they arise.

In the discussion between Professor Williams and the Joint Committee regarding the potential repercussions of removing the Uniformity Clause, the following concerns were voiced:

- 1) Senator Lance asked about the danger of lessened predictability in the creation of a statutory classification system, if the Legislature could change a standard of value merely by statute. Professor Williams agreed this danger would exist.

- 2) Professor Williams explained that without the Uniformity Clause, we would not have a specially focused equality guarantee, specifically for taxation. Rather, we would have to rely on the more general guarantees of due process and equal protection.
- 3) Assemblyman Merkt asked whether higher business taxes could lead to an exodus of businesses and jobs from New Jersey, if neighboring states have uniformity clauses that protect certain groups of property owners and New Jersey abandons a Uniformity Clause. Professor Williams answered in the affirmative.
- 4) Senator Madden asked if, without a Uniformity Clause, it would be possible for a local governing body to assess, within its municipality, different tax structures, just geographically within that town, in an attempt to socially engineer the makeup of its town. Professor Williams replied that this would not be possible without authority from the Legislature because the taxing authority of local government is delegated from the Legislature. He stated that there is no Constitutional right to home rule in New Jersey.
- 5) Professor Williams suggested leaving the Uniformity Clause intact, because when changing it one may be able to predict some of the positive, intended consequences, but the unanticipated consequences are usually negative and unpredicted. He suggested examining all statutory options first.

The Uniformity Clause and Exceptions to Uniformity

September 7, 2006 Meeting of the Joint Legislative Committee on
Constitutional Reform and Citizens Property Tax Constitutional Convention

After a series of opening remarks, Senator Kenny provided the Joint Committee and members of the public with a summary of the Joint Committee's previous hearings, insight into the direction of future meetings, and an overview of the scheduled testimony for the current proceedings. Following a discussion of the State Constitution, the Joint Committee initiated the public testimony portion of the hearing by inviting representatives of the business community to state their position on the Uniformity Clause and exceptions to uniformity.

Uniformity Clause - the Business Community's Position

Ten speakers representing seven organizations from the business community provided testimony on the Uniformity Clause. During their allotted time, each speaker stepped forward to voice their opposition to any changes to or elimination of the Constitution's Uniformity Clause. While some speculated that removing the Uniformity Clause would result in increased taxes on the business and industrial sectors of the State's economy, others cautioned that changes would tarnish the State's reputation as an open and welcoming place to conduct business. Each speaker petitioned the Joint Committee to leave the Uniformity Clause intact. The following individuals provided testimony to the Joint Committee:

- Arthur Maurice, *New Jersey Business and Industry Association*
- Kathleen Davis, *Chamber of Commerce, Southern New Jersey*
- Thomas Heitzman, *Chamber of Commerce, Southern New Jersey*
- Laurie Ehlbeck, *National Federation of Independent Business, New Jersey*
- Earl Hall, *National Federation of Independent Business, New Jersey* and
- John Holub, *New Jersey Retail Merchants Association*
- Michael McGuiness, *National Association of Industrial And Office Properties*

- Allen Magrini, *National Association of Industrial And Office Properties*
- Jim Leonard, *New Jersey Chamber of Commerce*
- Thomas Bracken, *Sun Bancorp and Sun National Bank*

Uniformity Clause – the Municipalities’ and Counties’ Position

Beyond the business community, the Joint Committee solicited remarks from various organizations that represent municipalities and counties throughout the State. Similar to the testimony provided by the business community, representatives from these organizations expressed their concern for changes to the Uniformity Clause. While the speakers presented different rationales, each representative voiced disapproval of any sweeping change to the current system. Nevertheless, two speakers commented on the adverse impact that the proliferation of tax exemptions have had on local governments and the difficulties they currently have with the vagueness of the current statutes implementing the exemptions. Another speaker expressed concern that a change to the Uniformity Clause would harm local businesses and erode the tax base of municipal and county governments. Individuals appearing before the Joint Committee included:

- William Dressel Jr., *New Jersey State League of Municipalities*
- John Lloyd, *New Jersey State League of Municipalities*
- Bernard Haney, *Association of Municipal Assessors of New Jersey*
- John Donnadio, *New Jersey Association of Counties*

Constitutional Exemptions to the Uniformity Clause

During the hearing, members of the Joint Committee also received testimony regarding Constitutional exemptions to the Uniformity Clause. Four speakers representing non-profit organizations provided the Joint Committee with differing opinions as to how a change to the current Constitutional exemptions would impact the charitable community. In general, each speaker stated the extent to which their respective organizations were dependent upon exemptions outlined within the provisions of the State Constitution. Each speaker agreed that without exemptions, their organizations would be unable to maintain their current level of services. The following individuals provided testimony:

- Sean Hopkins, *New Jersey Hospital Association*
- John Wilson, *Association of Independent Colleges and Universities in New Jersey*
- Linda Czipo, *Center for Non-Profits*
- Thomas Baffuto, *The Arc of New Jersey*

Farmland and Open Space

The Joint Committee also focused its attention on the assessment and taxation of farmland and open space. With testimony from Allison Mitchell of the New Jersey Conservation Foundation and Richard Nieuwenhuis from the New Jersey Farm Bureau, members of the Joint Committee heard statements that discussed the negative implications of changes to the current system of taxation. Both speakers reiterated their support for the current method of assessment and taxation, and expressed praise for the program's ability to retain agriculture and preserve open space within the State.

Despite this support for the Constitutional assessment exception, Ms. Mitchell of the New Jersey Conservation Foundation did note that there is on-going debate about the various elements of the program and in particular, the "roll-back" tax. The question, as she framed it, is whether New Jersey's roll-back tax -- which is two years plus the current year of assessment -- unintentionally creates a subsidy for short-term land speculation, as opposed to just a subsidy for farmers, which was the original intent.

Moreover, the question is whether the public should be capturing more property tax money when the land is converted from farmland into another use. Ms. Mitchell suggested that the Joint Committee look at how other states such as Massachusetts, Pennsylvania and New York assess farmland. If there is any change, she argued that it be targeted at land speculators and not hurt farmers. Finally, she noted that the forest assessment program, which is statutory, needs to be revised to provide for better forest management and environmental policies, as she believes that the current program, which is based on income requirements, is environmentally destructive.

Additional Speakers

During the meeting, members of the Joint Committee received testimony from speakers who were invited to discuss specific property tax reform proposals involving a change to the Uniformity Clause. These individuals were invited as authorities in their respective planning and policy fields, and were charged with presenting their position on changes to the Uniformity Clause.

- Thomas Dalessio and Alexis Perrotta of the Regional Plan Association discussed split rate taxation, the principles of Smart Growth, and a proposal to amend the Constitution to allow variable property tax rates for new construction by State plan designation. During the testimony, Ms. Perrotta remarked that a change to the Uniformity Clause was necessary to allow the assessment of properties at variable rates. Unlike the majority of speakers at the hearing, Ms. Perrotta noted that a change to the Uniformity Clause might be beneficial to the State and could be implemented as a local option.
- Appearing on behalf of New Jersey Future, Tim Evans discussed the current “chase” for commercial ratables. He summarized the land use consequences that arise from the ratables chase, and remarked that he believed it would be inadvisable to remove further discussion of changes to the Uniformity Clause from the table. While he did not advocate amendment or deletion of the Uniformity Clause, Mr. Evans cautioned that the creation of a regional taxation and land use planning body may require substantive changes to the clause.
- Jon Shure from New Jersey Policy Perspective testified about the State’s current system of providing real property tax exemptions. He discussed the disparities of the current system and suggested the creation of a tax exempt property, tax-base sharing pool to distribute the negative implications of property tax exemptions. He remarked that 12 percent of the value of property in New Jersey was exempt from property taxation in 2005, and stated that this property tended to be concentrated in the State’s poorest communities.

Tax Sharing, Regionalized Tax-Base Sharing and Assessment Issues Relating to Regionalization

September 14, 2006 Meeting of the Joint Legislative Committee on
Constitutional Reform and Citizens Property Tax Constitutional Convention

Bernard C. Haney, President of the Association of Municipal Assessors of New Jersey, provided the Joint Committee with an overview of the property assessment regimes in Maryland, Pennsylvania, and Connecticut and compared them to New Jersey's system. Mr. Haney concluded that implementation of the regimes would be unworkable in New Jersey without Constitutional revisions and a substantial reorganization of the fiscal relationships between the State and its local subdivisions.

Rohn Hein from the New Jersey Regional Coalition recommended regional tax-base sharing as a means to fairly distribute the costs and benefits of economic development within an area. The mechanism would also encourage municipalities to cooperate, instead of compete, in devising land use planning and economic development policies.

Myron Orfield, Associate Professor of Law at the University of Minnesota Law School, explained the Minneapolis St. Paul regional property tax-base sharing system, which has existed since 1971 and encompasses seven counties, 49 school districts, and 187 municipalities. These governmental entities share 40 percent of the revenue generated by growth over the area's 1971 commercial and industrial property tax base. While the net effect of the policy has been neutral, most municipalities have experienced lower property tax burdens because of it. Professor Orfield conceded, however, that this form of tax-sharing requires growth in the private sector to have an impact and that its adoption requires political leadership and courage.

Robert R. Ceberio, Executive Director of the New Jersey Meadowlands Commission, and Irfan Bora, Chief Financial Officer of that body, described the commission, which covers portions of 14 municipalities in Bergen and Hudson counties. The commission, established in 1969 to protect the wetlands, uses an Intermunicipal Tax Sharing formula

to conduct regional planning. Communities that are not developing receive financial compensation from more developed municipalities. Mr. Ceberio believes that tax-base sharing serves regional planning purposes, but is ill-suited for property tax relief.

Donna M. Lewis, Planning Director of the Mercer County Planning Division, related concrete examples of the difficulty of persuading municipalities to relinquish planning authority to redevelop areas that cross municipal boundaries in concert with other jurisdictions. Ms. Lewis noted, however, that regionalized tax-sharing might help in encouraging municipalities to cooperate in the creation of a regional master plan.

Public Hearing: Testimony on the Uniformity Clause, State and Local Spending, Debt Limitations, Constitutional Convention, Rebalancing Sources of State Revenue, and Additional Topics

September 21, 2006 Meeting of the Joint Legislative Committee on
Constitutional Reform and Citizens Property Tax Constitutional Convention

The Joint Committee convened at the Livingston Student Center on the Livingston College Campus of Rutgers, The State University, to receive testimony from members of the public. During the hearing elected representatives, policy experts, stakeholders, community leaders, and private citizens stepped forward to voice their concerns and to discuss proposals to reform real property taxation in the State of New Jersey. From developing stricter debt limitations to rebalancing existing sources of revenue and from abandoning the Uniformity Clause to reinforcing its provisions, the members of the public who testified urged lawmakers to adopt a course of action that would bring immediate relief and sustainable, long-term reform. Despite divergent views, several main themes emerged including:

Uniformity Clause

Out of 29 individuals who appeared before the Joint Committee, 13 incorporated their support or opposition to changes in the Uniformity Clause into their statement. While the prevailing view suggested that any change would have a negative impact on the business community, other representatives petitioned the Joint Committee to alter the Uniformity Clause in order to implement regional tax base-sharing programs or to develop differential systems of property tax classification. Those who offered testimony on the Uniformity Clause included:

- James W. Hughes, Ph.D., *Bloustein School of Planning and Public Policy*
- Joseph J. Seneca, Ph.D., *Bloustein School of Planning and Public Policy*
- Honorable William E. Schluter (former State Senator), *Citizens for the Public Good*
- Lori Anne Oliwa, *New Jersey Association of Women Business Owners*

- Robert S. Schwartz, *Private Citizen*
- Phil Schepel, *ADP Mintax*
- Patrick J. Deo, *Deo, LaManna, Deo and Co., P.C.*
- Robert A. Kortenhaus, *Bilkays Express Company*
- Ralph J. Evangelista, *Evangelista and Associates, P.C.*
- Frayda Levin, *Americans for Prosperity*
- Joe Kelly, *National Federation of Independent Businesses*
- Liz Moritz, *National Federation of Independent Businesses*
- Stuart Meck, *Bloustein School of Planning and Public Policy*

State and Local Spending

Many of the speakers expressed their belief that real property taxation needed to be reformed through a significant reduction in State and local spending. While some maintained that a reduction could only be achieved by reducing or eliminating various layers of State and local governments, others suggested that spending could be controlled with a combined approach that focused on consolidation and shared services. Still others discussed spending limitations that involved placing caps on local and State spending through an assortment of statutory and Constitutional provisions. The list of speakers advocating a reduction in spending at the State or local levels included:

- Honorable Steven Lonegan, *Mayor of Bogota Borough*
- Joseph C. Schilp Jr., *Private Citizen*
- Robert S. Schwartz, *Private Citizen*
- Marc Molinari, *Citizens for Prosperity*
- Joseph J. Inserra, *New Jersey Coalition for Property Tax Reform*
- John Budzash, *Hands Across New Jersey*
- Don Pierce, *Private Citizen*
- Elizabeth Karasmeighan, *Americans for Tax Reform*
- Frank J. Coury, *Private Citizen*
- Robert Donatello, *Private Citizen*

- Matt Shapiro, *New Jersey Tenants Organization*

Debt Limitations

Over the course of the afternoon, three speakers stepped forward to propose stricter limitations on the issuance of public debt. Combined, these speakers pressed for legislation that would prevent borrowing without the express approval of the State's electorate. The individuals that advocated for stronger debt limitations expressed their belief that a reduction in debt and the elimination of payments for debt service would allow the State to redistribute revenue and reduce dependency on real property taxation. The following individuals testified in support of further debt limitations:

- Honorable Steven Lonigan, *Mayor of Bogota Borough*
- Joseph C. Schilp Jr., *Private Citizen*
- Marc Molinari, *Citizens for Prosperity*

Constitutional Convention

The meeting was also a platform to discuss the positive and negative benefits associated with temporarily amending the New Jersey Constitution to organize a State Constitutional Convention. Speakers testifying in support of a convention cited the Legislature's inability to bring about substantial property tax relief, while those in opposition highlighted the difficulty of limiting the scope of a convention and restricting the influence of special interests. Individuals providing support or opposition to the proposal included:

- James W. Hughes, Ph.D., *Bloustein School of Planning and Public Policy*
- Joseph J. Seneca, Ph.D., *Bloustein School of Planning and Public Policy*
- Honorable William E. Schluter (former State Senator), *Citizens for the Public Good*
- Joseph J. Inserra, *New Jersey Coalition for Property Tax Reform*
- Larry Corsi, *Private Citizen*
- Wendell Steinhauer, *New Jersey Education Association*

- Robert Donatello, *Private Citizen*
- Frank J. Coury, *Private Citizen*

Re-balancing Sources of State Revenue

Several individuals conveyed their belief that the key to reforming property taxes involved “re-shifting” or “re-balancing” existing sources of State revenue. This group of speakers outlined different methods for alleviating the reliance on real property taxation. While certain speakers suggested increasing the income tax to offset property taxation, others speculated that the best approach would involve an extension of the sales and use tax or an adjustment to the corporation business tax. Many in attendance praised the NJ SMART (New Jersey Save Money and Reform Taxes) bill as the vehicle through which any rebalancing should occur. Those that testified in favor of a shift included:

- Honorable William E. Schluter (former State Senator), *Citizens for the Public Good*
- John A. Meyerle, *New Jersey Coalition for Property Tax Reform*
- Joseph J. Inserra, *New Jersey Coalition for Property Tax Reform*
- Larry Corsi, *Private Citizen*
- Wendell Steinhauer, *New Jersey Education Association*
- Matt Shapiro, *New Jersey Tenants Organization*

Additional Topics

During the public hearing, members of the Joint Committee received testimony on two additional topics related to reforming real property taxation in the State of New Jersey.

- During the hearing, John Budzash representing Hands Across New Jersey testified in support of a more uniform, standardized system of assessing real property. In particular, Mr. Budzash advocated a system of assessing real property by the square foot and petitioned the Joint Committee to keep the assessment of land at the local level.

- The potential for enabling counties and municipalities to establish local option taxes was discussed by William E. Schluter who appeared on behalf of the Citizens for the Public Good. Under this option, local governments would be permitted to raise additional revenue through a limited local sales tax or income tax.

Public Hearing: Testimony on the NJ SMART Bill, Constitutional Convention, State Spending, Rebalancing Sources of State Revenue, and Additional Topics

September 28, 2006 Meeting of the Joint Legislative Committee on
Constitutional Reform and Citizens Property Tax Constitutional Convention

The Joint Committee convened at the Ballroom at Collingswood in Collingswood, New Jersey and heard testimony from 13 private citizens, three elected officials, and five individuals representing an array of public interest groups. Speakers providing testimony voiced their concern over the current state of real property taxation and offered the Joint Committee various proposals for immediate relief and solutions for long-term reform. During the public hearing, several central themes emerged, including: the NJ SMART bill, debt limitations, rebalancing the tax burden, a Constitutional convention, and reducing State expenditures.

NJ SMART Bill

During the evening, six speakers expressed support for the NJ SMART (New Jersey Save Money and Reform Taxes) bill sponsored by Assemblyman Louis Manzo. While the speakers diverged on whether the legislation would provide immediate, short-term relief, many agreed that the bill offered residents an opportunity to address the shortcomings of property taxation. According to supporters, SMART was the “fairest, most equitable solution” put forth. Many shared the sentiments of Kathleen Sytnik who stated that the bill was “the right way to go [because] it’s a fairer system of taxation.” The following individuals stepped forward in support of the NJ SMART bill, including:

- Honorable Jonathan Shevelew, *Mayor of Shamong Township*
- Barbara Smith, *Private Citizen*
- Philip Bartus, *Private Citizen*
- Barbara Calabrese, *Private Citizen*

- Kathleen Sytnik, *Burlington County Education Association*
- John Stevenson, *Private Citizen*

Constitutional Convention

Those in attendance debated the merits of temporarily amending the New Jersey Constitution to organize a Constitutional convention. Unlike speakers who voiced their support for the SMART bill, individuals who focused their discussion on a Constitutional Convention were unable to form a consensus. While some believed that a convention would be a “disaster,” others felt that the need for a convention was long overdue. Those in support or in opposition to a Constitutional Convention included:

- Honorable Gary Passanante, *New Jersey State League of Municipalities*
- Honorable Jonathan Shevelew, *Mayor of Shamong Township*
- Barbara Calabrese, *Private Citizen*
- Linda Sanders, *Berlin Township Education Association*
- Kathleen Sytnik, *Burlington County Education Association*
- John Stevenson, *Private Citizen*
- Kenneth McIntosh, *Camden Education Association*
- Kathleen McMahan, *Private Citizen*
- Lee Lucas, *Private Citizen*
- Nick Naum, *South Jersey Citizens for Property Tax Reform*
- Vic Bellace, *South Jersey Citizens for Property Tax Reform*

State Spending

Several speakers appeared before the Joint Committee to urge lawmakers to reduce State spending. The key to reforming the State’s reliance on real property taxation, they believed, was to reduce expenditures and increase efficiencies at every level of State government. A reduction in spending would enable the State to return a larger portion of revenue to county and municipal governments and, as a consequence, allow local officials to reduce real property taxation. The following speakers provided testimony in support of this approach:

- Honorable Gary Passanante, *New Jersey State League of Municipalities*
- Delores Ruple, *Private Citizen*
- Rob Kealey, *Private Citizen*
- Vic Bellace, *South Jersey Citizens for Property Tax Reform*

Rebalancing Sources of State Revenue

In addition, five speakers stepped forward to discuss alternative plans for rebalancing existing sources of State revenue. In particular, members of the public highlighted the need to shift away from property taxation by increasing and expanding additional sources of Statewide revenue. While several speakers suggested increasing the income tax to offset local property taxation, others speculated that the best approach would involve an adjustment to the sales and use tax or the corporation business tax. As Barbara Calabrese maintained, [B]y shifting the tax formula from property taxes to the income tax, sales, or other tax, the State can maintain a high level of services . . . while easing the burden of those who can least afford it.” The following speakers testified in support of rebalancing State revenues:

- Honorable Jonathan Shevelew, *Mayor of Shamong Township*
- Barbara Calabrese, *Private Citizen*
- Linda Sanders, *Berlin Township Education Association*
- Kathleen Sytnik, *Burlington County Education Association*
- George Keutemeyer, *Private Citizen*

Additional Topics

During the public hearing, members of the Joint Committee received testimony on four additional topics related to reforming real property taxation in the State of New Jersey:

- Both Delores Ruple and Mayor Gary Passanante commented that the State should increase and broaden the powers of the Council on Local Mandates. They reiterated that if a law or program is mandated by the State, the State must pay the expenses associated with its implementation. From their perspective, a

strengthened Council would have the authority to eliminate unfunded mandates and, in turn, have the ability to reduce property taxes.

- Mayor Passanante suggested that the State should fully fund the Payment in Lieu of Taxes (PILOT) program to assist county and municipal governments to recapture revenues lost as a result of real property tax exemptions granted by the State.
- Rob Kealey, a private citizen, expressed his desire for stricter debt limitations. Mr. Kealey testified that the State should refrain from incurring public debt without voter approval.
- Michele Rosen, a private citizen from Ocean County, petitioned the Joint Committee to create a uniform budgeting process for local governments. Ms. Rosen asserted that in creating a uniform process, local budgeting would become open and transparent, and facilitate increased participation and oversight from stakeholders and members of the community.

Property Tax Caps and Spending Caps as Mechanisms for Providing Property Tax Relief

October 5, 2006 Meeting of the Joint Legislative Committee on
Constitutional Reform and Citizens Property Tax Constitutional Convention

Senator Diane Allen suggested to the Joint Committee that fiscal self-discipline on the part of the State would free up additional financial resources for property tax relief. To that end, she presented Senate Concurrent Resolution No. 15 of 2006, which would restrict growth in State government spending to the sum of the annual rate of inflation and the annual rate of increase in population. State aid to school districts, municipalities, and counties; debt service on voter-approved debt; and limited other expenditures would be exempt from the cap. If revenues outstripped the expenditure limit, 50 percent of the excess would be deposited in a reserve fund and 50 percent refunded to taxpayers as direct property tax relief. A two-thirds majority in both Houses of the Legislature would be permitted to override the cap.

Susan Bass Levin, Commissioner of the New Jersey Department of Community Affairs, reported to the Joint Committee that municipalities and counties are subject to a statutory spending cap of 2.5 percent if the Implicit Price Deflator for State and Local Governments, calculated by the U.S. Department of Commerce, was not more than 2.5 percent or a spending cap of 3.5 percent if the deflator exceeded 2.5 percent. For fiscal year 2007, the deflator was at 6.5 percent. Nonetheless, the limitation only applied to spending categories comprising about 60 percent of municipal and county budgets in each of the last three years. The Commissioner did state, however, that the amount within the cap will increase over the next few years to 70%, as certain statutory exemptions expire. Items such as capital projects, debt service, and employee pension and health insurance costs are currently outside of the cap. The Commissioner related that the cap created cost-cutting pressures, because local governments' greatest cost center, personnel expenditures, rose at a higher rate than the cap allows.

Iris Lav, Deputy Director of the Center on Budget and Policy Priorities in Washington, D.C., advised the Joint Committee against spending limitations. If limitation rates fell below the rate of inflation needed for government to maintain current service levels, the spending limitations may at first yield administrative efficiencies, but they would ultimately result in cuts to public services, as had happened in other states such as Colorado, California and Massachusetts.

In 1992, Colorado voters passed the Taxpayer Bill of Rights (TABOR), which constrained the growth in State and local expenditures to the sum of the annual rates of increase in the consumer price index and the State's population. After a substantial gradual deterioration of public service levels, voters suspended TABOR for five years in 2005 to allow for increased investments in neglected public services. Ms. Lav explained that even when State law provides for an override of local spending caps by the voters, the result is often greater disparities between wealthy and poor communities. This may occur because wealthier areas routinely voted to override the local caps, whereas poorer areas declined to override caps.

Instead of spending caps, Ms. Lav supported more state aid to school districts, a revised circuit-breaker program limiting property tax burdens to a set percentage of income and clearly linking the resultant benefit to property tax relief in the minds of the citizenry, and allowing local governments to expand their revenue sources to include, for example, local option taxes and fees.

SMART Bill, Constitutional Debt Limitation Clause, Local Option Taxes and Circuit-Breaker Programs

October 12, 2006 Meeting of the Joint Legislative Committee on
Constitutional Reform and Citizens Property Tax Constitutional Convention

Assemblyman Manzo made a presentation to the Joint Committee regarding the SMART bill. Assemblyman Merkt spoke to the Joint Committee about the Debt Limitation Clause in the New Jersey Constitution. Representatives from the National Conference of State Legislatures (NCSL) spoke about local option taxes and circuit-breaker programs. The following summarizes each presentation.

SMART Bill

Assemblyman Manzo conducted a PowerPoint presentation of the SMART bill proposal. According to Assemblyman Manzo, the SMART bill aims to reduce New Jersey's dependence on property tax revenue for public school funding. He asserted that the bill is revenue neutral in that it provides the same revenue for public school funding. Currently, the property tax is the most regressive and the income tax is the most progressive tax in the State. He believes that the bill would make the property tax less regressive and shift the income tax burden so that it is distributed more evenly. The bill applies the increased revenue to public school funding. Thus, less revenue would come from the property tax and more revenue would come from the income tax.

The bill would provide \$2.4 billion in new revenue from a dedicated income tax surcharge and redirect \$1.3 billion from the sales tax and Homestead Rebate program for a total of \$3.7 billion in property tax relief. The senior tax freeze, the \$250 property tax deduction, and the \$250 veterans' deduction would remain untouched. The plan uses the existing State infrastructure that administers the FAIR rebate plan. The bill is tie-barred to cutting the "millionaire's tax" in half. Under the SMART bill no New Jersey resident with income under \$50,000 would pay any income tax increase.

At the conclusion of Assemblyman Manzo's testimony, he presented the Joint Committee with 10,000 petitions of support for the SMART bill and 78 resolutions of support from towns and counties.

Debt Limitation

Assemblyman Merkt presented materials on the historical increase of non-voter approved debt in New Jersey. The Debt Limitation Clause in Article VIII of the State Constitution provides that voters must approve any debt that exceeds one percent of the State budget per year (except in the case of an emergency, when the Legislature may issue debt without ballot approval). Figures from the State's Department of the Treasury indicate that since 1990, total State debt has risen from less than \$4 billion to more than \$32 billion. Voter approved debt has remained fairly constant during that time, at about \$3 billion per year, while non-voter approved debt has risen from less than \$1 billion to nearly \$29 billion. The State's debt level is rising, especially with the Transportation Trust Fund renewal and the anticipated school construction fund projects. As this figure increases, along with all other expenditures paid from the State General Fund, such as public employee pensions and health benefits, Assemblyman Merkt believes these items are taking a larger and larger share away from discretionary spending amounts that could be used for property tax reform.

Assemblyman Merkt urged for reinforcement and tightening of the Debt Limitation Clause. Senator Lance offered a history of the State's non-voter approved debt and echoed Assemblyman Merkt's suggestions.

