

APPENDIX

**QUESTIONS FOR N.J. ASSEMBLY
OFFSHORING AND OUTSOURCING COMMISSION
(Submitted by Commission Public Member James Marketti,
President, CWA Local 1032 on September 14, 2007)**

1. Has any recent Governor of New Jersey signed with the U.S. Trade Representative to pledge a commitment to comply with government procurement provisions of various federal trade agreements? Is it possible to rescind any such commitment?
2. Is any agency or department of the State of New Jersey collecting data on the scope of outsourcing and/or off-shoring by state, county and/or municipal governments in New Jersey?
3. If the answer to 2. is yes, how many contracts and how many jobs for each political jurisdiction and with whom have the contracts been made?
4. Is any agency or department of the State of New Jersey collecting data on the scope of outsourcing and/or off-shoring by any private sector entities doing business in New Jersey?
5. If the answer to 4. is yes, how many contracts and how many jobs in each employment sector?
6. Is any agency or department of the State of New Jersey collecting data on the scope of outsourcing and/or off-shoring by any contractor or subcontractor of state, county and/or municipal governments?
7. If the answer to 6. is yes, how many contracts and how many jobs for each political jurisdiction and with whom have the contracts been made?
8. Is any agency or department of the State of New Jersey collecting data or inventorying contractors or subcontractors on the domestic vs foreign content of materials used in fulfilling public contracts or public jobs?
9. Has the Attorney General or Office of Legislative Services been asked for an opinion on areas in which the New Jersey State Legislature can act to reduce outsourcing and/or off-shoring in the state?
10. Are state, county and/or municipal governments in New Jersey required to have all contract bidders certify where the work on any contracted project will be performed?
11. Are state, county and/or municipal governments in New Jersey required to have all contract bidders disclose the name and headquarters location of their parent company?

12. Is there an accounting of the amount of dollars spent by state, county and/or municipal governments in New Jersey for contracting out personal (professional) services, routine purchased services, information services, public works, highway design and construction, and printing services?
13. Are there other sorts of goods and services contracted out by state, county and/or municipal governments in New Jersey and what are the dollar amounts spent on various categories of such goods or services?
14. How many H-1B and related L-1 workers are employed in New Jersey? In what occupational groupings? At what average salary in each occupational grouping? What is the average length of employment as an H-1B or L-1 worker in each occupational grouping? To what extent have H-1B or L1 workers displaced American workers or denied employment to potential American workers?
15. What occupations do H-1B and related L-1 workers take when they return to their home country?
16. Does any state, county and or municipal government in New Jersey contract out work to contractors who use H-1B or related L-1 workers?
17. Are employers in New Jersey required to give employee representatives advance notification of contemplated outsourcing and/or off-shoring of work prior to its implementation? If yes, how much advance notice?
18. Are employers in New Jersey required to meet with employee representatives to discuss their economic justifications and provide financial information concerning contemplated outsourcing and/or off-shoring of work prior to its implementation?
19. Are employers in New Jersey required to discuss with employee representatives alternatives to contemplated outsourcing and/or off-shoring of work prior to its implementation?
20. How many jobs in New Jersey have been outsourced and/or off-shored in the past year? In the past 5 years? In the past 10 years?
21. What occupational groupings in New Jersey have been most affected by outsourcing and/or off-shoring in the past year? In the past 5 years? In the past 10 years?
22. Has outsourcing and/or off-shoring in New Jersey driven down labor costs and if so, by how much in the past year? In the past 5 years? In the past 10 years?
23. Has outsourcing and/or off-shoring in New Jersey acted as a drag on the growth of compensation costs and if so, by how much in the past year? In the past 5 years? In the past 10 years?

24. What impact has outsourcing and/or off-shoring had on local businesses in New Jersey who must rely on hometown customers for their livelihood?
25. What impact has outsourcing and/or off-shoring had on the tax base of state, county and/or municipal governments in New Jersey?
26. Does off-shoring of customer service centers alienate customers?
27. Are off-shored customer service centers required to disclose to New Jersey customers the physical location of the service center?
28. Are New Jersey customers entitled to request that they be transferred to an American customer service center if they do not desire to speak to a foreign customer service center?
29. Does off-shoring of data regarding personal information constitute a breach of privacy?
30. Are criminal gangs in off-shored countries attempting to obtain customer information for purposes of identity theft and what is the prevailing law, if any, concerning the legal treatment of data cross-nationally?
31. Does off-shoring of research and development jobs erode America's capacity to remain innovative the development of new technologies?
32. Does off-shoring contribute to a deteriorating trade balance?
33. Does off-shoring of digital technologies and, in particular, the dangers of hidden computer codes, pose a high risk to homeland security?
34. Does the off-shoring of technology-intensive jobs lead to the disappearance of domestic production critical to military preparedness?
35. Does the State of New Jersey offer or grant any sorts of public subsidies to companies that outsource and/or off-shore jobs?
36. What jobs in New Jersey are at risk to off-shoring?
37. What public programs are available in New Jersey to assist workers dislocated by outsourcing and/or off-shoring? Are they adequate?
38. Who really benefits and who loses when outsourcing and/or off-shoring occurs within various time frames? Currently? 5 years? 10 years? 20 years?



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PRIVATIZATION/OUTSOURCING

AND

MOVING JOBS TO LOWER PAYING PARTS OF THE COUNTRY

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THE OUTSOURCING OF PRIVATE SECTOR UNION JOBS OFTEN LEAD TO INCREASED INEFFICIENCIES, IN THE FORM OF SERVICE, RELIABILITY AND QUALITY PROBLEMS. PRIVATIZATION AND OUTSOURCING ALSO TRANSLATE INTO LOWER WAGES FOR WORKING FAMILIES, AND THE REPLACEMENT OF SECURE UNION JOBS WITH LESS SECURE NON-UNION JOBS.

THE U.S. DEFICIT FOR GOODS AND SERVICES FOR 2006 WAS A STAGGERING \$763.4 BILLION, LEAVING OUR NATION AND AMERICAN WORKERS VULNERABLE. CLEARLY, WE HAVE NO INDUSTRIAL POLICY IN THIS COUNTRY, ---BUT WE DO HAVE THE MOST OPEN MARKET IN THE WORLD.

POSTPONENTS OF OUTSOURCING CLAIM THESE STRATEGIES LEAD TO GREATER ECONOMIC EFFICIENCY.

IN FACT, THE OUTSOURCING OF PUBLIC AND PRIVATE SECTOR JOBS OFTEN LEAD TO INCREASED INEFFICIENCIES, IN THE FORM OF SERVICE, RELIABILITY AND QUALITY PROBLEMS. OUTSOURCING ALSO TRANSLATES INTO LOWER WAGES FOR WORKING FAMILIES.

IT'S A PLAIN FACT THAT WHILE OTHER COUNTRIES ACTIVELY SUPPORT THEIR MANUFACTURING INDUSTRIES, AMERICA DOES NOT. WE HAVE TAKEN NO ACTION AS ENTIRE INDUSTRIES ----LIKE TOYS, TELEVISIONS AND TEXTILES ---- HAVE MOVED OVERSEAS.

FOR EXAMPLE----EIGHTY PERCENT (80%) OF THE TOYS SOLD IN AMERICA, ARE NOW MADE IN CHINA. NAME BRANDS LIKE MATTTEL, FISHER PRICE AND MCDONALDS. OUR CONFIDENCE HAS BEEN SHATTERED IN THESE BRANDS, AND RIGHTFULLY SO, AS MILLIONS OF TOYS, BABY BIBS AND OTHER ITEMS MADE IN CHINA HAVE BEEN RECALLED BECAUSE THEY ARE CONTAMINATED WITH LEAD PAINT.

WE THOUGHT WE COULD RELY ON OUR GOVERNMENT TO KEEP OUT UNSAFE PRODUCTS, BUT THIS IS AN IMPOSSIBLE TASK UNDER CURRENT CONDITIONS, THERE ARE NO CHECKS AND BALANCES WITH THESE OUTSOURCE GOODS AND THE AMERICAN FAMILIES ARE PAYING THE PRICE.

PLANTS HAVE BEEN CLOSED. COMUNITIES HAVE SUFFERED. WORKING FAMILIES LIVES HAVE BEEN SHATTERED.

