

ASSEMBLY OUTSOURCING AND OFF-SHORING COMMISSION

JANUARY 7, 2008

Assemblyman Jeff Van Drew
Chairman



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Commission Chairman

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DAVID C. RUSSO

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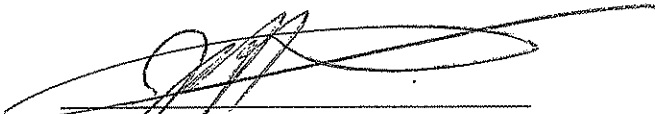
New Jersey State Legislature
OUTSOURCING AND OFF-SHORING COMMISSION
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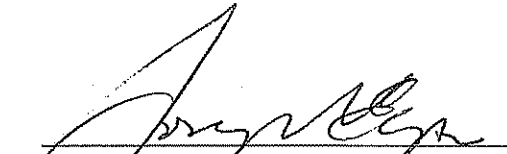
January 7, 2008


Speaker of the General Assembly Joseph J. Roberts, Jr.
General Assembly Minority Leader Alex DeCroce


Speaker of the General Assembly Roberts and Assembly Minority Leader DeCroce:


The Outsourcing and Off-Shoring Commission hereby respectfully submits its final report in compliance with its charge.


Jeff Van Drew
Chairman


Joseph V. Egan


David C. Russo


William J. Kroll


Jim Leonard


James P. Marketti


Carl E. Van Horn

ASSEMBLY OUTSOURCING AND OFF-SHORING COMMISSION

Assembly Members:

Assemblyman Jeff Van Drew, Commission Chairman (D-1st)

Assemblyman Joseph V. Egan (D-17th)

Assemblyman David C. Russo (R-40th)

Public Members:

William J. Kroll, *Chairman, Matheson Tri-Gas*

Jim Leonard, *Vice President, Government Relations, New Jersey Chamber of Commerce*

James P. Marketti, *President, Communication Workers of America, Local 1032*

Carl E. Van Horn, *Director and Professor of Public Policy, John J. Heldrich Center for Workforce Development*

Staff to the Assembly Commission:

Gregory L. Williams, *Commission Secretary, Office of Legislative Services*

Christopher Jones, *Commission Aide, NJ General Assembly Majority Office*

Joseph Glover, *Commission Aide, NJ General Assembly Republican Office*

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INTRODUCTION

The Assembly Outsourcing and Off-shoring Commission was established by Assembly Resolution 184, which was passed by the General Assembly on March 14, 2005. The resolution is provided in Appendix A of this report. The commission did not meet during the 2004-2005 legislative session, but it was continued during the 2006-2007 legislative session by Assembly Resolution 1 of 2006, the resolution which organized the General Assembly for the 2006-2007 session. The commission had its organizational meeting on May 21, 2007.

AR-184 directs the commission to study the issues associated with the practices of outsourcing and off-shoring including but not limited to:

- a. Reviewing the impact of outsourcing and off-shoring on private and public employers and employees in the State, including the impact of jobs created and retained in New Jersey by the outsourcing of jobs into New Jersey from off-shore and out-of-State employers;
- b. Studying ways to reduce outsourcing and off-shoring in the State;
- c. Determining which employment sectors are most affected by outsourcing and off-shoring issues;
- d. Identifying outsourcing and off-shoring issues that can be controlled or addressed by State law or regulation; and
- e. Providing recommendations concerning steps that need to be taken to ensure that outsourcing and off-shoring practices do not have a detrimental impact on the employers and employees in the State of New Jersey.

To carry out its responsibilities, the commission held two public hearings to take testimony on those issues from members of the public, the first held on September 14, 2007 in Millville, New Jersey (referred to in this report as "Hearing I") and the second on November 16, 2007 in Trenton, New Jersey ("Hearing II").

In addition to the oral testimony provided at the hearings, the commission reviewed written submissions.

The commission would like to express its gratitude to the numerous representatives of labor, business, community, policy and academic organizations who shared their expertise and first-hand knowledge of the complex issues before the commission, as well as many constructive proposals to alleviate hardships caused by outsourcing and off-shoring. A list of those who made oral and written submissions to the commission is provided in Appendix B of this report. As noted in Appendix B, printed copies of the transcripts of the two hearings, including written submissions, are available upon request from the Office of Legislative Services.

In some respects, the work of the commission, and its recommendations, represent only the first, tentative steps to address and resolve the problems associated with outsourcing and off-shoring. A major difficulty expressed by a number of the experts who testified is that there are large gaps in the information available regarding the impact of outsourcing and off-shoring on employment and income in the state.

A particularly striking illustration of the lack of comprehensive information came from the response of the Governor's Office of Policy to questions submitted by the commission. The office, after consulting with the appropriate State agencies, reported that no data are being collected with respect to most of the informational questions asked by the commission. The questions of the commission and the responses of the office are provided in Appendix C.

Consequently, a number of the commission's recommendations concern the need to continue efforts to improve the collection information and coordinating its use (see recommendations 6, 9 and 10, below) and to establish entities charged with, among other things, conducting ongoing oversight of the impact of outsourcing, off-shoring and trade (see recommendations 1 and 2).

FINDINGS AND RECOMMENDATIONS

The range of issues before the commission, and recommendations proposed to address them, were broad. Testimony and other communications received by the commission made clear that “outsourcing” and “off-shoring” are perceived as including many different activities, such as:

- a. The direct relocation of service and other jobs from within New Jersey to locations outside of the United States;
- b. The loss of employment in the State due to imports and other impacts of international trade;
- c. The outsourcing of jobs from private employers in the State to subcontractors;
- d. The deeming such outsourced workers as independent contractors not subject to various labor standards; and
- e. The contracting out to private vendors of government services and the privatization of public sector jobs.

As directed by AR-184, the commission has adopted recommendations for actions to be taken by the State to alleviate hardships caused by outsourcing and off-shoring. Appendix D provides a full list of the 22 recommendations proposed to the commission, together with what action the commission took regarding each proposed recommendation. When the commission met on December 6, 2007, it adopted 12 recommendations out of the 22 proposed.

The commission found that the numerous and wide-ranging recommendations proposed by members of the public, as described by Appendix D, covered nearly all of the commission’s concerns. Only one recommendation was proposed by any commission member in addition to those proposed by the public. That recommendation, proposed by commission member Jim Leonard, was adopted by a unanimous vote and is recommendation number 10, below.

Below is a complete list of all 13 of the recommendations adopted by the commission, including the 12 proposed by members of the public and the one proposed by a commission member. Unlike Appendix D which lists all of the proposed recommendations in the order in which they were made, the list below lists only the recommendations adopted, grouped by topics reflecting the wide range of concerns expressed by the public.

Impact of International Trade and Trade Agreements

1. Enact legislation creating a permanent oversight committee or commission to review trade agreements and develop policy responses. Many provisions of international trade agreements often limit traditional prerogatives of the states in many areas, including regulation, purchasing of goods and services, investment, taxation, environmental protection and economic development. It is therefore appropriate for the Legislature to become more involved in trade issues, as in the seven states which have permanent oversight committees or commissions on trade issues, some of them giving special attention to potential adverse effects of trade agreements on state sovereignty.

2. Enact the “Jobs, Trade and Democracy Act” model legislation to require legislative consent before binding the State to any international trade agreement, to involve the Legislature in trade issues by establishing a Legislative “Point of Contact” on trade agreements and issues, and to set up an “Office of Trade Enforcement” to monitor trade negotiations and disputes. The model act is provided in Appendix E.

3. Enact a resolution memorializing Congress to renegotiate the President’s “fast track” trade promotion authority. Appendix F provides an example of such a resolution from Maine.

Outsourcing which includes Off-shoring

4. Enact legislation prohibiting the investment of public employee pension funds into firms that are in the business of outsourcing, based on New York Senate Bill 4696.

5. Enact legislation to prevent, through the Board of Public Utilities, the utility industry from off-shoring employment, particularly customer service work.

6. Strengthen enforcement of the State ban on purchases of goods from sweatshops established by Governor McGreevey’s Executive Order 20. Join with other states to pool resources to enforce standards and monitor facilities for compliance.

Contracting Out or Privatization of Public Sector Employment

7. Enact legislation like the Massachusetts law, provided in Appendix G, which prohibits private contracting unless the State Auditor finds that the contractor will be able to do the work more efficiently than government workers.

A significant difference between the Massachusetts law and New Jersey's A-706 of 2003, which was passed by the Assembly, but not acted on by the Senate, is that the Massachusetts law applied only to contracts entered into after the law took effect, while the A-706 would have required all existing contracts to be reviewed upon renewal. The commission recommends legislation that applies only to new contracts.

8. Enact legislation extending New Jersey's service prevailing wage law, P.L.2005, c.379, which now covers only janitorial and building security workers, to cover all occupations currently subject to the federal service prevailing wage. Maryland enacted such legislation in 2007.

Public Access to Information on State and Local Contracts.

9. Enact legislation to require that comprehensive data on all State contracts with private vendors be annually collected, compiled and published by the State Department of the Treasury, with greater attention to the location of the headquarters of each private vendor and where the work under the contract is actually performed, including offshore, in other states and within New Jersey, and how much of the employment is offshore or in this State or other states. Each contract should require that the information be provided by the vendor to be made available to the public and include the contract's dollar value, start date and any anticipated end date, a description of goods or services provided by the vendor (such as professional services, information services, public works, office supplies, highway design, construction, printing and cleaning services), the name and headquarters location of the parent company of the contractor, the number of full-time equivalent employees working for the contractor to provide the services or goods, and the same information as it pertains to any subcontractor providing any portion of the contracted goods or services. For county or municipality contracts with private vendors, the Department of Community Affairs would be required to annually collect, compile and publish by county and municipality all of the information listed above.