Local Option Taxes and Circuit-Breaker Programs

Judy A. Zelio, Program Director, Fiscal Affairs Program for NCSL, described advantages and disadvantages of local option taxes. She defined local option taxes as those levied with state approval by city, county, and special district governments, including school districts. Examples of such local taxes may include sales, income, lodging and other tourism taxes, real estate transfer, tobacco and alcohol, and severance taxes. Forty-three states permit some type of local option sales or income tax. The authority granted may be limited to just cities or counties of a certain size, or resort cities, or home rule cities. Thirty-eight states permit local sales taxes which, according to the most recent census bureau statistics, generated 12 percent of local revenue. Eighteen states allow local governments to levy income taxes or payroll taxes, which are responsible for an additional 5 percent of local tax revenue in the aggregate. Some states allow both types of local taxes.

The advantages to local option taxes were discussed as follows:

- Local governments gain flexibility with revenues when they have some control over them. The fact that additional revenues may become available with the addition of a local tax can help with more programs and services without additional state money.
- There is the potential for local revenue-based diversification, that is, levying taxes on portions of the tax base that may reflect a locality's economic strengths, such as tourism.
- Local option taxes also can allow shifting of some of the tax burden off residents and onto visitors or other nonresidents.

In addition, Ms. Zelio noted the following disadvantages of local option taxes:

- Local option taxes increase combined state and local taxes.
- Local option taxes reduce state control over these tax sources and affect the extent to which state governments can tap these sources for their own purposes.

- Diversification alters the tax burden on residents and may lead to interlocal competition for revenues.
- If the local option tax is a sales tax, which opponents believe is a regressive form of taxation, the poor are likely to carry a disproportionate share of the sales tax burden.
- Local option taxes also may create disparities among localities, particularly in rural states where the retail base is not necessarily evenly distributed.
- They could possibly limit a state's flexibility to raise tax rates in the future.
- It is possible that local option tax structures will increase administrative and compliance costs for both taxpayers and governments.
- State and local income and property taxes are deductible from federal adjusted gross income. Shifting from deductible to nondeductible local taxes may increase the amount of federal income taxes paid by state residents.

Ms. Zelio recommended that the Joint Committee consider the following issues with regard to local option taxes:

- Accountability and flexibility of local governments. States opt to either allow all local governments or only those that meet certain criteria to levy local option taxes.
- Voter-approval. States vary considerably on voter-approval requirements for local taxes. It is not uncommon for a state to require voter approval for some local taxes, but not for others.
- Types of taxes. State decisions about the type of local option taxes authorized could alter the progressiveness or regressiveness of the entire state-local tax system.
- Balancing state and local tax systems. States should have a roughly equal mix of income, consumption, and property taxes.

Bert L. Waisanen, Senior Policy Specialist and Tax Policy Analyst, Fiscal Affairs Program for NCSL, spoke about state property tax circuit-breaker programs. He noted

that, in general, benefits are inversely proportional to income, meaning that as income increases the benefits decline. Because many seniors own property and are more likely to have fixed incomes, most states target more of the property tax relief in these programs towards seniors. Further, states often limit benefits to senior citizens and the disabled as a means of controlling the aggregate program costs.

The circuit-breaker programs for homeowners are designed in one of two ways, either in a sliding scale or a threshold manner. Under the sliding scale approach, the state sets rebate amounts for qualified homeowners or renters. The amount of the rebate can either be a fixed amount or a percentage of the tax paid. Programs offer refunds with either a cap or a fixed amount. Threshold circuit-breaker programs are designed to ensure that property taxes do not exceed a certain percentage of the household income.

Finally, Mr. Waisanen noted that circuit breakers are not automatic benefits. The taxpayer must be informed of the availability of the programs, and if the taxpayer is eligible, the taxpayer must file an application each year to receive a circuit-breaker rebate or credit.

The Convening of a Constitutional Convention to Address the Issue of Property Tax Reform

October 19, 2006 Meeting of the Joint Legislative Committee on
Constitutional Reform and Citizens Property Tax Constitutional Convention

Peter J. Kelly and Gina Marie Winters of the Office of Legislative Services laid out the legal framework governing Constitutional conventions. Mr. Kelly noted that enactment of property tax reform recommendations advanced by a Constitutional convention could not occur before voters would have approved the convening of a convention at the general election in November 2007, elected delegates, and sanctioned the convention's reform proposals at the general election in November 2008. In addition, Mr. Kelly pointed out that the 2004 report of the Property Tax Convention Task Force included specific recommendations regarding the process of conducting a Constitutional convention. New Jersey held Constitutional conventions in 1884, 1944, 1947, and 1966, and 15 state constitutional conventions have been convened in the United States since 1970.

Joyce Powell, President of the New Jersey Education Association, and Arthur J. Maurice, First Vice President, Government Affairs of the New Jersey Business & Industry Association, expressed their opposition to a Constitutional convention to effect property tax reform. Mrs. Powell feared that such a convention may jeopardize the quality of New Jersey's public schools if delegates were to aim for limitations on government spending. Mr. Maurice indicated that delegates may propose tax increases instead of spending limitations. Mrs. Powell also advocated increases in income and sales tax collections to boost State aid to public schools.

Former State Senator William E. Schluter, Co-Chair of Citizens for the Public Good, and Gary Passanante, Mayor of Somerdale and Chairman of the New Jersey League of Municipalities' Property Tax Reform Committee, endorsed a Constitutional convention if the Legislature cannot enact property tax reform. Senator Schluter also warned that

spending cuts could not provide for significant property tax relief but that shifts in revenue sources should ease the property tax burden on homeowners and tenants.

Jerry Cantrell, President of The Silver Brigade, and Gregg M. Edwards, President of the Center for Policy Research of New Jersey, insisted that to bring about sustainable property tax relief a Constitutional convention should be authorized to not only consider tax policy but also to discuss limitations on government spending. Mr. Cantrell also favored repealing policies allowing for an override of voters' rejection of annual school budgets, uniform budget reporting standards for all public schools, and the use of performance audits.

V. Recommendations

RECOMMENDATION 1: THE CURRENT HOMESTEAD REBATE SHOULD BE REPLACED BY A SYSTEM OF CREDITS AND THE BENEFIT SHOULD BE INCREASED TO 20% FOR AS MANY TAXPAYERS AS RESOURCES ALLOW

• **BACKGROUND:**

New Jersey currently operates two property tax rebate programs which are projected to provide a combined \$1.18 billion in property tax relief in fiscal year 2007: the Homestead Property Tax Rebate program and the Homestead Property Tax Reimbursement or Senior and Disabled Citizens' Property Tax Freeze program.

FY 2006 and FY 2007 Homestead Property Tax Rebate Amounts			
Status	Gross Income	Rebate Amounts	
		FY 2006	FY 2007
Homeowner: Senior or Disabled	Not over \$70,000	\$1,000 - \$1,200	\$1,000 - \$1,200
	\$70,001 to \$125,000	\$600 - \$800	\$600 - \$800
	\$125,001 to \$200,000	\$500	\$500
Homeowner: Under Age 65 and not Disabled	Not over \$70,000	\$350	\$350
	\$70,001 to \$125,000	\$350	\$250
	\$125,001 to \$200,000	\$300	\$200
Tenant: Senior or Disabled, Married	Not over \$70,000	\$150 - \$825	\$150 - \$825
	\$70,001 to \$100,000	\$150	\$150
Tenant: Senior or Disabled, Single	Not over \$35,000	\$150 - \$825	\$150 - \$825
	\$35,001 to \$100,000	\$150	\$150
Tenant: Under Age 65 and not Disabled	Not over \$100,000	\$75	\$75

Inaugurated in fiscal year 1977 and repeatedly revised since, the Homestead Property Tax Rebate program is expected to distribute \$1.06 billion in property tax relief to 2.4 million households in fiscal year 2007. Although Article VIII, Section I, paragraph 5 of the

Constitution authorizes the program, the "2004 Homestead Property Tax Rebate Act" prescribes its parameters. A resident's statutory rebate amount equals the amount by which property taxes paid exceed 5 percent of income, subject to maximum and minimum amounts, a cost-of-living adjustment, the taxpayer's income, property taxes paid, filing status, whether the taxpayer is a homeowner or tenant, and whether the taxpayer is 65 years of age or older, disabled, or both. Only in fiscal year 2005 did the program follow its statutory provisions. Fiscal constraints and budgetary pressures forced the Legislature to restrict statutory rebate amounts for non-senior, non-disabled homeowners, and tenants in the fiscal year 2006 and fiscal year 2007 appropriations acts. Senior and disabled homeowners and tenants still received their full statutory rebate amounts in fiscal year 2006, but language provisions in the fiscal year 2007 appropriations act suspended the statutorily mandated cost-of-living adjustment. The table above indicates individual rebate amounts for fiscal years 2006 and 2007.

Currently, residents receive their rebates in the form of checks, which are mailed to the resident or deposited directly in their financial accounts. Seniors typically receive their checks in August while non-senior's checks are sent in October.

Senior and Disabled Citizens' Property Tax Freeze Program

Authorized statutorily since 1997, the Homestead Property Tax Reimbursement program, also known as the Senior and Disabled Citizens' Property Tax Freeze program, is anticipated to disburse \$119 million in property tax relief to 162,000 beneficiaries in fiscal year 2007. The program reimburses qualified homeowners for the difference between the amount of property taxes that they paid on their principal residence in the current tax year and the amount that they had paid in their base year. Qualified homeowners in fiscal year 2007 must be at least 65 years of age or disabled or both. In addition, they must have a tax year 2005 income no greater than \$41,972 if single, or \$51,466 if married, and a tax year 2006 income of no greater than \$43,693 if single, or \$53,576 if married. Moreover, they must have paid property taxes directly, or indirectly by means of rental payments, on any homestead or rental unit used as a principal

residence in New Jersey for at least ten consecutive years, the last three of which must have been as owners of the homesteads for which they seek the reimbursement.

The Joint Committee considered a number of proposals to provide increased rebates:

NJ “SMART” BILL: The Joint Committee considered Assemblyman Manzo’s NJ SMART (NJ Save Money and Reform Taxes) proposal, of which there are various versions currently pending before the Legislature. Generally, the SMART program would establish a rebate to effectively refund 50% of all homestead public school property taxes levied within the school spending growth limitation (cap) law, for all homestead owners and residential tenants, and establish a gross income tax surcharge to largely fund this property tax relief. Under this proposal a majority of property taxpayers would receive a rebate that would exceed the gross income tax surcharge and would provide significant net savings. However, a minority of taxpayers, those who already pay the bulk of the gross income tax, would receive a rebate that would be substantially less than their gross income tax increase.

REFORM AND ENHANCE THE EXISTING REBATE PROGRAM: The Joint Committee also explored a proposal to make certain amendments to the State’s homestead rebate program. It has been suggested that the program should be amended to include the following attributes:

- 1) the rebate program should be replaced with property tax credits, which would be applied directly to homeowners’ property tax bills; however, the Legislature may wish to retain the issuance of rebate checks for senior rebate recipients while implementing a credit program for non-seniors;
- 2) the total amount of funds allocated to the program should be greater than the current rebate program; and
- 3) the current rebate program for tenants should be retained and increased if additional funds are available.

The Joint Committee discussed the adoption of a constitutional amendment that would require the State to provide an annual credit to certain individuals. Such an amendment would compel the annual provision of tax relief to homeowners and ensure that the credits are not cast aside in favor of additional State spending. However, before the Legislature proposes a constitutional amendment, it must consider the potential consequences of a constitutionally-mandated program. A constitutional mandate may limit the Legislature's ability and flexibility to appropriately allocate the State's resources.

The proposals to provide increased or mandated rebates, such as through the NJ SMART bill or a constitutional amendment, could be considered by the proposed Tax Policy Study Commission.

- **RECOMMENDED ACTION:**

Although the State's rebate programs have provided property tax relief to many residents, and particularly seniors, the Joint Committee believes that certain reforms and enhancements are necessary to improve the efficacy of the programs. The new program should replace the rebate checks that are currently mailed to homeowners with a property tax credit. Article VIII, Section I, paragraph 5 of the New Jersey Constitution expressly authorizes the Legislature to adopt a property tax credit program. This amendment to the current program would have a number of benefits. It would provide an immediate reduction in each property tax bill in fiscal year 2008 and avoid the need to retain the inefficient process of issuing and mailing out rebate checks. Because the issuance of the credits will require new processes at the State and local level, the Treasurer should be given sufficient administrative discretion in implementing the credit program to ensure that it can successfully deliver property tax relief for fiscal year 2008.

The primary beneficiaries of the credit program should be low and middle income homeowners. The Joint Committee has reviewed data and analyses which suggest that the property tax is regressive in nature and that many low and middle income New Jerseyans suffer from a disproportionately high property tax burden. Because of the

State's limited resources and challenged fiscal condition, the new credits should be targeted to provide meaningful relief to those who need it most. Thus, the Joint Committee believes that before the credit program is extended to benefit all New Jerseyans, the State must first ensure that sufficient funds are allocated to correct the fundamental unfairness associated with this regressive tax.

To accomplish this goal, the Joint Committee recommends that the Legislature should increase the \$1.1 billion that is currently set aside for the rebate program. The current program provides a rebate of up to \$1,200 for senior homeowners, which is a 20 percent reduction in the average tax bill. This program, in combination with the Senior Freeze initiative, has provided invaluable assistance to many seniors who struggle to keep up with rising property taxes. Non-seniors, however, may not receive more than \$350 under the current rebate program. This ceiling amounts to little more than a 6 percent reduction in the average tax bill. For many non-seniors, this amount is insufficient to offset their increasing property tax burdens. The Legislature therefore should dedicate additional funding to increase the non-senior amount for homeowners who meet certain income requirements.

The Joint Committee also suggests that the Legislature should retain the current rebate program for tenants, and to the extent possible, increase the rebates for non-senior tenants. As noted above, senior tenants receive rebates up to \$825 per year, while non-senior tenants receive a maximum of \$75 annually. This rebate assists many tenants who pay a disproportionately high amount of rent. Recent reports indicate that in 2005 approximately 48 percent of New Jersey tenants paid more than 30 percent of their income in rent and 24 percent of tenants paid more than 50 percent. To offset this expense, the rebate program should be continued to help tenants keep up with their housing costs. The Legislature also should consider an enhanced rebate program for tenants who are struggling to pay their monthly rent.

Finally, the Joint Committee recommends that the Senior and Disabled Citizens' Property Tax Freeze program should be maintained. As detailed above, this program, in effect,

"freezes" the property taxes of eligible, limited income senior and disabled residents, and is intended to afford protection to those homeowners who may otherwise be forced to move out of State upon disability or retirement due to increasing property taxes. The Joint Committee recognizes that continuity of this program is essential to the population it benefits.

RECOMMENDATION 2: MAINTAIN THE SENIOR CITIZENS' AND DISABLED PERSONS' PROPERTY TAX DEDUCTION, THE VETERANS' PROPERTY TAX DEDUCTION AND THE VETERANS' PROPERTY TAX EXEMPTION IN THEIR CURRENT FORM

• **BACKGROUND:**

Senior Citizens' and Disabled Persons' Property Tax Deduction

Article VIII, Section I, paragraph 4 of the Constitution, as implemented by N.J.S.A. 54:4-8.40 et seq., entitles senior citizens age 65 years or older, or persons less than 65 years of age who are permanently and totally disabled according to the provisions of the Federal Social Security Act, and the surviving spouses of those persons, to an annual deduction from the amount of any tax bill for taxes on real property in the amount of \$250, provided that they meet certain qualifications. The property tax deduction is subtracted from the total amount of the property tax bill of a qualified senior citizen, disabled person or surviving spouse.

In order to receive the \$250 property tax deduction, a senior citizen, disabled person or surviving spouse must meet the following qualifications:

- 1) A senior citizen or disabled person must be a citizen and resident of New Jersey;
- 2) A senior citizen must be 65 years of age or older. There is no age limit for persons who are permanently and totally disabled;
- 3) That person must own and occupy a dwelling that is his or her primary residence;
- 4) That person must have an annual income that does not exceed \$10,000 per year;
- 5) A person who is permanently and totally disabled must meet the requirements of permanent and total disability under the federal Social Security Act; and
- 6) A qualified surviving spouse must be unmarried, at least 55 years of age, and reside in the same dwelling for which the deduction was originally granted.

Article VIII, Section I, paragraph 4 of the Constitution of the State of New Jersey requires the State to reimburse each taxing district in an amount equal to one-half of the tax loss to the taxing district resulting from the granting of senior citizen property tax deductions. The enactment of P.L.1981, c.85 required the State to fully reimburse

municipalities for 100% of the property tax revenues lost by the granting of a senior citizens' or disabled persons' property tax deduction. An additional amendment resulting from the enactment of P.L.1997, c.30, increased to 102% from 100% the amount of the State-required reimbursement for each deduction granted. That amount provides 100% reimbursement of the amount of each deduction, plus an additional 2% of the amount of the deduction to ease the State mandate resulting from municipal administrative costs of providing the deduction. Effectively, the State reimburses municipalities in the amount of \$255 for each property tax deduction granted under the law.

The number of persons qualified to receive the senior citizens' and disabled persons' property tax deduction has declined in recent years. The following chart represents the number of senior and disabled persons qualified to receive a \$250 property tax deduction since 1998, and the total amount of reimbursements for these deductions issued to the State's municipalities, including the annual 2% reimbursement for local administrative costs pursuant to P.L.1997, c.30. (These figures, which represent the certified numbers from the Division of Taxation in the Department of the Treasury, include partial reimbursements in cases where the senior citizen or disabled person became eligible partway through the year.)

Benefit Year	Number of \$250 Property Tax Deduction Claims	Total Amount of \$250 Property Tax Deductions Reimbursed to Municipalities
1998	129,959	\$33,650,613
1999	121,168	\$31,638,337
2000	112,176	\$28,835,474
2001	104,147	\$27,228,655
2002	98,873	\$25,886,090
2003	95,475	\$25,085,859
2004	93,459	\$24,427,756
2005	86,462	\$22,207,664
2006	82,124	\$21,197,524

Veterans' Property Tax Deduction

Article VIII, Section I, paragraph 3 of the Constitution, as implemented by C.54:4-8.10 et seq., provides that honorably discharged veterans of certain wars or other military emergencies who are citizens and residents of New Jersey, and their surviving spouses, are entitled to an annual deduction from the amount of any tax bill for taxes on real and personal property, or both, including taxes attributable to a residential unit held by a stockholder in a cooperative or mutual housing corporation, currently in the amount of \$250. This deduction is in addition to any other deductions, exemptions or rebates which the property owner is entitled. Also, this deduction is on all residential property, not just the veteran's primary residence.

An amendment to the Constitution on November 2, 1999 provided an incremental increase in the veterans' property tax deduction. Under this amendment, the veterans' property tax deduction was increased to \$100 in calendar year 2000; \$150 in calendar year 2001; \$200 in calendar year 2002; and \$250 in calendar year 2003 and in every year thereafter. In order to qualify to receive a veteran's property tax deduction, a veteran must meet the following criteria:

- 1) New Jersey citizenship as of October 1 of the year prior to the year for which the deduction is requested;
- 2) Legal or domiciliary New Jersey residence as of October 1 of the year prior to the year for which the deduction is requested;
- 3) Honorable discharge from that service;
- 4) Legal title (full or partial ownership interest) in the property for which the deduction is claimed; and a timely application for the deduction. If property is held by a husband and wife as tenants by entirety and both are qualified veterans, each receives a deduction on the property;
- 5) Timely application to the municipal assessor for the deduction; and
- 6) Active service in the United States Armed Forces during time of war or other conflict as defined by law.

If a deceased war veteran is qualified to receive a property tax deduction at the time of death, eligibility status inures to the surviving spouse if the surviving spouse meets certain requirements.

The State of New Jersey reimburses municipalities for the property tax revenues lost by the granting of a veterans' property tax deduction. That amount, currently 102% of the deduction, provides 100% reimbursement of the amount of each deduction plus 2% of the amount of the deduction to reimburse municipalities for the administrative costs of providing the deduction, as required by P.L.1997, c.30.

The following chart represents the number of veterans qualified to receive a veterans' property tax deduction since 1998, and the total amount of reimbursements for these deductions issued to the State's municipalities (including the annual 2% reimbursement for local administrative costs required by P.L.1997, c.30). The increase in qualifying veterans between 1999 (334,193) and 2000 (337,344) is attributed to the publicity over the incremental annual increase approved by the State's voters in 1999, which may have alerted non-participating but qualified veterans to the fact of their eligibility to receive a veterans' property tax deduction. As the final installment in the graduated increase in the amount of the veterans' property tax deduction was implemented in 2003, any subsequent annual increases in the program would likely be the result of the eligibility of additional veterans to receive this deduction. All information contained in the chart was obtained from the Division of Taxation in the Department of the Treasury.

Benefit Year	Number of Veterans' Property Tax Deduction Claims	Total Amount of Veterans' Property Tax Deductions Reimbursed to Municipalities
1998 (@ \$50)	343,975	\$17,538,791
1999 (@\$50)	334,193	\$17,043,098
2000 (@\$100)	337,344	\$33,275,446
2001 (@\$150)	330,528	\$50,222,536

2002 (@\$200)	324,455	\$65,851,186
2003 (@\$250)	319,262	\$81,015,991
2004 (@\$250)	311,383	\$79,450,016
2005 (@\$250)	300,144	\$74,859,292
2006 (@\$250)	289,493	\$72,329,106

Veterans’ Property Tax Exemption

Article VIII, Section I, paragraph 3 of the New Jersey Constitution, as implemented by C.54:4-3.30 et seq., authorizes property tax “benefits” to war veterans, and to the surviving spouses of those veterans. In addition to providing a \$250 property tax deduction for war veterans and their surviving spouses, the paragraph also authorizes the adoption of statutes granting further deduction from taxation for war veterans having a service-connected disability, and their surviving spouses. The statutes adopted by the Legislature in response to this Constitutional authorization grant certain totally and permanently disabled war veterans and their surviving spouses an exemption from property taxes assessed against their principal residences. These statutes effectively ensure that a totally and permanently disabled war veteran, and that person’s surviving spouse, do not lose their home as the result of an inability to afford property taxes.

The municipal government receives no State reimbursement for the lost revenue due to the “exempted” property taxes of these veterans. Thus, the cost of providing the exemption is borne by all other local property taxpayers in the municipality. The State does not maintain any data about the number of veterans qualified to receive this exemption, or the amount of property taxes exempted pursuant to this law.

In order to receive the property tax exemption, a totally disabled veteran must meet the following qualifications:

- 1) New Jersey citizenship and legal or domiciliary New Jersey residence as of October 1 of the year prior to the year for which the exemption is sought;

- 2) Honorable discharge from that service;
- 3) A 100% permanent and total service-connected disability, which must have been sustained through enemy action, accident; or disease contracted while in active service "in time of war," and declared as such by the United States Veterans Administration, or its successor.
- 4) Full ownership of the property for which the exemption is claimed and occupancy of that property as his or her legal New Jersey residence; and
- 5) Active service in the Armed Forces of the United States during wartime (identified in statutory law as the same periods of time for eligibility to receive the \$250 veterans' property tax deduction).

If a deceased disabled war veteran is qualified for a property tax exemption at the time of death, eligibility status inures to the surviving spouse if that person meets certain requirements.

The widow or widower of a citizen and New Jersey resident who was a member of the Armed Forces of the United States and who died while on active wartime duty in the Armed Forces of the United States is entitled to a property tax exemption on a dwelling house used as a principal residence.

- **RECOMMENDED ACTION:**

The Committee supports maintaining the senior citizens' and disabled persons' property tax deduction, the veterans' property tax deduction and the veterans' property tax exemption in their current form, as these populations are strongly impacted by property taxes.

In addition, the Joint Committee recommends that the proposed Tax Policy Study Commission determine the cost of the veterans' property tax exemption to the municipalities and the feasibility of State reimbursement for some portion of this tax exemption.

RECOMMENDATION 3: THE LEGISLATURE AND GOVERNOR SHOULD COOPERATIVELY DEVELOP A PROPERTY TAX LEVY CAP THAT DOES NOT LEAD TO UNINTENDED, ADVERSE CONSEQUENCES

- **BACKGROUND:**

In his address to the Special Session on July 28th, Governor Jon S. Corzine suggested that one feature of a program of sustainable property tax relief to homeowners should be the imposition of caps. While the Governor was not specific in his description of a cap, he suggested that “no homeowner, no property owner, should have an increase in their annual property tax bill greater than 4%.” He also indicated that such a cap could be designed to take into account factors such as inflation, population growth and changing needs. Moreover, the Governor recommended that such a cap could be imposed with a four-year sunset provision, so that the unintended consequences realized by other states which have adopted caps could be reconsidered before being made permanent.

Currently, the State has adopted several statutory caps to control government spending or taxation at both the State and local levels, including spending by municipalities, school districts, and property taxation by counties. Specifically, the following caps are currently in effect:

State Budget Cap Law

The State's annual appropriations act is currently subject to a budget "cap." The "State Appropriations Limitation Act" limits the annual growth of the Direct State Services (DSS) portion of the budget, which is basically the operations of State government. The DSS portion of the budget is limited to growth no greater than the prior three-year average of growth in per capita personal income (PCI) in New Jersey, by fiscal year. The current DSS cap affects about one-fifth of budgeted State appropriations, or approximately \$6 billion in recent years. Budgeted State aid to school districts and municipalities; grants-in-aid, which include homestead rebates; capital construction and debt service appropriations; and funds expended from the Casino Control Fund and the Casino Revenue Fund are not subject to the current State budget cap law. In addition, the

cap law does not include off-budget appropriations such as municipal-use energy (utility) funds or federal funds.

Local (Municipal) Budget Cap Law

The local budget cap law was first enacted in 1976, along with the State income tax, as part of the promise to reduce local property taxes. Under the law, municipalities are prohibited from increasing their annual appropriations by more than either 2.5% or the “index rate,” whichever is less, over its final expenditures for the previous year. The cap has several enumerated exemptions. In addition, the Local Finance Board has the authority to grant additional exceptions, applicable to all municipalities and only effective for the local budget year in which the exception is granted, upon a finding of extraordinary circumstances that result in an unanticipated increase in expenditures for services essential to health, safety and welfare. The law also provides for “cap banking” to permit municipalities to reserve the difference between the amount of its actual final appropriations and the amount of its permitted final appropriations for use as an exception to its final appropriations in either of the next two succeeding budget years.

County Budget Cap Law

Pursuant to current law, the county cap on "increasing final appropriations" is 2.5% or the cost of living allowance (“COLA”) set by the Director of the Division of Local Government Services, whichever is less, over the previous year, with certain enumerated exceptions. The cap on the county tax levy is also 2.5% or the COLA set by the Director. Accordingly, a county may not increase the county tax levy to be apportioned among its constituent municipalities in excess of 2.5% or the cost-of-living adjustment, whichever is less, of the previous year's county tax levy, subject to certain specified exceptions.

School District Budget Cap Law

Under the provisions of the "Comprehensive Educational Improvement and Financing Act of 1996" (CEIFA), a school district may increase its spending over the prior year by an amount equal to 2.5% or the CPI, whichever is greater, multiplied by the district's prior year's budget. In addition, there are automatic budget cap adjustments or increases

which take into account increases in enrollment, certain capital outlay expenditures, expenditures for courtesy busing, special education costs per pupil in excess of \$40,000, and expenditures associated with the opening of a new school facility or insurance and domestic preparedness. In addition to these automatic cap adjustments, CEIFA authorizes a school district to apply to the Commissioner of the State Department of Education for an adjustment to its cap in certain enumerated circumstances.