WE WELCOME THE SUPPORT OF RESPONSIBLE LEADERS FROM ACROSS THE POLITICAL SPECTRUM IN OUR FIGHT FOR AN ECONOMY WITH FAIR AND BALANCED PROTECTIONS FOR OUR WORKING FAMILIES.

- Some of the above quotes are from UAW International President Ron Gettelfinger



**Statement of Linda Klose, Executive Director
New Jersey-Pennsylvania Council
AeA, Advancing the Business of Technology
(formerly the American Electronics Association)**

**Before the Outsourcing and Off-Shoring Commission of the New Jersey Legislature
September 14, 2007
Millville, New Jersey**

Mr. Chairman, Members of the Commission, thank you for the opportunity to present testimony today on the high-technology industry's business concerns surrounding the phenomenon of offshore outsourcing and its affect upon the State of New Jersey.

My name is Linda Klose, and I am the Executive Director of the New Jersey-Pennsylvania Council of AeA, formerly known as the American Electronics Association. I represent AeA throughout New Jersey, Pennsylvania, and Delaware. I am proud to say that I have been a resident of New Jersey for nearly forty years and my office is located in Clark, New Jersey.

By way of background, AeA is the nation's largest high-tech trade association and represents over 2,000 high tech companies, which span the high-technology spectrum, from software, semiconductors, medical devices and computers to Internet technology, advanced electronics and telecommunications systems and services. In the state of New Jersey, we represent over 40 technology businesses, such as Anadigics, Brother International, DRS, ID Systems, inTEST, Matheson Tri-Gas, Sharp Electronics, Sensors Unlimited, and Universal Display to name just a few. Complete information on AeA and its mission is available on our website at www.aeanet.org.

AeA and I commend the Commission for seeking out information from all comers on the important issue of offshore outsourcing, including labor groups, the business community, and specifically, the high tech industry – an effort that will surely result in the best outcome for New Jersey's workers, the businesses that employ them, and the taxpayers who live in the Garden State. As I mentioned earlier, AeA represents large, medium and small businesses not only in New Jersey, but also all across America. It is for the sake of those small and medium businesses that I am here testifying today.

A Global Economy

First, I would like to distinguish between the terms outsourcing and off-shoring.

Outsourcing is when an entity, such as a business or government agency, pays for service or work to be done by a different entity. It can be as simple as hiring a cleaning service to clean its offices rather than use its own employees. I am assuming that this is **not** what this commission is interested in exploring. Offshoring is when an entity pays for service or work to be done by individuals physically located outside of its national borders. I specify national and not state borders because, again, I believe that is what this commission is concerned about. It is the issue of offshore outsourcing that I will therefore be referring to for the remainder of my presentation.

Also, just so I am clear, **AeA is still an organization for United States based companies only** while acknowledging that **its member companies are part of a global economy where goods and services flow back and forth to the benefit of American consumers and employees.** The extent of this global economy has been covered extensively in books such as "The World is Flat" by Thomas Friedman and "China, Inc." by Ted Fishman. It has also been covered by AeA through a series of publications on Competitiveness. I am providing copies of the relevant AeA reports for the members of the Commission. Information from these reports was part of the Republican National Summit on Competitiveness, President Bush's American Competitiveness

Initiative, and the Democratic Competitive Initiative. The bipartisan nature of this led to the passage of the 2007 Competes Act which received 367 votes in the House, including the entire New Jersey delegation. Days later, President Bush signed it into law. **AeA's plan for increasing the competitiveness of the United States is now a federal law that will increase funding for R&D, invest in new teachers of science and math, create a technology innovation program, increase funding for the Manufacturing Extension Partnership, and create an advanced research projects agency for energy research.**

No, I have not gone off-track from today's topic by talking about what the United States needs to do to retain its lead in a competitive market. **When we talk about Offshoring within the technology community, we start by talking about a response to the pressures of competitiveness at its most fundamental – our workforce.** Many people assume that our technology companies are hiring overseas merely to save money. That is not true. The sad truth is that frequently, those companies are unable to hire qualified workers in the United States. Digging a little deeper we find that this shortage is caused by primarily two factors – our poor education system that fails to encourage and educate our children in STEM careers (that is Science, Technology, Engineering, and Math) and, also, by a federal government that blocks the supplementation of our workforce with skilled foreign nationals by limiting the numbers of H1-B visas. In effect, these two problems are driving many of our jobs overseas. I will give you an example in very real terms of what this means for a technology company doing manufacturing here in New Jersey. John Warren, the Vice President of Human Resources for Anadigics, says that it currently takes him 90 to 120 days to hire an engineer. Anadigics went so far as to purchase a small company in another state to get that company's 23 engineers! For employers attempting to get workers with H1-B visas, it means waiting more than a year because each year the allotment is gone before the year has even begun.

There are additional reasons to set up facilities overseas, including the need to put the product creation near the customer. Our worldwide corporations are not just selling within the United States. To do so would be isolationism at its absolute worse. There are many gloomy predictions of where the United States is going economically. But before we pull up the drawbridge on our economy and isolate ourselves, we must remember that goods and services are flowing out as exports, as well as, in as imports. The federal government has signed many trade agreements that are promoting a freer two-way movement of goods. In 2006, New Jersey exported \$27 billion of goods including \$3.4 billion in high tech goods. Our biggest customer was Canada but significant amounts were sent to Japan, Germany, France, and the United Kingdom. Worldwide, China is not just a major producer; it is now the number two **market** and is the fastest growing market. That's why our companies must be there.

So, I am asking you to take a look at the real causes and effects of Off-shoring and put it into the context of the United States in a Global Economy.

Anti-Offshoring Legislation Hurts Everyone

One of AeA's top priorities is the creation of technology jobs in the United States. We acknowledge that some technology workers are being hurt by the practice of offshore outsourcing. But, we believe it is important to recognize that the primary cause for recent job losses in the U.S. is not simply the practice of offshore outsourcing, but rather a combination of factors, including the distressed world economy and significant gains in worker productivity. Restricting access to markets and adopting policies that place U.S. companies at a competitive disadvantage with their foreign competitors puts U.S. workers at risk and threatens the U.S. economic recovery at the very time when the economy is improving. In 2006, the high-tech industry added nearly 150,000 net jobs for a total of 5.8 million in the United States. This growth is faster than the 87,400 jobs added in 2005 and confirms the recovery after the high-tech downturn that started in 2001. New Jersey's high-tech industry experienced a net gain of 100 jobs

in 2005. New Jersey remained the 9th largest cyberstate employing 197,200 with a total payroll of \$16.6 billion. Not surprisingly, at the sector level, New Jersey's biggest loss was in the telecommunications services sector with 1,700 jobs lost. On the positive side, New Jersey saw growth in several sectors including more than 2,000 jobs in computer design and related services, 300 in engineering services, and more than 200 in software publishers. The unemployment rate has dropped substantially and job projections over the next several years show double-digit job growth for some high-tech professions. Currently, unemployment for engineers and other technology workers is below the level that is considered full employment. Given that there is an inadequate future supply from our schools and overseas, this is unlikely to change.

Restrictive legislation will unnecessarily overcharge New Jersey taxpayers and cut into already tight governmental budgets. When a legislature insists on prohibiting services provided by US companies who perform part of the contract abroad, they are, by statute, precluding contractors who have taken advantage of cost saving measures and economies of scale. Businesses that have a multi-national presence are often able to lower their costs upwards of ten percent, passing the savings on to the end user – in this case, the state's taxpayers. Because these businesses cannot bid for the contracts, the state is then forced to entertain much higher bids, devaluing the buying power of every budget dollar. The net result: local taxpayers are forced to pay a premium for services that can be had for much, much less. When a single state contract can be worth tens of millions of dollars, eliminating bidders who can save the state upwards of 10% on a contract is just plain wasteful.

Not only will the impact be felt by New Jersey taxpayers whose tax dollars are now devalued, but **this will directly harm New Jersey businesses that are dependent upon state government contracts – and inadvertently thwart their ability to grow and hire New Jersey residents.** Many Garden State businesses are able to open and remain viable by performing some tasks offshore; their ability to do so in the short-term helps them to grow in the long-term, increasing the number of New Jersey citizens they employ – as well as the amount of tax dollars they remit to the state coffers. By precluding contracting businesses from taking advantage of certain economic efficiencies in the name of protecting local jobs, the state inadvertently imperils local business growth and the subsequent increase in local jobs.