10. Obtain a fiscal analysis of the impact of P.L.2005, c.92. That law requires that every State contract for services specify that services provided under the contract be performed within the United States, unless the relevant State agency certifies that the services cannot be obtained within the United States or that such a specification would violate federal requirements.

Curtailing Excessive Influence of Contractors

11. Adopt legislation to impose strict rules to bar contractors with a financial relationship with public officials from bidding on public contracts and

impose at least a two-year moratorium on former public officials being lobbyists or top executives for firms with or seeking public contracts.

12. Continue efforts towards legislating a comprehensive ban on “pay to play,” blocking campaign contributions by contractors.

Outsourcing in the Private Sector

13. Address the problems of contract (“outsourced”) manufacturers which rely on low-wage, low skill, high-turnover, largely immigrant workforces, by: raising workplace quality by creating regional partnerships of low, medium and high wage employers to upgrade the organizational and cultural composition of low-wage workplaces; providing low-wage immigrant workers with employer-based access to basic skills and skills upgrade training; and providing those workers with advancement opportunities through inter- and intra-firm job ladders linking medium and high wage employers.

January 5, 2008

Hon. Jeff Van Drew
Assemblyman and Chairman
Assembly Outsourcing and Off-Shoring Commission
State House Annex
P.O. Box 068
Trenton, NJ 08625-0068

Dear Chairman Van Drew:

We would like to start by thanking you for the opportunity to serve as members of the Assembly Outsourcing and Off-Shoring Commission. Your interest in the issue is commendable.

While we appreciate the hard work of the committee, we must dissent in part with the majority's recommendations. Our joint written dissent, which we have been told will be appended to the final report, should give those who read the final report some insight into why we do not necessarily support all of the recommendations made by the Commission. Please note that Mr. Leonard represents the views of the New Jersey Chamber of Commerce and Assemblyman Russo writes in his role as a member of the General Assembly.

Outsourcing is a word filled with emotion. Those who lose their job due to outsourcing face financial uncertainty and what could be a difficult transition back into the job market. New Jersey companies that send jobs to other countries sometimes face public criticism and the wrath of elected officials. And yet too many times the headlines miss the underlying issues of the debate. Successful training programs rarely are trumpeted in the papers. Jobs lost to outsourcing gain the front page, while job gains and jobs created by foreign investments are relegated to the back pages.

Over the next few pages, we have attempted to articulate our collective views this very difficult and complicated issue while providing some general suggestions that we believe the Commission should consider including in its final report.

New Jersey – An Expensive Marketplace

New Jersey companies struggle with the high costs of doing business in this state. Our onerous taxes and above average energy and labor costs make it difficult to compete with others states, particularly states that, like New Jersey, can offer an educated workforce and good quality of life, but have much lower taxes and other business costs. Our state's high business costs, coupled with our burdensome regulatory climate, hamper business attraction and retention, resulting in less job creation, expansion and economic growth.

Tax policy has a significant impact on the economic health and vitality of a state. We are all aware that New Jersey has the highest property tax burden in the country.

Additionally, recent economic studies have shown that many of New Jersey's current business taxes are out of line with the majority of other states, creating a competitive disadvantage for our state. We have one of the highest corporate tax rates in the country, and the 2002 Business Tax Reform Act made several changes to the Corporate Business Tax that resulted in onerous provisions that are unique to New Jersey. In addition to increasing corporate taxes, New Jersey has increased several other taxes within the past few years. In 2006, the sales tax rate was raised to 7 percent, and in 2004, the top individual income tax rate was raised to 8.97 percent. As a result, New Jersey also has one of the highest individual income and sales tax rates. This trend needs to be reversed if New Jersey is going to foster a positive business climate.

New Jersey companies pay more for energy than the majority of other states. The costs of electricity and natural gas are significantly higher in New Jersey than in other states. Labor is also more expensive in New Jersey, as wages in the state are among the highest in the nation. Employers also pay one of the highest minimum wages and health insurance premiums.

New Jersey's businesses are plagued with over regulation. In a recent survey of CEO's, 84% reported that other states do a better job in the regulatory arena. Employers cite excessive waiting periods and confusing bureaucracy for permitting, licenses and certification. A recent analysis of the state's environmental site remediation programs estimates an 88-year backlog of cases.

Recent surveys of business leaders show that New Jersey must make significant and immediate improvements to its business climate. Only 40 percent of CEO's say that New Jersey's current economy is good, and only 20 percent say that New Jersey is a good place to do business. Almost 95 percent say that other states do a better job with taxes.

With all these challenges it is easy to see why New Jersey continues to struggle with employment in several key areas of our economy.

Retraining, Not Restrictions

Employment in various industry sectors has been subject to the ebbs and flows of the economy since day one. The man who cut ice from the lake and sold it behind a horse drawn cart left that job to sell "ice boxes" at the local hardware store. The woman who picked up the phone and connected your call to "Pennsylvania 6-5000" left to program voice mail systems for IBM. What do these people have in common? They successfully transitioned out of a disappearing job into another career. Whether a job is lost because of changes in technology or because of outsourcing, those who find themselves without a job deserve a government that steps in and offers training programs that provide them with the skill sets our society needs. We support holding schools and educational facilities accountable for providing every student with a foundation that can be used as a springboard for a future in the workforce. We also support additional funding for training programs that help transition employees into the world of continuing learning. Finally, we endorse both State and Federal programs that offer tax incentives for employers to

improve the skills their employees possess. It is only through training that we will assure our workforce can withstand the ever-changing economy we live in.

A Solution Looking For A Problem?

The U.S. Bureau of Labor Statistics predicts that the United States will see the creation of 21.3 million net new jobs by 2012. The New Jersey unemployment rate has been below the national average month after month. And forecasts by the NJ Council of Economic Advisors and other forecasting groups generally indicate a steady growth in employment in the coming years.

The number of jobs lost to outsourcing is fairly small. Legislation that would attempt to prohibit jobs from leaving the state would have a chilling effect on job creation and would do more harm than good when it comes to employment.

Job Creation is a Two Way Street.

Insourcing, or the creation of jobs in the US by foreign firms, is the other half of the outsourcing debate that rarely gets mentioned. And yet the amount of employment generated by this insourcing is significant.

New Jersey ranks in the top 10 in the nation in terms of the number of workers employed by U.S. subsidiaries of foreign firms, with a total exceeding 270,000. In addition, roughly 6% of the total private-sector workforce in New Jersey is employed by US subsidiaries of foreign companies. Well-known subsidiaries of foreign companies like Hoffman-La Roche, Nestle and Unilever are proud to call New Jersey home. And according to the McKinsey Global Institute while the U.S. lost two million jobs due to global trade over the past 20 years, we have added 35 million new jobs in just the past ten years. The State Chamber supports policies that encourage US investment by foreign firms and opposes legislation that encourages isolationism.

Made In America?

More than likely the widget you buy at your local store has components made throughout the world. The suit you purchase at a department store might have wool from Australia, buttons from India and be assembled in Canada. Many electronics contain parts from more than a dozen countries including Brazil, Belgium, the Czech Republic and the United States. The bottom line is we live in a society where the world provides parts of the manufacturing puzzle. Those that argue that we should insist on products that are "Made In America" or take steps to block outsourcing ignore the realities of our new world.

Ninety percent of the customers in the world live outside the United States. Isolating ourselves with restrictive legislative initiatives that attempt to prevent jobs from moving off our shores will do nothing but limit the number of people who can purchase the goods we make.

Conclusion

A certain number of American jobs will always go overseas, which is regrettable. But homegrown entrepreneurs and foreign investment will create far more American jobs here than are lost to outsourcing. Elected officials should work hand-in-hand with the business community to foster an environment that encourages job growth, corporate expansion and worker training. By focusing on improvements to the Workforce Investment Act, the Trade Adjustment Assistance Act, the Business Employment Incentive Program and other programs that encourage job growth and increase the skills of the workforce we can continue to be a world leader in this global economy.

Thank you again for allowing us to voice our opinion on these important issues.
Sincerely,



James F. Leonard
Senior Vice President Government Relations
New Jersey Chamber of Commerce



David C. Russo
Assemblyman



**MATHESON
TRI-GAS**

ask... The Gas Professionals™

William J. Kroll
Chairman & CEO

January 7, 2008

Honorable Jeff Van Drew
Chairman, Assembly Outsourcing and Off-Shoring Commission
P.O. Box 068
Trenton, NJ 08625-0068

Dear Chairman Van Drew:

First, I would like to express my appreciation for the opportunity to serve as a member of the Assembly Outsourcing and Off-Shoring Commission and permitting me to offer my views on the important issues before the commission.

While the efforts of the commission are to be commended, I am concerned that the report of the commission majority does not reflect important aspects of the issues involved. I find that I agree with the points made in the statement of dissent provided by commission members Jim Leonard and David C. Russo, most notably their points that:

1. The beneficial effects of international investment for the citizens of New Jersey are not given sufficient attention in the media compared to job losses from outsourcing;
2. New Jersey's excessive tax burdens, especially our much higher property taxes and corporate taxes, our high energy and labor costs, and our burdensome regulatory climate hamper business attraction and retention, job creation and economic growth;
3. What is needed to offset job loss from relocation overseas due to global economic expansion is to create a vibrant and positive economic climate that will attract to attract entrepreneurs and foreign investment to this State for new business.