- **DISCUSSION:**

TIGHTER CAP ON STATE SPENDING: The Joint Committee considered Senate Concurrent Resolution No. 15 (“SCR 15;” Allen), currently pending before the Legislature, which would impose additional fiscal discipline on State spending practices. As presented to the Joint Committee by Senator Allen, this proposal would place a Constitutional cap on the growth in State government spending equal to the sum of the annual rate of inflation and the annual rate of increase in population. State Aid, debt service on voter approved debt, and certain other expenditures would be exempt from the proposed cap.

To understand the impact SCR 15 would have on current spending, Joint Committee staff performed a simulated analysis of its impact on the fiscal year 2007 budget. This analysis suggested that roughly \$2.0 billion appropriated in the current budget would have been prohibited, except by override, had SCR 15 been in effect. The Joint Committee finds that, without specific recommendations regarding the areas of the budget which could be reduced to accommodate such a cap without imposing additional burdens on local property taxpayers (through reductions in State Aid and Grants-in-Aid), no action should be taken on SCR 15 at this time.

TIGHTER CAP ON LOCAL SPENDING: The Joint Committee has considered a variety of property tax caps, including rate caps, assessment caps, and levy caps operating through direct limits or limits on revenues or expenditure growth. These include the following:

Rate Cap

Generally, most states which impose caps on the tax rate that can be imposed on the value of property do so at a percentage of the market value of a home. According to the National Conference of State Legislatures, the states with the most restrictive rate limits include California, Colorado, Montana, Oregon and Washington. Rate limits, however, do not necessarily limit property tax increases for homeowners if property values and assessments are rising.

Assessment Cap

This type of cap typically limits growth of the assessed value of a property to a specific percentage and may allow reassessment only at the time of sale or change in ownership. States which cap assessments include California, Florida, and the District of Columbia. Assessment limits can create inequities by creating large disparities in the same neighborhood in the amount of taxes paid. In addition, because taxes go to full assessment at the time of turnover, purchasing a home could be made more difficult for certain home buyers, such as younger couples.

Levy Growth Cap

Levy caps may allow fixed percentage growth on the total amount of a tax bill, or growth based on a formula, or a hybrid of these. Levy caps have been shown to be effective in the short term in holding down property taxes; however, locally-provided services may suffer in the long term without replacement revenue, an override mechanism, or both. States with a levy cap, like Massachusetts, generally permit some override mechanism. Also, because a homeowner's property tax is the sum of taxes levied by multiple taxing jurisdictions (municipal, county, school district, library, fire district, etc.), the Legislature would have to adopt a proposal that would cap the individual levies of each taxing jurisdiction at a desired rate.

- **RECOMMENDED ACTION:**

The Joint Committee recommends that the Legislature and the Governor cooperatively develop statutory property tax levy growth caps to meaningfully restrain future increases

in local property taxes. While the cap should be crafted to ensure the sustainability of property tax reforms, it should contain several provisions to eliminate the problems that have arisen with property tax cap laws in other states.

The critical features of new tax levy growth limits should be:

- A maximum annual growth rate that is low compared to recent growth rates in local property tax levies indexed to the rate of inflation. Taxpayers should be protected from large annual increases of recent years that have resulted in widespread dissatisfaction with prevailing tax burdens and made the state unaffordable for some.
- A narrowly crafted set of exceptions to provide flexibility during periods of rapid growth or local emergencies. For example, the cap should allow increases commensurate with expansion of the local ratable base. In addition, local officials must also be permitted to seek override of growth limits by referendum or by administrative appeal, so that they can adhere to the will of the voters and responsibly address unforeseen or extraordinary events.
- A sunset provision, which would act as a “safety valve” to protect against the unexpected consequences of imposing a levy cap.

Because the Joint Legislative Committee on Public School Funding may announce recommendations concerning the School District Budget Cap, the Legislature and Governor should assess the impact of imposing both a tax levy growth cap and a separate cap on local school district budgets.

RECOMMENDATION 4: PRESERVE THE UNIFORMITY CLAUSE

- **BACKGROUND:**

The power to impose a tax on real property is contained in the State Constitution at Article VIII, Section 1, paragraph 1(a). This section of the State Constitution is commonly known as the Uniformity Clause. The language of the current Uniformity Clause reads:

1. (a) Property shall be assessed for taxation under general laws and by uniform rules. All real property assessed and taxed locally or by the State for allotment and payment to taxing districts shall be assessed according to the same standard of value, except as otherwise permitted herein, and such real property shall be taxed at the general tax rate of the taxing district in which the property is situated, for the use of such taxing district.

The effect of this clause is that property has to be taxed uniformly within the taxing district according to the same rate and assessed value. For instance, residential property is taxed at the same rate as commercial and industrial property. In addition, the personal characteristics of the property owner, such as income, age, and military status may not be taken into account when assessing the property tax.

The taxes must be assessed at the same rate within a "taxing district," which is not defined in the Constitution, but was defined in statute in 1937, See N.J.S.A. 1:1-2, as follows:

Taxing district. The words "taxing district," when used in a law relating to the assessment or collection of taxes, assessments or water rates or water rents, include every political division of the State, less than a county, whose inhabitants, governing body or officers have the power to levy taxes, assessments or rates.

The purpose for using a term that statutorily excluded counties in the 1947 Constitution seems to be based on the fact that the delegates were focused on the issue of how to make the municipalities whole for the loss of tax revenues from class II railroad property

receiving preferential tax treatment under railroad taxation laws enacted in 1941 and 1942. There is no indication in the proceedings that county property tax issues were ever discussed. The New Jersey Supreme Court made it clear, however, that the Uniformity Clause also applies to counties. See Switz v. Kingsley, 37 N.J. 566, 572 (1962).

Next, the Uniformity Clause requires that all property be assessed "according to the same standard of value. "The exact standard is purposely not set forth in the Constitution, but the Legislature requires all property to be assessed at its "true" or "full and fair" value, which is commonly referred to as "ad valorem" or "market value." (See N.J.S.A. 54:4-2.25; 54:4-23.)

Because it is recognized that not all municipalities maintain their property assessments at "true" or "full and fair" value, the State established equalization procedures, involving the collection of sales data, to assure fair distribution of State school aid and fair allocation of the county burden among constituent municipalities. The equalization statutes for State school aid, enacted in 1954, specifically mandate the use of the "market value" standard because "market value" is independently verifiable, through market analysis, while other standards are not.

Uniformity clauses are quite common in state constitutions. For example, Pennsylvania, Connecticut, and Florida all have uniformity clauses in their constitutions. The Joint Committee discussed these states and their uniformity clauses at its hearings.

The fact that a state has a constitutional uniformity clause does not mean that in actuality all properties are assessed equally. Indeed, there are numerous exceptions to the Uniformity Clause. The Uniformity Clause phrase, "except as otherwise permitted herein" refers to several provisions in the Constitution, now numbering nine, that grant preferential treatment to certain taxpayers or properties despite the Uniformity Clause's mandate of uniform treatment and equality in the property tax assessment. The Constitutional exceptions to uniformity are:

- 1) tax exemption granted to property owned by nonprofit entities and used exclusively for religious, educational, charitable or cemetery purposes;
- 2) tax exemptions that the Legislature approves by general law;
- 3) farmland property assessed at a lower tax rate;
- 4) veterans' property tax deduction of \$250;
- 5) the 100% disabled veterans' total property tax exemption;
- 6) the senior and disabled property tax deduction;
- 7) the homestead rebate program;
- 8) the five-year exemptions or abatements for properties located in areas in need of rehabilitation; and
- 9) the long-term exemptions for redevelopment of blighted areas.

The Uniformity Clause, subject to the Constitutional exceptions, bars the Legislature from classifying real property for taxing purposes. The Joint Committee considered how other states and regions have used preferential property tax treatment for certain classes of property or taxpayers as a tool to encourage investment in targeted areas or to give tax relief to certain taxpayers. The Uniformity Clause functions as a limit on the use of that tool in order to assure equality of treatment of property taxpayers in the interests of fundamental fairness.

The Joint Committee considered several proposals to amend the Uniformity Clause or to add or alter existing statutory exceptions to the Uniformity Clause.

REGIONAL TAX-BASE SHARING: The drive for increased property tax revenue can lead local governments to make land use decisions that conflict with other planning and economic development goals. A community might reject much needed affordable housing in favor of expensive homes or forego office buildings with high-paying jobs in favor of large retail stores with low-wage jobs in anticipation of generating more tax revenue with a comparatively smaller burden on public services. This trend is known as “fiscal zoning.”

The Joint Committee considered whether regional tax-base sharing could be a mechanism to alleviate this problem. Under regional tax-base sharing, all of the municipalities within a metropolitan area agree to share tax proceeds from new development. In theory, tax sharing could eliminate intra-regional competition; facilitate other planning goals such as preserving open space or maintaining a vibrant downtown; encourage suburbs and central cities to cooperate on regional economic development goals; and lead to a more equitable distribution of tax burdens and public services.

State legislation, but not a Constitutional amendment, would be required to implement or authorize any regional tax-base sharing. Two regions of the United States are among those that have adopted this approach: the Twin Cities metropolitan area in Minnesota and the Hackensack Meadowlands District in New Jersey. In the case of the Meadowlands, the State Supreme Court held that its tax-base sharing did not violate the State Constitution.

Regional tax-base and revenue-sharing arrangements can be either mandatory for an area or could be designed as an option for municipalities to enter into by contractual agreement. In addition, the tax base sharing could apply to all properties or to only certain types of properties or properties developed or improved after a certain date. It also might be applied to only a percentage of the revenue as opposed to all of the property tax revenue from such development

SPLIT-RATE TAXATION: “Split-rate taxation” is charging a higher tax on land than on structures. This planning tool is promoted by policy groups to encourage development in urban areas in need of redevelopment by making it more expensive for landowners to keep their property vacant without developing such land. This type of taxation would require a Constitutional amendment to the Uniformity Clause.

If the Uniformity Clause were amended to allow for split-rate taxation, such a tax structure could be authorized by legislation which would give municipalities the option to implement split-rate taxation. If implemented, land and improvements on the land would be taxed at different rates. The tax rate for land would be higher than the tax rate for

improvements. The underlying premise behind this tax structure is that most of the value of the land is the public infrastructure investment that has already been made by the municipality. For instance, the roads, sewer and electric are already in place. Those improvements are not currently accounted for in taxing vacant land. Under split rate taxation, the land and the fact that the public infrastructure is there would be taxed at a higher rate than the actual physical improvements that are later placed on the lot. Thus, the landowner would be better off by developing the property and increasing its value because the taxes will not increase by as much as they would under the current tax structure.

Split-rate taxation was recommended in urban areas where there are vacant lots that should be developed because the infrastructure is already there. There was no testimony or support for implementing this in farming or other undeveloped areas.

CLASSIFICATION OF PROPERTY: Classification of real property for taxation purposes gives taxing districts the ability to assess different tax rates based on legislatively created classes of property that are related to the use of the property. Preferential property tax treatment for certain classes of property or taxpayers can be a useful State tool to encourage investment in targeted areas or to give tax relief to certain taxpayers. Other states, such as Maryland and Tennessee, have multiple classes of property. The Joint Committee heard testimony on these systems.

New Jersey classifies property to a limited extent through the two Constitutional amendments which give long term and short term tax abatements for areas in need of redevelopment and through the Constitutional amendment which allows farmland to be assessed at a lower rate. The Constitutional provisions regarding abatements allow municipalities to adopt ordinances granting tax exemptions or abatements on buildings and structures in areas declared in need of rehabilitation. These provisions are limited by various statutory requirements. Planning groups advocated for classifying property by varying tax rates for new construction based on the State Plan designation. This type of classification, they argued, would align tax incentives with land-use goals. This tax

structure would lower taxes on new construction in urban areas and raise them on new construction in suburban and rural areas.

- **RECOMMENDED ACTION:**

The Joint Committee concluded that, despite its exceptions, the Uniformity Clause provides a fundamental basis for fairness in taxation of real property. The Joint Committee was concerned that altering the Uniformity Clause to tax residential property differently than commercial or industrial property could have a negative effect on businesses in the State. The Joint Committee recognized the importance of job creation and retention and did not want to harm the State's business climate. Indeed, the Joint Committee found that the same homeowners they are trying to assist by reducing or reforming property taxes are often business owners or employees of such businesses that would be adversely affected if the Uniformity Clause were amended to allow for different rates of taxation based on the type of property or property owner.

The Joint Committee further concluded that planning devices such as regional tax base sharing and split rate taxation deserve further study to determine whether counties and municipalities should be given those options. While such taxation models may not provide direct tax relief, they may foster better long term planning which could have a positive effect on controlling property taxes.

The Joint Committee's recommendation therefore is not to amend the Uniformity Clause at this time. The Joint Committee, however, supports further investigation into whether split rate taxation and regionalized tax base sharing should be allowed in some limited circumstances. While these tax policies do not seem to provide direct property tax relief, they may deliver other benefits such as better coordinated growth and regional cooperation in development and planning decisions that have long term consequences for communities. The Joint Committee believes quantitative studies are necessary to determine how these tax policies could be implemented to assist specific regions of the State.

RECOMMENDATION 5: EXTEND THE ROLL-BACK PERIOD AND IMPOSE CONVEYANCE TAX ON CERTAIN FARMLAND SALES

• **BACKGROUND:**

Under Article VIII, Section I, paragraph 1 of the Constitution, as well as the “Farmland Assessment Act of 1964” (P.L.1964, c.48), land that is used as farmland and woodland actively devoted to an agricultural or horticultural use qualifies for a reduced property tax assessment. The farmland assessment program does not apply to buildings of any kind, nor to the land associated with the farmhouse. Buildings and home sites on farms are assessed like all other non-farm property. The basic requirements to qualify for a farmland assessment are as follows:

- 1) Applicant must own the land.
- 2) Land must be devoted to agricultural or horticultural uses for at least two years prior to the tax year.
- 3) Land must consist of at least five contiguous acres being farmed and/or under a woodlot management plan. Land under and adjoining the farmhouse is not counted in the five acre minimum area needed to qualify.
- 4) Gross sales of products from the land must average at least \$500 per year for the first five acres, plus an average of \$5 per acre for each acre over five, except in the case of woodland or wetland where the income requirement is \$0.50 per acre for any acreage over five.
- 5) Owners must represent that the land will continue in agricultural or horticultural use to the end of the tax year.

If qualified land ceases to be used as farmland and instead is used for another purpose such as development, the Constitution, as implemented by statutory law, requires that the property taxes that were saved in the current year and for the two years before the land ceased to be used as farmland be paid. This is commonly referred to as the farmland assessment roll-back tax.

- **DISCUSSION:**

It has been over 40 years since the creation of the farmland assessment program. Given the many changes in land use that have occurred in the State over that period, as well as the dramatic pace at which the State is losing farmland to development, the members of the Joint Committee thought it was necessary to explore the overall effect this program has had on property taxes and examine various proposals that have been made to revise and update the program.

INCREASE GROSS RECEIPTS THRESHOLD: The current gross receipts threshold of \$500, which has remained at the same level since the program's inception, is often cited as an example of a provision that should be modified. The argument that is generally put forth is that this amount is too low, and should be modified to keep up with other economic indicators and to ensure that homeowners who are not truly engaged in agricultural activities are not unduly taking advantage of the program.

However, it is important to note that, although this threshold has not changed in over 40 years, farm income is earned through the sale of commodities at wholesale prices, not retail prices, and wholesale commodity prices have not increased significantly since 1964. Data presented to the Joint Committee, from the National Agricultural Statistics Service, demonstrates that agricultural commodity prices have increased only 18% over the last 25 years, but that farm input costs have increased 150%. As a result, there is a significant and valid concern that even slight changes in this provision would lead to tens of thousands of acres being declared ineligible for farmland assessment taxation, and therefore more likely to be sold for development purposes.

EXTEND ROLL-BACK PERIOD: A common concern raised before the Joint Committee was that the State's relatively weak roll-back provisions have the effect of subsidizing speculator and developer "land banking," which is the acquisition and holding of parcels of land for eventual development. It has been widely suggested that increasing the

current roll-back would help discourage this process, while also allowing municipalities to capture more revenue and slow the State's loss of farmland. Examples of other states' roll-back provisions include:

- **Massachusetts:** 5-year roll-back
- **New York:** 5-year roll-back if the property is located in an agricultural district, and an 8-year roll-back if it is located in a non-agricultural district
- **Pennsylvania:** 7-year roll-back

IMPOSE ADDITIONAL FINANCIAL PENALTIES WHEN LAND IS CONVERTED TO A NON-FARM USE: Although a roll-back tax is assessed on land that is converted from farmland to a non-farm use, no other financial penalties are currently assessed on the seller of the property. Examples of other states having such penalties in effect include:

- **Massachusetts:** assesses a conveyance tax on sale of land that has been in the farmland assessment program for less than ten years.
- **New York:** assesses an additional conversion payment equal to five times the taxes saved in the most recent year that the land received an agricultural assessment, as well as an interest charge of six percent per year compounded annually for each year that the land received an agricultural assessment, not exceeding five years.
- **Pennsylvania:** charges six percent interest on the roll-back taxes due for each year of the roll-back period.

• **RECOMMENDED ACTION:**

The Joint Committee proposes a Constitutional amendment to direct the Legislature to increase the farmland assessment roll-back tax period and to require the payment of a conveyance tax on certain land which is sold out of the farmland assessment program. This mirrors provisions that are already in place in farmland assessment programs in Massachusetts and Pennsylvania.

Specifically, the proposed amendment would increase the roll-back tax period for farmland assessment to a maximum of six years, plus the current year. This new roll-back period, however, would apply only to properties that are held by an owner for seven years or less. Property owned for more than seven years would qualify for the current roll-back of two years plus the current year.

The amendment also would require the payment of a conveyance tax, applicable to the total sale price, on land that has been owned for seven years or less. The tax rate would be tied to the length of time that the land has been owned: seven percent if sold within the first year of ownership, six percent if sold within the second year of ownership, and so on. Land that has been owned for more than seven years will not pay the conveyance tax.

The purpose of this proposed Constitutional amendment is to help ensure that farmland assessment is utilized properly for its intended purpose: facilitating the retention of as much farmland as possible in agricultural production, so that agriculture, as practiced by true farmers, may continue to exist and thrive as an industry in a rapidly developing state such as New Jersey.

The farmland assessment program was never intended to serve as a property tax break for land speculators to the financial detriment of other property taxpayers in a community, as is often the case now. The Joint Committee concluded that this proposed Constitutional amendment will correct that divergence from the original intent by significantly increasing the roll-back tax due when farmland is developed or otherwise used for other than agricultural (or horticultural) purposes, while still preserving the current gross receipts threshold and acreage requirements to minimize the future loss of active farms in the State.

RECOMMENDATION 6: MAKE NO CONSTITUTIONAL AMENDMENTS TO THE EXEMPTIONS FOR REAL PROPERTY, AND REFER EXEMPTION STATUTES TO TAX POLICY STUDY COMMISSION FOR FUTURE CLARIFICATION

- **BACKGROUND:**

While the “Uniformity Clause” of Article VIII, Section I, paragraph 1, subsection (a) of the New Jersey Constitution requires that property be assessed for taxation under general laws and uniform rules, and that all real property be assessed according to the same standard of value, the “Exemption Clause” of Article VIII, Section I, paragraph 2 confers on the Legislature the power to enact exemptions to uniform real property taxation, within certain limits:

Exemption from taxation may be granted only by general laws. Until otherwise provided by law all exemptions from taxation validly granted and now in existence shall be continued. Exemptions from taxation may be altered or repealed, except those exempting real and personal property used exclusively for religious, educational, charitable or cemetery purposes, as defined by law, and owned by any corporation or association organized and conducted exclusively for one or more of such purposes and not operating for profit.

THE CONSTITUTIONALLY REQUIRED EXEMPTIONS: The Exemption Clause forbids the alteration or repeal of the exemptions for property used exclusively for religious, educational, charitable or cemetery purposes, as defined by law, and owned by a nonprofit entity organized and conducted exclusively for one or more such purposes. Thus, in order to repeal these exemptions a Constitutional amendment would be required. There was no support in the Joint Committee for such a Constitutional amendment.

THE STATUTES IMPLEMENTING THE CONSTITUTIONALLY REQUIRED EXEMPTIONS, AND OTHER EXEMPTION STATUTES: The religious, educational, and charitable exemptions are, for the most part, codified in N.J.S.A. 54:4-3.6 and the cemetery exemption is codified in N.J.S.A. 54:4-3.9. The types of property owners that are exempted from property taxes under these Constitutional exemptions and by general law has grown over time. The

Office of Legislative Services prepared a comprehensive list for the Joint Committee which is included as Appendix 2. The categories of exempted properties include:

- 1) State, County, and Municipal owned property unless leased to a private entity for nonpublic use;
- 2) State, County and Municipal Authority owned property if used for the organization's stated purpose;
- 3) Commission owned property if used for the organization's stated purpose;
- 4) Municipal Utility owned property;
- 5) School District owned property;
- 6) Watershed land;
- 7) Federal government owned property;
- 8) Veteran's organization owned property;
- 9) College and other educational institution owned property;
- 10) Historical society owned property;
- 11) Public library owned property;
- 12) Asylums and other such institutions owned property;
- 13) Charities of varying nature owned property ;
- 14) Hospital owned property if used for hospital purposes;
- 15) Fire Safety and First Aid groups owned property; and
- 16) Youth group owned property (e.g. YMCA, Boy Scouts).

The Joint Committee heard testimony noting that although the Constitution exempts from taxation property used for "religious, educational, charitable or cemetery purposes," these terms are not defined in the Constitution and are not defined in the exemption statutes. The lack of clarity in this regard has made tax assessment more difficult for local assessors and has led to much litigation over the years. In addition, further testimony, focusing in particular on N.J.S.A. 54:4-3.6 as an example, noted that the Constitutional exemptions have been extended beyond "exclusive use" and provide for exemptions of those parts of land or structures that are used for the exempt purpose and the taxation of those parts that are used for other purposes. The lack of definitions and multiple statutory

extensions of tax exemptions have led to confusion and difficulty in property tax assessment.

In addition, the Joint Committee heard testimony arguing that the expansion of both the Constitutionally mandated exemptions and the continuing addition of other entities seen to provide public benefit has increased the burden on the remaining property owners in the municipalities that are not exempt from taxes. One suggestion was to allow municipalities to charge a fee on those tax exempt entities for the actual fire, police or school services that they receive from the municipality and school district. Another suggestion was to allow regional tax-sharing that would allocate the costs of providing those services among all of the communities served by the entities, rather than just the municipality in which the exempt public service entity is physically located.

ADMINISTRATION OF EXEMPTION STATUTES: The Joint Committee heard testimony from the New Jersey State League of Municipalities and the Association of Municipal Assessors of New Jersey which focused on the statutory language that implements the Constitutional exemptions from property taxation. These groups asserted that the current statutory language needs to be revised to better define the exemptions and tighten up the standards under which exemptions are granted. N.J.S.A. 54:4-3.6 is an example of a problem with the exemption statutes. That section is a single sentence, with a complex history of amendment and revision, that provides real property exemptions for at least 10 different types of exempt nonprofit organizations. Testimony noted that the statutes provide little in the way of definition, are confusing and convoluted, do not codify the varied court responses to and interpretations of the Constitutional and statutory issues resolved, and as such, are not useful to the tax assessors who must apply them to decisions about the exemption of real property. Testimony noted that the confused state of the statutes may make it difficult to determine if application of the statutes to decisions about real property exemption are effective in realizing the policy goals of their enactment.

- **RECOMMENDED ACTION:**

The Joint Committee recognizes the valuable contributions that non-profit entities such as religious, educational, and charitable institutions and cemeteries make to the State. Individual communities also benefit from having such entities within their city limits. Therefore, the Joint Committee does not recommend any Constitutional amendments to the exemption clause. Nonetheless, the Joint Committee was presented with evidence showing that in some municipalities over 60% of the land was tax exempt. These tax exemptions place a higher tax burden on the owners of the remaining 40% of the property. In such instances, regionalized tax base sharing may be a solution. Also, consideration should be given to authorize municipalities to charge these institutions for actual police, fire and school services that they utilize. These issues could be considered by the proposed Tax Policy Study Commission.

In addition, the Joint Committee recognizes that as the number of tax exemptions has grown and as the role of some educational and charitable institutions has changed, the statutes have not been modified to reflect those changes. Thus, the Joint Committee recommends that the statutes in regard to determining which properties qualify for tax exempt status based on “exclusive use” be revised to assure that the municipalities can assess taxes in a fair and efficient manner. This issue may be ripe for referral to a Tax Policy Study Commission.

The Joint Committee’s recommendation is to retain the current Constitutional exemptions to property taxation. In addition, the Joint Committee recommends that the statute governing the municipalities’ determination of what properties are used exclusively for an exempted purpose be reviewed by a Tax Study Policy Commission.

RECOMMENDATION 7: THE LEGISLATURE SHOULD CONSIDER THE ESTABLISHMENT OF THE OFFICE OF STATE COMPTROLLER SUBJECT TO A FINDING THAT THE CREATION OF THE OFFICE WOULD NOT DUPLICATE OR UNDERMINE EXISTING OVERSIGHT AGENCIES AND FUNCTIONS

- **BACKGROUND:**

In his July 28, 2006, address to the Joint Special Legislative Session, Governor Corzine recommended the establishment of the Office of State Comptroller to systematically and regularly review the financial activities of all governmental units and authorities. The Governor recommended an appointed Comptroller with a term of six years (overlapping changes in administration) to ensure the Office's independence. In addition, the Comptroller would be prohibited from seeking elective office for two years following the termination of service as Comptroller in order to ensure that the Office would not be used for political purposes.

It is the understanding of the Joint Committee that the State Comptroller would be a Cabinet-level officer, appointed by the Governor with the advice and consent of the Senate, in but not of the Department of the Treasury, with financial management qualifications who would be subject to restrictions on personal political activity.

The proposed State Comptroller would scrutinize all expenditures and programs of the State and its authorities, and all local government entities and their authorities, all school districts, and any other public entities that receive State funds.

The proposed Office of the State Comptroller would subsume current audit and investigative staff of the Department of the Treasury, and would conduct periodic financial audits; would subsume and continue the current office of the State Inspector General, which would conduct more intensive investigations, including investigations of complaints; and would include a Division of Performance Review, which would assess program performance and management.

It is the understanding of the Joint Committee that the proposed Office of the State Comptroller would have jurisdiction to review all public contracts under its jurisdiction in excess of some threshold amount.

- **RECOMMENDED ACTION:**

The Joint Committee shares the view of the Governor that the cost of State and local government operations can be reduced if the financial activities of government units are subjected to meaningful systematic scrutiny. Recent revelations about waste, fraud and abuse at the Schools Construction Corporation and the University of Medicine and Dentistry of New Jersey provide painful evidence of the problem. The State Auditor has testified before Legislative committees that the financial control infrastructure of State government has been eroded over time and the Executive branch lacks the institutional capacity to manage its financial affairs.