Making Positive Changes

We commend the New Jersey Legislature and this Commission for its concern for the Garden State worker; we in the high-tech industry are fighting vigorously to increase the number of American businesses – and American jobs – that succeed in this increasingly global marketplace. If we are to do this, industry and the government must work together to increase jobs locally, nationally, and ensure our place in the world economy. We in the high-tech industry respectfully make the following recommendations; the New Jersey Legislature should:

- Continue to champion dramatic improvements in our educational system by altering the attitudes of young people towards careers in high-tech, and improving math and science at the K-12 level to adequately prepare New Jersey students with the necessary background for degrees in science and technology;
- Support research and development by promoting basic research, and by increasing grants and funding for college and university research to support academic R&D and facilitate graduate education; and
- Promote technology diffusion by providing industry the incentives to promote broadband and cellular penetration. Efforts such as streamlining rights-of-way petitions and allowing municipalities to offer broadband connectivity to rural and underserved populations will help to create economic development zones right here in New Jersey and create jobs.

- Support business friendly atmosphere with positive legislation and appropriate taxes and credits.

A recent example of a positive attitude to technology business in New Jersey was the passage of Senate Bill 2526, the Corporate Business Tax Credit for Digital Media Content Creation. We have a wonderful opportunity to be a leader in a twenty-first century industry. Digital Media has yet to find a concentrated center within the U.S. With New Jersey's skilled workforce and access to broadband, we have the fundamentals to begin work in this area. Better yet, we could become the hub of the digital media industry by providing encouragement of its growth through this economic development incentive. Senate Bill 2526 has been very carefully crafted to yield the greatest economic return for the state. It is a logical extension of the film production tax credit that was signed into law last year which has already had positive, verifiable results. In fact, it is not just direct jobs that are created, but multiple support industries benefit, as well. The only step left is for the Governor to sign this important legislation. We hope this will happen soon before other states beat us in establishing this industry center.

Chairman VanDrew and Commission members, thank you for the opportunity to testify on Offshore Outsourcing. I am happy to assist the Commission on this issue. In fact, all of AeA would like to work with you to increase New Jersey's and the United States' ability to create jobs. And as always, I will be happy to answer any questions or concerns that might arise.

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Testimony of the New Jersey State AFL-CIO Before the Assembly Outsourcing & Off-Shoring Commission September 14, 2007

Dear Members of the Assembly Outsourcing & Off-Shoring Commission:

The New Jersey State AFL-CIO thanks you for the opportunity to testify and is proud that the Assembly has formed this Commission and that New Jersey has passed legislation to begin to address the outsourcing problem. In particular, we are proud that New Jersey passed S-494 in 2005. This bill, championed by Senator Shirley Turner requires that state funded service contracts be performed in the United States. This law illustrates that state legislatures clearly have the right to regulate certain trade issues that best serve the interest of their constituents. Although trade policy is largely governed at the federal level, there are many actions that State Legislators can take in order to minimize the adverse effects of outsourcing on New Jersey jobs.

The New Jersey State AFL-CIO makes the following three recommendations:

Recommendation #1: Pass Disclosure Legislation

In order to properly address any problem, you first need to know if it is widespread and what its effects have been. The outsourcing debate is hampered by the lack of objective data to reinforce policy recommendations to either allow the continued unrestricted use of outsourcing or to restrict outsourcing to protect American jobs.

For this reason, as with any policy debate, we believe the first step to addressing the issue of outsourcing is acquiring reliable research on its net effect on jobs in New Jersey. Currently, neither government nor the private sector collects this information or discloses it to the public. Because the estimates of net job loss vary widely depending on who you listen to, New Jersey should be proactive in requiring corporations to submit this type of information.

For this reason, the first recommendation of the New Jersey State AFL-CIO is to pass legislation similar to A-932 which was signed into law last year. A-932 is known as the "Employer Based Health Insurance Disclosure Act," and requires the Commissioner of the Department of Health to prepare an annual report disclosing which employers in the state have a significant number of employees (or their dependants) receiving publicly funded health insurance through either the Family Care program, Medicaid or charity care. The same concept should be drafted into legislation to require disclosure for private sector corporations that outsource jobs and include penalties for the failure to disclose this information. State government should then disclose this information to the public annually.

In essence, this bill simply seeks to measure the impact of outsourcing on the American job market and would give policy makers, such as yourselves, the data you need to accurately address the problem. Public sector disclosure bills have been signed into law or implemented via Executive Order in several states, including Colorado, Illinois, Washington, Minnesota, Missouri and North Carolina.

Recommendation #2: Pass the Jobs, Trade and Democracy Act

The second recommendation of the AFL-CIO is to enact the Jobs, Trade and Democracy Act, a copy of which is attached.

Although certain state laws on trade may be considered to run afoul of the U.S commerce clause, States still enjoy broad authority over procurement policy, and the courts give states the rights to grant procurement preferences when acting as a “market participant,” or purchasing goods and services from private contractors.

This bill embraces this concept by establishing the role of state legislatures in setting trade policy for the state and helps workers and businesses that have been impacted by trade. Specifically, the bill:

1. Requires the consent of the state legislature to bind the state to international trade agreements and establishes a Legislative “Point of Contact” to serve as a liaison with the Governor’s Office and the Federal Government on trade policy.
2. The bill also establishes an Office of Trade Enforcement to monitor trade negotiations and disputes and to analyze the impact of proposed trade agreements on the state.

The bill, or portions of it, have been passed in Colorado, Hawaii, Indiana, Maine and Utah.

Recommendation #3:

Our final recommendation is in regard to bills currently on Governor Corzine’s desk, which address issues included in the outsourcing debate.

We respectfully ask Governor Corzine to sign into law A-1044 sponsored by Assemblyman Van Drew, which seeks to extend the current WARN Act notification period from 60 days to 90 days, as well as increase certain penalties for non-compliance. The federal WARN Act is currently riddled with loopholes and is considered toothless by most worker advocates. The WARN Act requires significant reform in order to adequately accomplish the mission it was originally intended to address. A-1044 would take the first step towards accomplishing this at the state level. Other necessary WARN Act reforms are included in recent articles on the subject and are attached to my testimony.

If jobs are outsourced to a foreign country, this bill would give these workers a 90 day notice in order to pursue a new job or job training. When looking at this in the big picture, this concept is very insignificant, yet there has been significant resistance to even this minor reform.

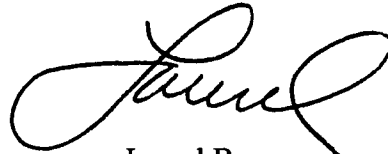
The second bill currently on the Governor's desk is S-1213, sponsored by Senator Turner. This bill seeks to achieve disclosure of job development requirements for certain government subsidies. Simply stated, this bill is about accountability in government, accountability for corporations to meet promised job creation goals, and embraces good government reforms that the public wants, and we respectfully urge Governor Corzine to sign this legislation.

In closing, there is much states can do on the issue of trade and we respectfully urge the legislature to take action on this issue. We respectfully recommend that this Commission examine the proposals described and include them in your report of recommendations to the State Assembly. Thank you and we look forward to continue working with the Commission.

Sincerely,



Charles Wowkanech
President



Laurel Brennan
Secretary/Treasurer

CW:LB:jmn

Attachments (2)

c: Governor Corzine
Sen. Shirley Turner
Commissioner Socolow
Ed McBride, Governor's Council Office

OPEIU:153

Model Jobs, Trade and Democracy Act

Background

States Have Broad Authority Over Procurement Policy

States traditionally have enjoyed a large degree of autonomy to set their own procurement policies under the U.S. system of federalism. Like the federal government, many states have procurement policies that leverage tax dollars to create local jobs, promote decent wages and working conditions, preserve the environment and assist minorities, veterans and people with disabilities.

Procurement preferences for local or domestic production, for instance, are nearly universal among the states. State laws creating an advantage for in-state providers would normally run afoul of the commerce clause of the U.S. Constitution, but the courts permit such preferences when the state is acting as a “market participant”—for example, when the state is purchasing goods and services from private contractors.