As stated by Mr. Leonard and Mr. Russo, if elected officials work more closely with the business community to foster job growth, corporate expansion and worker training, it will create far more jobs here than are lost to outsourcing.

Therefore, I am signing the commission report on the basis of having this affirmation of my support for that dissenting statement included as part of the report. Thank you again for permitting me to express this opinion for inclusion in the commission report.

Sincerely,

William J. Kroll

APPENDIX A:

ASSEMBLY RESOLUTION No. 184 of 2005

AN ASSEMBLY RESOLUTION creating a commission to study the loss of New Jersey jobs through outsourcing and off-shoring.

WHEREAS, In recent years, a number of companies have replaced highly-skilled workers from New Jersey with lower-paid, foreign laborers, in a practice known as outsourcing or off-shoring; and

WHEREAS, These outsourcing trends coincide with the U.S. job market's longest slump since the 1930's; and

WHEREAS, Many white-collar occupations, including technology and computer specialists, financial analysts, accountants, office support, and call-center employees are among the most vulnerable to outsourcing; and

WHEREAS, The preservation of jobs in New Jersey is of critical importance to the economic well-being of the State; and

WHEREAS, The economic dislocation caused by a company outsourcing jobs threatens the health, safety, and welfare of the people in this State; and

WHEREAS, Forrester Research, Inc. predicts that 3.3 million U.S. jobs will be sent offshore by 2015, accounting for 2 percent of the entire workforce and \$136 billion in wages; now, therefore,

BE IT RESOLVED by the General Assembly of the State of New Jersey:

1. There is created an Assembly Study Commission known as the "Outsourcing and Off-shoring Commission." The commission shall consist of seven members, to be appointed by the Speaker of the General Assembly as follows: three members of the General Assembly, not more than two of whom shall be of the same political party; one member from the New Jersey Business and Industry Association; one member from the New Jersey State Chamber of Commerce; and two members from the New Jersey State AFL-CIO, one of whom shall be from a union representing public employees.

2. All appointments shall be made within 60 days after the effective date of this resolution. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments were made. Members shall serve without compensation.

3. The commission shall organize within 30 days after the appointment of its members and shall select a chairperson and a vice- chairperson from among its members, and a secretary who need not be a member of the commission.

4. The commission shall conduct no less than three public hearings in furtherance of its general purpose, to be held in the Northern, Central and Southern regions of New Jersey, to elicit the testimony of interested groups and the general public at such times as it shall designate.

5. It shall be the duty of the commission to study the issues associated with the practices of outsourcing and off-shoring including but not limited to:

a. reviewing the impact of outsourcing and off-shoring on private and public employers and employees in the State, including the impact of jobs created and retained in New Jersey by the outsourcing of jobs into New Jersey from off-shore and out-of-State employers;

b. studying ways to reduce outsourcing and off-shoring in the State;

c. determining which employment sectors are most affected by outsourcing and off-shoring issues;

d. identifying outsourcing and off-shoring issues that can be controlled or addressed by State law or regulation; and

e. providing recommendations concerning steps that need to be taken to ensure that outsourcing and off-shoring practices do not have a detrimental impact on the employers and employees in the State of New Jersey.

6. The commission shall prepare and submit a final report containing its findings and recommendations, including any recommendations for legislation, to the Speaker and Minority Leader of the General Assembly no later than nine months following its organizational meeting.

7. This resolution shall take effect immediately and shall expire 30 days after the submission of the final report of the commission.

STATEMENT

This resolution creates the "Outsourcing and Off-shoring Commission" consisting of seven members appointed by the Speaker of the General Assembly as follows: three members of the General Assembly; one member from the New Jersey Business and Industry Association; one member from the New Jersey State Chamber of Commerce; and two members from the New Jersey State AFL-CIO, including one from a union representing public employees.

The commission will review positive and negative job impacts of outsourcing and off-shoring, study ways to reduce outsourcing and off-shoring in the State; determine which employment sectors are most affected by outsourcing and off-shoring; identify outsourcing and off-shoring issues that can be controlled or addressed by State law or regulation and provide recommendations concerning steps to ensure that outsourcing and off-shoring practices do not harm employers and employees in New Jersey.

The commission is required to prepare and submit a final report of its findings and recommendations for legislation to the Speaker and Minority Leader of the General Assembly no later than nine months following its organizational meeting.

APPENDIX B:

ORAL TESTIMONY AND WRITTEN SUBMISSIONS TO THE COMMISSION

Printed copies of the printed transcripts of the following two hearings, including written submissions from individuals who testified and individuals who did not, are available upon request from the Office of Legislative Services. Note that Appendix D of this report gives the page numbers in the printed transcripts for each proposed recommendation made in oral or written submissions to the commission.

Testimony, September 14, 2007 Public Hearing I:

Fran Smith, President, Amalgamated Local 2327, United Automobile, aerospace, and Agricultural Implement Workers of America

Linda K. Klose, Executive director, New Jersey-Pennsylvania Council, AEA, Advancing the Business of Technology

Eric Richard, Legislative Affairs Coordinator, New Jersey State AFL-CIO

David Bensman, Ph.D., Professor, Department of Labor Studies and Employment Relations, School of Management and Labor Relations, Rutgers, The State University of New Jersey

Carmen Martino, Director, Latino Occupational Safety and Health Initiative, School of Management and Labor Relations, Rutgers, The State University of New Jersey

Testimony, November 16, 2007 Public Hearing II:

Rae C. Roeder, President, Local 1033, Communications Workers of America

Anthony F. Miskowski, Secretary, Local 1033, Communications Workers of America

Nathan Newman, Policy Director, Progressive States Network

Tony Daley, Ph.D., Research Economist, Communications Workers of America

William Warren, Policy Director, Forum on Democracy and Trade

Felix Flores, Chairman, Labor Committee and Director, Middlesex County Chapter, Latino Leadership Alliance of New Jersey

Noel J. Christmas, President, Local 601, Utility Workers of America

Written submissions to the commission by individuals who did not testify:

Mitch Cahn, Owner, New Jersey Headwear Corporation (available in the printed transcript of Public Hearing I)

Bjorn Claeson, Executive Director, SweatFree Communities (available in the printed transcript of Public Hearing I)

Jean Pierce, Public Policy Staff, Health Professionals and Allied Employees, AFT/AFL-CIO (available in the printed transcript of Public Hearing I)

"Outsourcing the Picket Line", submitted by Jim Leonard, Commission Member (available in the printed transcript of Public Hearing II)

Questions of James P. Marketti, Commission Member, submitted by the commission to the Governor's Office of Policy and answers to those questions provided by the Governor's Office of Policy (see Appendix C of this report).

APPENDIX C:

ANSWERS PROVIDED BY THE GOVERNOR'S OFFICE OF POLICY TO QUESTIONS SUBMITTED BY THE ASSEMBLY OUTSOURCING AND OFF-SHORING COMMISSION

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?

ANSWER: We do not believe any recent Governor has pledged such a commitment. Our understanding is that rescinding such a commitment is very difficult.

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?'

ANSWER: This data is not systematically collected for the State at this time. The spreadsheet attached does include certifications provided pursuant to the statute cited below.¹

Similarly, no data is collected by the State on county or municipal contracting efforts of this nature.

Specifically, however, and for three types of services, the Department of Community Affairs, through the Local Finance Board, is required to approve "outsourcing" of long-term water and wastewater system operation and certain recycling collection and processing contracts. There are perhaps 20 or fewer of these that have been approved by the Board over the last decade. "Outsourcing" in this case refers to contracting with the private sector.

Anecdotally, we are not aware of any offshoring contracts with counties or municipalities.

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?

ANSWER: Data about the number of jobs is not collected or otherwise available.

¹ N.J. Stat. § 52:34-13.2

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?

ANSWER: We do not know of any agency or department collecting such data.

5. If the answer to 4. is yes, how many contracts and how many jobs in each employment sector?

ANSWER: Not applicable

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?

ANSWER: See attached spreadsheet for the information available on outsourcing in the state.

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?

ANSWER: We do not collect this data.

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?

ANSWER: We are not aware of any agency or department collecting such information.

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?

ANSWER: Attorney-client privilege would prevent the AG's office from answering such a question.

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?

ANSWER: There is no enabling legislation that requires this form of certification. However, at the Department of Treasury, all of our RFPs involving services contain the following paragraphs:

7.1.2 SOURCE DISCLOSURE REQUIREMENTS

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7.1.2.1 REQUIREMENTS OF N.J.S.A. 52:34-13.2

Under the referenced statute, effective August 3, 2005, all contracts primarily for services awarded by the Director shall be performed within the United States, except when the Director certifies in writing a finding that a required service cannot be provided by a contractor or subcontractor within the United States and the certification is approved by the State Treasurer.

7.1.2.2 SOURCE DISCLOSURE REQUIREMENTS

Pursuant to the statutory requirements, the intended awardee of a contract primarily for services with the State of New Jersey must disclose the location by country where services under the contract, including subcontracted services, will be performed. The Source Disclosure Certification form is located on the Advertised Solicitation, Current Bid Opportunities webpage

<http://www.state.nj.us/treasury/purchase/bid/summary/08-x-39856.shtml>.

FAILURE TO SUBMIT SOURCING INFORMATION WHEN REQUESTED BY THE STATE SHALL PRECLUDE AWARD OF A CONTRACT TO THE BIDDER.

If any of the services cannot be performed within the United States, the bidder shall state with specificity the reasons why the services cannot be so performed. The Director shall determine whether sufficient justification has been provided by the bidder to form the basis of his certification that the services cannot be performed in the United States and whether to seek the approval of the Treasurer.