Although the Joint Committee supports the Governor's efforts to bring about greater fiscal responsibility and transparency at all levels of government, further consultation with the Governor is necessary to make certain that a new office of State Comptroller does not add an unnecessary layer to the State's bureaucracy. In particular, it is important to ensure that the new department complements the work of the State Auditor, State Commission of Investigation, and the Office of the Inspector General.

RECOMMENDATION 8: THE LEGISLATURE SHOULD ESTABLISH A TAX POLICY STUDY COMMISSION TO ENGAGE IN ONGOING STUDY OF THE TAX STRUCTURE AND FISCAL POLICIES OF THE STATE

- **BACKGROUND:**

The “Final Report” of the Governor’s Budget and Reengineering Government Transition Policy Group (January 10, 2006) recommended establishment of a bipartisan commission to examine the tax structure of the State. In particular, the report recommended that such a commission should review “tax expenditures,” the exemptions, deductions, and credits that are the deviations from the normal imposition of a tax.

There have been several major state-sponsored study commissions in New Jersey over the last few decades. The mission and scope of work for these deliberative bodies ranged from very narrow to very broad, but each of these study groups was established as a temporary body, designed to complete its deliberations within a relatively short time frame. See Henry A. Coleman, “Tax Reform in New Jersey: The Commission Approach,” New Jersey Municipalities, April 2003.

Another approach was taken in the establishment of the Commission on State Tax Policy by P.L.1945, c.157. The commission was charged to “engage in continuous study of the State and local tax structure and related fiscal problems.” The commission received regular requests from Governors and continuing memorializing resolutions from the Legislature asking the commission to study specific areas of interest. The commission issued 12 reports on varied subjects (some on multiple topics) from 1946 to 1968, and in addition to tax studies, it issued reports on financing capital projects, financing State aid, and the distribution of the costs of services (also known as “incidence” study).

Of the 33 states that currently produce tax expenditure budgets, 32 rely on the executive branch to produce the data and collate the study. This is not an unexpected result, as the executive branch generally collects the data, much of which is confidential, and has the officers who can turn that data into a usable form. See, e.g., N.J.S.A. 54:50-8 (protecting the confidentiality of tax information in the hands of the Director of the Division of

Taxation, and providing penalties for its disclosure), and N.J.S.A. 54:50-9b (authorizing the publication of statistics “so classified as to prevent the identification of a particular report and the items thereof”).

A non-partisan tax study commission would be an appropriate entity for evaluating those data. A commission would be capable of objectively establishing the “norms” and “deviations” of taxes, and of constructing, analyzing and evaluating a tax expenditure budget.

- **RECOMMENDED ACTION:**

The Joint Committee recommends the formation of a Tax Policy Study Commission to engage in ongoing study of the tax structure and fiscal policies of the State. Over the years, the State has scaled back its ability to collect and analyze tax data to facilitate the promotion of sound tax and fiscal policy. A permanent nonpartisan commission will ensure that policymakers, academics, and the public are provided with information and analyses of the State’s policies and their implications. Thus, the work of the Commission will ultimately improve the decision-making capabilities of both State and local government officials.

RECOMMENDATION 9: THE LEGISLATURE SHOULD NOT AUTHORIZE ADDITIONAL GENERAL LOCAL OPTION TAXES AT THIS TIME

- **BACKGROUND:**

Local option taxes are taxes that are levied at the discretion of local governing bodies including municipalities, counties and special taxing districts under State authorizing legislation. New Jersey law authorizes a number of local option sales, transaction and payroll taxes.

The Luxury Tax

The oldest continuing local tax is the current Retail Sales Tax in Cities of the Fourth Class (also known as the Atlantic City Luxury Tax, because Atlantic City is the only city in which the tax has been imposed). Due to severe hurricane destruction in September of 1944, the Legislature authorized a local retail sales tax first implemented in 1945. This tax has been subject to substantial revision since that time, first to integrate it with the State sales and use tax, then to direct some of the tax to the redevelopment of the Atlantic City Convention Center with the coming of casino gambling.

The Atlantic City Luxury Tax is targeted at discretionary spending: the tax is imposed on sales of alcoholic beverages by the drink, entertainment charges, room rentals, rolling chair hires (the rolling chair is a unique Atlantic City institution), beach chair and cabana rentals, and admissions. The tax is clearly aimed at tourist and conventioneer spending.

The Atlantic City Luxury Tax has been more recently supplemented by the Tourism Promotion Fee, which allows the convention center operating authority in any city in which the Luxury Tax is imposed (currently, only Atlantic City) to adopt a room occupancy fee of \$2 per day for a casino hotel room and \$1 per day for other hotel rooms (this applies to casino and complimentary rooms as well as rentals). The funds are directed to the convention center operating authority.

The Local Tax Authorization Act

The Local Tax Authorization Act was enacted in 1970 to allow cities with populations of more than 200,000 people to impose a tax on liquor sales, a tax on parking services, and an employer payroll tax. Only Newark and Jersey City met the population criterion. The revenues from the Local Tax Authorization Act are directed to the general operations of the municipalities in which the taxes are imposed.

Authorization of the tax on alcoholic beverages was eliminated in 1995. The payroll tax was not imposed outside of Newark, and the authority for other municipalities to impose the tax has been terminated. The parking tax authorization has been expanded to the City of Elizabeth (which includes within its boundaries some of the parking lots of Newark Airport) and to all municipalities in Hudson County.

The Tourism Improvement and Development District Act Taxes (Wildwoods Taxes)

The taxes authorized in Cape May County were proposed by a working group of local development interests, municipal officials, and the business people on whom the taxes are imposed. The law allows two or more towns in a county of the sixth class (currently, there are no counties of the sixth class, but prior to 2000, Cape May County qualified; Wildwood, Wildwood Crest and North Wildwood joined) to create a development district and a district authority.

These municipalities may concur to impose by ordinance up to 2% tax on “predominantly tourism related activities”: hotel rents, restaurant food and drink sales, and admissions charges. This State-collected tax is used to fund a development project (the convention center) and then to promote it. By subsequent enactment the towns can impose a tax of up to another 1.85% on hotel rooms. This State-collected tax goes back to the municipalities for beach operations, but cannot be sent to a municipality that charges beach fees.

The district municipalities are also authorized to assess a “tourism development fee” from each business in the district (this is a flat annual fee pursuant to local ordinance). This

municipal-collected fee goes to the promotion and development of the district. The fee is also imposed on each “tourism lodging” property: seasonal rentals other than hotels and motels subject to sales tax.

Local Hotel-Motel Occupancy Tax

Municipalities (other than ones that already have a hotel tax, such as Newark, Jersey City, Atlantic City, and the Wildwoods noted above) can impose up to a 3% tax on hotel occupancies on the same tax base as the State hotel occupancy fee. See N.J.S.A. 54:32D-1 et seq. This municipal tax is State co-administered and co-collected with the State tax.

A NATIONAL OVERVIEW OF LOCAL OPTION TAXES: According to the National Conference of State Legislatures 38 states permit local sales taxes and 18 states permit local income and payroll taxes, with a total of 43 states permitting the use of one or both local taxes.

Local option taxes can provide additional funding that remains in the local district, diversification of the local revenue base, and an opportunity to expand the tax base to nonresidents. However, the NCSL has noted that there are also problems with local options taxes, including: an overall increase in the tax burden upon the residents; competition among local governments from the constant pursuit of revenue; increased administrative and compliance cost incurred by districts or local governments; and interference with State revenue policies and uniformity.

- **DISCUSSION:**

In his July 28, 2006 address to the Special Joint Session of the Legislature, Governor Corzine expressed his support for exploring options to provide local communities further revenue options, citing the potential of revenue diversification.

However, a review of current New Jersey local taxes shows that the State has historically used local option taxes for two well-defined purposes: first, to meet the fiscal needs of

specific and well-defined emergent problems; and second to meet the fiscal needs of specific development projects, typically tourism projects funded with tax impositions targeted to nonresidents. One apparent exception to this rule is the tourism promotion fee imposed on businesses in the Wildwoods development district, but that fee only has the appearance of an exception: the fee is imposed on businesses at the request of the businesses themselves, and should be understood not as a tax but as market promotion fee imposed by law to prevent benefits to free-riders.

- **RECOMMENDED ACTION:**

The Joint Committee received no proposals from the public or local governments for local option taxes. This lack of enthusiasm for local taxes is shared by the Joint Committee which believes that property tax relief and reform can be achieved without resorting to further increases in other taxes. New Jersey's State sales tax rate was increased this year, with half of the increased proceeds to be used for property tax relief, and there is little support for an additional imposition at the local level. A local income tax that would increase rates for high income earners, who pay most of the State income tax, might run the risk of discouraging the continued residency in the State of such individuals. In addition, a local income tax that targets low and middle income wage earners would have the effect of increasing the tax burden of the same people to whom the Joint Committee wishes to provide property tax relief.

Accordingly, the Joint Committee does not recommend the adoption of local option taxes.

RECOMMENDATION 10: THE DEBT LIMITATION CLAUSE SHOULD NOT BE AMENDED AT THIS TIME

- **BACKGROUND:**

The Debt Limitation Clause, Article VIII, Section II, paragraph 3 of the New Jersey Constitution, places restrictions on the State's ability to incur debt:

The Legislature shall not, in any manner, create in any fiscal year a debt or debts, liability or liabilities of the State, which together with any previous debts or liabilities shall exceed at any time one per centum of the total amount appropriated by the general appropriation law for that fiscal year, unless the same shall be authorized by a law for some single object or work distinctly specified therein. Regardless of any limitation relating to taxation in this Constitution, such law shall provide the ways and means, exclusive of loans, to pay the interest of such debt or liability as it falls due, and also to pay and discharge the principal thereof within thirty-five years from the time it is contracted; and the law shall not be repealed until such debt or liability and the interest thereon are fully paid and discharged.

Except as hereinafter provided, no such law shall take effect until it shall have been submitted to the people at a general election and approved by a majority of the legally qualified voters of the State voting thereon. No voter approval shall be required for any such law authorizing the creation of a debt or debts in a specified amount or an amount to be determined in accordance with such law for the refinancing of all or a portion of any outstanding debts or liabilities of the State heretofore or hereafter created, so long as such law shall require that the refinancing provide a debt service savings determined in a manner to be provided in such law and that the proceeds of such debt or debts and any investment income therefrom shall be applied to the payment of the principal of, any redemption premium on, and interest due and to become due on such debts or liabilities being refinanced on or prior to the redemption date or maturity date thereof, together with the costs associated with such refinancing. All money to be raised by the authority of such law shall be applied only to the specific object stated therein, and to the payment of the debt thereby created. This paragraph shall not be construed to refer to any money that has been or may be deposited with this State by the government of the United States. Nor shall anything in this paragraph contained apply to the creation of any debts or liabilities for purposes of war, or to repel invasion, or to suppress insurrection or to meet an emergency caused by disaster or act of God.

The Joint Committee's inquiry into the Debt Limitation Clause centered on whether certain types of bonds fell under the purview of the Clause and whether certain forms of debt should be submitted to the voters for approval.

Under current law, a referendum is required only for bonds that are backed by the full faith and credit of the State. These "general obligation" bonds carry an explicit pledge that the State will repay the debt and will use its taxing power to avoid default. The State, however, only has one opportunity per year to seek public approval for general obligation bonds; the Debt Limitation Clause requires such bonds to be submitted to the public at the annual general election.

Other forms of debt are not subject to the Clause. Courts have consistently held that "contract" or "appropriations" bonds do not constitute a legally enforceable "debt ... or liability ... of the State" under the Debt Limitations Clause. Debt service payments on appropriations bonds are subject to annual appropriations of the Legislature and are not backed by the full faith and credit of the State. Because payment of the debt service is conditioned on annual appropriations and the Legislature in its discretion may refuse to make such payments, courts have concluded that appropriation bonds fall outside of the strictures of the Clause and do not require a referendum. *See, e.g., City of Passaic v. Consolidated Police and Firemen's Pension Fund Commission*, 18 N.J. 137 (1955) (no debt was created by legislation providing that the State annually contribute for 30 years to resolve the insolvency of a pension fund); *State v. Lanza*, 27 N.J. 516 (1958) (legislation that the State will replace local government tax losses, and the payment of the cost of relocating municipal or county roads, is not a contractual, conventional or legal undertaking, but rather a truly voluntary appropriation); *Matter of Loans of N. J. Property Liability Ins. Guar. Ass'n*, 124 N.J. 69 (1991) (State repayment of mandated annual loans required to be made by property-casualty insurers to pay the debt of the New Jersey Full Insurance Underwriting Association is of a type of State assurance of future payments that is not a debt); *Lonegan v. State*, 176 N.J. 2 (2003) (fourteen challenged statutes authorizing contract-backed or appropriations-backed debt were not subject to voter

approval requirement of the debt limitation clause because the State is not legally obligated to make payments on the debt incurred).

In the most recent court decision holding that contract-backed or appropriations-backed bonds are not subject to the Debt Limitation Clause, the New Jersey Supreme Court noted that it was reaffirming over 50 years of well-established precedent and was aligning its decision with the court decisions from a majority of the other states. See Lonegan v. State, 176 N.J. 2 (2003). The decision further noted that the Court was basing its decision on the "unambiguous and clear language" of the Clause and the importance of allowing the State to adopt "complex financing mechanisms responsive to changing market conditions."

The Joint Committee has reviewed several proposals that are currently before the Legislature, including Senate Concurrent Resolution No. 31 (Lance/Connors) and Assembly Concurrent Resolution No. 14 (Dancer), which would overturn the Lonegan decision and require referenda for certain appropriations bonds. As noted previously in this report, Assemblyman Merkt testified before the Joint Committee on October 12, 2006 in favor of such proposals and Senator Lance concurred with much of his testimony. They argued that the use of appropriations bonds has risen over the past 15 years and that the debt service on the bonds compromises the State's ability to fund other programs or provide property tax relief. Although the State is not legally obligated to repay appropriations bonds, they asserted that as a practical matter the State could not afford to default on the bonds without impairing its standing in the financial markets. Thus, they contended that referenda are necessary to permit the public to "weigh in" on debt offerings that, as a practical manner, are full faith and credit bonds.

- **RECOMMENDED ACTION:**

The Joint Committee believes that no changes should be made to the Debt Limitation Clause. It is important to note that there is no evidence to suggest that referenda will have the effect of limiting the State's debt load. In fact, elections returns data from the

last several decades indicates that the public is likely to approve the overwhelming majority of bond referenda. Over the last 25 years, the public has rejected only two general obligation debt referenda.

A referendum requirement would simply delay the start of many worthwhile projects that garner broad support. The Legislature must approve the bonds 90 days before the annual general election. Depending on when the Legislature provides its approval, the State may have to wait one year or more to fund a vital capital improvement and could be constrained from taking advantage of favorable opportunities in the financial markets. During that lengthy period of delay, the State could miss out on its opportunity to secure funding and therefore forgo the chance to move forward on crucial projects.

Over the last decade, administrations led by both parties have relied on the fiscal flexibility of contract bonding as a legitimate and efficient mechanism to fund necessary public projects. Any change to the Debt Limitation Clause could jeopardize a host of noteworthy projects. Under the provisions of SCR 31 and ACR 114 of 2006, none of the following projects could have been approved without a referendum:

1997	County College Capital Projects	\$60 million
1997	Higher Ed/Library Tech Infrastructure Projects	\$55 million
1999	Public Library Construction Projects	\$45 million
1999	Higher Ed Facilities and Technology Projects	\$550 million
2000	Local School Facilities Construction Projects	\$8.60 billion
2000	Dormitory Safety Projects	\$90 million
2003	Motor Vehicle Commission Capital Projects	\$160 million
2005	Motor Vehicle Surcharges Securitization (Special Needs Housing)	\$200 million

The Joint Committee is concerned that the State's debt load has increased over the last decade, but recent court decisions are likely to moderate the growth of the State's future liabilities. The Joint Committee points out that the Supreme Court has imposed Constitutionally-based restrictions on the use of appropriations bond proceeds. In Lance

v. McGreevey, 180 N.J. 590 (2004), appropriations bond proceeds that were used to fund general expenses in the State budget were held not to constitute revenue under Article VIII, Section 2, paragraph 2 of the New Jersey Constitution (Appropriations Clause) and as such could not be used in future years to balance the annual State budget. In addition, a Superior Court judge recently extended the Lance decision to prevent the State from using the net proceeds of proposed bonds that were structured to refinance and pay off existing appropriations bonds. See Lance v. Codey, No. MER-L-2087-05, 2005 WL 1924191, (N.J. Super. Ct., Law Div., Aug. 11, 2005).

Lance and similar cases will impose a significant limitation on the issuance of appropriations bonds and prohibit questionable borrowing schemes. Although the State is still permitted after Lance to use appropriations bonds for capital needs, the decision will bar future Legislatures from enacting any proposals that are similar to the 1997 Pension Obligation Funding (\$2.75 billion) and the 2004 Cigarette Tax/Motor Vehicle Surcharge Securitization (\$2.27 billion), which relied on appropriations bonds to fund general operating expenses. These two bond offerings alone comprise roughly 20 percent of the State's outstanding appropriations bond indebtedness, which totals \$26 billion. Thus, the Lance decision will provide an important check on the Legislative prerogative to approve bonds without voter approval and will ensure that the State's borrowing plans focus exclusively on capital projects and improvements.

The Joint Committee recognizes that voter approval of long-term borrowing can provide direct public participation in issues of public concern that have long-term fiscal implications. Nevertheless, further study is necessary to craft a proposal that is responsive to changing market conditions and that does not compromise the efficient use of long-term public financing opportunities. Therefore, the Joint Committee recommends that the issue of voter approval of long-term borrowing should be referred to the Tax Policy Study Commission for a thorough study and analysis.

Based on the foregoing, the Joint Committee recommends no amendments to the Debt Limitation Clause at this time.

RECOMMENDATION 11: THE LEGISLATURE SHOULD REVIEW AND ADOPT THE RECOMMENDATIONS OF THE JOINT COMMITTEES TO AVOID THE NEED FOR A CITIZENS CONSTITUTIONAL CONVENTION

- **BACKGROUND:**

The Joint Committee's Mandate

The Joint Committee's jurisdiction concerning a Constitutional convention was limited. Its charge was "to determine whether amendments to the State Constitution should be recommended to the Legislature for submission directly to the voters or whether such amendments should be referred to a citizens property tax Constitutional convention to be convened for the purpose of reforming the system of property taxation." In other words, the Joint Committee was required to decide whether any of its proposals to amend the Constitution should be considered by the Legislature or a Constitutional convention. Thus, the Joint Committee analyzed both the process of amending the Constitution and convening a Constitutional convention.

The Process for Adopting a Constitutional Amendment

The New Jersey Constitution describes in detail the process by which amendments to the Constitution may be proposed by the Legislature and approved by the electorate. In summary, a concurrent resolution proposing a constitutional amendment must be introduced in either House of the Legislature; following a second reading, copies are placed on the desks of the members of each House in open meeting. No action may be taken for at least 20 days. After the second reading and placement on the desks, there must be a public hearing. In order to be placed on the ballot for voter approval, a constitutional amendment has to receive a three-fifths vote in each House of the Legislature, or a majority vote in each House in each of two successive legislative years. All of this must be completed at least three months prior to the general election.

If more than one amendment is to be submitted to the people at the same general election, they must be submitted so that the people can vote separately and distinctly on each one. If a proposed amendment is approved by a majority of the voters voting thereon, it becomes part of the Constitution 30 days thereafter or on a date expressed in the

amendment itself. If an amendment is rejected by the voters, neither it, nor another amendment that is the same or substantially similar can be submitted to the voters before the third general election thereafter. A notable feature of the usual method of adopting a constitutional amendment is that the Governor has no role. It is simply a process conducted by the Legislature and the electorate.

Convening a Constitutional Convention

The New Jersey Constitution, like the constitutions of eight other states, is notably silent on the subject of constitutional conventions. The authority for convening and conducting a constitutional convention in these states is therefore implied.

In general terms, the convening of a Constitutional convention in New Jersey is a four-step process. The Legislature must pass and the Governor must sign a law putting the question of whether a convention should be convened on the ballot for voter approval. The voters must be given the opportunity to elect delegates to the convention at either the same election or a subsequent special election. Delegates elected to the convention must convene and agree upon the proposed amendments to the Constitution or a proposed new Constitution, depending upon the terms of the enabling legislation. The proposed amendments must be placed on the ballot at a Statewide election for approval or disapproval by the voters. The process is set in motion by the people's elected representatives, but subject in the beginning and the end to the approval of the people.

With regard to statutory revisions, a convention has no authority to propose statutory changes unless the voters also approve, in addition to the convention legislation, a temporary constitutional amendment authorizing the convention to propose amendments to our State Constitution. This is because the New Jersey Constitution clearly confers lawmaking responsibility on the Legislature and the Governor. Consequently, if the Legislature determines that it wants a convention to have the ability to propose the amendment or repeal existing statutes or the enactment of new statutes, it must also place on the ballot for voter approval a temporary amendment to the State Constitution that confers this ability on the convention. The idea that a State Constitutional convention

should propose not only amendments to the Constitution but also changes to state statutes is unique. The only known example of this was found in Ohio in 1802 when as part of becoming a state, Ohio convened a convention that adopted both a state constitution and state statutes.

Limited Conventions

A perennial question which seems to arise in connection with constitutional conventions is whether a convention can exceed its mandate and propose amendments beyond the scope of the issues delegated to it.

New Jersey has already had two limited Constitutional conventions. The 1947 convention was, by its enabling legislation, prohibited from addressing legislative apportionment. The 1966 convention was limited to addressing only the issue of apportionment. And both conventions acted within their prescribed limits. Thus, precedent suggests that convention delegates will act within the scope of their authority. In addition, legislation proposing the calling of the convention can contain provisions to ensure that the convention will not exceed its mandate, such as requiring a panel of retired judges to review a convention's proposal prior to its placement on the ballot, and to certify that the convention does not exceed its mandate.

- **RECOMMENDED ACTION:**

The Joint Committee finds that, because of the wide-ranging and substantive recommended reforms to address property taxes put forth by the four Joint Committees, the Legislature is now ideally suited to bring about short term property tax relief and sustainable long term property tax reform. The Joint Committee therefore recommends that the Legislature review and act upon the proposals of the Joint Committees and believes that a citizens convention is not necessary at this time.

MINORITY STATEMENT

DISSENT FROM THE REPORT OF THE JOINT LEGISLATIVE COMMITTEE ON CONSTITUTIONAL REFORM AND CITIZENS PROPERTY TAX CONSTITUTIONAL CONVENTION

RESPECTFULLY SUBMITTED BY:

**SENATE REPUBLICAN LEADER LEONARD LANCE
AND
ASSEMBLYMAN RICHARD A. MERKT**

I. EXECUTIVE SUMMARY:

The Republican members of the Joint Legislative Committee on Constitutional Reform and Citizens Property Tax Constitutional Convention (hereafter “Joint Committee”) respectfully dissent in significant part from the Joint Committee Majority report. As will be discussed in the following paragraphs, we have the following concerns:

- The Majority report fails to include important recommendations that would provide substantive relief to the property taxpayers of New Jersey;
- Despite the Majority’s suggestion that the Joint Committee’s work would be bipartisan, the Joint Committee’s composition and the report were clearly controlled by the Majority;
- Several of the "recommendations" are not supported by the Joint Committee's work, testimony, or deliberations, calling into question the legitimacy of the process that led to the Majority report’s release;
- Disparate policy issues, unrelated to the Joint Committee’s charge, have been combined in various recommendations;
- The Majority report overwhelmingly recommends simply maintaining the "status quo," which is an unsatisfactory response to New Jersey’s property tax dilemma;

- Almost nothing the Joint Committee Majority report recommends is "Constitutional" in nature, which is in direct contravention of the Joint Committee's legislative charge;
- Critical Constitutional issues, such as which branch of government should control school funding, land use, State debt, and State spending caps, either were never discussed or are omitted from the Majority report, proving that the Joint Committee shunned addressing real issues that could have produced significant results in terms of reducing or controlling the property tax burden;
- Some members of the Joint Committee did not receive a copy of the Joint Committee Majority report *until the morning it was released to the press*, which is an egregious breach of protocol. Equally as discouraging, no formal vote on the Majority report was scheduled until after it had been released to the press and the Governor; and,
- Most disappointingly, the Joint Committee unfortunately squandered what may well be a once in a lifetime opportunity to advance significant Constitutional reforms required to lower property taxes for the people of New Jersey.

There can be no doubt that the Legislature must begin direct action as soon as possible to achieve true reform, but the recommendations listed in the Joint Committee Majority report fall woefully short of achieving that goal.

II. INTRODUCTION:

First and foremost, we must begin by recognizing the hard work of the legislative staff of the Joint Committee. Support provided to us by the four Senate and Assembly Republican staffers assigned to the Joint Committee, who worked in daily concert with the Senate and Assembly Democrat staffs and with Office of Legislative Services staff, was invaluable. We also thank Senators Bernard Kenny and Fred Madden and Assemblymen John Burzichelli and Louis Manzo for their efforts, participation, and consultation throughout the process.

The Joint Committee was established pursuant to the provisions of Assembly Concurrent Resolution No. 3 of 2006 (Roberts/DeCroce). Subsection (d) of section 3 of the concurrent resolution provides that:

“It shall be the duty of the committee to review and formulate proposals that address property tax reform through amendments to the Constitution of the State of New Jersey, as well as such other proposals as the committee deems appropriate. The committee shall also determine whether amendments to the State Constitution should be recommended to the Legislature for submission directly to the voters or whether such amendments should be referred to a citizens’ property tax constitutional convention to be convened for the purpose of reforming the system of property taxation.”

Despite the assertion by the Democrat majorities in the Legislature that the composition of this Joint Committee and the other Joint Committees of the Special Session on property tax relief/reform was “bipartisan,” the membership of the Joint Committee was established on an overtly partisan basis. We believed that for the Joint Committee to succeed, it had to be bipartisan, transparent, and able to withstand the judgment of posterity. Accordingly, Republicans in both Houses proposed that the Joint Committee should have had equal representation of Republicans and Democrats, as was the case in selecting delegates to the Constitutional conventions of 1844, 1947, and 1966. Furthermore, the 1873 commission that spearheaded the Constitutional reforms of 1875 was also equally bipartisan in its composition. Unfortunately, calls by Republican members for equal representation were ignored, with the Majority imposing a partisan two-to-one composition in the Joint Committee membership.

When the Legislature created a committee to draft the law establishing the 1966 Constitutional convention in the wake of the “one person, one vote” court decisions, an evenly divided bicameral committee of Republicans and Democrats crafted the legislation. The result was the creation of a Constitutional convention that proposed election reforms that have endured to this day and have been recognized as a success by

historians and political scientists. Sadly, the lessons of history went unheeded this year in what should have been an historic effort at reform.

Furthermore, Republican members of the Joint Committee were not able to read the Majority report, since it was not provided to us until the morning of November 15, 2006, the day the report was to be presented to the Governor. Members of the Joint Committee did not even have the opportunity to discuss or vote on the report until after the report had been announced to interest groups and the press -- via a PowerPoint presentation, as we understand -- and discussed publicly by the Governor.