Trade Agreements Limit State Procurement Authority

Recent international trade agreements threaten to erode this traditional state autonomy by imposing new rules on states that: 1) prohibit preferences for domestic or in-state suppliers; and 2) limit the type of social, labor and environmental conditions states can apply to public contracts.

Such rules constraining state procurement authority are included in a number of trade agreements: the Agreement on Government Procurement at the World Trade Organization, bilateral agreements with Chile and Australia and proposed free trade agreements with dozens more countries that currently are being negotiated or awaiting congressional approval.

State adherence to these agreements is purely voluntary, and traditionally states have gained no specific benefits in return for agreeing to be bound. If a state does agree to be bound by a trade agreement and then violates the agreement’s rules, the United States can be subject to a complaint and dispute resolution under the agreement.

Reasserting State Legislative Authority

Governors—not state legislatures—have decided to bind their states to the terms of various international trade agreements after the U.S. Trade Representative (USTR) asked them to send in letters of consent. These critical decisions should only be made with the involvement of state legislatures, and only after the public has been adequately informed and has openly debated the issues involved. States should not give away their power to reward companies that play by the rules by paying workers a living wage and following standards that protect worker and human rights, or to avoid doing business with companies that ship U.S. jobs offshore, often to countries with sweatshops and substantial labor and human rights violations.

While many governors have signed on to such agreements in the past, the number of sign-ons has dropped with each agreement as state legislatures and governors have begun to learn more about the content of these agreements. It is also possible for a state to revoke its consent to an existing agreement. While such revocation may require the U.S. government to negotiate compensation for trading partners, it would not have direct legal or financial consequences for the state itself.

State Actions on Trade Issues

- **Governors in six states** (IA, ME, MN, MO, OR, PA) **withdrew consent from CAFTA.** The governors of Montana and Wisconsin sent letters to USTR indicating they do not want to bind their states to future trade agreements.
- **Colorado** enacted a law in 2007 that will establish an International Trade Office to assess the impact of trade agreements on Colorado and inform the General Assembly about ongoing trade negotiations and the potential impact on Colorado's economy and laws.
- **Hawaii:** Over the governor's veto, the Hawaii legislature enacted a law during the 2007 legislative session requiring the legislature to vote on whether to bind the state to an international trade agreement.
- **Indiana:** The Republican-controlled Indiana State Senate passed Concurrent Resolution N. 16, a state resolution calling on Congress to place a moratorium on any new free trade agreements. It urges Congress "to investigate and review" all free trade agreements signed so far by the United States. It also calls on Congress to review U.S. participation in international trade organizations, stating, "free trade agreements and policies of the United States with other nations have severely affected United States manufacturing industries and the workers the industries employ," and noting that Indiana lost 102,000 manufacturing jobs between January 2000 and January 2004. The coalition included Democrats in northern Indiana, Republicans in southern Indiana, labor and the American Manufacturing Trade Action Coalition.
- **Maine:** In 2004, the Maine legislature passed a bill creating a Citizens' Trade Policy Commission to investigate and hold hearings on the impact of trade. After receiving a request from USTR to sign on to the trade agreements being negotiated with Panama and Andean countries, the state would use the six to 12 intervening months to consult with the Citizen's Trade Policy Commission and other "interests in Maine before formulating our response."
- **New Hampshire:** In 2007, the legislature passed a resolution urging:
 - The USTR to provide the state with the chance to give input on trade agreements that impact state and local governments and to exempt New Hampshire from the General Agreement on Trade in Services until given explicit authority to do so by the state legislature;

- The governor to inform the USTR that the legislature retains the authority to regulate business affairs with the state; and
- Congress and USTR to preserve the traditional powers of state and local governments.

In addition, the New Hampshire legislature passed a bill establishing a Citizens' Trade Policy Commission to evaluate the impact of existing and proposed international trade agreements on the ability of the state and local governments to pass laws regarding public health and safety, environmental protection, labor standards, state and local procurement and the provision of public services. The commission includes representatives from business, farm, labor and nonprofit communities.

- **Pennsylvania:** Gov. Ed Rendell announced a comprehensive manufacturing strategy in December 2004 to protect Pennsylvania jobs and businesses from unfair trade practices and to help manufacturers grow their businesses and create good jobs. Major items in the governor's strategy include:
 - The formation of the Office of Trade Policy, designed to assist Pennsylvania manufacturers in identifying unfair trade practices and help in bringing challenges to the U.S. Trade Representative in Washington, D.C., and through the World Trade Organization.
 - The governor also appointed the state's first Manufacturing Ombudsman to assist businesses with questions about business finance, workforce training programs, permits and other regulatory issues.
 - Both the Office of Trade Policy and the Manufacturing Ombudsman will coordinate new and existing assistance programs and networks including Economic Stimulus Package, Citizens Job Bank and the Industrial Resource Centers throughout the state to implement the Manufacturing Innovation strategy.
- **Rhode Island:** The legislature passed the law in its 2007 session that would require that any state official, including the governor, obtain legislative approval in order to bind the state to any international trade agreements. The bill was vetoed by Gov. Don Carcieri.
- **Utah:** In early March 2005, the Utah legislature passed H.J.R. 15, which urges the USTR to maintain the regulatory authority of the states and to consult with representatives of state and local governments and industry regarding trade issues. The legislature also passed S.R. 1 and H.R. 9, which urged Congress to oppose entering into the Free Trade Area of the Americas agreement. The coalition that worked on these resolutions included the Utah State AFL-CIO and other labor organizations.

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Model Jobs, Trade and Democracy Act

Purpose

The model bill ensures that state citizens and the state legislators they elect have access to information on the impact of international trade policy on the state economy; it also clearly establishes the role of the state legislature in setting trade policy for the state and helps workers and businesses that have been impacted by trade. The model bill:

- Requires the consent of the state legislature to bind the state to international trade agreements, and establishes State Legislative Points of Contact to serve as official liaisons with the governor's office and the federal government on trade policy.
- Establishes an Office of Trade Enforcement to:
 - Monitor trade negotiations and disputes;
 - Analyze the potential impact of proposed international trade agreements on the state;
 - Assess impact of trade on state economy and make trade policy recommendations;
 - Assist local workers, firms and communities on trade matters.
- Requires the Office of Trade Enforcement to provide for annual reports to the governor and legislature on the impacts of trade on the state, and requires the Governor and Legislature to respond to policy recommendations for handling trade's impacts on the state.
- Establishes a Citizens' Commission on Globalization appointed by the governor and legislature to assess legal and economic impacts of trade agreements, hold hearings and make recommendations to the governor, legislature, congressional delegation and U.S trade negotiators.

Terms for Model Bill

I. This Act may be cited as the "Jobs, Trade and Democracy Act."

II. Findings

The Legislative Assembly finds that:

- A. States have traditionally enjoyed a large degree of autonomy to set their own procurement policies under the U.S. system of federalism.
- B. Recent international trade agreements threaten to erode this traditional state autonomy by requiring state governments to accord foreign suppliers of goods and services treatment no less favorable than that afforded to in-state suppliers. In addition, the agreements stipulate that state contract specifications must not burden trade any more than necessary, and limit supplier qualifications to those that are "essential" to the performance of the contract.

- C. The governor—not the state legislature—chose to bind [state] to the terms of various international trade agreements upon the request of the U.S. Trade Representative (USTR).
- D. State legislators have an important role to play in preserving state authority over procurement policy. These critical decisions should be made only with the involvement of the state legislatures, and only after the public has been adequately informed and has openly debated the issues involved.
- E. It is critical for citizens, state agencies, the state legislature and other elected officials in the state to have access to information about how trade impacts state legislative authority, the state's economy and existing state laws in order to participate in an informed debate about international trade issues.