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?

ANSWER: For State contracts, the ownership disclosure form will reveal this information. No enabling legislation requires this disclosure for counties or municipalities.

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?

ANSWER: The spreadsheet attached helps with the approximation for the state. There is no accounting of this information for county or municipal government.

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?

ANSWER: A wide range of goods (primarily) and services may be provided by out-of-state organizations, but data is not collected to identify the amount.

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?

ANSWER: The United States Department of Labor collects this data and could also better respond to questions 15 and 16.

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?

ANSWER: It is possible that county and municipal contractors use H-1B or L-1 workers, but data is not collected to make a determination.

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?

ANSWER: Employers in New Jersey must comply with the federal WARN Act and now the State WARN Act, but nothing in those laws specifies notification of outsourcing/offshoring specifically.

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?

ANSWER: No

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?

ANSWER: No

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?

ANSWER: We do not have this data.

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?

ANSWER: We do not have this data.

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?

ANSWER: We do not know.

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?

ANSWER: We do not have this information.

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?

ANSWER: We do not have this data.

25. What impact has outsourcing and/or off-shoring had on the tax base of state, county and/or municipal governments in New Jersey?

ANSWER: We do not have this data.

26. Does off-shoring of customer service centers alienate customers?

ANSWER: We do not have definitive information about this, but clearly it is possible. The one notable experience the state has had recently with such an issue was when the electronic benefit transfer (EBT) client customer service call center was in India for a one year. In April 2002, DFD requested a proposal to relocate the EBT call center to Camden, New Jersey because of concerns expressed by legislators and others that the call center should not be located overseas.. Under the terms of the contract amendment that went into effect in January 2003, the contractor agreed to target recipients of programs administered by the Department of Human Services, such as food stamps and Temporary Assistance to Needy Families (TANF) for positions as Customer Service Representatives (CSR) at the call center in Camden. The Camden customer service call center began operations in May 2003. There are 11 full-time equivalent positions at the call center. At last review, about half of the staff were former clients.

27. Are off-shored customer service centers required to disclose to New Jersey customers the physical location of the service center?

ANSWER: N.J.S.A. 52:34-13.2 provides that every State contract primarily for the performance of services shall include provisions which specify that all services performed under the contract or performed under any subcontract awarded under the contract shall be performed within the United States. The statute provides for several exceptions, most notably upon certification by the Director of Purchase and Property of a finding that service is required and cannot be provided within the United States or that inclusion of such a provision in a State contract of such a provision would violate the

terms, condition or limitations of any federal financial assistance. It therefore appears that foreign call centers are largely prohibited with respect to State contracts so long as such services are potentially available within the United States.

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?

ANSWER: We are not aware of such a policy.

29. Does off-shoring of data regarding personal information constitute a breach of privacy?

ANSWER: It could raise privacy concerns depending on the situation. However, as it applies to DMHS, DMAHS, DDD, CBVI, DDHH, DDS, DCF, DAS and DMAVA, the off-shoring of data does not constitute a breach of privacy. Specifically, in regard to all Title 30 agencies [DMHS (mental health), DMAHS (medicaid), DFD (welfare), DDD (developmental disabilities), CBVI (blind & visually impaired), DDHH (deaf & hard of hearing), DDS (disability services)], Title 30 confidentiality applies to DDD and DMHS but would not prohibit an offshore contractor from storing and managing data about recipients of Title 30 services so long as it was being done in furtherance of the purposes of the Commissioner of Human Services' statutory authority and pursuant to a contract that bound the contractor to the statutory confidentiality in NJSA 30:4-24.3.

HIPAA confidentiality regulations apply to all DHS agencies except the Division of Addiction Services, to the extent that the data is "protected health information" - that is health information that is correlated with a person's name, Social Security number or other identifying information. So long as there is a "business associate agreement" that complies with 45 C.F.R. 164.504, which will hold the contractor to the privacy practices as well as data security standards as set forth in 45 C.F.R. 160 to 164, there will be no HIPAA violation.

DAS is exempted from the confidentiality restrictions that are placed on the use and disclosure of alcohol and drug abuse patient records when they are providing these records to off-shore customer service centers that are providing professional services to DAS, as long as DAS enters into a written agreement with the customer service centers that requires them to comply with the confidentiality requirements of the federal regulations.

Title 9 contains strict confidentiality provisions for information identifying children and reports and investigations created by the Department of Children and Families (DCF), but those confidentiality requirements could be imposed through contracts with any offshore data management and storage service company.

The off-shoring of data regarding personal information of residents of the Department of Military and Veterans' Affairs ("DMAVA") does not constitute a breach of privacy.

The Veteran's Nursing Homes are required to comply with Department of Health and Human Services regulations and are subject to the HIPAA rules. The privacy rule protects all individually identifiable health information held or transmitted by a covered entity in any form or media, whether electronic, paper or oral. DMAVA nursing homes are permitted to use and disclose protected health information for treatment, payment and health care operations activities. 45 C.F.R. sec 164.506(c). Health Care Operations include business planning, development, management and administration. These operations also include creating a limited data set. Ibid. Thus off-shoring of data containing personal information will not constitute a breach of privacy as long as it is for legitimate health care operations purpose.

Off-shoring of non health data similarly does not constitute a breach of privacy impacting veterans' benefits. Pursuant to federal regulations disclosure of veteran's non-health data is permitted to contractors who have been hired to perform specific functions. It is important to determine, however, whether the off shore facilities have the adequate security measures in place in order to safeguard information that is protected under the confidentiality provisions and whether the security complies with applicable Federal Information Processing Standards (FIPS) issued by the National Institute of Standards and Technology (NIST).

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?

ANSWER: We are not aware of this concern.

31. Does off-shoring of research and development jobs erode America's capacity to remain innovative the development of new technologies?

ANSWER: According to a recent reader survey (May 2007) by the editors of R&D Magazine, about 18% of those organizations outsourcing R&D have sent some of their work to China, and 19% have sent some of their work to India. A similar R&D reader survey performed in May 2002 provides a look at the trends in outsourcing over the past five years. Looking at these trends reveals that, while the number of companies outsourcing their R&D work stayed about the same, the amount of work that they outsourced increased from an average of 21.5% in 2002 to 24.4% in 2007.

A similar survey, *Next Generation Offshoring-The Globalization of Innovation*, by The Fuqua School of Business at Duke Univ., Durham, N.C., and management consulting firm Booz Allen Hamilton Inc., N.Y., also found that companies across all industries are increasingly moving sophisticated, mission-critical functions such as product design and R&D to China, India, and other offshore locations. The reasons cited for these moves are primarily that these countries can provide highly skilled scientific and engineering (S&E) workers who are in short supply in the U.S. Indeed, the Duke study found that nearly three-quarters of the 537 companies surveyed reported that access to qualified personnel was the most important driver of their offshoring strategy. In the R&D survey, 52% of

the nearly 400 respondents indicated that the expertise of the outsourcing organization was their most important reason for outsourcing their R&D.

In the Duke study, the number of industrial firms offshoring some of their R&D nearly doubled from 16% in 2002 to about 31% in 2007. Indeed, the number of new implementations of R&D offshoring increased by 38% from 2005 to 2006. Three implications of the Duke study are stated—"core" activities of a company may be entirely redefined, offshore labor will become a significant part of a company's overall workforce, and increased offshoring will change the global mix and quality of available jobs.

The Duke study identifies differences between those companies that are currently offshoring and those considering offshoring. The largest differences are in the access to qualified personnel where those currently involved say this is more important (70%) than those considering offshoring (62%). On the other side, the study indicates that the resultant business process redesign is more important to those considering offshoring (67%) than to those already offshoring (50%).

The U.S. is still the richest country in the world, and most of the respondents in these three surveys indicate that its high-quality workforce, robust intellectual property (IP) protection, and integrated infrastructure outweigh its relatively high labor costs as a preferred destination for R&D. The expanding economies of countries like India, China, and Eastern Europe, however, are on track to close the gap and possibly overtake the U.S. in the future. India, for example, produces a million English-speaking graduates/year, and by 2008 will have more technology graduates than the entire population of the UK.

Source:

John Toon: "Study Shows Value of Innovation to Manufacturing as Outsourcing's Impact Continues."

http://www.eurekalert.org/pub_releases/2005-11/giot-ssv111905.php

Tim Studt: "R&D Outsourcing Becomes More Strategic" R&D Magazine June 2007.

http://www.rdmag.com/pdf/RD0706_COS.pdf

32. *Does off-shoring contribute to a deteriorating trade balance?*

ANSWER: Please see the attached report to Congressional Requestors from the United States Government Accountability Office entitled "International Trade – Current Government Data Provide Limited Insight into Offshoring of Services" (September 2004).

33. *Does off-shoring of digital technologies and, in particular, the dangers of hidden computer codes, pose a high risk to homeland security?*

ANSWER: Off-shoring of digital technologies would present a real risk to homeland security. These increased dangers would be reflected in our inability to control those with access to critical data and also present a vulnerability to hidden computer codes in the form of spybots. These spybots have the capability of embedding executable code on any number of machines set to fire off and execute a denial of service attack on any facet of our public infrastructure controlled by a computer. They can also be used to monitor keystrokes on a computer, store this information, and use it to login to a machine at a given time of execution.

The concern of the Office of Homeland Security and Preparedness is that they would be unable to guarantee any level of security. By moving these technologies off-shore we would be introducing a level of access we would not be able to control.

34. Does the off-shoring of technology-intensive jobs lead to the disappearance of domestic production critical to military preparedness?