The current crisis facing New Jersey taxpayers is clear, and the need to address the problem is pressing. During the past 12 years, each of the two major political parties has controlled both the Executive and Legislative branches of State government and therefore had the opportunity to enact significant property tax reform. Both parties have attempted to provide some form of relief in various ways, but unfortunately for New Jersey taxpayers, neither party has produced lasting reform. Hardworking families have been shocked and dismayed to see their property taxes skyrocket by more than 7% on average in recent years and approximately 35% in just the past five years. Those numbers far exceed the rate of inflation and the average household income increase for New Jersey's families.

Seeing the problem, Governor Corzine called the Legislature into Special Session to discuss true and lasting property tax reform. However, since that time, very little of substance has been achieved. The Special Session has been a disappointing failure, or worse. On November 16, 2006, the Governor stated that, although he was "encouraged" by the recommendations of the four Joint Committees, he felt that lawmakers should be "bolder" in pushing for long-term reforms. He hinted that he remains skeptical that the Legislature could responsibly pay for the 20% property tax credit recommended in the Joint Committee Majority report.

During meetings of the four Special Session Joint Committees, citizens from all over New Jersey, particularly senior residents, articulated how they are trying to cope with the unprecedented rise in property taxes, especially in recent years. Seniors on fixed incomes have cried out for help, as they struggle to pay ever increasing property taxes, many finding it difficult or impossible to stay in homes their families have owned for generations. Unfortunately, many seniors are being forced out of their homes because they cannot keep up with ever-rising property taxes. They report being faced with the grim choice of paying for higher priced government spending or putting food on their dinner tables, paying grossly high tax bills or buying prescription medications needed to keep them healthy, and paying for record bonding and indebtedness or paying to keep their homes warm in the winter. Many younger families are finding it impossible to achieve the American dream of owning a home, as property tax hikes price them out of the housing market. Many are simply abandoning New Jersey, because they no longer can afford to live here. The people of New Jersey need meaningful and lasting property tax *reform*, not just relief, and they need it now.

III. ANALYSIS:

Although we sympathize with the general intent of the Joint Committee Majority report, we must dissent in significant part from its specifics and respond to each “recommendation” as follows:

Recommendation 1: The current Homestead Rebate should be replaced by a system of credits, and the benefit should be increased to 20% for as many taxpayers as resources allow

The Republican members of the Joint Committee concur in part and dissent in part. The Joint Committee considered the first issue, which is administratively converting the existing rebate check program (Homestead Rebate/FAIR Program) into a credit program to make life easier for property taxpayers, cut out the pre-election political posturing associated with the timing of rebate checks, and hopefully save the State some

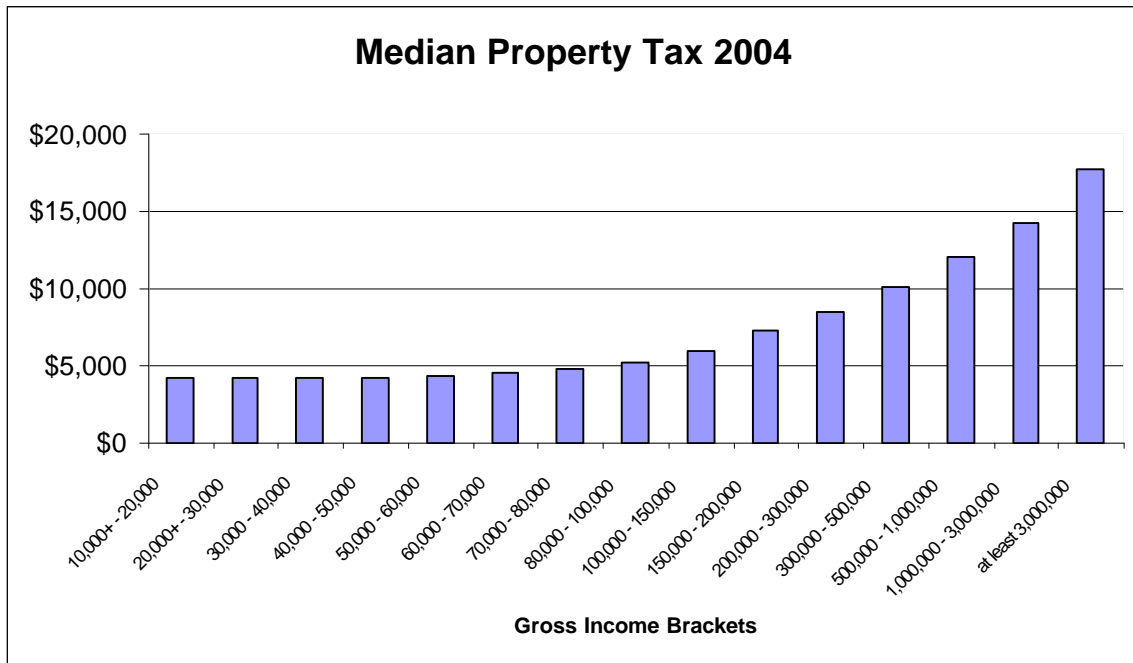
administrative dollars required to issue individual rebate checks. We concur that this administrative change should be implemented.

However, the second clause should be stricken in its entirety, because the Joint Committee neither discussed, nor approved, a 20% property tax relief "benefit," nor did it ever publicly discuss limiting the "benefit" to only some property taxpayers. We are curious to the origination, development, and arrival at this figure.¹ The 20% "benefit" was never discussed at any Joint Committee meeting, including the private session in which the Joint Committee members discussed elements to be incorporated in the Joint Committee Majority report.

In fact, we indicated early on that a lack of an agreed target or goal for property tax reform would be a major stumbling block for the Joint Committee. One might compare the situation to a ship's leaving port without the captain having a specific destination in mind. Then, out of the blue, a 20% figure materialized in the Majority report. While the Majority's lately-announced target may be deemed acceptable by some, it should be noted that the Joint Committee never discussed the issue, nor did the public have any opportunity to weigh in on the adequacy or inadequacy of a 20%, unequally distributed property tax "benefit." We object vigorously to any effort to misrepresent the 20% "benefit" proposal to some property taxpayers as constituting the committee's work, because to do so is grossly misleading to the public.

¹ The proposed 20% property tax relief "benefit" did not even make its first appearance in any Joint Committee -related testimony, document, or meeting until after the Senate President and the Assembly Speaker met privately and later announced publicly that the Legislature would enact the 20% property tax benefit for "most" of New Jersey families. Thereafter, the 20% miraculously appeared in the Joint Committee Majority's final report as part of its very first recommendation, even though this specific goal was never articulated or approved as part of the Joint Committee's three-plus months of work product.

Figure 1



We feel that all property taxpayers in New Jersey need and deserve relief. Clearly, low- and middle-income taxpayers face burdensome property tax rates. However, as noted in **Figure 1**, other taxpayers also face high property taxes in addition to a disproportionately high graduated gross income tax (see **Figure 2**). The cumulative tax burden imposed on higher income taxpayers equates to tens of thousands of dollars in total taxes (see **Figure 3**). We cannot endorse the Majority's recommendation, which arbitrarily excludes citizens who pay the overwhelming share of State tax revenues.

Figure 2

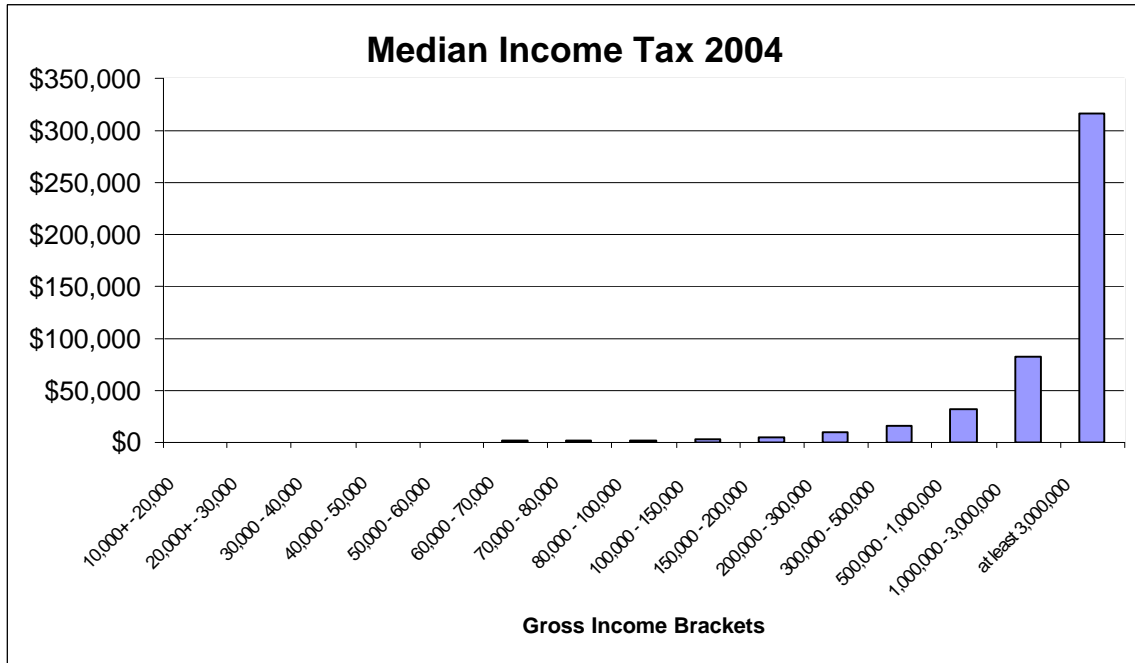
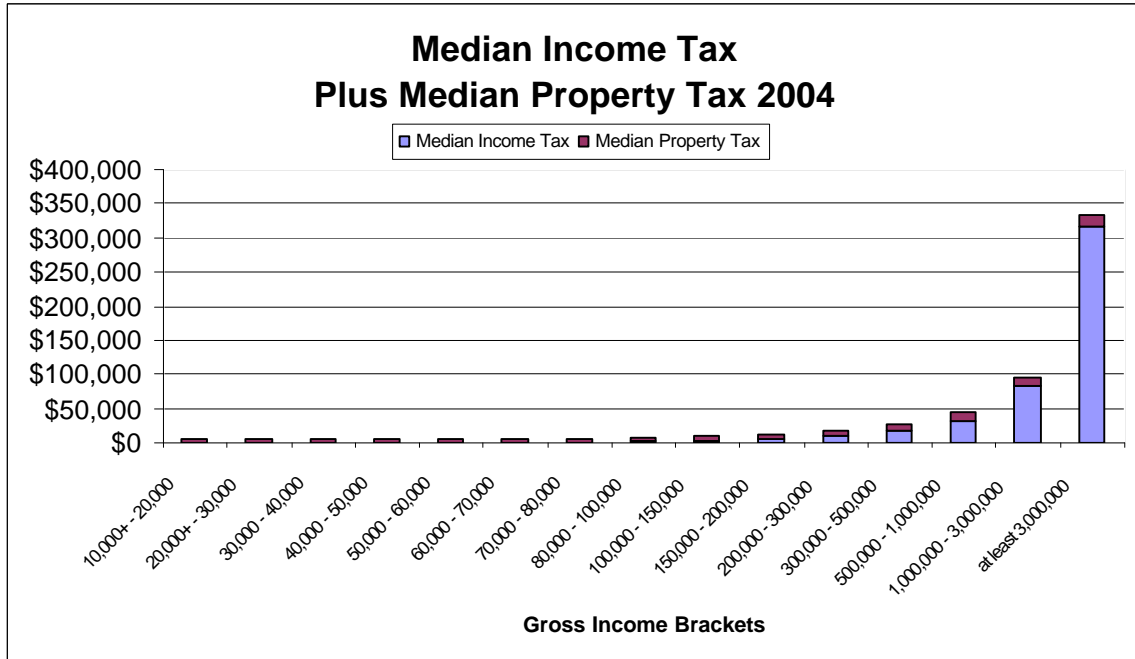


Figure 3



We must also question how the Majority's proposal would be funded, seeing that the report omits mention of a funding mechanism and noting that funding was not discussed in any open meeting. Approximately \$1.2 billion is merely recycling existing property tax relief, so roughly one-half of the "new" property tax relief program is not "new" at all. The other half consists of counting this year's sales tax hike increment (the \$600 million dedicated) plus next year's increment (another \$600 million) to *pay for a one-year program*. Obviously, this approach creates an additional \$600 million in structural budget deficit in the following and each succeeding year, so the Majority's proposed property tax relief program is, *prima facie*, not sustainable. Succinctly stated, the Majority's recommendation is nothing more than an inadequate property tax reduction program to benefit an inadequate number of New Jersey residents, funded from an inadequate revenue stream, all because the Majority will not agree to even modest cuts in State spending.

We cannot support the proposal if it means lowering a benefit to our senior or disabled residents, some of whom could conceivably be credited less than the current rebate they receive. Also, it must be noted that the Majority's proposal, at best, leaves senior residents in the exact same difficult situation they face today, with ever increasing property taxes and no additional State relief. If one of the Joint Committee's goals was to help make New Jersey more affordable for its senior residents, then this first recommendation will be a bitter disappointment to senior residents looking for more help to keep them in the homes they love. Although the Majority contends that senior residents will not see a reduction in property tax relief, Speaker Roberts has admitted to the media that some seniors would not benefit from the program and will see no additional relief (*New Jersey Herald News*, November 16, 2006).

Recommendation 2: Maintain the senior citizens' and disabled persons' property tax deduction, the veterans' property tax deduction, and the veteran's property tax exemption in their current form.

The Republican members of the Joint Committee concur. Never was there any serious question or debate that existing tax relief programs for seniors, the disabled, or veterans

would be continued. In fact, discontinuing these programs would clearly go against the entire premise of the four joint legislative committees, which was to see how the property tax burden for New Jersey residents could be reduced. We must express disappointment that, after months of testimony, hearings, and deliberations, neither the Joint Committee, nor any of its sister Joint Committees, is recommending any additional property tax relief for hard-pressed senior residents of New Jersey. For them, this entire exercise is merely reaffirming the *status quo* of property taxes that are unaffordable and State relief programs that are inadequate and uncertain from year to year.

Recommendation 3: The Legislature and Governor should cooperatively develop a property tax levy cap that does not lead to unintended, adverse consequences.

The Republican members of the Joint Committee dissent strongly from any suggestion that property tax caps are the best solution to our problem, unless they are examined concurrently with spending practices. The burgeoning property tax burden in New Jersey is not the product of higher property taxes themselves but rather unchecked spending, most often by the State of New Jersey itself (which recently increased its own budget by over 17% in just one year), chronically unequal and unfair distribution of State aid, ever-growing unfunded State mandates, and over-regulation by the State. The Majority's proposed property tax cap is similar to a wage and price control, in that it seeks to cure a symptom, rather than treat the underlying disease. Imposition of caps will inevitably lead to demands for waivers and exemptions. Worse yet, it fails (1) to face up to the irresponsible spending practices driving property taxes ever higher, and (2) to do anything to combat the real problem. A "recommendation" that misses the target, yet leads the public to believe that something effective has been done, does a serious disservice to the people of New Jersey.

Unless Trenton mends its ways, New Jersey will soon become a place where middle class families can no longer afford to live. Already, residents by the tens of thousands are fleeing New Jersey and its oppressive taxes: the United States Census Bureau reported that last year nearly 60,000 more people left New Jersey than moved here. It is not surprising that New Jersey residents are demanding property taxes be reduced.

We unsuccessfully petitioned the co-chairmen of the Joint Committee to include in the Majority report a true legislative remedy, such as Senate Concurrent Resolution No.15 of 2006 (Allen/Lance), which would restore badly needed fiscal discipline to Trenton. Every dollar that the Legislature can save in Trenton is a dollar that can provide aid for municipalities as well as hard-pressed school districts, many of which have seen no increase in State aid for five years. We can only achieve this by ensuring that every dollar not absolutely necessary to operate the government is returned to the taxpayers in the form of property tax relief.

Senate Concurrent Resolution No.15 of 2006 (“SCR 15”) would accomplish this goal by amending the State Constitution to establish an annual State appropriation limit and a State surplus revenue reserve fund. Specifically, the appropriations limit would allow annual State appropriations increases but only at a rate that equals the sum of the annual rate of increase, if any, in inflation and the annual rate of any increase in State population. The spending cap could only be exceeded by a two-thirds vote of both the General Assembly and the Senate, which would enable the State to respond in the event of a natural disaster, terrorist attack, or a similar catastrophe. This proposed amendment was crafted to contain exemptions for fundamental State responsibilities, such as aid to school districts, municipalities and counties; debt service on voter approved bonds; revenue Constitutionally dedicated for transportation; open space; and senior programs.²

Overall, SCR 15 would increase the amount of direct property tax relief, which translates to lower property taxes for homeowners. The Majority report asserts that its proposal of a property tax credit program will return more money to homeowners and do it in a more efficient and cost-effective manner. While the Majority can claim this, because providing credits is administratively less expensive than generating rebate checks every year, such a property tax credit program is not sustainable without material cuts in State spending.

² It should be noted that Assemblyman Richard Merkt has also proposed in the Assembly a similar constitutional cap, Assembly Concurrent Resolution No. 143 of 2006, on increases in State spending, also subject to super-majority Legislative override, but with stricter spending limits.

Under SCR 15, if revenues exceed budget expectations, 50% of the excess revenue would be placed in a “Real Property Taxpayers Surplus Dividend Fund” with the money distributed to property taxpayers. The other 50% would be set aside in a “rainy day” fund, to be used during times of slower economic growth to sustain reductions in property taxes.

SCR 15 would also bring “truth-in-budgeting” to Trenton, as all appropriations would be made as line-item in dollar amounts. It would require full disclosure of all “off-budget” expenditures currently buried in obscure budget language.

The Joint Committee Majority report also claims to have “performed a simulated analysis of its [SCR 15] impact on the fiscal year 2007 budget.” Perhaps the Majority failed to read SCR 15, did so in a quick and superficial manner, or simply did not fully comprehend the proposal. SCR 15 clearly states there would be exemptions to the cap.

SCR 15 represents a major change to Trenton’s budget process. It imposes fiscal discipline, responsibility, and predictability on the State budget-making process. It would lower property taxes every year until the State assumes a greater share of the cost of educating New Jersey’s school children.

Recommendation 4: Preserve the Uniformity Clause

The Republican members of the Joint Committee wholeheartedly concur with the Majority’s recommendation on this particular issue. The recommendation was based on the overwhelming weight of public testimony actually received by the Joint Committee, with which we agree entirely. On the positive side, the Joint Committee did no harm in making this recommendation to preserve a key feature of the State Constitution that protects against imposition of discriminatory property tax burdens. It is regrettable, however, that the Joint Committee consumed roughly six weeks of committee time and close to half of the Joint Committee Majority report simply to reach a common sense conclusion that the *status quo* should be maintained in this regard.

Recommendation 5: Extend the roll-back period and impose [a] conveyance tax on certain farmland sales.

The Republican members of the Joint Committee strongly dissent from Recommendation 5 and believe that, if implemented, it will have grave consequences for the future of agriculture in New Jersey. In addition, there was no meaningful public testimony relating to this issue received by the Joint Committee and no debate by the members prior to the committee's private meeting to discuss the draft report. Moreover, we are puzzled as to how this recommendation is capable of effecting meaningful property tax relief to New Jersey taxpayers.

- **BACKGROUND:**

Maintaining and promoting a vibrant agriculture industry has traditionally enjoyed strong bipartisan support in the Legislature and the public at-large. New Jersey's 9,600 farms comprise more than 800,000 undeveloped acres and directly or indirectly employ 30,000 workers. The farmers of this State contribute more than three-quarters of a billion dollars to New Jersey's economy and are a key component of an \$82 billion food and agribusiness complex that exports products to more than 100 countries around the world. Due to the success of State programs such as farmland assessment, more than 300 of New Jersey's 566 municipalities have farmland-assessed acreage located within their borders.

In the decades immediately following World War II, New Jersey experienced rapid growth in formerly rural counties as people migrated from urban areas to the new suburban communities. As the cost of providing municipal services rose rapidly to accommodate the demands of suburban development, property taxes in the expanding suburbs rose as well. These tax increases made it financially impossible for many farmers to survive. Farmland losses exceeded 50,000 acres annually during the 1950's and 1960's. The rate of farmland loss was so severe that George Luke, then agricultural economist at Rutgers University, quipped at the time that New Jersey could easily turn from the "Garden State" into the nation's first "Asphalt State."

To alleviate this trend and provide relief for farmers, the Legislature unanimously passed a Constitutional amendment in the form of Senate Concurrent Resolution No. 16 of 1963, which, in turn, was approved by 70% of the electorate at the next general election. Subsequently, the “Farmland Assessment Act of 1964,” N.J.S.A. 54:4-23.1 *et seq.*, was enacted, only the second such program in the United States. In the ensuing 42 years, the public benefits of the program have been -- until now -- beyond any serious dispute. Farmland assessment provides a source of taxpaying open space that benefits all New Jersey residents. The program provides State residents with a source for locally-grown foods. Farmland provides valuable aquifer recharge areas for groundwater resources, permitting the State to meet the growing demand for potable water. Also, from an environmental standpoint, cropland and forests provide clean air by taking in carbon dioxide and producing oxygen. Farmland confers aesthetic and intangible “quality of life” benefits on countless communities through the production of over 150 crops that alter the landscape through the change of seasons and provide respite from urban and suburban congestion.

Farmland preserved through farmland assessment is also a net positive ratable for municipal governments, since it generates more in tax revenues than it consumes in municipal services such as police, fire, sewer, and education. According to Cook College, Rutgers University, for every dollar paid in local property taxes, farmland demands only 55 cents worth of local services. In addition, it should be noted that, according to the 2006 State Agricultural Convention, even with farmland assessment, New Jersey farmers still pay the second-highest average property taxes per acre in the nation -- nearly eight times the national average.

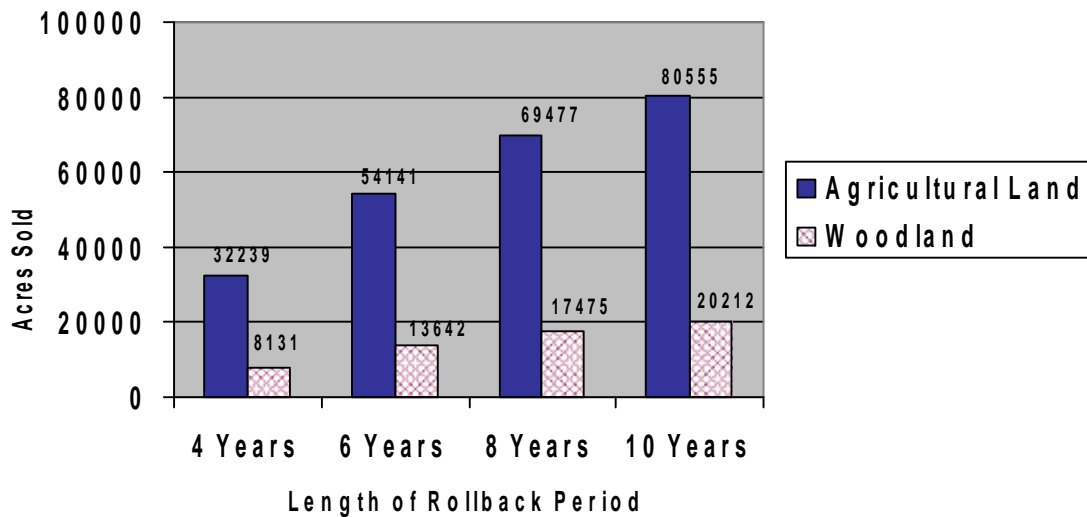
- **Recommendation to Extend Roll-back Taxes:**

Stated simply, the extension of roll-back taxes is not a new idea; it is just a bad one. Although hardly a “common concern,” an amendment to the State Constitution to extend roll-back taxes has been suggested by various urban legislators and certain members of

the environmental movement periodically over the past two decades. Despite the well-crafted provisions of the “Farmland Assessment Act of 1964” and the periodic reviews of the statute, efforts to alter the law to impose greater penalties on farmers persist. In 1999, the Department of Agriculture commissioned Cook College, Rutgers University, to assess the implications of changes to the qualification criteria of the “Farmland Assessment Act of 1964.” The study, entitled *Farmland Assessment in New Jersey: Effects of Revisions in Eligibility Requirements on Land Use, Open Space and Municipal Finance* (hereafter the “Cook Study”) has provided the Joint Committee with compelling information that disputes the purported wisdom of the Majority’s recommendation.³

With respect to the extension of roll-back taxes, the *Cook Study* assessed the impact of lengthening the roll-back period by simulating the effects of four scenarios: four-, six-, eight- and ten-year roll-back periods. The chart in **Figure 4**, taken from the *Cook Study*, sets forth the loss of farmland acreage under extended roll-back scenarios:

Figure 4



³ Dr. Adesoji O. Adelaja, *Farmland Assessment in New Jersey: Effects of Revision in Eligibility Requirements on Land Use, Open Space, and Municipal Finance*. Department of Agriculture, Food and Resource Economics and The Ecopolicy Center for Agriculture, Environmental Resource Issues, Cook College/NJAES, Rutgers.

As evidenced above, rather than discouraging the loss of active farmland as suggested by the Joint Committee Majority report, the extension of roll-back taxes would actually *accelerate* the loss of farmland in New Jersey. Specifically, the *Cook Study* noted that if the roll-back period were extended to six years as proposed by the report, New Jersey would lose an additional 67,780 acres of farmland, 80% of which would be agricultural land rather than woodland. We concede that the proposal would impose the extended roll-back taxes on property that has been owned for seven years or less, but the accelerated loss of farmland arising from their recommendation makes it an ill-conceived public policy nonetheless.

The *Cook Study* found that in addition to direct impacts on tax collections, lengthening the roll-back period would also spur the sale of farmland due to the reduced financial incentives associated with farmland ownership. This would occur as landowners holding land in agriculture would perceive a diminished return from such lands sales and seek alternative investments where returns are more consistent with their financial expectations.

The *Cook Study* classified the impacts of extending roll-back taxes into “direct” and “induced” effects. The *Cook Study* noted that the direct effect of lengthening the roll-back period would be an increase in the roll-back taxes due at the time at which the use of the farmland changes. Significantly, the *Cook Study* concluded that induced effects of revisions in the roll-back period included the reduction of land in agriculture prompted by the increased cost of converting farmland to non-agricultural uses and the roll-back taxes associated with such land. The *Cook Study* further noted that imposition of a longer roll-back period effectively increases the cost of converting farmland to other uses and reduces capital gains expectations. This, in turn, reduces the incentive for landowners to keep their land in agriculture and causes premature farmland disposition.

The *Cook Study* noted that in 1994, \$9.6 million was paid by landowners in roll-back taxes. The study used a six-year roll-back period simulation and noted that an additional

\$16.5 million in taxes would be paid at that time under the scenario envisioned in the Joint Committee Majority report. The study noted that this amount would be higher, given the induced disposal of farmland under lengthened roll-back proposals, with additional tax revenues being as high as \$60.8 million if roll-back taxes were extended to 6 years.

Given the information contained in the *Cook Study*, the potential loss of thousands of acres of farmland to residential and other land uses could effectively negate the potential property tax benefit that municipalities might collect from the extension of roll-back taxes. At a time when there is discussion of reducing monies for farmland preservation as part of a future re-authorization of the Garden State Preservation Trust to enhance urban park development, the Joint Committee Majority's recommendation with respect to extending roll-back taxes appears to be an unfortunate policy proposal.