III. Role of the State Legislature in Trade Policy

- A. It shall be the policy of the State of [state] that approval for the state to be bound by any trade agreement requires the consent of the state legislature.
- B. State Legislative Points of Contact: Two State Legislative Points of Contact (SLPCs) will be appointed at the beginning of each legislative session; one by the [majority and minority leaders] in the Senate, and one by the [majority and minority leaders] of the [House/Assembly]. The legislature declares that the purposes of the SLPCs are to:
 - 1) Serve as the state's official liaisons with the federal government and as the legislature's liaisons with the governor on trade-related matters;
 - 2) Serve as the designated recipients of federal requests for consent or consultation regarding investment, procurement, services or other provisions of international trade agreements which impinge on state law or regulatory authority reserved to the states;
 - 3) Transmit information regarding federal requests for consent to the Office of the Governor, the Attorney General, all appropriate legislative committees and the Office of Trade Enforcement;
 - 4) Issue a formal request to Office of Trade Enforcement and other appropriate state agencies to provide analysis of all proposed trade agreements' impact on state legislative authority and the economy of the state;
 - 5) Inform all members of the legislature on a regular basis about ongoing trade negotiations and dispute settlement proceedings with implications for the state more generally;
 - 6) Communicate the interests and concerns of the legislature to the USTR regarding ongoing and proposed trade negotiations; and
 - 7) Notify the USTR of the outcome of any legislative action.
- C. The following actions are required before the State of [state] shall consent to the terms of a trade agreement:
 - 1) When a request has been received, the governor, majority or minority leader

or ranking member of the appropriate committee of jurisdiction may submit to the legislature, on a day on which both houses are in session, a copy of the final legal text of the agreement, together with—

- a) A report by the Office of Trade Enforcement which shall include an analysis of how the agreement of the State of [state] to the specific provisions of the agreement will change or affect existing state law;
 - b) A statement of any administrative action proposed to implement these trade agreement provisions in the State of [state]; and
 - c) A draft of legislation authorizing the state to sign on to the specific listed provisions of the agreement in question.
- 2) A public hearing—with adequate public notice—shall occur before the legislature votes on the bill; and
 - 3) The bill authorizing the State of [state] to sign on to specific listed provisions of an agreement is enacted into law.

D. Sense of the Legislature: It is the sense of this legislature that the Congress of the United States should pass legislation instructing the USTR to fully and formally consult individual state legislatures regarding procurement, services, investment or any other trade agreement rules that impact state laws or authority before negotiations begin and as they develop, and to seek consent from state legislatures in addition to governors prior to binding states to conform their laws to the terms of international commercial agreements. Such legislation is necessary to ensure the prior informed consent of the State of [state] with regard to future international trade and investment agreements.

E. Notice to USTR: The state Attorney General shall notify the USTR of the policies set forth in section (d) in writing no later than [date], and shall provide copies of such notice to the president of the Senate, speaker of the House of Representatives, the governor and State of [state]'s congressional delegation.

IV. Office of Trade Enforcement and Citizen's Commission on Globalization

- A. The state shall establish an Office of Trade Enforcement and a Citizen's Commission on Globalization.
- B. The Office of Trade Enforcement is directed to:
 - 1) Monitor trade negotiations and disputes impacting the state economy;
 - 2) Analyze pending trade agreements the state is considering signing and provide the analysis to the governor, the legislature, the Citizen's Commission and the public;
 - 3) Provide technical assistance to workers and firms impacted by unfair trade practices;
 - 4) Provide a Trade Impact Report to the governor, the legislature, the Citizen's Commission and the public no later than [date] and annually thereafter;

- 5) Provide additional research and analysis as requested by the governor, the legislature and the Citizen's Commission.

C. Each annual Trade Impact Report required under section (b)(4) above shall include:

- 1) An audit of the amount of public contract work being performed overseas;
- 2) An audit of government goods being procured from overseas;
- 3) A study of trade's impacts on state and local employment levels, tax revenues and retraining and adjustment costs;
- 4) An analysis of the constraints trade rules place on state regulatory authority, including but not limited to the state's ability to preserve the environment, protect public health and safety and provide high-quality public services; and
- 5) Findings and recommendations of specific actions the state should take in response to the impacts of trade on the state identified above. Such actions may include, but shall not be limited to:
 - a) Revocation of the state's consent to be bound by the procurement rules of international trade agreements;
 - b) Prohibition of offshore performance of state contract work and preferences for domestic content in state purchasing;
 - c) State support for cases brought under federal trade laws by residents of the state;
 - d) State advocacy for reform of trade agreements and trade laws at the federal level; and
 - e) Implementation of a high-road growth strategy formulated with business, labor and community participation. Such a strategy may include, but not be limited to:
 - (i) More effective early warning and layoff aversion measures;
 - (ii) Increased assistance and adjustment programs for displaced workers and trade-impacted communities;
 - (iii) Stronger standards and accountability for recipients of state subsidies and incentives;
 - (iv) Investments in workforce training and development;
 - (v) Investments in technology and infrastructure; and
 - (vi) Increased access to capital for local producers.

D. Within 30 days of receipt of the annual Trade Impact Report:

- 1) The governor shall review the report and issue a public statement explaining which of the report's recommendations for specific action under section (c)(5) the governor will act upon in the next 30 days, whether through executive action or proposed legislation.
- 2) The legislature [or specific committee] shall review the report, hold public hearings on the report's recommendations for specific action under section (c)(5), and introduce legislation to enact those recommendations accepted by the legislature [or committee].

- E. A Citizens' Commission on Globalization shall be appointed by the [governor and/or legislature].
- 1) The following stakeholders shall be equally represented on the commission: employers, labor organizations, community organizations and government.
 - 2) The commission shall:
 - a) Assess the legal and economic impacts of trade agreements;
 - b) Provide input on the annual Trade Impact Report;
 - c) Hold public hearings on the impacts of trade on the state and communities, as well as the Annual Trade Impact Report impacts of trade on the state; and
 - d) Make policy recommendations to the governor, state legislature, state congressional delegation and U.S trade negotiators.

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Sept. 14, 2007

First of all, I would like to thank the members of the Commission for the opportunity to speak with them about an issue that is very important to the future of our state – deregulation via outsourcing.

I would like to begin my testimony with a composite case drawn from the research I have been doing for a National Science Foundation research project on the Logistics Industry as an Agent of Change in the Global Economy.

When a worker decides he wants to become a port trucker, and participate in the growing freight hauling sector of the NJ economy, he will usually go to a port trucking company to ask for work. If he has a clean driving record and a commercial driver's license, the company manager may suggest to him that they visit a truck dealer, where the worker will be able to select a truck cab for his new career as an owner operator. The new driver will pick out a cab – usually an old one to keep down monthly payments - and sign a lease. If he is unlucky enough to have landed in the hands of an unscrupulous – or low-road – trucking company, his boss will then take the lease back to headquarters. From then on, this so-called owner-operator will “independently contract” to drive for the trucking company by arriving at the dispatch station every day to receive his assignment. He will receive a written order to pick up and deliver a container from a warehouse to the port or vice versa, for a specified sum, which is supposed to be based on a percentage of the rate that the drayage company has negotiated with a logistics service provider. But since the driver doesn't see the company's contract to haul the freight, he doesn't know if he is receiving the correct sum.

The trucking company will deduct from his payment sums for such things as “tire insurance,” and various fines and penalties. Because he is an owner-operator, there is no employer contribution to the unemployment insurance or worker compensation funds, no social security tax, no health insurance and pension contributions.

This independent operator will be required to report daily to the dispatch office to await work; this means he can't seek work orders from more than one company. If he decides to leave the contractor, he will be told that he can leave but the truck stays behind. Since the lease has remained with the contractor, he has no recourse. If he gets into an accident, he may find out that the trucking company has not paid to cover him and his truck on its insurance policy; the costs of the accident may drive him into bankruptcy and/or out of the trucking business.

Hundreds of port truckers (and garbage haulers and other truck drivers) are thus misclassified as owner-operators. This absurd situation is a symptom of the decay of the regulatory regime that we have built up in this state, and in the United States, over more than a full century.

American legislators, after experiencing the negative effects of destructive competition since the beginnings of America's industrial revolution in the 1820's, began creating regulatory agencies to channel competitive market forces into more consistently positive directions. The Interstate Commerce Act, passed in 1887, was a landmark, a first step in the recognition that unregulated markets led to monopoly, discriminatory pricing, financial panics, commercial piracy, retarded technological development, environmental destruction, poisoned food and drug scares, and a litany of restraints of trade.