ANSWER: While the US Department of Defense (DoD) has restrictions against classified technology work being either outsourced or offshored, the US demand for technology services at reduced cost requires offshoring of non-DoD parts of the economy. However, the non-DoD offshoring nevertheless strains DoD's ability to keep in the US the technology expertise that DoD needs. Specifically, that strain is already evident as a result of DoD's 2005 BRAC round, which has identified the likelihood of DoD being unable to fill its technology jobs in the years ahead. More generally, that strain is recognized by Silicon Valley's Forrester Research, which has predicted the loss of over 3 million technology jobs to offshoring by 2015.

35. Does the State of New Jersey offer or grant any sorts of public subsidies to companies that outsource and/or off-shore jobs?

ANSWER: The State of New Jersey does not offer any grants, direct or indirect public subsidies to companies that outsource. In fact, one of the main goals and functions of the State of New Jersey's International Trade and Investment program is to deflect the effects of job outsourcing in New Jersey. This program aims to attract new investment into the State from the international community, promote jobs to remain within New Jersey and strengthen the production of New Jersey-made products through their export to overseas markets.

The Office of Economic Growth has also organized and promoted a number of events, conferences and seminars, that are aimed to develop new markets for New Jersey products to markets abroad and position New Jersey as a destination for foreign investment. We target industry sectors where greater economic development promotes the State as an attractive location for investment from overseas investors, making New Jersey a competitor with both domestic and international markets.

36. What jobs in New Jersey are at risk to off-shoring?

ANSWER: According to a 2004 Wall Street Journal Report on outsourcing in the United States, the loss of overall jobs in the U.S. to lower-paid workers overseas is not a new occurrence. "Car makers and steel producers long ago began shuttering factories and sending work abroad. Today, whom does outsourcing put at risk? Development, customer-service and back-office functions at information-technology and financial-services companies appear vulnerable. Forrester Research projects the U.S. will lose a total of 3.3 million service jobs to outsourcing between 2000 and 2015. AMR Research estimates 20% of manufacturers and financial-services companies have outsourced some information-technology work and predict that percentage will double in the next two years. Forrester's Christine Ferrusi Ross says many of the information-technology jobs transferred elsewhere represent "bottom-of-the-barrel" work. No one disputes that an exodus of some jobs is afoot, but its extent and its long-term effect on the U.S. work force and economy remain unknown. According to Forrester, here is where some jobs that are in danger of going offshore in 2004:

- Software development
- Call centers
- Back-office accounting
- Product development
- Back-office Financial Analysis
- Manufacturing

Source:

The Wall Street Journal "Understanding Outsourcing: An Overview"
http://www.wsjclassroomedition.com/outsourcing/out_overview.htm

37. What public programs are available in New Jersey to assist workers dislocated by outsourcing and/or off-shoring? Are they adequate?

ANSWER: The federal Trade Adjustment Assistance program is available in New Jersey to help workers who lose their jobs to trade. An expansion of this program is making its way through Congress.

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?

ANSWER: The State has not done any analysis in this area and does not collect the data necessary to make such a determination.

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DEPT OR AGENCY	SUBDIVISION	CONTRACT #	PRIMARY VENDOR	SUBCONTRACTOR	DESCRIPTION OF SERVICES PERFORMED OUTSIDE U.S.	CITY/COUNTRY OUTSIDE U.S.	START DATE	END DATE	ESTIMATED CONTRACT AMOUNT OUTSIDE U.S.	ESTIMATED CONTRACT AMOUNT AVAILABLE
THE NUMBER OF STATE CONTRACTS UNDER WHICH SERVICES ARE PERFORMED OUTSIDE THE UNITED STATES IS 22.										
BOARD OF PUBLIC UTILITIES	MANAGEMENT & ADMINISTRATION	6121942	ORACLE 1910 ORACLE WAY RESTON VA 20190		SOFTWARE CALL CENTER AND ONLINE SUPPORT FOR FULL USE OF SOFTWARE	GLOBAL	6/27/2005	OPEN *	\$34	INFORMATION NOT AVAILABLE
DEPT OF AGRICULTURE	DIV OF MARKETING SERVICES	55421	LEON J ZIMMERMAN 74 W STATE STREET, SUITE 702 TRENTON, NJ 08625	CANADIAN SPORTSMAN BOX 129 15 OLD PLANK ROAD STAFFORD ONTARIO CANADA N0J1P0	ADVERTISING-PRINT ADS FOR SIBS STAKES PROGRAM IN A CANADIAN MAGAZINE	ONTARIO, CANADA	5/1/2003	4/30/2006	\$109,548	11.00% \$102,151
DEPT OF AGRICULTURE	DIV OF MARKETING SERVICES	62880	CMD & PARTNERS 30 TWO BRIDGES ROAD FAIRFIELD, NJ 0704	CANADIAN GROCER ONE MOUNT PLEASANT RD 7TH FLOOR TORONTO ONTARIO CANADA M4T2D5	ADVERTISING-PRINT ADS FOR JERSEY FRESH CAMPAIGN IN A CANADIAN MAGAZINE	TORONTO, CANADA	7/13/2005	7/12/2008	\$1,510,000	1.00% \$15,300
DEPT OF ENVIRONMENTAL PROTECTION	DIV OF FISH & GAME	613893	DR HUMPHREY PAUL SITTERS OLD EBFORD LANE, EBFORD EXETER UNITED KINGDOM EX3		SCIENTIFIC ANALYSIS OF RADIO TELEMETRY DATA OF RED KNOTS (AN ENDANGERED BIRD) IN DELAWARE BAY	GLOBAL	7/19/2005	OPEN *	\$10,000	80.00% \$8,000
DEPT HUMAN SERVICES		43843	UNISYS CORPORATION 3705 QUAKERBRIDGE ROAD TRENTON, NJ 08619	DATASCAN, INC 1340 TILLMAN DRIVE BENSALEM PA 19009	DATA ENTRY FOR MEDICAID INFORMATION SYSTEMS	CALCUTTA, INDIA	8/22/2000	8/21/2008	\$169,249,000	2.00% \$3,384,980
DEPT OF LABOR	DIV OF DISABILITY DETERMINATIONS	572744	VERSA MANAGEMENT SYSTEMS 200 CONSUMER ROAD, SUITE 500 WILLOWDALE, ONTARIO CANADA		CONTINUATION OF APPLICATION AND PROGRAMMING SERVICES	ONTARIO, CANADA	9/23/2004	OPEN *	\$120,040	100.00% \$120,040
DEPT OF LABOR	PUBLIC EMPLOYMENT RELATIONS COMMISSION	605623	ORACLE 1910 ORACLE WAY RESTON VA 20190		SOFTWARE CALL CENTER AND ONLINE SUPPORT FOR FULL USE OF SOFTWARE	GLOBAL	4/12/2005	OPEN *	\$11	INFORMATION NOT AVAILABLE
DEPT OF LAW & PUBLIC SAFETY	DIV OF STATE POLICE	609973	ORACLE 1910 ORACLE WAY RESTON VA 20190		SOFTWARE CALL CENTER AND ONLINE SUPPORT FOR FULL USE OF SOFTWARE	GLOBAL	5/27/2005	OPEN *	\$20,155	INFORMATION NOT AVAILABLE
DEPT OF TRANSPORTATION		202PSE01	STANTEC CONSULTING LTD 150 LAWRENCE BELL DRIVE, SUITE 108 AMHERST NY 14221		DATA ANALYSIS AND REPORT PERFORMED BY VARIOUS CANADIAN BRANCHES OF THE COMPANY	ALBERTA, BC, ONTARIO, SASKATCHEWAN CANADA	11/29/2001	3/31/2006	\$10,000,000	20.00% \$2,000,000

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DEPT OF
TRANSPORTATION

Cred. refers to a designated financing authority (or any affiliate thereof) where the payment has not yet been received.	DEPT OF TRANSPORTATION	20505321A	DESIGN, INC 10 RICHARDSON LANE HIGHTSTOWN, NJ 08520-4912	CONVERSION TECHNOLOGIES	PENNY DATA CAPTURE	DATA ANALYSIS & REPORT PREPARATION FOR BRIDGE DECK CORROSION USING PROPRIETARY EQUIPMENT	CHELFORD UNITED KINGDOM	2/18/2005	2/18/2008	\$1,000,000	0.30%	\$1,000,000									
													45791	PARANAQUE	1/25/2001	4/30/2006	\$400,000	5.00%	\$20,000		
													OPERATIONS	REPORTS	CITY, PHILIPPINES						
													31 LANIZA BAY DR SOUTH BAY GARDENS SUCAT PARANAQUE CITY, PHILIPPINES								
													DIV OF INVESTMENTS	GLOBAL CUSTODY SERVICES FOR INVESTMENTS	GLOBAL	10/1/2003	9/30/2006	\$40,000,000	50.00%	\$20,000,000	
													NEW JERSEY SCHOOL CONSTRUCTION CORPORATION	OCEAN STEEL & CONSTRUCTION LTD 400 CHESLEY DRIVE P.O. BOX 31 SAINT JOHN, NB CANADA E1K 0P4	STEEL FABRICATION	SAINT JOHN, CANADA	1/6/2005	ON GOING	\$25,400,000	4.60%	\$1,168,400
													NEW JERSEY SCHOOL CONSTRUCTION CORPORATION	MQM MANUFACTURING 26% COMMERCE STREET TRACADIE SHELLA NB CANADA	STEEL MANUFACTURING	TRACADIE SHELLA, NB CANADA	12/16/2002	9/17/2006	\$18,836,570	14.80%	\$2,787,812
													NJ COMMERCE & ECONOMIC GROWTH COMMISSION	JOSE MADEIRA ALAMEDO LORENA 800 SUITE 1602 JARDINA SAO PAULO-SP, BRAZIL 01454-901	FOREIGN TRADE REPRESENTATION	SAO PAULO-SP, BRAZIL	7/1/2005	6/30/2006	\$84,500	100.00%	\$84,500
													NJ COMMERCE & ECONOMIC GROWTH COMMISSION	MICHAEL REINER 3 TEL HAI STREET RA'ANANA ISRAEL 43405	FOREIGN TRADE REPRESENTATION	RA'ANANA ISRAEL	7/1/2005	6/30/2006	\$56,996	100.00%	\$56,996
													NJ COMMERCE & ECONOMIC GROWTH COMMISSION	JOSE FERNANDEZ HOMERO 538 OFICINA 303 COLONIA POLANCO MEXICO 11560	FOREIGN TRADE REPRESENTATION	COLONIA POLANCO MEXICO	7/1/2005	6/30/2006	\$74,500	100.00%	\$74,500
NJ DEPT OF BANKING & INSURANCE	104315	NATIONAL ASSOC. INSURANCE COMMISSIONERS 2301 MCGEE STREET, SUITE 800 KANSAS CITY, MO 64108	ATHENT, INC 17 STATE STREET, 6TH FLOOR NEW YORK, NY 10004	COMPUTER PROGRAMMING PERFORMED BY OVERSEAS BRANCH OF THE CORPORATION	BANGALORE INDIA	11/18/2002	ON GOING	\$260,000	14.00%	\$36,400											