Using the data contained in the *Cook Study*, a recommendation to extend roll-back taxes was also rejected in the March 2001 "Recommendations of the Farmland Assessment Review Committee," prepared for then-Secretary of Agriculture Arthur R. Brown, Jr. The Farmland Assessment Review Committee (hereafter the "Brown Committee") was established by the Secretary of Agriculture to review the *Cook Study* and to make recommendations based upon the information contain therein. The Brown Committee was composed of financial, academic, municipal, taxation, environmental, and agricultural representatives.

The Brown Committee noted that major changes to the "Farmland Assessment Act of 1964," such as those now contemplated by Recommendation 5, would make New Jersey agriculture no longer viable and inevitably result in the loss of valuable farmland. The Brown Committee strongly recommended that roll-back taxes not be extended and that any action to do so would "prematurely take land out of agriculture, thus hindering New Jersey's initiative to preserve farmland and open space." The committee "firmly" believed at that time that it was "in the best interest of New Jersey, on a Statewide basis, both urban and rural, to maintain the strong farmland assessment program we have

today.” We could not agree more with the Brown Committee and urge legislators to reject this recommendation should it ever take the form of a legislative bill.

- **Recommendation to Impose a Conveyance Tax:**

The Joint Committee Majority report further recommends a “conveyance tax” on land in the farmland assessment program which is sold for non-farm use. The report states that such a tax exists in farmland assessment programs in Massachusetts and Pennsylvania.

The proposal would impose the conveyance tax on the total sale price of land that has been owned for seven years or less. The tax rate would be tied to the length of time that the land has been owned. Farmland that has been owned for more than seven years would not be subject to the conveyance tax. We are surprised and dismayed to learn that the Majority has recommended imposing a conveyance tax, especially when this proposal at no time formed any part of the public or private deliberations of the Joint Committee, aside from a passing mention by the New Jersey Conservation Foundation. Unfortunately, significant policy questions are simply left unanswered by the Joint Committee Majority’s recommendation to impose a conveyance tax. These questions include:

- 1) Would the conveyance tax be imposed when farmland is sold for conservation or recreational use to the State or a local government unit?
- 2) Would the length of ownership provision apply to farmland that is inherited? Or, would the Majority impose the conveyance tax upon the widow or child of a decedent farmer whose family members continue farming operations for one to six years after his death?
- 3) Would the proceeds of a conveyance tax be used to enhance local farmland preservation programs? Or, would the monies be used for general budgetary purposes or be remitted to the State? When the imposition of a farmland

conversion tax was considered in 1992, it was contemplated that tax monies would be deposited in the Farmland Preservation Fund. The entire proceeds of the tax would be used for farmland preservation, either through easement or fee simple acquisitions, or for development potential acquisitions pursuant to a transfer of development rights (TDR) program. The recommendation in the Joint Committee Majority report contains no such safeguard for the future of New Jersey agriculture.

We also note that the Joint Committee's Majority report mischaracterizes the provisions of the Massachusetts conveyance tax in one significant respect. As noted by Alison Mitchell of the New Jersey Conservation Foundation in her September 7, 2006, written testimony to the Joint Committee, the Commonwealth of Massachusetts imposes *either* a roll-back *or* a conveyance tax, whichever is larger, *but not both* on the same farmland parcel, subject to conversion (See A.L.M. ch. 61-A, §§12 and 13). The Massachusetts law also exempts inheritances and a number of other types of transactions from the conveyance tax.

We would respectfully challenge any member of the Joint Committee to cite any time during open committee hearings or deliberations when a "conveyance tax" proposal was submitted to the Joint Committee for approval. We remain adamantly opposed to any new or increased tax being part of the recommendations of a committee charged with reducing the property tax burden and believe that simply hiking a tax to cut a tax is illogical nonsense. We unalterably oppose a hike in any tax or any shift in taxes that provides only the illusion of true property tax reform and will not endorse additional punitive taxation on New Jersey farmers.

Recommendation 6: Make no Constitutional amendments to the exemptions for real property, and refer exemption statutes to [a] Tax Policy Study Commission for future clarification

The Republican members of the Joint Committee concur in part and dissent in part. Once again, the Joint Committee Majority report inappropriately mixes issues and conclusions.

The Joint Committee unanimously agreed that the existing Constitutional property tax exemptions should be retained, a sound policy with which we agree. The Joint Committee also agreed that the existing statutory property tax exemption should be reviewed, and we equally concur. However, there was never an agreement that a new "Tax Policy Study Commission" should be created to perform this work. Instead, we suggested that this work should be performed by the Treasury Department within its existing resources with recommendations thereafter submitted to the Legislature. To propose expanding the size of State government is totally antithetical to the legislative charge to the special Joint Committees, which is to find ways to reduce the property tax burden on New Jersey residents. It does not take much to see that one does not effectively reduce the property tax burden by further expanding the size and scope – and consequently the total cost – of State government.

Recommendation 7: The Legislature should consider the establishment of the Office of State Comptroller subject to a finding that the creation of the office would not duplicate or undermine existing oversight agencies and functions

The Republican members of the Joint Committee adamantly oppose any "recommendation" by the Majority to establish an "Office of the State Comptroller," appointed by and answerable to the Governor. As proposed, the office would inevitably duplicate functions of the State Treasurer and, perhaps, the Inspector General; it will not be effective because it is not accountable to the people.

During the past several years, Democrats have made feeble efforts to root out waste, fraud, and abuse through the creation of administratively-appointed overseers such as the Inspector General, which officials are not independent and do not have prosecutorial or impoundment powers. The Joint Committee Majority's proposal does not go far enough. Instead, voters should be asked to ratify a Constitutional amendment creating an elected, independent State Comptroller, responsible for finding wasteful or inappropriate spending within State departments, agencies, and school districts that receive State funding. The State Comptroller, whose term should not be coterminous with the Governor, would be responsible for conducting reviews and examinations of the

programs, functions and activities of the above entities to ensure economy, efficiency, and accountability. Most important, the Comptroller should have prosecutorial powers and the ability to freeze funds and be truly independent.

Recommendation 7 proposes that the State Comptroller would be part of the Executive Branch, meaning that practically all State operations will not receive the critical scrutiny they should, because doing so might reflect negatively on the administration. This proposal amounts to expanding, once again, the size, scope, and expense of State government, which is utterly at odds with the purpose of, and charge to, the Joint Legislative Committees to reduce the burden of property taxes on New Jersey residents. Quite simply, this proposal, as designed, is a sham "reform" that offers no meaningful prospect of reducing or eliminating the budgetary and fiscal abuses that have plagued New Jersey State government finances for decades.

With an independently elected State Comptroller, State budget figures and revenue projections could no longer be skewed by governors for political purposes, and a truly separate and independent set of eyes would be able to watch the Executive Branch. Ideally, we feel that the current Inspector General should be folded into the Office of the State Comptroller, which would result in a direct cost savings. Alternatively, Assemblyman Merkt has proposed also folding the State Auditor into an elected office of State Comptroller (See Assembly Concurrent Resolution No. 162 of 2006).

Recommendation 8: The Legislature should establish a tax policy study commission to engage in ongoing study of the tax structure and fiscal policies of the State

The Republican members of the Joint Committee again dissent. The last thing New Jersey property taxpayers need is to pay for yet another new State commission to study tax legislation and to say periodically that taxes should be increased. Such analysis should more properly be conducted by the Legislature through the standing reference committees. Most notably, there was never any testimony calling for the proposal at any public session of the Joint Committee. We specifically objected to creating yet another commission during the non-public meeting of the committee. Accordingly, there has

been no public input at all into whether a new State commission is really needed, and this entire idea was a last-minute throw-in first raised during a private meeting. The recommendation does not, therefore, represent a legitimate part of the Joint Legislative Committee's deliberation process or work product, and we therefore dissent completely. Treasury should be charged to perform this work within the limits of its existing resources. The Joint Committee was not charged with expanding the size, scope, and expense of State government but rather with reducing the burden of property taxes on New Jersey residents. Yet again, this recommendation fails to hit the mark.

Recommendation 9: The Legislature should not authorize additional general local option taxes at this time

The Republican members of the Joint Committee concur. Again, it was not the Joint Committee's charge to raise taxes but to work toward reducing the existing property tax burden on New Jersey residents. Although Governor Corzine has suggested support for an idea of local option taxes, to enact such laws merely shifts the tax burden around and is essentially a zero-sum game for the people of New Jersey and a complete waste of time.

Recommendation 10: The Debt Limitation Clause should not be amended at this time

The Republican members of the Joint Committee could not possibly dissent any more strongly, as we are opposed to the practice of using independent authority debt to circumvent the Debt Limitation clause of our State's Constitution. Without question, the one issue the Joint Committee needed to address meaningfully was this one. Unfortunately, the Joint Committee failed, despite clear and convincing evidence that shows the seriousness of the issue. At the October 12, 2006, Joint Committee meeting, Senate Republican Leader Leonard Lance opined on New Jersey's history of asking taxpayers for their approval on various issuances of debt and the New Jersey Supreme Court's decisions on the Legislature's borrowing. The Debt Limitation Clause is based on the theory that a single Legislature does not have the right to impose debt on the backs of our children, grandchildren, or great-grandchildren. Neither the Governor nor the

Legislature can be permitted to decide selectively what program or projects are so noble as to obviate the right of the people to decide.

Article VIII, Section II, paragraph 3 of the State Constitution plainly states in pertinent part:

The Legislature shall not, in any manner, create in any fiscal year a debt or debts, liability or liabilities of the State, which together with any previous debts or liabilities shall exceed at any time one per centum of the total amount appropriated by the general appropriation law for that fiscal year, unless the same shall be authorized by a law for some single object or work distinctly specified therein. Regardless of any limitation relating to taxation in this Constitution, such law shall provide the ways and means, exclusive of loans, to pay the interest of such debt or liability as it falls due, and also to pay and discharge the principal thereof within thirty-five years from the time it is contracted; and the law shall not be repealed until such debt or liability and the interest thereon are fully paid and discharged.

Except as hereinafter provided, no such law shall take effect until it shall have been submitted to the people at a general election and approved by a majority of the legally qualified voters of the State voting thereon. No voter approval shall be required for any such law authorizing the creation of a debt or debts in a specified amount or an amount to be determined in accordance with such law for the refinancing of all or a portion of any outstanding debts or liabilities of the State heretofore or hereafter created, so long as such law shall require that the refinancing provide a debt service savings determined in a manner to be provided in such law and that the proceeds of such debt or debts and any investment income there from shall be applied to the payment of the principal of, any redemption premium on, and interest due and to become due on such debts or liabilities being refinanced on or prior to the redemption date or maturity date thereof, together with the costs associated with such refinancing. All money to be raised by the authority of such law shall be applied only to the specific object stated therein, and to the payment of the debt thereby created. This paragraph shall not be construed to refer to any money that has been or may be deposited with this State by the government of the United States. Nor shall anything in this paragraph contained apply to the creation of any debts or liabilities for purposes of war, or to repel invasion, or to suppress insurrection or to meet an emergency caused by disaster or act of God.

In 2003, the New Jersey Supreme Court ruled to nullify the Debt Limitation Clause in *Lonegan v. State*, 176 N.J. 2 (2003) (*Lonegan II*). However, three judges dissented with the following:

Today's decision construes the debt limitation clause so narrowly that the clause no longer applies, except in those increasing rare instances when the state seeks to incur general obligation indebtedness ... [Justices Long, Verniero and Zazzali, Dissenting, dated April 9, 2003].

The following year, in 2004, a new low was reached when then-Governor McGreevey attempted to bond the tobacco settlement to pay, not for bricks and mortar, but rather for general operating expenses by floating a current expense bond. This action fell outside acceptable budgeting practices, prompting Senator Lance to file a lawsuit challenging the Governor's decision. In *Lance v. McGreevey*, 180 N.J. 590 (2004), the Court found this practice unconstitutional but unfortunately allowed the borrowing to take place that year and did not apply it retroactively.

In 2005, Senator Lance once again filed suit against then-Governor Codey for what the Senator correctly interpreted as inappropriate borrowing. In *Lance v. Codey*, Docket No. MER-L-2087-05, 2005 WL 1924191 (Law Div., 2005), the trial court, relying on *Lance v. McGreevey*, prohibited including as revenue the net proceeds from a proposed refinancing of the 2003 tobacco settlement bonds.

Simply stated, we believe that the Joint Committee should reconsider its recommendation not to amend the Debt Limitation Clause. In fact, we believe the Debt Limitation Clause should be strengthened.

We further believe that a majority of the Joint Committee's members, judging from their comments during the Joint Committee's proceedings, completely agree. During the

September 28, 2006, Joint Committee meeting, one of the committee members in the Majority agreed with our view, saying,

I wanted to concur with Senator Lance and Assemblyman Merkt. I think our Constitution clearly calls for us to put a vote of debt to the people, or a bond to the people ... So, I will be joining you, Senator and Assemblyman, in hopefully moving that. [Transcript, September 28, 2006, Joint Committee meeting].

Later during that very same meeting, one of the other Democrat members made the following statement, which also agreed with our view,

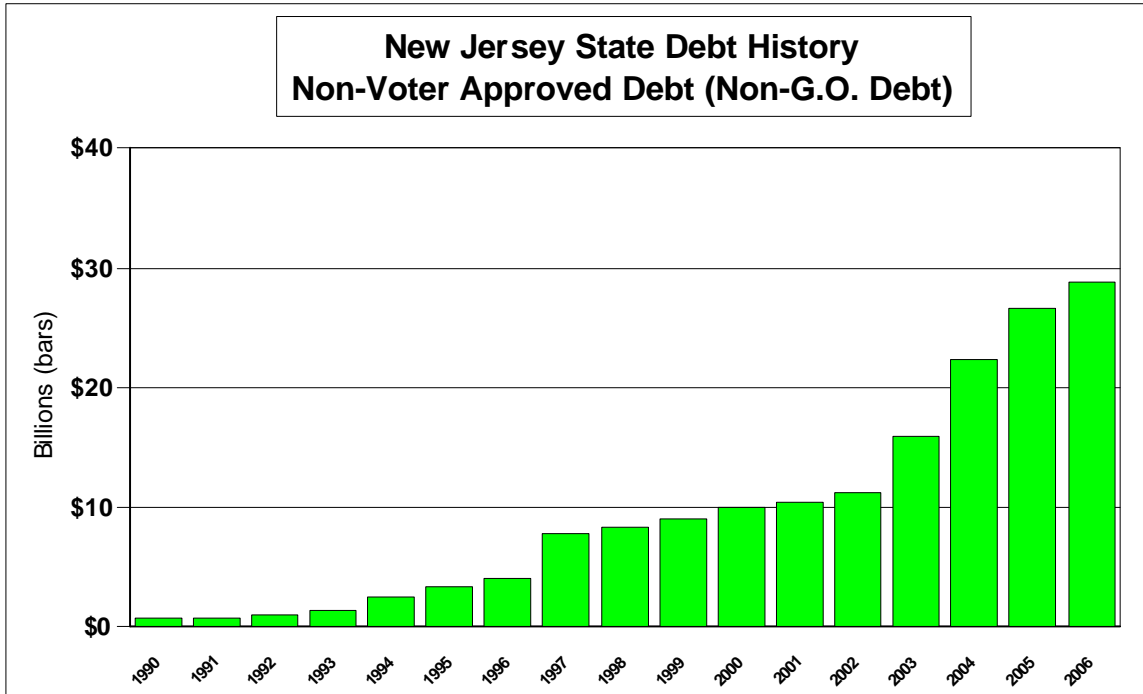
Senator Lance is right. My colleagues on this panel know it. I will be siding with them on all debt being approved by the people. [Transcript, September 28, 2006, Joint Committee meeting].

We therefore question how the Joint Committee Majority report can reflect that the Debt Limitation Clause should “not be amended” when four of the six members on the committee (a two-thirds majority) hold that it should indeed be amended. We are surprised and dismayed that the majority consensus expressed by the Joint Committee somehow vaporized, like it never actually existed.

How can the Joint Committee receive evidence and testimony, as shown in **Figure 5**, proving that non-voter approved State debt has ballooned from \$1 billion to more than \$29 billion in just the last 15 years (projected to reach \$40 billion in the future) and then legitimately conclude that the Constitution's Debt Limitation Clause does not need to be reinstated? Even worse, this recommendation stems from objections from the Treasury Department, whose opposition telegraphs that the administration intends to propose further non-voter approved State borrowing in the future. It is the height of fiscal and legislative irresponsibility for the Joint Committee to ignore the facts of this fiscal crisis, which presents a clear and present danger to New Jersey's economic future. We are deeply disappointed that the Joint Committee Majority report would, in effect, deny the

existence of a major threat to the State's economic welfare, when the needed remedy falls squarely within the Joint Committee's charge from the Legislature.

Figure 5



Recommendation 11: The Legislature should review and adopt the recommendations of the Joint Committees to avoid the need for a Constitutional convention

The Republican members of the Joint Committee dissent and disagree that the Legislature should adopt the recommendations of the Joint Legislative Committee, except for the first part of Recommendation 1, Recommendation 2, Recommendation 4, the first part of Recommendation 6, and Recommendation 9.

With respect to a Constitutional convention, we still believe that a limited Constitutional convention is not required, provided that the Legislature is willing to identify and confront the real forces currently driving property taxes out of sight. These forces will require a set of specific Constitutional amendments submitted to the people for their approval but which have not been recommended by the Joint Legislative Committee. As stated in Senator Lance's dissent from the recommendation set forth in the December

2004 Report of the Property Tax Convention Task Force to the Governor and the Legislature (which sentiment was also echoed by Assemblyman O'Toole in his written dissent and by Assemblyman Merkt during Joint Committee public proceedings), the Republican members of the Joint Committee believe that any Constitutional convention must include spending as well as revenue measures in its mandate.

We believe that discussions of government spending can be properly limited to matters related to property tax reform and that such a discussion be confined to Article VIII, the Taxation and Finance Article of the Constitution -- and need not include a protracted debate over divisive social issues. Without including a debate on spending proposals, a convention would provide merely temporary property tax *relief* and not true property tax *reform* for the people of New Jersey.

IV. CONCLUSION AND RECOMMENDATION:

Strikingly absent from the Joint Committee Majority's recommendations are the following critical Constitutional issues raised during committee proceedings: (1) placing a Constitutional cap on the annual growth of the State budget and eliminating off-budget accounting abuses; (2) placing a guarantee of property tax relief within the text of the Constitution itself, to assure New Jersey residents that property tax relief is not conditioned on the State's annual budget crisis; and (3) amending the Constitution to provide that school funding decisions duly reached and agreed through the legislative process are in a manner consistent with the recommendations of our Republican colleagues on the Joint Committee for Public School Funding.

We must express our deep disappointment that so many critical Constitutional issues heavily impacting the property tax burden received cursory or no review during the three and one half months the Joint Committee met, despite numerous, repeated written requests that they be included in the Joint Committee's agenda. The bottom line is that, despite the good faith efforts of many people, legislators, and legislative staffs on both sides of the aisle, the joint legislative committees have failed to produce the meaningful

property tax reform that the people of New Jersey had every right to expect. It now appears that many of the outcomes of this process were pre-concluded by the Majority legislative leadership and that the meetings of the joint legislative committees, the public hearings, and the many good and creative ideas put forth by witnesses and members alike were little more than "window dressing" to decorate the legislative leadership's apparent agenda, none of which was publicly disclosed or discussed during the entire committee process. We remain profoundly disappointed to see outcomes proposed that do no justice to the legitimate efforts of so many who strove diligently to make the special legislative session a success.

As evidenced by the unanimous passage of Assembly Concurrent Resolution No. 3 of 2006 in both Houses of the Legislature, both Senate and Assembly Republicans supported the legislative Special Session -- no matter how deeply flawed -- because it held the promise of providing true property tax relief. Nonetheless, our concerns remain. While we appreciate Co-Chairman Burzichelli's cooperation during our discussions and do not fault him personally, we are profoundly disappointed with both the process and its lack of meaningful results. Most reluctantly, the Republican members of the Joint Committee unfortunately are forced to conclude that the Joint Committee Majority report and the process used to develop it were not in keeping with the Joint Committee's charge from the Legislature and do not reflect the actual proceedings or work product of the Joint Committee. The public regrettably will now question the credibility of the Special Session, which we find a most unfortunate turn of events.

To summarize, we would suggest the following recommendations:

- Take actions to strengthen the Debt Limitation Clause of the Constitution to ensure that its original intent remains intact and so that the current loopholes will be closed;
- Guarantee that all, not just some, property taxpayers receive property tax relief through the proposed credit system;

- Ensure that senior and disabled residents will not receive less under the proposed credit system than they receive under the current rebate system;
- Mandate that any proposal to implement property tax caps should be considered concurrently with spending practices;
- Disregard the Majority's proposal to create a new "Tax Policy Study Commission" to review tax policy and instead establish an independent, popularly elected State Comptroller, whose term ideally should not be coterminous with the Governor. The current Inspector General's duties should be folded into those of the State Comptroller, which would result in a direct cost savings. To adopt the Majority's recommendation of an appointed Comptroller on top of existing agencies would prevent independence and would expand the size and cost of State government once again, which clearly contradicts the legislative intent of the Joint Committee;
- Enact meaningful State spending controls, such as those proposed in SCR 15 or similar legislation;
- Ensure that any Constitutional convention would address spending issues as well as revenues; and,
- Prevent any changes to the current Farmland Assessment "roll back" tax system and further prevent the imposition of additional punitive taxes on New Jersey's farmers, as proposed in the Majority's report.

Appendix 1: ASSEMBLY CONCURRENT RESOLUTION No. 3 of 2006

A CONCURRENT RESOLUTION supplementing the Joint Rules of the Senate and the General Assembly to establish four joint legislative committees to make recommendations to both Houses of the Legislature regarding proposals to bring about property tax reform and to provide for the jurisdiction and procedures thereof.

WHEREAS, The most fundamental obligation of a government is to protect the welfare and well-being of its citizens; and

WHEREAS, Under the New Jersey Constitution, this responsibility is vested in the Legislature and the Governor; and

WHEREAS, This State's high property taxes are a matter of great concern to the people of New Jersey who view the current system as regressive, inequitable, burdensome, and a threat to the financial security of individuals and communities; and

WHEREAS, There is a need for the Legislature to address this situation by devising, and acting upon, means to bring about property tax reform based upon a fairer distribution of tax burdens and the adoption of efficiencies; and

WHEREAS, This process should be initiated by the creation of joint legislative committees that review and formulate proposals concerning school funding, government consolidation and shared services, public employee benefits, and constitutional reform and property tax constitutional convention; now, therefore

BE IT RESOLVED by the General Assembly of the State of New Jersey (the Senate concurring):

The following Joint Rules are adopted:

1. There are created four joint legislative committees. Each committee shall consist of six members, three of whom shall be members of the Senate appointed by the

President, and three of whom shall be members of the General Assembly appointed by the Speaker. No more than two members of a committee appointed by the President of the Senate or the Speaker of the General Assembly shall be members of the same political party. A member may be removed from a committee for cause by the appointing officer, except that if any member is so removed, the appointing officer shall forthwith appoint another member in the same manner that the original appointment was made. The President and the Speaker shall each designate one appointee to a committee as co-chairperson of that committee.

2. Each committee shall meet at the call of its co-chairpersons. The committees may review the functions, duties, operations and programs of agencies of the State and its political subdivisions relevant to the areas of review as set forth herein, as well as the relevant governing statutes, regulations, ordinances, resolutions, opinions, and orders. As part of that review, the committees may consider pending and proposed bills and resolutions, as well as relevant reports and testimony. The deliberations of the committees shall conclude with a report, that shall be transmitted to the Senate and the General Assembly, which shall include proposals for constitutional amendments and legislation to bring about property tax reform. The report shall be transmitted no later than November 15, 2006 unless an extension is approved jointly by the President of the Senate and the Speaker of the General Assembly.

3. a. There is created the Joint Legislative Committee on Public School Funding Reform. It shall be the duty of the committee to review and formulate proposals that address the manner in which government provides for the maintenance and support of a system of free public schools for the instruction of the children of this State. The committee may consider proposals to: provide State support based on student needs rather than geographic location; eliminate disincentives to the regionalization of school districts; control school district spending, particularly administrative spending; and improve the effectiveness of the current law limiting increases in school district spending; as well as such other proposals as the committee deems appropriate.

b. There is created the Joint Legislative Committee on Government Consolidation and Shared Services. It shall be the duty of the committee to review and formulate proposals that address the sharing of services and regionalization of functions at all levels of government, as well as such other proposals as the committee deems appropriate. As a basis for these deliberations, the committee shall use the CORE agenda proposed by the Speaker of the General Assembly. In addition, the committee shall consider proposals to consolidate or eliminate State agency functions and State agencies or commissions.

c. There is created the Joint Legislative Committee on Public Employee Benefits Reform. It shall be the duty of the committee to review and formulate proposals that address abuses of the system of benefits provided to public employees, including all branches of State government and all local government entities, and to control the costs of the State and its political subdivisions for public employee retirement, health care and other benefits, as well as such other proposals as the committee deems appropriate. As a basis for its deliberations, the committee shall use the recommendations of the Benefits Review Task Force contained in its December 1, 2005 report, as well as other relevant reports.

d. There is created the Joint Legislative Committee on Constitutional Reform and Citizens Property Tax Constitutional Convention. It shall be the duty of the committee to review and formulate proposals that address property tax reform through amendments to the Constitution of the State of New Jersey, as well as such other proposals as the committee deems appropriate. The committee shall also determine whether amendments to the State Constitution should be recommended to the Legislature for submission directly to the voters or whether such amendments should be referred to a citizens property tax constitutional convention to be convened for the purpose of reforming the system of property taxation.

4. Each joint legislative committee shall organize as soon as possible after the appointment of its members.

5. Four members of a joint legislative committee shall constitute a quorum for the transaction of any business. Official committee action shall be by a majority vote of the members serving on the committee.

6. The joint legislative committees shall be entitled to call to their assistance and avail themselves of the services of such employees of any State, county or municipal department, board, bureau, commission, agency or authority as they may deem necessary or desirable, and as may be available for their purposes.

7. Any member or members of a joint legislative committee who do not concur with the report of the committee may issue a minority statement, that shall be included in the transmitted report of the committee.

8. All public meetings shall be recorded and transcribed, and, when feasible, audio and video of public meetings shall be broadcast on the State Legislature's website. All meetings at which official committee action is taken shall be open to the public. The chairpersons of a joint legislative committee shall notify the Office of Legislative Services, for posting and distribution to the public, of the time, place and agenda of each meeting of the committee. The notice shall be distributed to the public at least five days prior to the meeting, except in the case of an emergency, or except when the presiding officers, acting jointly, waive the notice requirement.

9. To the extent that the jurisdiction or recommendations of joint committees may overlap or conflict, the co-chairpersons of those committees shall consult with each other to coordinate and resolve differences.