For more than 100 years, until a state and national regulatory framework was fully fleshed out, the ill effects of destructive competition took their toll on American labor markets. When firms found themselves backed to the wall by cut-throat competition, they put children to work, hired gang leaders and padrones to recruit immigrants and contract work to them,

enlisted subcontractors to put out garment sewing and shoemaking to women working at home, opened sweatshops in dark and dirty tenements, stretched out the hours of work, ignored safety risks and health hazards and so on.

In the 1930's, the federal government and many state governments acted to end the destructive race to the bottom brought on by the Great Depression. Believing that regulation was necessary to ensure that competition remained healthy – that is to say – that market forces would reward the more efficient and innovative enterprises, legislatures created agencies throughout the American economy, from banking to agriculture, from Maine to California. America regulated not only food and drug safety but freight rates, bank lending practices, airline schedules, building materials, pricing practices – the list goes on and on.

Along with the regulation of competition came the regulation of labor markets. Child labor was strictly limited. Minimum wage, the eight hour day, the right to associate and bargain collectively, unemployment compensation, workers' compensation, scheduled lunch breaks, all these standards that employers had claimed to be rendered impossible due to competitive pressures, were now embedded in state and federal laws. The growth of collective bargaining, along with the passing of legislation, and equally important, the enforcement of labor laws and regulatory codes by state and federal inspectors, ended most of the worst labor abuses. An industry like steel, which had once had terribly low wages and dangerously unsafe working conditions, was transformed; by the 1970's, steelworkers, with their middle-class wages, health insurance and pensions, were considered exceptionally favored workers by their neighbors in industrial communities.

In the 1980's, when Americans began to lament the loss of steelworker jobs, and auto-making jobs, and electrical equipment producing jobs, and TV, radio, sewing machine and telephone manufacturing jobs, we had lost track of the fact that these jobs were not inherently desirable. Making a Singer Sewing Machine was a good job only because America had created a system to regulate competition in product and labor markets that made it possible for manufacturing jobs to be elevated to the status of a good job. In the 1980's, when we complained about the loss of manufacturing, our complaints were at least partially misplaced; what we should have been bemoaning was not the loss of manufacturing per se, but the dismantling of the regulatory system that made good jobs possible.

While America allowed its manufacturing to decline, we were told this was not only inevitable but beneficial. While manufacturing migrated to low-wage countries, Americans would move up the economic ladder to knowledge-intensive service professions, which would pay better and allow for more autonomy and creativity. The fact that Germany was able to maintain its manufacturing industries to become the world's leading exporter of manufactured goods was not usually mentioned in our mass media or in our political leaders' speeches. The fact that Germany continued to regulate its product and labor markets so that it could nurture high-skilled workers and high-value-added enterprises was ignored by American textbooks.

Instead, America began dismantling its regulatory systems in the hope that more competitive markets would unleash entrepreneurship and technological innovation. It began under President Carter, who deregulated trucking and the airlines. We repealed Glass-Steagall, stopped enforcing trade laws, deregulated utilities, broke up the telecommunications monopoly, privatized public services.

As deregulation brought destructive competition into formerly regulated markets, employers once again turned to labor cost savings as their way to compete. One way they did this we call off-shoring; they shifted production to regions where labor markets were

unregulated and labor standards were low. GE moved TV production to Ciudad Juraez and then to Guangdong.

Another way they did this was by re-inventing the contracting out mechanisms that employers had used 100 years ago. By outsourcing work, employers freed themselves of their legal and contractual responsibilities as employers, and they evaded the regulatory standards of public agencies. We don't call it the putting-out system anymore, and we don't see immigrant women carrying bundles of sewn garments through the streets, but there are hundreds of thousands of "outsourced workers" doing piece work on their computers at home, without benefit of wage and hour laws, or employer contributions to unemployment insurance, workers' compensation, and social security.

Furthermore, even when workers are still classified as employees, regulatory agencies don't effectively enforce legal standards. Under competitive pressure, many employers steal tips, withhold wages, require uncompensated prep and clean-up time, order unsafe work, ignore chemical exposures and unhealthy air. This is not mere assertion; The Brennan Center for Justice Report, *Unregulated Work in the Global City: Employment and Labor Law Violations in New York City*, amply documents that many labor markets, in restaurants, construction, landscaping, manufacturing, commercial laundries, small retail establishments, taxis, auto services, personal services, building maintenance, security, groceries and supermarkets, domestic work, home health care, and subsidized child care have become like the labor markets of Dickensian London; cheap, dangerous, dirty, and miserable.

Nor do we need to look across the river, to the Global City, to find degraded work conditions brought about by deregulation and lack of enforcement of elemental labor standards. For the past two years I have been studying the port trucking, or drayage industry, at the ports of Elizabeth, Newark and Bayonne. I have interviewed drivers, supervised driver surveys, and met with leaders of the regional freight transportation industry. In 1980, before trucking deregulation, port truckers were mostly unionized employees, making a decent hourly wage with health and pension benefits. Today, most of them are immigrant owner-operators who are not protected by OSHA, or the Fair Labor Standards Act. Their employers don't make contributions to the unemployment insurance fund, the workers' comp system, or Social Security. When they get sick, since they have no employer-provided health insurance, they go to charity care at the public expense. If they, or a member of their family, develop a chronic condition, they can no longer afford to remain an owner-operator driving a truck to the port; they have to look for a job that provides health insurance benefits.

Not surprisingly, there is a shortage of 750-1000 drivers, and a turnover rate of 130%. If you talk to a port trucker about his job, you'll quickly understand that it's a labor market that attracts the desperate, those without alternatives. Since they are paid by the container load, not by the hour, the freight moving system at the port keeps them waiting on line after line; at the terminal gates, at the chassis yards, at the container yards, at the exit gates, usually with their engines idling despite the anti-idling law. If there is a mistake in the freight documents, the drivers wait at the terminal problem desk. If traffic congestion slows them at the Port of Elizabeth's and the Port of Newark's two exits, they wait on line in a traffic jam, emitting diesel particles and burning up fuel. When they get to their warehouse destination, and remember, imports exceed exports three to one at the Port of NYNJ, they have to wait until a dock is empty; if they arrive after their scheduled time, they have to wait until their next scheduled slot; if the warehouse has closed; they have to come back tomorrow.

Little wonder that most owner-operators have a hard time making ends meet when they finish paying for their truck lease, insurance, fuel, maintenance, repair, tires, license, and

registration. With the number of paid moves they can make in a day limited by port congestion and inefficiency, and with rates limited by destructive competition among desperate drivers, who, as owner-operators, are not allowed to act collectively to maintain decent rates, it's not hard to understand why so many hold on to their old, worn-out, fuel-hogging, pollution-producing trucks. Our survey found that 40% of the owner-operators are driving trucks that are more than 10 years old, which means that they have inefficient engines that produce more than 35 times the diesel emissions of modern trucks. Moreover, not only are these old trucks expensive to keep on the road, they pose safety risks. The companies that contract with drivers often require them to deliver overweight loads that strain their truck's engines, brakes, tires, and frames. And if that's not bad enough, the companies may order them to deliver hazardous materials, even though they have not had training in handling hazardous materials and lack a license. The drivers don't know what they are hauling in the sealed containers; when they bring an empty container back to the yard, they have to clean it up, even though they don't know what they are cleaning, and there is no place or equipment at the port provided to them to clean the containers safely.

This broken system costs the taxpayers of New Jersey hundreds of millions of dollars. Not only do we need to take into account the health impact of diesel emissions from obsolete trucks – which the NJ Environmental Federation, Clean Water Watch, has estimated at \$3.5 billion annually – but there is also the drain on Charity Care, the excess wear and tear on the roads and bridges, the cost of traffic delays from congestion and breakdowns, and the negative impact on our ports and logistics chain, which lose business to competitors because of the inefficiencies which the current port trucking system imposes on the rest of the logistics industry.

Port Trucking is a modern-day sweatshop, an example of what happens when a deregulated industry breeds employers who outsource their work. While it may be hard to believe the negative story I have told, members of my research team have ridden with the drivers, experienced these conditions, breathed in the cancer-causing diesel emissions belched by worn-out, obsolete trucks.

