



**PROGRESSIVE  
POLICY SOLUTIONS  
FOR NEW JERSEY'S  
FUTURE**



# PROGRESSIVE POLICY SOLUTIONS FOR NEW JERSEY'S FUTURE

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## Introduction

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New Jersey has been hit hard by the global recession. Unemployment has risen, the state has been forced to tighten its budget and every industry of the economy has been affected. Indeed, perhaps the greater lesson the downturn has taught us is to never underestimate the interconnected nature of our economy. Heeding this message, the response to our economic woes must therefore be multifaceted, avoiding silver bullet policies and narrow-minded ideologies. In short, the policies most likely to promote economic recovery will have a holistic approach. The papers in this report illustrate what this approach can produce.

As students of the Edward J. Bloustein School of Planning and Public Policy, working under the tutelage of Professor Norman Glickman, we created a set of policy briefs focused on this theme for New Jersey Policy Perspective (NJPP) in order to inform and expand their work and outreach. NJPP is a nonpartisan, nonprofit advocacy organization that conducts credible research and analysis on state issues. Our practicum class, composed of five students with a variety of policy interests, has produced concise policy analyses of current issues facing New Jersey. In collaboration with NJPP, topics were selected to support their current and future research. Subjects included both broad and specific issues on complex policy problems such as municipal consolidation, school choice, prisoner reentry, and business tax credits. Notably, all of this work was done within a single semester.

We begin in Section 1, with two discussions of local economic development by Brandon Goldberg. In his first paper, Brandon evaluates the benefits and drawbacks of using job tax credits at the federal and state levels. In his second paper, Brandon discusses the successes and shortcomings of two New Jersey programs focused on revitalizing downtown urban neighborhoods, the Neighborhood Preservation Program (NPP) and the Urban Enterprise Zone (UEZ).

We continue in Section 2 with a more varied discussion of economic development by Dane Devonish. Dane begins by discussing the benefits of promoting energy jobs in New Jersey, specifically programs focused on retrofitting the state's building stock. Dane then moves on to discuss the role of small businesses in the state economy and what strategies can be employed to advance their growth. Finally, Dane concludes his exploration of economic development strategies with a review of the research on how promoting industry clusters can be utilized to promote job growth.

We shift our focus in Section 3 to consolidation, an administrative strategy for municipalities to combine or share services. David Greenblatt considers three facets of this issue, beginning with the reasons for consolidation. In his second paper, David adds to the discussion by outlining a set of best practices for municipalities interested in examining consolidation. Finally, David uses a case study approach to examine the pending municipal consolidation of police services

between Princeton Borough and Princeton Township, focusing on and responding to the issues and concerns consolidation presents for both sides.

In Section 4, we turn our attention to reducing New Jersey's prisoner population, with analysis by Melissa Fischer. Melissa begins by reviewing how the use of drug courts has reduced the state's total prison population, as well as helped generate revenue for the Department of Corrections. Similarly, in her second analysis, Melissa discusses reducing recidivism by adopting a more holistic approach to prisoner reentry. Finally, in her third paper, Melissa describes the need for the state to reduce its number of 'get tough on crime' policies by allowing judges greater discretion to consider factors beyond the narrow definitions of mandatory minimums.

We conclude our discussion with a look into two prevalent school choice issues by Ezra Selove. First, Ezra overviews and provides an analysis of New Jersey's charter school law and regulations, presented as a primer for policy makers unfamiliar with the topic. This paper is paired with a critique of recently proposed legislation to create a new school choice program to provide scholarship money for students in districts with failing schools.

We hope that the topics we investigated will provide NJPP with useful insights into important public policy issues. We would like to thank NJPP, in particular Mary Forsberg, for providing us with this opportunity and Professor Glickman for his patience and guidance as our work progressed.

## **SECTION 1**

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by Brandon Goldberg

### **JOB TAX CREDITS: A Plan for Creating Jobs During the Great Recession**

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### **REVITALIZING NEW JERSEY: Neighborhood Preservation & Urban Enterprise Zones**

Pages 13 - 21



By Brandon Goldberg

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# **JOB TAX CREDITS: A Plan for Creating Jobs During the Great Recession**

**Abstract** Since the notion of job tax credits first gained attention during the Carter Administration, elected officials; economists and elected officials have all debated if a program that gives employers a tax incentive to hire new employees will actually create jobs. The federal government attempted such a program in 1978, however the results were never clear. The Obama Administration recently adopted a similar program earlier this year. This paper will analyze the differences between the 1978 and the 2010 programs and why greater success is possible today. In addition, the paper will also discuss why a federal job tax credit is preferential to a state program.