10. This concurrent resolution shall take effect immediately.

STATEMENT

This concurrent resolution would establish four joint legislative committees to review and formulate proposals that address property tax reform for the people of this State. The committees are the Joint Legislative Committee on Public School Funding Reform, the Joint Legislative Committee on Government Consolidation and Shared Services, the Joint Legislative Committee on Public Employee Benefits Reform, and the Joint Legislative Committee on Constitutional Reform and Citizens Property Tax Constitutional Convention. The committees will review and formulate proposals within their respective subject areas as set forth in this resolution, and make recommendations to both Houses of the Legislature.

Appendix 2: List of Constitutional and Statutory Exemptions (Exemptions Clause)

**The State of New Jersey:
Statutory and Constitutional Real Property Tax
Exemptions**

Exemption	Citation	Exclusive	Status or Use
<p>South Jersey Food Distribution Authority</p> <p>All facilities and property of the authority are declared public property devoted to an essential public and governmental function and purpose and are exempt from taxation.</p> <p><i>Enacted by P.L.1985, c.383, §18</i></p>	<p>N.J.S.A. 4:26-17</p>	<p>Non-exclusive</p>	<p>Status</p>
<p>New Jersey Sports and Exposition Authority</p> <p>All projects and property of the authority, except off-track wagering or account wagering facilities, are public property devoted to an essential public and governmental function and purpose and exempt from taxation.</p> <p><i>Enacted by P.L.1971, c.137, §18</i></p>	<p>N.J.S.A. 5:10-18</p>	<p>Non-exclusive</p>	<p>Status</p>
<p>Garden State Racetrack</p> <p>The projects and property of the authority are declared public property devoted to an essential public and governmental function and purpose and are exempt from all taxes.</p> <p><i>Enacted by P.L.1978, c.1, §10</i></p>	<p>N.J.S.A. 5:10-35</p>	<p>Non-exclusive</p>	<p>Status</p>
<p>Casino Reinvestment Development Authority</p> <p>All real property of the Casino Reinvestment Development Authority is declared public property devoted to an essential public and governmental function and purpose and is exempt from taxation.</p> <p><i>Enacted by P.L.1984, c.218, §19</i></p>	<p>N.J.S.A. 5:12-167</p>	<p>Non-exclusive</p>	<p>Status</p>

Exemption	Citation	Exclusive	Status or Use
<p>South Jersey Port Corporation</p> <p>All property of the corporation is declared to be public property devoted to an essential public and governmental function and purpose and is exempt from taxation.</p> <p><i>Enacted by P.L.1968, c.60, §20; last amended by P.L.1969, c.240, §1</i></p>	N.J.S.A. 12:11A-20	Non-exclusive	Status
<p>Solid Waste Management</p> <p>All property acquired or utilized by the department to implement the provisions of this act ("Solid Waste Management Act," P.L.1970, c.39) is exempt from taxation.</p> <p><i>Enacted by P.L.1970, c.39, §13</i></p>	N.J.S.A. 13:1E-13	Non-exclusive	Use
<p>Garden State Preservation Trust</p> <p>All property of the trust is declared to be public property devoted to an essential public and governmental function and purpose and is exempt from taxation.</p> <p><i>Enacted by P.L.1999, c.152, §14</i></p>	N.J.S.A. 13:8C-14	Non-exclusive	Status
<p>New Jersey Meadowlands Commission</p> <p>The projects, lands and other property of the commission are declared to be public property of a political subdivision of the State and devoted to an essential public and governmental function and purpose and are exempt from taxation.</p> <p><i>Enacted by P.L.1968, c.404, §35</i></p>	N.J.S.A. 13:17-36	Non-exclusive	Status

Exemption	Citation	Exclusive	Status or Use
<p>Hackensack Meadowlands Food Distribution Center Commission</p> <p>The market facility of the commission and all other properties of the commission are declared to be public property of the State, and devoted to an essential public and governmental function and purpose, and are exempt from taxation.</p> <p><i>Enacted by P.L.1983, c.272, §38</i></p>	<p>N.J.S.A. 13:17A-38</p>	<p>Non-exclusive</p>	<p>Status</p>
<p>Medical Service Corporations</p> <p>Medical service corporations, subject to the provisions of P.L.1940, c.74, are declared to be charitable and benevolent institutions, and its funds and property are exempt from taxation.</p> <p><i>Enacted by P.L.1940, c.74, §24</i></p>	<p>N.J.S.A. 17:48A-24</p>	<p>Non-exclusive</p>	<p>Status</p>
<p>Dental Service Corporations</p> <p>Dental service corporations are declared to be charitable and benevolent institutions, and its funds and property are exempt from taxation.</p> <p><i>Enacted by P.L.1968, c.305, §32</i></p>	<p>N.J.S.A. 17:48C-32</p>	<p>Non-exclusive</p>	<p>Status</p>
<p>New Jersey School Board Association</p> <p>All property acquired by the association is exempt from taxation under chapter 4 of Title 54, Taxation, of the Revised Statutes.</p> <p><i>Enacted by P.L.1967, c.271</i></p>	<p>N.J.S.A.18A:6-49</p>	<p>Non-exclusive</p>	<p>Status</p>

Exemption	Citation	Exclusive	Status or Use
<p>School Board Insurance Groups</p> <p>Under the provisions of the law, school board insurance groups are permitted to purchase, acquire, hold, lease, sell and convey real and personal property, all of which property is exempt from taxation.</p> <p><i>Enacted by P.L.1983, c.108, §4; last amended by P.L.1995, c.74, §2</i></p>	N.J.S.A. 18A:18B-4	Non-exclusive	Status
<p>New Jersey Council of County Vocational Schools</p> <p>The Council of County Vocational Schools is permitted to acquire, hold and dispose of real and personal property in the exercise of its powers and the performance of its duties. All property of the Council is exempt from taxation.</p> <p><i>Enacted by P.L.1993, c.302, §4</i></p>	N.J.S.A. 18A:54-41	Non-exclusive	Status
<p>New Jersey Association of State Colleges and Universities</p> <p>The association is granted the authority to acquire, hold and dispose of real and personal property in the exercise of its powers and the performance of its duties, all real and personal property is exempt from taxation.</p> <p><i>Enacted by P.L.1985, c.161, §4; last amended by P.L.1999, c.46, §37</i></p>	N.J.S.A. 18A:64-48	Non-exclusive	Status
<p>County College Insurance Groups</p> <p>County college insurance groups are permitted to purchase, acquire, hold, lease, sell and convey real and personal property, all of which is exempt from taxation.</p> <p><i>Enacted by P.L.1985, c.204, §4</i></p>	N.J.S.A. 18A:64A-25.36	Non-exclusive	Status

Exemption	Citation	Exclusive	Status or Use
<p>Council of County Colleges</p> <p>The council is granted the authority to acquire, hold and dispose of real and personal property in the exercise of its powers and the performance of its duties. All property of the Council is exempt from taxation.</p> <p><i>Enacted by P.L.1989, c.141, §6</i></p>	N.J.S.A. 18A:64A-28.2	Non-exclusive	Status
<p>New Jersey Educational Facilities Authority</p> <p>The real property of the New Jersey Educational Facilities Authority is declared to be public property devoted to an essential public and governmental function and purpose and is exempt from taxation.</p> <p><i>Enacted by P.L.1967, c.271, §1</i></p>	N.J.S.A. 18A:72A-18	Non-exclusive	Status
<p>New Jersey Health Care Facilities Financing Authority</p> <p>Under the provisions of the law, neither the authority nor its agent is required to pay any real property taxes upon or in respect of a project or any property acquired or used by the authority.</p> <p><i>Enacted by P.L.1972, c.29, §16</i></p>	N.J.S.A. 26:2I-16	Non-exclusive	Status
<p>New Jersey Transportation Trust Fund Authority</p> <p>All property of the authority is declared to be public property devoted to an essential public and governmental function and purpose and is exempt from taxation as real property.</p> <p><i>Enacted by P.L.1984, c.73, §16</i></p>	N.J.S.A. 27:1B-16	Non-exclusive	Status

Exemption	Citation	Exclusive	Status or Use
<p>County Bridge Commissions</p> <p>Each bridge, all approaches, and any additional property of a commission are declared public property of a public body corporate and politic and political subdivision of the State and devoted to an essential public and governmental purpose and are exempt from taxation as real property.</p> <p><i>Enacted by P.L.1934, c.17, §5; last amended by P.L.1946, c.318, §6</i></p>	N.J.S.A. 27:19-33	Non-exclusive	Status
<p>New Jersey Turnpike Authority</p> <p>Property owned by the New Jersey Turnpike Authority and used for “turnpike projects” is exempt from taxation as real property. However, Turnpike Authority property not used for “turnpike projects” may be assessed and taxed locally.</p> <p><i>Enacted by P.L.1948, c.454, §12; last amended by P.L.2003, c.79, §23</i></p>	N.J.S.A. 27:23-12	Non-exclusive	Status
<p>New Jersey Highway Authority (Formerly New Jersey Turnpike Authority)</p> <p>Property owned by the authority and used for transportation projects of the authority is exempt from taxation. Property not used for transportation projects may be assessed and taxed as real property.</p> <p><i>Enacted by P.L.1948, c 454, §12; last amended by P.L.2003, c.79, §23</i></p>	N.J.S.A. 27:23-12	Non-exclusive	Status
<p>New Jersey Transit Corporation</p> <p>All real property of the New Jersey Transit Corporation is declared to be public property devoted to an essential public and governmental function and purpose and is exempt from taxation.</p> <p><i>Enacted by P.L.1979, c.150, §16; last amended by P.L.1981, c.560, §1</i></p>	N.J.S.A. 27:25-16	Non-exclusive	Status

Exemption	Citation	Exclusive	Status or Use
<p>South Jersey Transportation Authority</p> <p>All projects and real property of the authority are declared to be public property of the State and devoted to an essential public and governmental function and are exempt from taxation.</p> <p><i>Enacted by P.L.1991, c.252, §32</i></p>	N.J.S.A. 27:25A-32	Non-exclusive	Status
<p>Washington Association; Washington Headquarters at Morristown</p> <p>The property of the association is exempt from taxation as real property.</p> <p><i>Enacted by P.L.1874, c.309, §2; last amended by P.L.1946, c.127, §2</i></p>	N.J.S.A. 28:2-11	Non-exclusive	Status
<p>New Jersey Firemen's Home</p> <p>The property, real and personal, of the board of managers of the New Jersey Firemen's Home and held or used for the uses and purposes of the firemen's home is exempt from taxation.</p> <p><i>Enacted by P.L.1899, c.20, §3; last amended by P.L.2000, c.149, §10</i></p>	N.J.S.A. 30:7-12	Non-exclusive	Status
<p>Port Authority of New York and New Jersey</p> <p>Real property owned by the authority and used for its stated purpose is exempt from taxation.</p> <p><i>Enacted by P.L.1921, c.151, p.412</i></p>	N.J.S.A. 32:1-1 et seq.	Non-exclusive	Status
<p>Delaware River Port Authority</p> <p>Real property owned by the authority and used by the organization for its stated purpose is exempt from taxation.</p> <p><i>Enacted by P.L.1941, c.336, §1; last amended by P.L.1951, c.288, §1</i></p>	N.J.S.A. 32:3-12	Non-exclusive	Status

Exemption	Citation	Exclusive	Status or Use
<p>Delaware River Joint Toll Bridge Commission</p> <p>Real property owned by the commission and used by the organization for its stated purpose is exempt from taxation.</p> <p><i>Enacted by P.L.1912, c.297, §1</i></p>	N.J.S.A. 32:8-9	Non-exclusive	Status
<p>Delaware River Basin Commission</p> <p>The commission, its property, functions, and activities are exempt from taxation.</p> <p><i>Enacted by P.L.1961, c.13, §14.3</i></p>	N.J.S.A. 32:11D-89	Non-exclusive	Status
<p>Palisades Interstate Park</p> <p>Real property owned by the park commission and used by the organization for its stated purpose is exempt from taxation.</p> <p><i>Enacted by P.L.1980, c.104, §3</i></p>	N.J.S.A. 32:14-1.1 et seq.	Non-exclusive	Status
<p>Delaware River Basin Water Commission (INCODEL)</p> <p>Real property owned by the commission and used by the organization for its stated purpose is exempt from taxation.</p> <p><i>Enacted by P.L.1939, c.146, preamble</i></p>	N.J.S.A. 32:20-1 et seq.	Non-exclusive	Status
<p>New Jersey Motor Vehicle Commission</p> <p>The commission is not required to pay any taxes or assessments upon any facility and assets or any property acquired or used by the commission. Any facility and assets and any property acquired or used by the commission and the income therefrom is exempt from taxation.</p> <p><i>Enacted by P.L.2003, c.13, §32</i></p>	N.J.S.A. 39:2A-31	Non-exclusive	Status

Exemption	Citation	Exclusive	Status or Use
<p>County and Municipal Parking Authorities</p> <p>The property of municipal and county parking authorities are exempt from taxation as real property.</p> <p><i>Enacted by P.L.1948, c.198, §19</i></p>	N.J.S.A.40:11A-19	Non-exclusive	Status
<p>County and Municipal Sewerage Authorities</p> <p>Every sewerage system and all other property of a sewerage authority are exempt from taxation as real property.</p> <p><i>Enacted by P.L.1946, c.138, §31</i></p>	N.J.S.A. 40:14A-31	Non-exclusive	Status
<p>County and Municipal Utilities Authorities</p> <p>Utility systems and all other property of a municipal utility authority are exempt from the taxation as real property.</p> <p><i>Enacted by P.L.1957, c.183, §63; last amended P.L.1968, c.328, §1</i></p>	N.J.S.A. 40:14B-63	Non-exclusive	Status
<p>County Parking Facilities</p> <p>The property of county parking facilities is exempt from taxation as real property.</p> <p><i>Enacted by P.L.1972, c.83, §4</i></p>	N.J.S.A. 40:34A-4	Non-exclusive	Status
<p>County Park Commissions</p> <p>The real estate, buildings, roadways, and improvements which may be placed thereon are exempt from taxation.</p> <p><i>Enacted by P.L.1895, c.91, §2; last amended by P.L.1907, c.95, §2</i></p>	N.J.S.A.40:37-101; 40:37-104	Non-exclusive	Status

Exemption	Citation	Exclusive	Status or Use
<p>County Improvement Authorities</p> <p>The properties of an authority are declared public property of a political subdivision of the State and those properties, and all public facilities, whether or not owned by the authority, are devoted to an essential public and governmental function and purpose and are exempt from all taxes and special assessments.</p> <p><i>Enacted by P.L.1960, c.183, §42; last amended by P.L.1982, c.113, §13</i></p>	N.J.S.A. 40:37A-85	Non-exclusive	Status
<p>County Improvement Authorities</p> <p>All property of the authority is declared to be public property devoted to an essential public and governmental function and purpose and is exempt from all taxes and special assessments.</p> <p><i>Enacted by P.L.1979, c.275, §21</i></p>	N.J.S.A. 40:37A-126	Non-exclusive	Status
<p>County Recreation Authorities</p> <p>All property and public facilities of a county recreation authority are exempt from taxation as real property.</p> <p><i>Enacted by P.L.1967, c.136, §41</i></p>	N.J.S.A. 40:37B-41	Non-exclusive	Status
<p>County Food Distribution Authorities</p> <p>All facilities and property of the authority are exempt from taxation as real property.</p> <p><i>Enacted by P.L.1994, c.98, §16</i></p>	N.J.S.A. 40:37D-16	Non-exclusive	Status
<p>Tourism Improvement and Development Authority</p> <p>The tourism project and all other property of the authority are exempt from real property taxation.</p> <p><i>Enacted by P.L.1992, c.165, §36</i></p>	N.J.S.A. 40:54D-36	Non-exclusive	Status

Exemption	Citation	Exclusive	Status or Use
<p>Public Waterworks Commissions</p> <p>Every waterworks and all other property of a commission are exempt from taxation as real property.</p> <p><i>Enacted by P.L.1991, c.162, §15</i></p>	N.J.S.A. 40:62-133.13	Non-exclusive	Use
<p>Municipal Incinerator Authorities</p> <p>Every garbage disposal system and all other property of an incinerator authority are exempt from taxation as real property.</p> <p><i>Enacted by P.L.1948, c.348, §24</i></p>	N.J.S.A. 40:66A-24	Non-exclusive	Status
<p>Municipal Solid Waste Management Authorities</p> <p>Every garbage and solid wastes disposal system and all other property of a solid waste management authority are exempt from taxation as real property.</p> <p><i>Enacted by P.L.1968, c.249, §24</i></p>	N.J.S.A. 40:66A-57	Non-exclusive	Use
<p>Municipal Port Facilities</p> <p>All port facilities and all other property of a municipal port authority are exempt from taxation.</p> <p><i>Enacted by P.L.1948, c.349, §23</i></p>	N.J.S.A. 40:68A-23	Non-exclusive	Use
<p>Municipal Port Systems</p> <p>Every port system and all other properties of a municipal port authority are exempt from taxation.</p> <p><i>Enacted by P.L.1960, c.192, §35</i></p>	N.J.S.A. 40:68A-63	Non-exclusive	Use

Exemption	Citation	Exclusive	Status or Use
<p>Redevelopment Agencies and Housing Authorities</p> <p>All projects and all other properties of a redevelopment agency or housing authority are exempt from taxation as real property.</p> <p><i>Enacted by P.L.1992, c.79, §36</i></p>	N.J.S.A. 40A:12A-36	Non-exclusive	Status
<p>Long Term Tax Exemption Law</p> <p>The rehabilitation or improvements made in the development or redevelopment of a redevelopment area or area appurtenant thereto or for a redevelopment relocation housing project, pursuant to P.L.1991, c.431 (C.40A:20-1 et seq.), are exempt from taxation.</p> <p><i>Enacted by P.L.1991, c.431, §12</i></p>	N.J.S.A.40A:20-12	Non-exclusive	Use
<p>Cemetery Companies</p> <p>Cemetery companies are exempt from the payment of any real property taxes on lands dedicated to cemetery purposes.</p> <p><i>Enacted by P.L.2003, c.261, §20</i></p>	N.J.S.A. 45:27-20	Non-exclusive	Use
<p>New Jersey Cultural Trust</p> <p>All real property of the Cultural Trust is exempt from taxation.</p> <p><i>Enacted by P.L.2000, c.76, §8</i></p>	N.J.S.A. 52:16A-79	Non-exclusive	Status
<p>State Building Authority</p> <p>Any project or property acquired or used by the authority is exempt from taxation.</p> <p><i>Enacted by P.L.1950, c.255, §21</i></p>	N.J.S.A. 52:18A-70	Non-exclusive	Status

Exemption	Citation	Exclusive	Status or Use
<p>New Jersey Building Authority</p> <p>All projects and property of the authority that are used and occupied by State agencies are exempt from taxation as real property.</p> <p><i>Enacted by P.L.1981, c.120, §23</i></p>	<p>N.J.S.A. 52:18A-78.23</p>	<p>Non-exclusive</p>	<p>Status</p>
<p>Tobacco Settlement Financing Corporation</p> <p>The property of the corporation is exempt from taxation.</p> <p><i>Enacted by P.L.2002, c.32, §9</i></p>	<p>N.J.S.A. 52:18B-9</p>	<p>Non-exclusive</p>	<p>Status</p>
<p>Tax Lien Financing Corporation</p> <p>The property of the corporation is exempt from taxation as real property.</p> <p><i>Enacted by P.L.2003, c.120, §9</i></p>	<p>N.J.S.A. 52:27BBB-74</p>	<p>Non-exclusive</p>	<p>Status</p>
<p>Manufactured Homes</p> <p>Manufactured homes that are installed in a mobile home park are exempt from taxation as real property.</p> <p><i>Enacted by P.L. 1983, c.400, §4</i></p>	<p>N.J.S.A. 54:4-1.5</p>	<p>Non-exclusive</p>	<p>Use</p>
<p>Recreational Vehicles</p> <p>Certain recreational vehicles that are installed in a campsite are exempt from taxation as real property.</p> <p><i>Enacted by P.L.1999, c.284, §2</i></p>	<p>N.J.S.A. 54:4-1.19</p>	<p>Non-exclusive</p>	<p>Use</p>
<p>County, Municipal and School District Property</p> <p>Most property owned by counties, school districts, and municipalities used for public purposes or for the preservation or exhibition of historical data, records, or property, is exempt from taxation.</p> <p><i>Enacted by P.L.1910, c.118, §1; last amended by P.L.1983, c.262, §1</i></p>	<p>N.J.S.A. 54:4-3.3</p>	<p>Exclusive</p>	<p>Status</p>

Exemption	Citation	Exclusive	Status or Use
<p>Watershed Land</p> <p>The land of counties, municipalities, and other municipal and public agencies used for the protection of a water supply is subject to tax by the respective taxing districts where located, but all other property, buildings, and improvements are exempt from taxation.</p> <p><i>Enacted by P.L.1910, c.118, §1; last amended by P.L.1983, c.262, §1</i></p>	N.J.S.A. 54:4-3.3	Non-exclusive	Use
<p>Foreclosed Properties</p> <p>Properties acquired by municipalities through tax title foreclosures or by deed in lieu of foreclosure, if used for a public purpose, are exempt from taxation.</p> <p><i>Enacted by P.L.1910, c.118, §1; last amended by P.L.1983, c.262 §1</i></p>	N.J.S.A. 54:4-3.3	Non-exclusive	Status
<p>Morris Canal and Banking Company Property</p> <p>Property that is titled to the Morris Canal and Banking Company in trust for the State is deemed property of the State and exempt from taxation.</p> <p><i>Enacted by P.L.1910, c.118, §1; last amended by P.L.1983, c.262, §1</i></p>	N.J.S.A. 54:4-3.3	Non-exclusive	Status
<p>Property of the Federal Government</p> <p>Prior to 1944, N.J.S.A. 54:4-3.3 provided an exemption from taxation for real property of the United States. The provision was repealed in 1944 and State law today contains no tax exemption for Federal Government property. Any such exemption is found in Federal law. The “supremacy clause” of the United States Constitution and the doctrine of “sovereign immunity” preclude the levying of local property taxes on the Federal government.</p>		Non-exclusive	Status

Exemption	Citation	Exclusive	Status or Use
<p>Property of the State of New Jersey</p> <p>Property owned by the State of New Jersey is exempt from taxation as real property. The constraints of public use are not imposed upon it. In the absence of a clear expression by the Legislature that a particular category of State property should be taxed, the property is exempt. However, state-owned property leased to a private entity for nonpublic purpose is taxable to the lessee under the Leasehold Tax Act.</p> <p><i>Enacted by P.L.1910, c.118, §1; last amended by P.L.1983, c.262, §1</i></p>	<p>N.J.S.A. 54:4-3.3</p>	<p>Non-exclusive</p>	<p>Status</p>
<p>Passaic Valley Sewerage Commission</p> <p>Real property acquired by the Passaic Valley Sewerage Commission for use as part of or in connection with a main intercepting or trunk sewer, its branches or appurtenances, in the Passaic Valley sewerage district, is exempt from taxation.</p> <p><i>Enacted by P.L.1919, c.234, §1</i></p>	<p>N.J.S.A. 54:4-3.4</p>	<p>Non-exclusive</p>	<p>Status</p>
<p>Property for Military Purpose; Veterans' Organizations</p> <p>All real property owned and used for military purposes by an organization under the jurisdiction of this State, and any building, real estate, or personal property used by an organization composed entirely of veterans of any war of the United States, is exempt from taxation.</p> <p><i>Enacted by P.L.1918, c.236, §20; last amended by P.L.1996, c.82, §1</i></p>	<p>N.J.S.A. 54:4-3.5</p>	<p>Non-exclusive</p>	<p>Use</p>

Exemption	Citation	Exclusive	Status or Use
<p>Colleges, Schools, Academies, and Seminaries</p> <p>All buildings actually used for colleges, schools, academies, or seminaries are exempt, provided that if any portion of such buildings are leased to profit-making organizations or otherwise used for purposes which are not themselves exempt from taxation, said portion is subject to taxation while the remaining portion is exempt from taxation.</p> <p><i>Enacted by P.L.1918, c.236, §203, p.848; last amended by P.L.2001, c.18</i></p>	<p>N.J.S.A. 54:4-3.6</p> <p>Authorized by: N.J. Constitution Article VIII, Sec. 1, Par. 2</p>	<p>Non-exclusive</p>	<p>Use</p>
<p>Historical Societies, Associations, or Exhibitions</p> <p>All buildings actually used for historical societies, associations, or exhibitions, when owned by the State, county, or a political subdivision, or when located on land owned by an educational institution which derives its primary support from State revenue, are exempt from taxation.</p> <p><i>Enacted by P.L.1918, c.236, §203, p.848; last amended by P.L.2001, c.18</i></p>	<p>N.J.S.A. 54:4-3.6</p> <p>Authorized by: N.J. Constitution Article VIII, Sec. 1, Par. 2</p>	<p>Exclusive</p>	<p>Use</p>
<p>Public Libraries; Asylum or Schools for Feeble-minded or Idiotic Persons and Children</p> <p>All buildings actually and exclusively used for public libraries, or buildings used for an asylum or schools for feeble-minded or idiotic persons and children, are exempt from taxation.</p> <p><i>Enacted by P.L.1918, c.236, §203, p.848; last amended by P.L.2001, c.18</i></p>	<p>N.J.S.A. 54:4-3.6</p> <p>Authorized by: N.J. Constitution Article VIII, Sec. 1, Par. 2</p>	<p>Exclusive</p>	<p>Use</p>

Exemption	Citation	Exclusive	Status or Use
<p>Charitable Organizations for the Prevention of Animal Cruelty</p> <p>Buildings used exclusively by any association or corporation formed for the purpose of and actually engaged in the work of preventing cruelty to animals are exempt from taxation.</p> <p><i>Enacted by P.L.1918, c.236, §203, p.848; last amended by P.L.2001, c.18</i></p>	<p>N.J.S.A. 54:4-3.6</p> <p>Authorized by: N.J. Constitution Article VIII, Sec. 1, Par. 2</p>	<p>Exclusive</p>	<p>Use</p>
<p>Volunteer First-Aid Squads</p> <p>Buildings actually and exclusively used and owned by volunteer first-aid squads are exempt from taxation, provided that such squads are incorporated as not for profit associations.</p> <p><i>Enacted by P.L.1918, c.236, §203, p.848; last amended by P.L.2001, c.18</i></p>	<p>N.J.S.A. 54:4-3.6</p> <p>Authorized by: N.J. Constitution Article VIII, Sec. 1, Par. 2</p>	<p>Exclusive</p>	<p>Use</p>
<p>Charitable Organizations for the Moral and Mental Improvement of Men, Women, and Children</p> <p>All buildings actually used in the work of associations and corporations organized exclusively for the moral and mental improvement of men, women, and children are exempt from taxation. If any portion of a building used for the work of the associations or organizations is leased to profit-making organizations or is otherwise used for purposes which are not themselves exempt from taxation, that portion shall be subject to taxation and only the remaining portion shall be tax exempt.</p> <p><i>Enacted by P.L.1918, c.236, §203, p.848; last amended by P.L.2001, c.18</i></p>	<p>N.J.S.A. 54:4-3.6</p> <p>Authorized by: N.J. Constitution Article VIII, Sec. 1, Par. 2</p>	<p>Exclusive</p>	<p>Use</p>