If the State Legislature of New Jersey is concerned about offshoring and outsourcing, it needs to

1. Regulate competition to contain destructive behavior and channel market forces to productive, innovative, efficient business models.
2. Hold employers to their obligations as employers, eliminating the misclassification and other evasions that force New Jersey workers to endure unhealthy, unproductive, and badly paid jobs. The State Legislature has already passed a law designed to eliminate misclassification in construction. (PL 2007, c. 114, Assembly bill 4009 enacted criminal penalties against employers who misclassified their employees and debarred such employers.) This law needs to be extended to all industries, and backed up with adequate appropriations.
3. And the Legislature needs to make sure that existing labor laws, regulations and safety standards are enforced. Currently, the state Department of Labor and Workforce Development hasn't sufficient staff to enforce the law, and lacks jurisdiction over many workplaces and workers. Abuses are unreported and unrestrained. Abusive conditions are becoming the standard in too many NJ workplaces, a standard that pushes even responsible employers to join the race to the bottom (as my colleague, Carmen Martino, will testify).

RUTGERS

If you would like additional information, I would be happy to provide it. I would also suggest you contact my colleagues at the Department of Labor Studies and Employment Relations at SMLR, Rutgers-New Brunswick, and Rich Cunningham at New Labor. For more information about the port truckers, and proposals currently under consideration to re-regulate the port trucking industry in Los Angeles, Long Beach and Oakland, California, you could contact Christina Montorio at Christina.montorio@changetowin.org

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Judy Lugo

From: David Bensman [dbensman@smlr.rutgers.edu]
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To: Judy Lugo
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Maersk pays drivers \$6.25 million in settlement

A.P. Moller-Maersk company BTT admits mistake that could cause loss for drivers

by Peter Rasmussen

The A.P. Moller-Maersk subsidiary, Bridge Terminal Transport (BTT) has agreed to pay independent drivers 6,25 million dollars in a settlement with OOIDA, the Owner-Operator Independent Drivers Association in the US.

In June 2004 OOIDA and seven OOIDA members filed a class-action lawsuit against the intermodal carrier in federal court on behalf of individual owner-operators. The suit also alleged that BTT violated the leasing regulations by failing to disclose fuel and insurance-related administrative fees in its lease.

The original demand of OOIDA was 22,5 million dollars in compensation.

Wanted to change conduct

Each of the 6.000 drivers involved will now receive an average 800 US Dollar from the settlement. Attorney David Cohen, who has been working on the case for OOIDA, is satisfied. "We wanted to change the conduct of BTT now. In this settlement BTT promises to make a real in change their behaviour, compensation terms and relationship with the drivers in the future. And if they don't, we'll be back in court, Cohen says. BTT has committed themselves to inform drivers about compensation rates every 90 days.

BTT to fix errors

BTT admits that the company has made mistakes. "As we prepared to address the lawsuit, it became clear that we had made some mistakes that created the possibility for our owner operator business partners to suffer a loss", BTT president Phil Connors comments to Land Line Magazine.

"Rather than continuing to argue over the issue, we wanted to fix any errors that may have been made and remove any cause for concern on the part of our independent contractor partners", he continues.

David Cohen is confident, that BTT will comply with the settlement. "I guess that BTT also took the decision in their own business interest. There's a shortage of drivers. Furthermore, BTT could have ended up paying even more money."

A federal court hearing June 4 has to accept the settlement, before it becomes official.

Judy Lugo

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September 7, 2007

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Missouri lawmaker faces prison, fines for trucker visa fraud

Sentencing has been set for Oct. 19 in U.S. District Court for the Western District of Missouri for a state lawmaker who illegally obtained work visas for hundreds of New Zealand immigrants so they could drive for trucking companies in southern Missouri and northern Arkansas.

First Assistant U.S. Attorney Michael Reap said that state Rep. Nathan Cooper, R-Cape Girardeau, now faces up to 15 years in prison and \$500,000 in fines. Cooper pleaded guilty in August.

According to the U.S. Attorney's Office in St. Louis, Cooper fraudulently obtained H2B temporary visas for a number of trucking companies that were his clients. Cooper is an immigration attorney as well as state lawmaker.

According to news sources, Cooper, who is free on bond, recently asked for his passport to be returned and if he could take a business trip to the Philippines. The U.S. Attorney's Office told him no.

September 14, 2007

New Jersey State Legislature
Outsourcing and Off-Shoring Commission
State House Annex, POB 068
Trenton, NJ 08609-0068

Testimony for Public Hearing September 14, 2007

Honored members of the Outsourcing and Off-Shoring Commission:

Thank you for accepting written testimony from our two organizations: New Jersey Headwear, an apparel manufacturer in Newark, and SweatFree Communities, a non-profit non-governmental national organization working to end taxpayer support for apparel and other products made in sweatshop conditions. We regret that we cannot join you in person today, but invite you to contact us with any questions about this testimony or our organizations.

We would like to suggest that the State of New Jersey joins the State and Local Government Sweatfree Consortium as a means of reducing outsourcing and off-shoring.

The following is our joint statement:

New Jersey Headwear Corp is a union manufacturer of hats, shirts, and bags, under the Unionwear label, in an Urban Enterprise and Empowerment Zone in Newark, NJ. NJ Headwear's 100 employees belong to Unite Here, are paid a living wage, and receive full health care benefits. The company markets its wearables as uniforms and promotional gear to organizations with domestic manufacturing standards: labor unions, political campaigns, domestic manufacturers, and government agencies including the US Postal Service. NJ Headwear, working closely with Unite Here, has successfully turned many Sweatfree directives and orders into jobs right here in New Jersey.

Founded in 2003, SweatFree Communities works for a just global economy, focusing on improving working conditions in apparel and other labor-intensive global industries. SweatFree Communities coordinates a national network of grassroots campaigns that seek to end taxpayer support for sweatshops and realize the potential in using public purchasing to catalyze fair trade based on international human rights and labor rights standards. Motivated by public sentiment to end government purchasing from sweatshops, over 180 states, cities, counties, and school districts in the United States have adopted "sweatfree" procurement policies. These policies require contractors to assure that they and their subcontractors maintain good working conditions in return for public contracts to supply uniforms and other products.

Effectively enforced sweatfree procurement policies can help create a fair and level playing field for New Jersey apparel and other businesses that compete in a global economy defined by human rights abuses, poverty wages, dangerous and unhealthy working conditions, and environmental pollution. Sweatfree procurement may help reduce outsourcing and off-shoring by rewarding employers who pay a living wage and provide health and retirement benefits and enabling them to compete with vendors who outsource to sweatshops and pocket the difference. A financial incentive to improve working conditions will also reduce wage inequality and the number of working poor on public assistance.

New Jersey Headwear has already been able to add 35 permanent well-paid jobs in a declining industry thanks to a \$1 million order from the U.S. Postal Service which seeks U.S. and union-made uniforms. A recent contract to manufacture college logo bags for colleges bound by a sweatfree Code of Conduct led to hiring of 25 new employees.

The State of New Jersey has been one of the leaders in the sweatfree movement. In June 2002, Governor James McGreevey took an important step towards ending taxpayer support for sweatshops by issuing Executive Order # 20. The main provisions of the Executive Order are:

- Preference for U.S. made apparel.
- Fair labor standards for apparel manufacturing, including freedom of association, a safe and healthy work environment, no discrimination, and non-poverty wages.
- Requirement that bidders disclose the location where apparel production is to take place, including any sub-contractor locations.
- Constitution of an Apparel Procurement Board with authority to receive complaints of violations of the standards cited in the Executive Order and recommend investigations into the merits of such complaints.
- Sanctions of violators, including termination of contracts and barring vendors from subsequent apparel contracts.

Many New Jersey cities and counties have also adopted sweatfree procurement policies, as has the Archdiocese of Newark.

However, the State of New Jersey cannot currently verify whether or not state vendors are in fact selling sweatfree goods. No single state or other public entity has adequate resources to monitor factories and investigate possible violations of the sweatfree procurement standards.

In September 2006, Governor Jon Corzine took a further significant step to end public purchasing from sweatshops by joining Governor Baldacci of Maine and Governor Rendell of Pennsylvania in a Governors' Coalition for Worker Rights and Sweatfree Procurement. The purpose of the Coalition is to develop:

- Best practices and procurement policies to end taxpayer support for sweatshop abusers, including binding codes of conduct, disclosure of supplier factories, independent investigations of factories, and remediation of worker rights violations.
- Cost-effective and reliable independent monitoring mechanisms and inspections of contractor and subcontractor places of manufacturing.
- A purchasing consortium to facilitate procurement from sweatfree supplier factories.