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CERTIFICATION THAT NO AMERICAN SOURCE EXISTS							
WAIVER NUMBER	DEPARTMENT/AGENCY	TITLE	VENDOR	DESCRIPTION of SERVICES	DATE of CERTIFICATION	TIME PERIOD	AMOUNT
AB-24	Administration/Fiscal/Treasury	IT Maintenance Waiver	Aveya, Inc.	Telecommunications Equipment and Software Maintenance	09/04/07	07/01/07 to 06/30/08	\$2,745,070.00
AB-24	Judiciary, Administrative Office of the Courts (AOC)	IT Maintenance Waiver	Microsoft Corporation	Annual Continuation for Software Support and Mainframe	09/05/07	07/01/07 to 06/30/08	346,649.00
AB-24	Judiciary, Administrative Office of the Courts (AOC)	IT Maintenance Waiver	M-Tech IT, Inc.	Annual Continuation for Software Support and Maintenance	09/14/07	07/01/07 to 06/30/08	47,086.00
AB-24	Judiciary, Administrative Office of the Courts (AOC)	IT Maintenance Waiver	Sybase, Inc.	Annual Continuation for Software Support and Maintenance	10/12/07	07/01/07 to 06/30/08	50,832.00
AB-24	Office of Information Technology (OIT)	IT Maintenance Waiver	Sybase, Inc.	Maintenance on Software to include all updates, for standard updates, DBMS upgrades, new technical features, and bug fixes.	10/12/07	07/01/07 to 06/30/08	90,665.00
AB-24	Administration/Treasury	IT Maintenance Waiver	Cisco Systems, Inc.	Service Maintenance Renewal for fiscal year 2007	09/10/07	07/01/07 to 06/30/08	3,067,819.09
AB-24	Administration/Treasury	IT Maintenance Waiver	ORACLE USA Inc.	Provides technical support services.	07/24/07	07/01/07 to 06/30/08	3,767,340.38
AB-25	Disability Determinations, Labor and WorkForce Development	APS Waiver	Versa Management Systems	Continue Application Support for VERSA Management Systems for Continued Software Maintenance Services.	09/18/07	07/01/07 to 06/30/08	132,500.00
AB-25	Design Services, Capital Program Management, Transportation	APS Waiver	Bentley Systems	Ensure that the Department maintains effective design and construction contract document production capabilities to meet the infrastructure improvement needs of the State.	10/31/07	07/01/07 to 06/30/08	708,991.00
AB-066	Pensions and Benefits, Treasury		CEM Benchmarking, Inc.	CEM collects detailed activity performance and cost data from all participants in the pension administration benchmarking service.			35,000.00
AA-289	Pensions and Benefits, Treasury		ORACLE, USA, Inc.	Purchase ORACLE/Siebel software maintenance.	08/21/07		45,622.36
AA-034	Treasury on behalf of Various State Departments and Agencies		Cisco	Maintenance Service			162,899.63
AA-281	Judiciary, Administrative Office of the Courts (AOC)		CA-IT Management Software, Inc.	Upgrade current IBM 2094-503 Enterprise server to an IBM 2094-703.	08/22/07		1,188,109.00
				TOTAL			\$11,200,474.46

APPENDIX D:

PROPOSED RECOMMENDATIONS CONSIDERED BY THE ASSEMBLY OUTSOURCING AND OFF-SHORING COMMISSION

Below is a list of recommendations which were considered by the commission at its meeting of December 6, 2007, drawn from the submissions made to the commission in connection with its September 14, 2007 hearing in Millville ("Hearing I") and its November 16, 2007 hearing in Trenton ("Hearing II"). The recommendations are listed in the order in which they appear in the printed hearing transcripts and grouped under headings of the organizations or individuals that made the recommendations. The descriptions of proposed recommendations below are identical to the descriptions provided to commission members prior to the December 6 meeting.

"Commission Action" describes the action taken on each proposed recommendation, including a "no vote," which means that, after discussion, no commission member made a motion to vote on the recommendation, resulting in no vote being taken. Six of the commission's seven members participated.

Note that the printed transcripts, which include transcribed oral testimony and written submissions, are available from the Office of Legislative Services. The page numbers indicate below refer to the page numbers in the printed transcripts.

AEA, New Jersey-Pennsylvania Council:

1. Oppose any legislation directly obstructing off-shoring of jobs (Hearing I, page 6x.).

COMMISSION ACTION: No vote.

2. Support increased funding of science and math education, technology diffusion by means of expanding broad-band connectivity, and business-friendly legislation like S-2526 of this session, which extends film industry tax credits to "Digital Media Content Creation" and increases total tax credits from \$10 million to \$30 million. That bill was conditionally vetoed by the Governor to prevent the increase in the amount of tax credits and to specify job creation requirements in connection with the credits (Hearing I, page 7x.).

COMMISSION ACTION: No vote.

NJ State AFL-CIO:

3. Pass disclosure legislation requiring businesses to report “outsourced” jobs to the State, which would annually compile and publicize data on outsourced private and public sector jobs (Hearing I, page 41x.).

COMMISSION ACTION: No vote.

4. Enact the “Jobs, Trade and Democracy Act” to require legislative consent before binding the State to any international trade agreement, involve the Legislature in trade issues by establishing a Legislative “Point of Contact” on trade agreements and issues, and set up an “Office of Trade Enforcement” to monitor trade negotiations and disputes (Hearing I, page 42x.).

COMMISSION ACTION: Recommendation adopted by a vote of 5 yes, 1 abstention. See recommendation number 2 of the commission report.

5. Urged the Governor to sign two bills then on the his desk. One was A-1044, which strengthen penalties for certain businesses conducting plant closings or mass layoffs, and requires a 90-day notice, instead of the 60-day notice required by federal law. The Governor conditionally vetoed the bill, reducing the notice requirement from 90 days to 60 days. The second bill, S1213, signed into law as P.L.2007, c.200, requires businesses to report of the number of jobs created in connection with state-funded development incentives, and requires the State to make public the total cost of incentives (Hearing I, page 42x.).

COMMISSION ACTION: No vote.

Rutgers School of Management and Labor Relations:

6. Regulate competition to channel market forces into productive, efficient business models, strengthening labor and safety standards. Specifically, adopt legislation to extend P.L.2007, c.114, which imposes criminal penalties on employers who misclassify employees as “independent contractors”, to cover all industries, not just the construction industry (Hearing I, page 60x.)

COMMISSION ACTION: Recommendation NOT adopted because of a tie vote, 3 yes and 3 no.

Latino Occupational Safety and Health Initiative:

7. Address the problems of contract (“outsourced”) manufacturers which rely on low-wage, low skill, high-turnover, largely immigrant workforces, by a comprehensive effort to raise workplace quality by better enforcement of labor standards; creating regional partnerships of low, medium and high wage employers to upgrade the organizational and cultural composition of low-wage

workplaces; providing low-wage immigrant workers with employer-based access to basic skills and skills upgrade training; and providing those workers with advancement opportunities through inter- and intra-firm job ladders linking medium and high wage employers (Hearing I, page 59).

COMMISSION ACTION: Recommendation adopted by a unanimous vote, but with the change of removing reference to better enforcement of labor standards. See recommendation number 13 of the commission report.

New Jersey Headwear of Newark and SweatFree Communities:

8. Strengthen enforcement of the State ban on purchases of goods from sweatshops established by Governor McGreevey's Executive Order 20. Join with other states to pool resources to enforce standards and monitor facilities for compliance (Hearing I, page 65x, 66x).

COMMISSION ACTION: Recommendation adopted by a unanimous vote. See recommendation number 6 of the commission report.

Communications Workers of America (CWA), Local 1033:

9. Oppose the outsourcing of the alternative investment program of the State Investment Council which relies of external advisors from private financial firms to make decisions regarding the investment of New Jersey State and local government employee pension funds. In the past, the public employee staff of the State Investment Council made all of the investment decisions (Hearing II, pages 7x, 9x).

COMMISSION ACTION: No vote.