Exemption	Citation	Exclusive	Status or Use
<p>Buildings for Hospital Purposes</p> <p>All buildings actually used in the work of associations and corporations organized exclusively for hospital purposes are exempt from taxation.</p> <p><i>Enacted by P.L.1918, c.236, §203, p.848; last amended by P.L.2001, c.18</i></p>	<p>N.J.S.A. 54:4-3.6</p> <p>Authorized by: N.J. Constitution Article VIII, Sec. 1, Par. 2</p>	<p>Exclusive</p>	<p>Use</p>
<p>Non-Profit Corporations for the Care of Feeble-minded, Mentally Retarded, or Idiotic Men, Women, and Children</p> <p>Property owned and used by a nonprofit corporation in connection with its curriculum, work, care, treatment and study of feeble-minded, mentally retarded, or idiotic men, women, or children is exempt from taxation.</p> <p><i>Enacted by P.L.1918, c.236, §203, p.848; last amended by P.L.2001, c.18</i></p>	<p>N.J.S.A. 54:4-3.6</p> <p>Authorized by: N.J. Constitution Article VIII, Sec. 1, Par. 2</p>	<p>Exclusive</p>	<p>Use</p>
<p>Parsonages</p> <p>Buildings actually occupied as a parsonage by the officiating clergymen of any religious corporation of this State, together with the accessory buildings located on the same premises and the land whereon certain buildings are erected, and which are devoted to certain purposes and to no other purpose, are exempt.</p> <p><i>Enacted by P.L.1918, c.236, §203, p.848; last amended by P.L.2001, c.18</i></p>	<p>N.J.S.A. 54:4-3.6</p> <p>Authorized by: N.J. Constitution Article VIII, Sec. 1, Par. 2</p>	<p>Exclusive</p>	<p>Use</p>

Exemption	Citation	Exclusive	Status or Use
<p>Nonprofit Educational Television and Radio Production and Broadcasting Property</p> <p>Buildings and structures used exclusively by a nonprofit association or corporation organized under the laws of this or another state for the production and broadcasting of educational television or educational radio programs; the land whereon the buildings and structures are erected and which are devoted to the foregoing purpose are exempt from taxation.</p> <p><i>Enacted by P.L.1967, c.24, §1; last amended by P.L.1979, c.50, §2</i></p>	<p>N.J.S.A. 54:4-3.6a</p>	<p>Exclusive</p>	<p>Use</p>
<p>Graveyards and Burial Grounds</p> <p>Lands used or intended for use as graveyards or burial grounds and cemeteries, and buildings for cemetery use, are exempt from taxation.</p> <p><i>Enacted by P.L.1918, c.236, §203, p.848; amended by P.L.1948, c.290, §1</i></p>	<p>N.J.S.A. 54:4-3.9 Authorized by: N.J. Constitution Article VIII, Sec. 1, Par. 2</p>	<p>Exclusive</p>	<p>Use</p>
<p>Fire Associations</p> <p>The real property of firefighters' organizations actually used for the purpose of the organization is exempt from taxation. The following organizations are generally considered eligible: (1) "exempt" firemen's associations; (2) firemen's relief associations; and (3) volunteer fire companies.</p> <p><i>Enacted by P.L.1918, c.236, §203, p.848; amended by P.L.2001, c.354, §1</i></p>	<p>N.J.S.A. 54:4-3.10</p>	<p>Non-exclusive</p>	<p>Use</p>

Exemption	Citation	Exclusive	Status or Use
<p>Franchises; Railroad and Canal Property</p> <p>All offices and franchises, and all property used for railroad or canal purposes by a railroad or canal company subject under any other law of this State to a franchise tax, are exempt from taxation.</p> <p><i>Enacted by P.L.1918, c.236 §203, p.848; amended by P.L.1964, c.251, §1</i></p>	<p>N.J.S.A. 54:4-3.11</p>	<p>Non-exclusive</p>	<p>Use</p>
<p>Public Fire Patrol or Salvage Corps</p> <p>The real property of an association or corporation organized under the laws of this State to maintain, and actually maintaining, a public fire patrol or salvage corps for the purpose of saving life and property from destruction by fire, used exclusively for the purpose of such association or corporation, is exempt from taxation.</p> <p><i>Enacted by P.L.1918, c.236, §203, p.848; amended by P.L.1931, c.372, §1</i></p>	<p>N.J.S.A. 54:4-3.13</p>	<p>Exclusive</p>	<p>Use</p>
<p>Property Used by Crippled Soldiers and Sailors</p> <p>Any real estate not exceeding two hundred and fifty acres, owned and actually and exclusively used by any corporation organized under the laws of New Jersey to provide instruction in agricultural pursuits for soldiers and sailors of the United States who have been permanently crippled while in active service in time of war is exempt from taxation as real property.</p> <p><i>Enacted by P.L.1918, c.236, §203; last amended by P.L.1931, c.372, §1</i></p>	<p>N.J.S.A. 54:4-3.15</p>	<p>Non-exclusive</p>	<p>Use</p>

Exemption	Citation	Exclusive	Status or Use
<p>Turnpike Roads</p> <p>Turnpike Roads of any turnpike company used by the public without payment of tolls are exempt from taxation as real property.</p> <p><i>Enacted by P.L.1918, c.236, §203; last amended by P.L.1931, c.372, §1</i></p>	<p>N.J.S.A. 54:4-3.18</p>	<p>Non-exclusive</p>	<p>Use</p>
<p>Young Peoples' Associations</p> <p>All real property used for the purposes and in the work of certain young peoples' associations is exempt from taxation if certain conditions are met. The statute provides exemptions for the following organizations: (1) Young Men's Christian Associations; (2) Young Women's Christian Associations; (3) Young Men's and Young Women's Christian Associations; (4) Young Men's Hebrew Associations; (5) Young Women's Hebrew Associations; (6) Young Men's and Young Women's Hebrew Associations; (7) Boy Scouts of America; and (8) Girl Scouts of the United States of America.</p> <p><i>Enacted by P.L.1936, c.158, §1; last amended by P.L.1959, c.3, §1</i></p>	<p>N.J.S.A. 54:4-3.24</p>	<p>Non-exclusive</p>	<p>Status</p>
<p>Veterans' Associations</p> <p>The real property used by certain national war veteran's organizations or posts, or affiliated associations, whether incorporated or unincorporated, is exempt, even if the organization is not composed exclusively of war veterans.</p> <p><i>Enacted by P.L.1936, c.149, §1, p.351; last amended by P.L.1996, c.82, §2</i></p>	<p>N.J.S.A. 54:4-3.25</p>	<p>Non-exclusive</p>	<p>Status</p>

Exemption	Citation	Exclusive	Status or Use
<p>Property of Fraternal Organizations</p> <p>All real property used in the work and for the purposes of one or more fraternal organizations or lodges, or any association or society organized on the lodge plan, or affiliated associations, whether incorporated or unincorporated, is exempt from taxation.</p> <p><i>Enacted by P.L.1936, c.46, §1; last amended by 1971, c.320, §1</i></p>	<p>N.J.S.A. 54:4-3.26</p>	<p>Non-exclusive</p>	<p>Status</p>
<p>Volunteer Aid and Relief Organizations</p> <p>All real and personal property of an organization used for the purpose and in the work of providing volunteer aid to the sick and wounded of armies in wartime or carrying on a national and international system in peacetime to relieve suffering caused by pestilence, famine, fires, floods, or other great national calamities, is exempt from taxation.</p> <p><i>Enacted by P.L.1942, c.10, §1</i></p>	<p>N.J.S.A. 54:4-3.27</p>	<p>Non-exclusive</p>	<p>Use</p>
<p>Growing Crops, Trees, Shrubs, and Vines</p> <p>Commercially planted and growing crops, trees, shrubs, and vines are exempt from taxation as real property while in the ground. Real property is to be assessed at true value without regard to any enhancement in value because of commercially planted and growing crops, trees, shrubs, or vines while in the ground.</p> <p><i>Enacted by P.L.1943, c.63, §1</i></p>	<p>N.J.S.A. 54:4-3.28</p>	<p>Non-exclusive</p>	<p>Use</p>

Exemption	Citation	Exclusive	Status or Use
<p>Disabled Veterans, Surviving Spouses of Disabled Veterans and Surviving Spouses of Servicepersons</p> <p>Qualified New Jersey war veterans that have certain service-connected disabilities described in the law or having been declared totally or 100% permanently disabled by the United States Veteran's Administration are granted full real property tax exemption on their dwelling house and the lot or curtilage on which it is located, as of the date the veteran acquires the property, or as the date his total or 100% permanent disability is declared.</p> <p>The surviving spouse of a New Jersey disabled veteran who at time of death was lawfully entitled to the exemption, who is a State resident and the legal owner and actual occupant of the dwelling house to be exempted or any other dwelling thereafter acquired, and uses it as the principal residence, is eligible for the same exemption as the deceased spouse, while widowed or widowered.</p> <p><i>Enacted by P.L.1948, c.259, §1; last amended by P.L.1985, c.515, §2</i></p>	<p>N.J.S.A. 54:4-3.30</p> <p>Authorized by: N.J. Constitution Article VIII, Sec. 1, Par. 3</p>	<p>Exclusive</p>	<p>Status</p>
<p>District Superintendent of Religious Organizations</p> <p>A property tax exemption is granted on the dwelling house and lot or curtilage on which it is erected, if the dwelling is actually occupied as a residence by a clergyman who is a district superintendent of a religious association or corporation, and to the accessory buildings on the same premises.</p> <p><i>Enacted by P.L.1955, c.148, §1; last amended by P.L.1968, c.287, §1</i></p>	<p>N.J.S.A. 54:4-3.35</p>	<p>Exclusive</p>	<p>Status</p>

Exemption	Citation	Exclusive	Status or Use
<p>Blast or Radiation Fallout Shelters</p> <p>Blast or radiation fallout shelters erected on residential properties are exempt from taxation as real property to the extent that they enhance the value of the property, up to \$1,000 of the true value.</p> <p><i>Enacted by P.L.1962, c.87, §1</i></p>	<p>N.J.S.A. 54:4-3.48</p>	<p>Non-exclusive</p>	<p>Use</p>
<p>Historic Sites</p> <p>Any building and the land whereon it is erected and which may be necessary for the fair enjoyment thereof, owned by a nonprofit corporation that has been certified as an historic site to the Director of the Division of Taxation by the Commissioner of Conservation and Economic Development, is exempt from taxation.</p> <p><i>Enacted by P.L.1962, c.92, §1; last amended by P.L.1964, c.61, §1</i></p>	<p>N.J.S.A. 54:4-3.52</p>	<p>Non-exclusive</p>	<p>Status</p>
<p>Certain Historical Properties</p> <p>After the effective date of P.L.2004, c. 83, any building, its pertinent contents, and the land on which it is erected and necessary for the fair enjoyment thereof is exempt from taxation, provided that it is owned by a nonprofit corporation that: is organized under P.L.1983, c.127 (C.15A:1-1 et seq.); is qualified for tax exempt status under the Internal Revenue Code of 1986, 26 U.S.C. s.501(c) and meets all other State and federal requirements; has a primary mission as an historical organization to research, preserve and interpret history and architectural history; and has been certified to be an historic site by the Commissioner of Environmental Protection.</p> <p><i>Enacted by P.L.2004, c.183, §1</i></p>	<p>N.J.S.A. 54:4-3.54a</p>	<p>Non-exclusive</p>	<p>Status</p>

Exemption	Citation	Exclusive	Status or Use
<p>Equipment for Abating or Preventing Pollution</p> <p>Any equipment, facility or device constructed or installed for the purpose of abating or preventing pollution of the atmosphere or the waters of this State, and is certified to be an air or water pollution abatement facility by the Division of Environmental Quality and the Commissioner of the Department of Environmental Protection, is exempt from taxation.</p> <p><i>Enacted by P. L.1966, c.127, §1; last amended by P.L.1967, c.104, §2</i></p>	N.J.S.A. 54:4-3.56	Non-exclusive	Use
<p>Improvement to Water Supply or Sewerage System</p> <p>The value of any “improvement” to real estate, to the extent the improvement enhances the value of the property, is exempt from taxation.</p> <p><i>Enacted by P.L.1967, c.260, §1</i></p>	N.J.S.A. 54:4-3.59	Non-exclusive	Use
<p>Conservation or Recreation Land Owned by Nonprofit Corporation or Organization</p> <p>All lands and the improvements thereon actually and exclusively used for conservation or recreation purposes, owned and maintained or operated for the benefit of the public by a nonprofit corporation or organization authorized to carry out the purposes, on account of which the exemption is claimed and which is qualified for exemption from Federal Income Tax, are exempt from taxation.</p> <p><i>Enacted by P.L.1974, c.167, §2</i></p>	N.J.S.A. 54:4-3.64	Non-exclusive	Use

Exemption	Citation	Exclusive	Status or Use
<p>Certified Automatic Fire Suppression Systems</p> <p>An automatic fire suppression system that is installed in a residential, commercial, or industrial building and certified by the enforcing agency is exempt from taxation as real property.</p> <p><i>Enacted by P.L.1983, c.309, §2</i></p>	N.J.S.A. 54:4-3.131	Non-exclusive	Use
<p>Dedicated Pet Cemeteries</p> <p>A pet cemetery which is dedicated to pet cemetery purposes and organized as a nonprofit corporation pursuant to Title 15A of the New Jersey Statutes is exempt from taxation as real property. The exemption applies to land, disposal sites, structures, facilities and buildings which are the subjects of the dedication and are used for pet cemetery purposes.</p> <p><i>Enacted by P.L.1985, c.401, §9</i></p>	N.J.S.A. 54:4-3.138	Non-exclusive	Use
<p>Environmental Opportunity Zones</p> <p>The governing body of a municipality that has adopted an ordinance pursuant to section 4 of P.L.1995, c.413 (C.54:4-3.153), shall, by ordinance, provide for exemptions of real property taxes for environmental opportunity zones.</p> <p><i>Enacted by P.L.1995, c.413, §5; last amended by P.L.1997, c.278, §23</i></p>	N.J.S.A. 54:4-3.154	Non-exclusive	Use
<p>Meadowlands Conservation Trust</p> <p>Real property acquired by the Meadowlands Conservation Trust, created pursuant to P.L.1999, c.31 (C.13:17-87 et al.), is exempt from taxation as real property.</p> <p><i>Enacted by P.L.1999, c.31, §15</i></p>	N.J.S.A. 54:4-3.159	Non-exclusive	Status

Exemption	Citation	Exclusive	Status or Use
<p>Health Enterprise Zones</p> <p>A municipality that has within its boundaries a Health Enterprise Zone, as described in section 1 of P.L.2004, c.139 (C.54A:3-7), may adopt a resolution that provides for an exemption from taxation as real property of that portion of a structure or building that is used to house a medical or dental primary care practice as defined in N.J.S.18A:71C-32 and that is located in that designated area.</p> <p><i>Enacted by P.L.2004, c.139, §4</i></p>	<p>N.J.S.A. 54:4-3.160</p>	<p>Non-exclusive</p>	<p>Use</p>
<p>Certain Municipal Land Extending into Another County</p> <p>Where land belonging to one municipality and used for public purposes extends into an adjoining municipality, and, by reason of the forming of a new county or the annexation of territory from one county to another, a portion thereof is thereby located in a different county from that in which the municipality owning it is located, the land and all improvements thereon shall be exempt from taxation, provided that the area of the land extending into the adjoining municipality does not exceed five acres.</p> <p><i>Enacted by P.L.1922, c.170 §1</i></p>	<p>N.J.S.A. 54:4-4</p>	<p>Non-exclusive</p>	<p>Status</p>
<p>New Jersey State Housing Council</p> <p>All projects constructed, managed, operated or maintained by the Authority are exempt from all taxation including but not limited to taxation on real property.</p> <p><i>Enacted by P.L.1949, c.303, §22</i></p>	<p>N.J.S.A. 55:14H-22</p>	<p>Non-exclusive</p>	<p>Status</p>

Exemption	Citation	Exclusive	Status or Use
<p>New Jersey Housing and Mortgage Finance Agency</p> <p>All property of the agency is declared to be public property devoted to an essential public and governmental function and purpose and is exempt from all taxes and special assessments of the State.</p> <p><i>Enacted by P.L.1983, c.530, §34</i></p>	<p>N.J.S.A. 55:14K-34</p>	<p>Non-exclusive</p>	<p>Status</p>
<p>New Jersey Redevelopment Authority</p> <p>The real property of the New Jersey Development Authority is declared to be public property devoted to an essential public and governmental function and purpose and is exempt from all taxes and special assessments of the State.</p> <p><i>Enacted by P.L.1996, c.62, §21</i></p>	<p>N.J.S.A. 55:19-40</p>	<p>Non-exclusive</p>	<p>Status</p>
<p>New Jersey Water Supply Authority</p> <p>All projects and other property of the authority is declared to be public property devoted to an essential public and governmental function and purpose and is exempt from all taxes and special assessments of the State.</p> <p><i>Enacted by P.L.1981, c.293, §23</i></p>	<p>N.J.S.A. 58:1B-23</p>	<p>Non-exclusive</p>	<p>Status</p>
<p>New Jersey Environmental Infrastructure Trust</p> <p>All property of the trust is declared to be public property devoted to an essential public and governmental function and purpose, and is exempt from taxation.</p> <p><i>Enacted by P.L.1985, c.334 §17; last amended by P.L.1197, c.224, §14</i></p>	<p>N.J.S.A. 58:11B-17</p>	<p>Non-exclusive</p>	<p>Status</p>

Exemption	Citation	Exclusive	Status or Use
<p>Passaic Valley Sewerage District</p> <p>The sewerage system and all other property of the commissioners are public property of a political subdivision of the State and devoted to an essential public and governmental function and purpose and are exempt from all taxes and special assessments of the State or any subdivision thereof.</p> <p><i>Enacted by P.L.1953, c.388, §14</i></p>	<p>N.J.S.A. 58:14-34.23</p>	<p>Non-exclusive</p>	<p>Status</p>

Appendix 3: Individuals and Organizations Speaking Before Committee

August 4, 2006

DAVID J. ROSEN, Ph.D.
Legislative Budget and Finance Officer, and
Section Chief
Revenue, Finance, and Appropriations Section
Central Management Unit
Office of Legislative Services

August 17, 2006

ROBERT F. WILLIAMS, Associate Director
Center for the State Constitution Studies
Rutgers-Camden, The State University of New Jersey

PETER J. MAZZEI, Manager
Library and Information Technology Services
Office of Legislative Services

September 7, 2006

ARTHUR MAURICE, First Vice President
Economic Development and Taxation
Government Affairs
New Jersey Business & Industry Association

KATHLEEN A. DAVIS, Executive Vice President
and Chief Operating Officer
Chamber of Commerce
Southern New Jersey

THOMAS HEITZMAN, Executive Vice President
Whitesell Construction Company, Inc., and
Member
Board of Directors
Chamber of Commerce
Southern New Jersey

LAURIE EHLBECK, State Director
National Federation of Independent Business
New Jersey

EARL HALL, Chair
Leadership Council
National Federation of Independent Business
New Jersey, and
President
Bordentown Chamber of Commerce

JOHN HOLUB, President
New Jersey Retail Merchants Association, and
Executive Director
New Jersey Council of Chain Drug Stores

MICHAEL MCGUINNESS, Executive Director
New Jersey Chapter
National Association of Industrial and Office Properties

ALLEN J. MAGRINI, Esq.
Vice President
Assistant General Counsel
Hartz Mountain Industries Inc., and
President-Elect
New Jersey Chapter
National Association of Industrial and Office Properties

THOMAS DALLESSIO, Vice President and New Jersey Director
Regional Plan Association

ALEXIS PERROTTA, Senior Policy Analyst
Regional Plan Association

SEAN J. HOPKINS, Senior Vice President
Health Economics
New Jersey Hospital Association

JOHN B. WILSON, President and Chief Executive Officer
Association of Independent Colleges and Universities in New Jersey

LINDA M. CZIPO, Executive Director
Center for Non-Profits

THOMAS BAFFUTO, Executive Director
The Arc of New Jersey

JIM LEONARD, Vice President
Government Relations
New Jersey Chamber of Commerce

THOMAS A. BRACKEN, President and Chief Executive Officer
Sun Bancorp and Sun National Bank, and
Chairman, Board of Directors
New Jersey Chamber of Commerce

ALISON E. MITCHELL, Policy Director
New Jersey Conservation Foundation

RICHARD NIEUWENHUIS, President
New Jersey Farm Bureau

WILLIAM G. DRESSEL JR., Executive Director
New Jersey State League of Municipalities

JOHN LLOYD, Esq.
Counsel
New Jersey State League of Municipalities

BENARD HANEY, President
Association of Municipal Assessors of New Jersey

JOHN G. DONNADIO, Esq.
Legislative Director
New Jersey Association of Counties

TIM EVANS, Director of Research
New Jersey Future

JON SHURE, President
New Jersey Policy Perspective

September 14, 2006

DOROTHY KREITZ, Treasurer
Association of Municipal Assessors of New Jersey

JOHN LLOYD, Esq.
Counsel
New Jersey League of Municipalities

BERNARD C. HANEY, President
Association of Municipal Assessors of New Jersey, and
Past-President
Northeastern Regional United States Assessing Officers Association

MYRON ORFIELD, Esq.
Associate Professor of Law, and
Executive Director
Institute on Race and Poverty
University of Minnesota Law School

ROHN HEIN
Representing
New Jersey Regional Coalition

DIANNE R. BRAKE
Representing
New Jersey Regional Coalition

REVEREND CARL BROWNE
Representing
New Jersey Regional Coalition

PAUL BELLAN-BOYER
Representing
New Jersey Regional Coalition

ROBERT R. CEBERIO, Executive Director
New Jersey Meadowlands Commission

IRFAN BORA, Chief Financial Officer
New Jersey Meadowlands Commission

DONNA M. LEWIS
Planning Director
Planning Division
Mercer County

September 21, 2006

JAMES W. HUGHES, Ph.D.
Dean and Professor
Edward J. Bloustein School of Planning and Public Policy
Rutgers, The State University of New Jersey

JOSEPH J. SENECA, Ph.D.
University Professor
Edward J. Bloustein School of Planning and Public Policy
Rutgers, The State University of New Jersey, and
Chairman
New Jersey Council of Economic Advisors

SENATOR BARBARA BUONO
District 18

WILLIAM E. SCHLUTER, Former Senator and Co-Chair
Citizens for the Public Good, and
Member
Citizens Convention Coalition

LORI ANNE OLIWA, State Vice President
Public Policy
New Jersey Association of Women Business Owners, and
Member
Board of Directors
Women's Business Center of New Jersey

STEVEN LONEGAN, Mayor
Bogota Borough, and
Executive Director
Americans for Prosperity New Jersey

JOSEPH C. SCHILP JR., Private Citizen

ROBERT S. SCHWARTZ, Esq.
Private Citizen

ARTHUR MAURICE, First Vice President
Economic Development and Taxation
Government Affairs
New Jersey Business and Industry Association

PHIL SCHEPEL, President
ADP Mintax

PATRICK J. DEO
Representing
Deo, LaManna, Deo & Co., P.C.

ROBERT A. KORTENHAUS, President and Chief Executive Officer
Bilkays Express Company,
Distribution Warehouse & Service Corporation, and
The Bobby Corporation

RALPH J. EVANGELISTA
Representing
Evangelista & Associates, P.C.

FRAYDA LEVIN, Chairman of the Board
New Jersey Chapter
Americans for Prosperity

JOHN A. MEYERLE, Chairman
New Jersey Coalition for Property Tax Reform

MARC MOLINARI, Member
Citizens for Prosperity

JOSEPH J. INSERRA, Director
New Jersey Coalition for Property Tax Reform

SHELDON PRESSER, Senior Policy Analyst
Association for Children of New Jersey

IRENE BROWN, Private Citizen

WILLIAM J. BROWN, Member
Legislative Committee
Division of Senior Services
Bergen County, and
Member
New Jersey Coalition for Property Tax Reform

LARRY CORSI, Private Citizen

WENDELL STEINHAUER, Secretary-Treasurer
New Jersey Education Association

JOHN BUDZASH, Chairman
Hands Across New Jersey

DON PIERCE, Private Citizen

JOE KELLY, Member
Leadership Council
National Federation of Independent Businesses

LIZ MORITZ, Administrator
New Jersey State League of Master Plumbers, Inc., and
Member
Leadership Council
National Federation of Independent Businesses

STUART MECK, Director and Faculty Fellow
Center for Government Services
Edward J. Bloustein School of Planning and Public Policy
Rutgers, The State University of New Jersey

ELIZABETH KARASMEIGHAN, State Government Affairs Manager
Americans for Tax Reform

ROBERT DONATELLO, Private Citizen

FRANK J. COURY, Private Citizen

MATT SHAPIRO, President
New Jersey Tenants Organization

September 28, 2006

M. JAMES MALEY JR., Mayor
Collingswood Borough

GARY PASSANANTE, Mayor
Somerdale, and
Co-Chairman
Property Tax Reform Committee
New Jersey State League of Municipalities, and
Member
Executive Board
New Jersey State League of Municipalities

MICHELE F. ROSEN, Private Citizen

JONATHAN SHEVELEW, Mayor
Shamong Township

BARBARA SMITH, Private Citizen

PHILIP BARTUS, Private Citizen

DELORES RUPLE, Private Citizen

BARBARA CALABRESE, Private Citizen

LINDA SANDERS, President
Berlin Township Education Association

BILLY CARROLL, Private Citizen

KATHLEEN SYTNIK, President
Burlington County Education Association

JOHN STEVENSON, Private Citizen

KENNETH MCINTOSH, President
Camden Education Association

JOHN SULLIVAN, Private Citizen

KATHLEEN MCMAHON, Private Citizen

LEE LUCAS, Private Citizen

ROB KEALEY, Private Citizen

RAYMOND SHAPELLA, Private Citizen

GEORGE KEUTEMEYER, Private Citizen

NICK NAUM
Representing
South Jersey Citizens for Property Tax Reform

VIC BELLACE
Representing
South Jersey Citizens for Property Tax Reform

October 5, 2006

SENATOR DIANE B. ALLEN
District 7

IRIS J. LAV, Deputy Director
Center on Budget and Policy Priorities
Washington, D.C.

SUSAN BASS LEVIN, Commissioner
Department of Community Affairs

October 12, 2006

JUDY A. ZELIO, Program Director
Fiscal Affairs Program
National Conference of State Legislatures
Denver, Colorado

BERT L. WAISANEN, Senior Policy Specialist, and Tax Policy Analyst
Fiscal Affairs Program
National Conference of State Legislatures
Denver, Colorado

October 19, 2006

PETER J. KELLY, Principal Counsel
State Government Section
Office of Legislative Services

GINA MARIE WINTERS, Associate Research Analyst
State Government Section
Office of Legislative Services

JOYCE POWELL, President
New Jersey Education Association

WILLIAM E. SCHLUTER, Former Senator, and Co-Chair
Citizens for the Public Good

ARTHUR J. MAURICE, First Vice President
Government Affairs
New Jersey Business & Industry Association

JERRY CANTRELL, President
The Silver Brigade

GREGG M. EDWARDS, President
Center for Policy Research of New Jersey

GARY PASSANANTE, Mayor
Somerdale, and
Chairman
Property Tax Reform Committee
League of Municipalities