## **THE POLICY PROBLEM**

Tax incentives to create jobs have been wrought with controversy since they were introduced during the Carter administration. Although often thought of as a convoluted measure, in essence, a tax credit was given to businesses to subsidize the hiring of new employees. The administration adopted this policy to ignite a stagnating economy and put people back to work. In recent months, a significant amount of debate has occurred in Washington and around the nation about instituting a modern “New Jobs Tax Credit.” A job tax credit can put people quickly back to work by giving an incentive to companies to hire employees by reducing businesses taxes paid on each new employee.

Since December 2007, the United States has suffered through the worst global recession in generations, as the fallout of the most severe financial crisis since the Great Depression continues. From the onset of the recession, the United States and New Jersey in particular have continued to shed jobs in almost every sector. In December 2007, 7.5 million Americans were unemployed; today that number stands at 15.3 million and growing. Nearly 40 percent of these individuals have lost their jobs within the past six months and there are 6.4 jobseekers for every open position. Despite these astounding numbers, the true effect of the recession is still masked. When under- and unemployment are combined, 27 million people have had their careers and lives affected by the recession; in other terms, that this amounts to one out of every five members of the labor force.

## **THE POLICY SOLUTION**

Proposals to fight unemployment through the use of federal tax credits have attracted attention. The federal government has not tried this since the 1978 New Jobs Tax Credit (NJTC), although states dabbled with similar programs with mixed results. When the federal government last instituted such a policy, it was credited with creating one out of three jobs, yet the permanence of these jobs was never clear. Opponents of the plan view such policies as

“corporate welfare” and are concerned about compliance. These individuals argue that taxpayer funds should not be used to advance private enterprises, but rather aid individuals directly. Advocates, led by Timothy Bartik of the Upjohn Institute for Employment Research, believe such a proposal could create more than two million jobs in the first year. The *Wall Street Journal* reported that “the Carter jobs credit appeared to reduce unemployment when the jobless rate dropped to 5.8% in 1979 from 7% in 1977, but that effect was short-lived, and when the subsidies ended two years later the layoffs resumed and the unemployment rate rose again and by 1980 was back to 7.2%.” However, it is difficult if not impossible to find a causal relationship with any significant degree of certainty.

President Barack Obama proposed a “Small Business Jobs and Wages Tax Cut”, which would have allowed:

- **Businesses to receive a \$5,000 tax credit for every net new employee that they employ in 2010.** The total amount of credit will be capped at \$500,000 per firm, to ensure that the majority of the benefit goes to small businesses.
- **Small businesses to be reimbursed for the Social Security payroll taxes they pay on real increases in their payrolls.** Specifically, firms that increase wages, expand hours or hire new workers would get a credit against the added payroll taxes that result. This bonus would be based on Social Security payrolls, so it would not apply to wage increases above the current taxable maximum of \$106,800.
- **Firms could claim the credit on a quarterly basis, which gets money out to businesses quickly and provides an early incentive to hire and increase payrolls.** Non-profits will be eligible for the credit and start-ups will be eligible for half the credit.

The proposal also includes provisions to prevent businesses from gaming the program by firing employees and hiring equivalent workers and raising executive wages since the taxable maximum for Social Security is \$106,800, which would not give any large tax incentives to the company. President Obama’s plan is estimated to cost \$33 billion, which is raising concerns among deficit hawks.

The administration also considered elements of a bill that was introduced by Senators Charles Schumer (D-NY) and Orrin Hatch (R-UT). Their plan calls for “any private-sector employer that hires a worker who had been unemployed for at least 60 days will not have to pay its 6.2 percent Social Security payroll tax on that employee for the duration of 2010.” There are two problems with the Schumer-Hatch Act. First, by mandating that a prospective employee must be unemployed for at least 60 days limits employers choices and does not guarantee that they are hiring the “best and brightest” or even recent college graduates, even though there are so many people unemployed that they would have a large pool from which to hire. As for the most senseless aspect of the Schumer Hatch Act, only granting a tax credit for the remainder of 2010 is counterproductive. With each passing day, employers have less incentive to hire more workers; by the fourth quarter that incentive is nearly non-existent. The Schumer-Hatch bill attempts to

balance the need to create more jobs, while keeping costs relatively low, consequently causing minimal job growth.