10. Oppose the investment of public employee pension funds into firms that are in the business of outsourcing. Proposes legislation to ban such investments, based on New York Senate Bill 4696 (Hearing II, pages 11x, 83x)

COMMISSION ACTION: Recommendation adopted by a vote of 4 yes, 1 no, and 1 abstention. See recommendation number 4 of the commission report.

Progressive States Network:

Commends as models steps taken by other states on trade, including:

11. the creation of permanent oversight committees or commissions to review trade agreements and develop policy responses;

COMMISSION ACTION: Recommendation adopted by a vote of 5 yes and 1 abstention. See recommendation number 1 of the commission report.

12. resolutions asking Congress to renegotiate the President's "fast track" trade promotion authority; and

COMMISSION ACTION: Recommendation adopted by a vote of 4 yes and 2 no. See recommendation number 3 of the commission report.

13. adopting the "Trade and Democracy Act" also supported by the New Jersey AFL-CIO (Hearing II, page 85x).

COMMISSION ACTION: No vote, because the commission had already adopted a substantially identical recommendation (see recommendation number 4 of this appendix and recommendation number 2 of the commission report).

14. Have the State collect and publicize (make available online) data of what percentage of each State agency's budget is spent of public employees compared to the employees of contractors, along with pay levels, numbers of employees. This is similar to a pending New Jersey bill, A-1813 (Hearing II, pages 89x, 90x).

COMMISSION ACTION: No vote.

15. Enact legislation like that of Massachusetts which prohibits private contracting unless the State Auditor finds that the contractor will be able to do the work more efficiently than government workers. A significant difference between the Massachusetts law and New Jersey's A-706 of 2003, which was passed by the Assembly, but not acted on by the Senate, is that the Massachusetts law applied only to contracts entered into after the law took effect, while the A-706 would have required all existing contracts to be reviewed upon renewal (Hearing II, page 90x).

COMMISSION ACTION: Recommendation adopted by a vote of 4 yes and 2 no. See recommendation number 7 of the commission report.

16. Extend New Jersey's service prevailing wage law, P.L.2005, c.379, which now covers only janitorial and building security workers, to cover all services employees covered by the federal service prevailing wage. Maryland enacted such legislation this year (Hearing II, page 90x).

COMMISSION ACTION: Recommendation adopted by a vote of 4 yes and 2 no. See recommendation number 8 of the commission report.

17. Impose rules to bar contractors with a financial relationship with public officials from bidding on public contracts and impose at least a two-year

moratorium on former public officials being lobbyist or top executives for firms with or seeking public contracts (Hearing II, page 90x).

COMMISSION ACTION: Recommendation adopted unanimously. See recommendation number 11 of the commission report.

18. Continue efforts towards a comprehensive ban on “pay to play,” blocking campaign contributions by contractors (Hearing II, page 96x).

COMMISSION ACTION: Recommendation adopted unanimously. See recommendation number 12 of the commission report.

Mr. Daley, economist for the national CWA:

19. While monitoring of outsourcing and off-shoring would be best managed at the federal level, state action may be helpful in filling some of the gaps left by current federal inaction. To start with, data on State and local public contracts should be compiled, with greater attention to the nationality of the vendor and where work is actually performed, including offshore and in other states. Contracts should require that information and the data should be made public (Hearing II, page 102x).

COMMISSION ACTION: Recommendation adopted unanimously, with a change to omit reference to the nationality of vendors. See recommendation number 9 of the commission report.

20. In the part of the private sector not involved in public contracts, the State should use tax and labor market data to estimate the number of employees the tax payers have and are likely to have. Data on employment and projected employment should be used to education and training policy and help provide guidance to students and job seekers (Hearing II, page 104x).

COMMISSION ACTION: No vote.

Forum on Democracy and Trade:

21. The testimony emphasizes that many provisions of international trade agreements often limit prerogatives of the states in many areas, including regulation, purchasing of goods and services, investment, taxation and economic development and encourages legislatures to become more involved, as in the seven states which have permanent oversight committees or commissions on trade issues, some of them giving special attention to potential adverse effects of trade agreements on state sovereignty (Hearing II, pages 108x, 109x, 111x, 112x).

COMMISSION ACTION: No vote, because the commission had already adopted a substantially identical recommendation (see recommendation

number 11 of this appendix and recommendation number 1 of the commission report).

Latino Leadership Alliance of New Jersey and Utility Workers Union of America Local 601:

22. Recommends legislation to prevent, through the Board of Public Utilities, the utility industry from outsourcing and off-shoring, particularly customer services.

COMMISSION ACTION: Recommendation adopted by a vote of 4 year, 2 no, with the change of having the legislation apply only to off-shoring. See recommendation number 5 of the commission report.

APPENDIX E:

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. It also helps workers and businesses that have been impacted by trade. The model bill:

- Requires the consent of the state legislature in order 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.

A Bill for an Act

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 X] to the terms of various international trade agreements upon the request of the United States 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.
- F. The current encroachment on State regulatory authority by international commercial and trade agreements has occurred to no small part because U.S. trade policy is being formulated and implemented under the undemocratic “Fast Track” Trade Authority procedure. The current grant of Fast Track is scheduled to sunset in July 2007.

Fast Track, first established in 1974 by then-President Richard Nixon when trade agreements were limited to traditional matters such as tariffs and quotas, is now woefully outdated and inappropriate given the diverse range of non-trade issues now included in “trade” agreements that broadly affect federal and state non-trade regulatory authority. Fast Track should be replaced with a more democratic model for negotiating the terms of trade that enshrines the principles of federalism and state sovereignty.

III. Role of the State Legislature in Trade Policy

- A. It shall be the policy of the State of (X) 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 consultation with states 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 United States Trade Representative (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 [X] shall consent to the terms of a trade agreement:

- 1) In a timely fashion, concurrent with trade negotiations, 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 [X] 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 [X]; 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 [X] 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 [X] 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 [X 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 [X]'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 [X 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 [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 [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.

APPENDIX F:

JOINT RESOLUTION MEMORIALIZING THE MAINE DELEGATION, THE CONGRESS OF THE UNITED STATES AND THE PRESIDENT TO SAFEGUARD THE STATE'S ROLE IN INTERNATIONAL TRADE AGREEMENTS

WHEREAS, the State of Maine strongly supports international trade when fair rules of trade are in place, and seeks to be an active participant in the global economy; and

WHEREAS, the State of Maine seeks to maximize the benefits and minimize any negative impacts of international trade; and

WHEREAS, existing trade agreements have impacts which extend significantly beyond the bounds of traditional trade matters such as tariffs and quotas, and can undermine Maine's constitutionally guaranteed authority to protect the public health, safety and welfare, and regulatory authority; and

WHEREAS, a succession of federal trade negotiators from both political parties over the years have failed to operate in a transparent manner and have failed to meaningfully consult with states on the far-reaching impact of trade agreements on State and local laws, even when binding the State of Maine to the terms of these agreements; and

WHEREAS, existing trade agreements have not done enough to ensure a level playing field for Maine workers and businesses, or to include meaningful human rights, labor, and environmental standards, which hurts Maine businesses, workers, and communities; and

WHEREAS, the negative impact of existing trade agreements on the State's constitutionally guaranteed authority to protect the public health, safety and welfare, and regulatory authority has occurred in part because U.S. trade policy has been formulated and implemented under the Trade Promotion Authority (Fast Track) process; and

WHEREAS, Trade Promotion Authority (Fast Track) eliminates vital checks and balances established in the U.S. Constitution by broadly delegating to the Executive Branch authority reserved for Congress to set the terms of international trade; and

WHEREAS, Trade Promotion Authority (Fast Track) circumvents normal congressional review and amendment committee procedures, limits debate to 20 hours total, forbids any floor amendments to the implementing legislation that is presented to Congress, and generally creates a non-transparent trade policymaking process; and

APPENDIX F: Maine Joint Resolution

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WHEREAS, Trade Promotion Authority (Fast Track) is not necessary for negotiating trade agreements, as demonstrated by the existence of scores of trade agreements, including major pacts such as the agreements administered by the WTO, implemented without use of Fast Track; and

WHEREAS, the current grant of Trade Promotion Authority (Fast Track) expires in July 2007; now, therefore be it

RESOLVED: That the State of Maine respectfully requests that the United States Congress create a replacement for the Trade Promotion Authority (Fast Track) system so that U.S. trade agreements are developed and implemented using a more democratic and inclusive mechanism that entails meaningful consultation with states: and be it further

RESOLVED: That the State of Maine respectfully requests that the United States Congress fully fund and support export promotion programs and Trade Adjustment Assistance programs: and be it further

RESOLVED: That copies of this Joint Resolution be immediately transmitted to Senator Olympia Snowe, Senator Susan Collins, Representative Michael Michaud, and Representative Tom Allen and be copied to the Honorable George W. Bush, President of the United States; Ambassador Susan Schwab, United States Trade Representative; the President of the United States Senate; and the Speaker of the House of Representatives.

APPENDIX G:

MASSACHUSETTS LAW REQUIRING COST ANALYSIS OF CONTRACTS TO PRIVATIZE STATE SERVICES

PART I. ADMINISTRATION OF THE GOVERNMENT

TITLE II. EXECUTIVE AND ADMINISTRATIVE OFFICERS OF THE COMMONWEALTH

CHAPTER 7. EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

PUBLIC BUILDING CONSTRUCTION

Chapter 7: Section 52. Privatization contracts; need to regulate

Section 52. The general court hereby finds and declares that using private contractors to provide public services formerly provided by state employees does not always promote the public interest. To ensure that citizens of the commonwealth receive high quality public services at low cost, with due regard for the taxpayers of the commonwealth and the needs of public and private workers, the general court finds it necessary to regulate such privatization contracts in accordance with sections fifty-three to fifty-five, inclusive. The general court does not intend to restrict the use of community facilities to provide care for clients of state agencies, if any privatization contract relating to such facilities otherwise complies with the provisions of said sections fifty-three to fifty-five, inclusive.