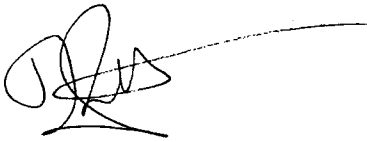
The Governors' Coalition has now merged with cities and other public entities to form the State and Local Government Sweatfree Consortium which will pool resources for investigating and monitoring supplier factories and coordinate the implementation and enforcement of sweatfree procurement standards. Currently in formation, the Consortium is directed by an interim Steering Committee which includes representatives of three states, two cities, a public school district, and labor rights experts and advocates. SweatFree Communities serves as coordinator of the Consortium effort. New Jersey Headwear, Artex Knitting Mills in Westville, and Eveready Embroidery in Jersey City have all endorsed the Consortium campaign.

The Consortium will be launched when its affiliated public entities represent approximately \$100 million in annual apparel purchases. This market size will provide incentive for vendors and their subcontractors to make the changes necessary to ensure compliance with sweatfree codes, ensuring a fair and level playing field for New Jersey businesses.

We believe that the single-most significant step the State of New Jersey can take to ensure citizens' aspirations to end taxpayer support for sweatshops has the best chance for success is to formally join the State and Local Government Sweatfree Consortium. While the Consortium is in formation, the only requirement for Consortium affiliation is committing to its core principles as defined in the model Consortium resolution attached to the end of this testimony. We would look forward to working with you to ensure that the State of New Jersey plays a vital role in the Consortium.

Thank you for your commitment to creating a fair and sustainable economy. Please feel free to contact us with any questions.

Sincerely,



Mitch Cahn, owner
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STATES

Model Resolution:

To Join the State and Local Government Sweatfree Consortium *Ending Taxpayer Support for Sweatshops*

WHEREAS, sweatshop conditions in apparel and other industries around the world are well documented;

WHEREAS, workplace abuses cause untold human suffering for workers and their families across the globe;

WHEREAS, taxpayers may believe that ethical consumption requires that States do not purchase goods from sweatshops;

WHEREAS, States, acting as any other consumer in the marketplace, may lawfully choose to buy goods that are not made in sweatshops;

NOW THEREFORE, I, _____, Governor of the State of _____ do hereby commit my State to participate in the formation of a State and Local Government Sweatfree Consortium that will pool resources for investigating and monitoring supplier factories and coordinate the implementation and enforcement of sweatfree procurement standards based on the following key principles:

- All companies in the supply chain producing the goods sold to the State are responsible for ensuring that the workers producing those goods do not work under sweatshop conditions.
- Vendors must commit to a Code of Conduct with strong protections for workers in supplier factories, requiring adherence to international standards of workplace fairness and safety and non-poverty wages. Vendors must publicly disclose the locations and working conditions in supplier factories.
- Factory investigations will be primarily in response to reports of alleged violations or other concerns with the goal of rectifying substantiated Code of Conduct violations. An independent monitor, which is neither owned nor controlled in whole or in part by the industry to be monitored and does not derive any revenue from any vendor, manufacturer, contractor, or subcontractor, will have full control of the investigatory process, working in partnership with organizations, situated in the local factory community, that have demonstrated commitment to the human rights and basic needs of workers.
- Working conditions generally improve when workers have a meaningful right to freedom of association, because it is workers who have the greatest incentive and opportunity to monitor working conditions on a day-to-day basis.
- Code of Conduct compliance requires fair purchasing terms between companies and factories, because the product price and requirements for volume and turnaround time shape the conditions in which factories strive for compliance. The Consortium will develop mechanisms to ensure that supplier factories receive stable and sufficient orders at a fair price determined by a competitive market process. In return, factories will have to maintain Code of Conduct compliance and be open to inspections by an independent monitor.

- The Consortium will begin work in the apparel sector but will consider expanding its scope to other industries where sweatshops are of concern.

- Consortium affiliation will be open to all public entities (cities, counties, states, school districts) that adopt a Code of Conduct with strong protections for workers in supplier factories; require vendors to publicly disclose names, addresses and working conditions of supplier factories; pay annual dues; and, as soon as contractually possible, require vendors to commit to fair purchasing with their suppliers.

- The governing board of the Consortium will include both governmental and non-governmental representatives of the public who are accountable to the respective chief elected officials of participating states, cities, and other governmental units.

- In order to maintain its independence, the Consortium will not accept any funding from the industries to be monitored.

I designate _____ as my lead staff person to help with the formation of a State and Local Government Sweatfree Consortium. This person can be contacted as follows (email): _____

My state's approximate annual apparel purchasing volume is \$_____. I commit to conducting this amount of procurement with the Consortium's support and guidance and to address code of conduct violations based on the Consortium's recommendations and operating principles.

I agree that other members of the Consortium may publish and broadcast and otherwise communicate my name and the name of my State as an active provisional member of this Consortium, yet only within the confines of the commitments above.

This resolution may be revoked at any time by the signatory party by written communication to the Division of Purchases, State of Maine.

Gubernatorial signature

Date

Return to:

Chip Gavin, Director
Bureau of General Services
Department of Administrative and Financial Services
77 State House Station
Augusta, ME 04333-0077

e-mail: Chip.Gavin@maine.gov
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Health Professionals and Allied Employees/AFT/AFL-CIO
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Statement by: Jean Pierce
Health Professionals & Allied Employees AFT AFL-CIO
August 16, 2007

Chairman Van Drew and members of the Assembly Outsourcing and Off-Shoring Committee; thank you for the opportunity to speak with you regarding the impact of outsourcing and off-shoring in the field of health care.

My name is Jean Pierce, Public Policy Staff, the Health Professionals and Allied Employees AFT, AFL-CIO (HPAE), representing 13,000 Registered Nurses and health professionals working in hospitals, nursing homes, home care and blood drives across New Jersey.

Today we know very little about the number of jobs outsourced by the health care industry. HPAE is just beginning to research this phenomenon as our members report seeing hospitals outsourcing in areas such as medical billing, transcriptions, information technology services and the reading of x-rays.

I would like to focus my comments on three areas of concern.

1. Professional standards and certification. Health care providers are looking for alternative ways to reduce cost, the primary motivation for off shoring. When examining such trends, one must look at the training and certification of those providing the services. As an example, in the United States, a radiologist must complete their medical residency in the U.S., pass medical boards and be licensed in the state where the images are taken. What guarantees are given that the same professional standards are being maintained off-shore? Have measures been implemented to ensure patients are receiving quality care?
2. Patient protection and HIPAA compliance. Off-shore providers are not required to comply with our HIPAA standards¹. Safeguards such as HIPAA mandated

¹ Reading Between the HIPAA Guidelines. Karen Guglielmo, CIO News 12/13/03

security and privacy mechanisms would not be in place to protect a patient's health information.

As this committee continues to study the impact of outsourcing and off-shoring on New Jersey jobs, we would recommend the Department of Health survey hospitals to determine the following:

- What types of work is being outsourced.
- The extent of the outsourcing and job impact.
- The certification of those providers who are processing the work.
- Determine the measures being taken to ensure quality patient care is being provided.
- Determine what measures are being taken to protect the patient's HIPAA rights.

Thank you for your attention to these issues.

##

ADDITIONAL APPENDIX MATERIAL
SUBMITTED TO THE
ASSEMBLY OUTSOURCING AND OFF-SHORING COMMISSION
for the
SEPTEMBER 14, 2007 MEETING

Submitted by Linda K. Klose, Executive Director, New Jersey-Pennsylvania Council, AeA, Advancing the Business of Technology:
“We Are Still Losing the Competitive Advantage – Now is the Time to Act,” AeA, Advancing the Business of Technology, March 2007, © 2007 American Electronics Association.

Submitted by Eric Richard, Legislative Affairs Coordinator, New Jersey State AFL-CIO:
James Drew, “Senator Brown pushes to reform plant-closing law; Clinton, Obama sign on,” *Toledo Blade*, July 17, 2007.