The Congressional Budget Office (CBO) does not have a clear position on tax credits. According to the CBO, the cost-effectiveness of tax credit policies depends on firms' responses to the tax benefits received: "whether they pass the benefits to customers in the form of lower prices, to employees in the form of higher wages, or implicitly to shareholders by retaining them as profits—and the extent to which they increase employment and hours during a period when it is temporarily less expensive." In other words, the only clear way to create jobs (at least in the immediate future) would be to implement a job tax credit over any other forms of business tax credits. The CBO also estimates that reducing payroll taxes for firms that increase payrolls would raise the gross domestic product (GDP) by a total of \$.40-\$1.30 between 2010 and 2015 for each dollar of budgetary cost.

The Economic Policy Institute offered a third, and more aggressive, approach. EPI advocates that employers receive a credit worth twice the first-year payroll tax for each new employee. The organization calculates that a tax credit of 15 percent of expanded payroll costs would lead to the creation of approximately 2.8 million jobs within one year at cost of \$28 billion. By the second year of the program EPI advocates reducing the credit to 10 percent as an incentive for companies to begin hiring workers immediately. In order to project the cost, the average annual wages that are subject to Social Security taxes was calculated, which is \$43,000 per full time employee, therefore, a 15% credit would cost \$6,500 for each new employee. This policy argument appears to best demonstrate the potential for a job tax credit program to create more jobs, however, it is considerably more expensive than the version that was signed into law.

Unfortunately, the jobs bill that was just adopted is not large enough to even begin to solve the national crisis; the \$15 billion program is only expected to create several hundred thousand jobs when over 11 million people are unemployed. The bill gives employers an exemption from payroll taxes through the end of 2010 on workers they hire who have been unemployed for at least 60 days. This is certainly not enough to put the millions of unemployed Americans back to work.

Even though the plan that was signed into law was significantly less expensive, it still had a significant price tag; however, Congress and the American people must recognize that these numbers are not the true cost of the program. EPI estimates that half of the costs (of any job bill proposal) would likely be recovered through lower spending on unemployment insurance, Medicaid, and other social programs. Therefore, the savings involved with spending must be calculated to demonstrate the actual cost. Unfortunately, if Congress had taken this into consideration the jobs bill that was signed into law would not have been a fraction of amount needed for success.

In addition, it is impossible to quantify the effect that putting people back to work will have on morale in the country. People that are working, being creative, and spending money are the foundation of the United States. This recession has weakened the American spirit almost as much as the economy.

Although the success of the 1978 NJTC was ambiguous, there is reason to believe that a modern version of this policy, if properly funded, would have been able to put people back to work. The 2010 tax credit will include better publicizing than its 1978 predecessor. A study conducted by Jeffrey Perloff and Michael Wachter show that firms that knew about the tax credit in 1978 increased employment 3 percent faster than other firms. In 1978, many employers did not know about the credit until they filed their tax returns-at which point the credit could no longer affect hiring decisions.

Also, in the 1970's a company could not claim more than \$100,000 in credits, which effectively only allowed for minimal job creation. Also, the 2010 plan will no longer distribute the credit only once a year, in order for companies to realize the savings early on. Furthermore, this policy would be infinitely more successful than its predecessor because by the time the original program was implemented the economy and job growth were already on the rise.

The implementation of a credit based upon Social Security taxes would be simple. Almost every employer files Form 941 to report Social Security and Medicaid taxes for each of their employees, adding another line would allow the program to be implemented immediately. There is absolutely no institutional reason that this legislation cannot begin to revive the job market quickly, provided that the theory that tax credits create jobs is correct.

Instituting a federal job creation tax credit is preferential to state-run plan. Unlike the federal government, states are required to have balanced budgets, therefore, a tax credit will cause reducing spending in other areas or increasing other taxes; both would reduce the effectiveness of such a program. Furthermore, any state incentives come with the risk of luring businesses from other states, rather than creating new jobs.

## **The New Jersey Program**

Despite the above statements, New Jersey has had past successes with job incentive programs. The cash grants are offered for a maximum of ten years and can equal from 10% to 80% of the total amount of state income taxes generated by the new jobs. According to a 2005 study conducted by Rutgers University and the Economic Development Authority, the Business Employment Incentive Program (BEIP) brought nearly \$350 million in additional tax revenue and \$8.4 billion into the gross state product. These numbers indicate a 3.7 to 1 return on investment through additional tax revenue and 88 to 1 returns when the gross state product is calculated.