Chapter 7: Section 53. Definitions

Section 53. As used in sections fifty-two to fifty-five, inclusive, the following words shall have the following meanings:—

“Agency”, an executive office, department, division, board, commission or other office or officer in the executive branch of the government of the commonwealth, the Massachusetts Bay Transportation Authority, the Massachusetts Turnpike Authority, the Massachusetts Port Authority and the Woods Hole, Martha’s Vineyard and Nantucket Steamship Authority.

“Business day”, any calendar day excluding Saturdays, Sundays, and legal holidays.

“Dependent”, the spouse and children of an employee if such persons would qualify for dependent status under the Internal Revenue Code or for whom a support order has been or could be granted under chapter two hundred and eight, two hundred and nine, or two hundred and nine C.

“Privatization contract”, an agreement or combination or series of agreements by which a non-governmental person or entity agrees with an agency to provide services, valued at \$200,000, but as of January 1 each year, the amount shall increase to reflect increases in the consumer price index calculated by the United States Bureau of Labor Statistics for all urban consumers nationally during the most recent 12 month period for which data are available or more, which are substantially similar to and in lieu of, services theretofore provided, in whole or in part, by regular employees of an agency. Any subsequent agreement, including any agreement resulting from a rebidding of previously privatized service, or any agreement renewing or extending a privatization contract, shall not be considered a privatization contract. An agreement solely to provide legal, management consulting, planning, engineering or design services shall not be considered a privatization contract.

Chapter 7: Section 54. Statement of services; wage rates; health insurance; hiring of former agency employees; cost estimate; bids; certification to state auditor

Section 54. No agency shall make any privatization contract and no such contract shall be valid unless the agency, in consultation with the executive office for administration and finance, first complies with each of the following requirements:—

(1) The agency shall prepare a specific written statement of the services proposed to be the subject of the privatization contract, including the specific quantity and standard of quality of the subject services. The agency shall solicit competitive sealed bids for the privatization contracts based upon this statement. The day designated by the agency upon which it will accept these sealed bids shall be the same for any and all parties. This statement shall be a public record, shall be filed in the agency and in the executive office for administration and finance, and shall be transmitted to the state auditor for review pursuant to section fifty-five. The term of any privatization contract shall not exceed five years. No amendment to a privatization contract shall be valid if it has the purpose or effect of avoiding any requirement of this section.

(2) For each position in which a bidder will employ any person pursuant to the privatization contract and for which the duties are substantially similar to the duties performed by a regular agency employee or employees, the statement required by paragraph (1) shall include a statement of the minimum wage rate to be paid for said position, which rate shall be the lesser of step one of the grade or classification under which the comparable regular agency employee is paid, or the average private sector wage rate for said position as determined by the executive office for administration and finance from data collected by the division of employment and training and the division of purchased services. Every bid for a privatization contract and every privatization contract shall include provisions specifically establishing the wage rate for each such position, which shall not be less than said minimum wage rate as defined above. Every such bid and contract shall also include provisions for the contractor to pay not less than a percentage, comparable to the percentage paid by the commonwealth for state employees, of the costs of health insurance plans for every employee employed for not less than twenty hours per week pursuant to such contract. Such health insurance plans shall satisfy

the requirements of the fifth paragraph of section nine of chapter one hundred and eighteen F, and shall provide coverage to the employee and the employee's spouse and dependent children. Each contractor shall submit quarterly payroll records to the agency, listing the name, address, social security number, hours worked and the hourly wage paid for each employee in the previous quarter. The attorney general may bring a civil action for equitable relief in the superior court to enforce this paragraph or to prevent or remedy the dismissal, demotion or other action prejudicing any employee as a result of a report of a violation of this paragraph.

(3) Every privatization contract shall contain provisions requiring the contractor to offer available employee positions pursuant to the contract to qualified regular employees of the agency whose state employment is terminated because of the privatization contract and who satisfy the hiring criteria of the contractor. Every such contract shall also contain provisions requiring the contractor to comply with a policy of nondiscrimination and equal opportunity for all persons protected by chapter one hundred and fifty-one B, and to take affirmative steps to provide such equal opportunity for all such persons.

(4) The agency shall prepare a comprehensive written estimate of the costs of regular agency employees' providing the subject services in the most cost-efficient manner. The estimate shall include all direct and indirect costs of regular agency employees' providing the subject services, including but not limited to, pension, insurance and other employee benefit costs. For the purpose of this estimate, any employee organization may, at any time before the final day for the agency to receive sealed bids pursuant to paragraph (1), propose amendments to any relevant collective bargaining agreement to which it is a party. Any such amendments shall take effect only if necessary to reduce the cost estimate pursuant to this paragraph below the contract cost pursuant to paragraph (6). Such estimate shall remain confidential until after the final day for the agency to receive sealed bids for the privatization contract pursuant to paragraph (1), at which time the estimate shall become a public record, shall be filed in the agency and in the executive office for administration and finance, and shall be transmitted to the state auditor for review pursuant to section fifty-five.

(5) After consulting any relevant employee organization, the agency shall provide adequate resources for the purpose of encouraging and assisting present agency employees to organize and submit a bid to provide the subject services. In determining what resources are adequate for this purpose, the agency shall refer to an existing collective bargaining agreement of a similar employee organization whose members perform the subject services, if available, which agreement provides similar resources in the same or other agencies; provided, however, that if no such collective bargaining agreement exists, the agency shall refer to any existing collective bargaining agreements providing such resources, and shall provide such resources at the minimum level of assistance provided in said agreements. The agency shall consider any such employee bid on the same basis as all other bids. An employee bid may be made as a joint venture with other persons. Subclause (h) of clause Twenty-sixth of section seven of chapter four shall apply with respect to all employee bids. Sections four, five and six of chapter two

hundred and sixty-eight A shall not apply to the activities of agency employees conducted pursuant to this paragraph.

(6) After soliciting and receiving bids, the agency shall publicly designate the bidder to which it proposes to award the contract. The agency shall prepare a comprehensive written analysis of the contract cost based upon the designated bid, specifically including the costs of transition from public to private operation, of additional unemployment and retirement benefits, if any, and of monitoring and otherwise administering contract performance. If the designated bidder proposes to perform any or all of the contract outside the boundaries of the commonwealth, said contract cost shall be increased by the amount of income tax revenue, if any, which will be lost to the commonwealth by the corresponding elimination of agency employees, as determined by the department of revenue to the extent that it is able to do so.

(7) The head of the agency and the commissioner of administration shall each certify in writing to the state auditor, that:

(i) he has complied with all provisions of this section and of all other applicable laws;

(ii) the quality of the services to be provided by the designated bidder is likely to satisfy the quality requirements of the statement prepared pursuant to paragraph (1), and to equal or exceed the quality of services which could be provided by regular agency employees pursuant to paragraph (4);

(iii) the contract cost pursuant to paragraph (6) will be less than the estimated cost pursuant to paragraph (4), taking into account all comparable types of costs;

(iv) the designated bidder and its supervisory employees, while in the employ of said designated bidder, have no adjudicated record of substantial or repeated willful noncompliance with any relevant federal or state regulatory statute including, but not limited to, statutes concerning labor relations, occupational safety and health, nondiscrimination and affirmative action, environmental protection and conflicts of interest; and

(v) the proposed privatization contract is in the public interest, in that it meets the applicable quality and fiscal standards set forth herein.

A copy of the proposed privatization contract shall accompany the certificate transmitted to the state auditor.

No provision of this section shall apply in any circumstance to the extent that the provision is inconsistent with section thirty-nine M of chapter thirty or sections twenty-six to twenty-seven H, inclusive, or sections forty-four A to forty-four J, inclusive, of chapter one hundred and forty-nine.

Chapter 7: Section 55. Objection by state auditor; review

Section 55. (a) An agency shall not make any privatization contract and no such contract shall be valid if, within thirty business days after receiving the certificate required by section fifty-four, the state auditor notifies the agency of his objection. Such objection shall be in writing and shall state specifically the state auditor's finding that the agency has failed to comply with one or more requirements of said section fifty-four, including that the state auditor finds incorrect, based on independent review of all the relevant facts, any of the findings required by paragraph (7) of said section fifty-four. The state auditor may extend the time for such objection for an additional period of 30 business days beyond the original 30 business days by written notice to the submitting agency stating the reason for such extension.

(b) For the purpose of reviewing the agency's compliance and certificate pursuant to said section fifty-four, the state auditor or his designee may require by summons the attendance and testimony under oath of witnesses and the production of books, papers and other records relating to such review. All provisions of law relative to summonses in civil cases, including the manner of service, the scope and relevance to such review, and the compensation of witnesses who are not state employees, shall apply to such summonses. Such summonses shall be enforced pursuant to section ten of chapter two hundred and thirty-three.

(c) The state auditor may adopt regulations and prescribe forms to carry out the provisions of this section and section fifty-four.

(d) The objection of the state auditor pursuant to subsection (a) shall be final and binding on the agency, unless the state auditor thereafter in writing withdraws the objection, stating the specific reasons, based upon a revised certificate by the agency and by the commissioner of administration and upon the state auditor's review thereof.