The New Jersey Business and Industry Association (NJBIA) is advocating a more aggressive BEIP program, urging New Jersey to remove the \$160,000 cap on new employee salaries and

the extension of the ten-year program limit. The NJBIA points to the past successes of the program when advocating for a larger state investment, as NJBIA members would benefit the most from expanded job tax programs. The BEIP is credited with creating 100,000 jobs, with a majority of them coming from New York and the fact that these grants have been awarded in almost each of the 21 counties. It must be remembered that it is the NJBIA members that have the most to gain from the credits.

Notwithstanding these numbers, New Jersey Policy Perspective counters these arguments by recognizing that in order to provide these subsidies funds are being diverted from other areas that create jobs, such as higher education and transportation projects. Furthermore, an educated populace with a strong infrastructure is often just as important to corporations as tax incentives. However, because so many states have adopted similar incentives, companies have learned to play states against another while determining where to locate. In light of this, studies have been conducted that demonstrate state tax incentives often do not determine where a company will locate. Many studies have shown that since taxes are a relatively small percentage of total costs—wages, skills of workers, transportation costs, and other factors are far more important than taxes. It is for these very reasons that a job tax credit must be implemented on the federal level, rather than by the states.

## **CONCLUSION**

Opponents of all job tax credits (not only those at the state level) believe that extending unemployment benefits, creating more public jobs and direct aid to state and local governments, rather than creating “corporate handouts” would better use of resources. This argument is shortsighted for a host of reasons, considering any social policy that redistributes wealth can be considered a handout. First, extending unemployment benefits only keeps people unemployed (which provides minimal benefits) and does not solve the problem. However, if unemployment insurance is extended, it should be in conjunction with a new jobs program, not in place of it. As for creating even more public jobs, politically this plan is not feasible, but even more of a risk than the job tax credit. After the federal government cuts back on state aid, states and municipalities will have to either layoff the recently hired workers or raise taxes, which in turn will cause an entirely new set of problems. At least in the private market, if the economy improves the new employees will most likely have job security even after the tax credits expire. The United States should be adopting policies that give the free market the tools necessary to succeed, while maintaining proper levels of oversight, not taking the ironic steps towards socialism in an effort to save capitalism.

There is no easy fix to solve the economic crisis in the United States, but putting people back to work must be the hallmark of any plan. Policymakers and the public have been critical of a job tax credit; however, at some point all legislation is met with criticism. A job tax credit may not be

the silver bullet that ends this recession, but it can be another tool in the arsenal if designed properly. The credits will do more to put people back to work than lowering the corporate tax, as a company would have to comply with a policy, rather than receiving a handout.

The United States cannot continue to survive with unemployment rates that surpass those during the Great Depression for certain segments of our society. The job tax credit is not “history repeated;” it is a policy that has been redrafted to deal with a problem that is exponentially worse than the last time it was attempted. With a recession that has lasted well over two years with no end insight, the United States cannot afford to outwardly reject any legitimate economic recovery plan even if the creation of millions of jobs cannot be guaranteed.

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By Brandon Goldberg

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# REVITALIZING NEW JERSEY: Neighborhood Preservation & Urban Enterprise Zones

**Abstract** New Jersey has implemented two large initiatives to create jobs in downtown business districts, the Neighborhood Preservation Program (NPP) and the Urban Enterprise Zone (UEZ). The NPP was designed to give grants to municipalities to revitalize “downtowns” and the UEZ was formed to give tax incentives and aid to the municipality. However, the success of these programs is the subject of much debate in Trenton. The programs are expensive, however, the NPP was beautifying neighborhoods and the UEZ continues to bring local investment to blighted communities. Enterprise Zones in other states will also be analyzed and compared to the program in New Jersey.

## INTRODUCTION: Changing the landscape of New Jersey

For the last 35 years, the United States government and many states, including New Jersey, have been attempting to go back in time. For at least the last half-century, downtown business districts have been replaced by suburban shopping malls. In an effort to preserve downtowns and create jobs in New Jersey, the state created the Neighborhood Preservation Program (NPP) through the Maintenance of Viable Neighborhoods Act of 1975. The legislation established state grants to municipalities “in order to encourage and promote the social and economic strengthening and development of neighborhoods.” The grant can be used for a wide array of projects, including, housing rehabilitation, infrastructure improvements, neighborhood organization, commercial façades, streetscapes and sidewalks. This program provides assistance to a targeted neighborhood in order to prevent threatened neighborhoods from further decay.

In addition to NPP, New Jersey enacted Urban Enterprise Zones (UEZ) in 1983 to “stimulate economic activity in distressed urban areas of the state.” Currently there are 32 zones in 37 municipalities, which allow businesses to take advantage of employee tax credits, sales and use tax benefits, job training programs and having a 50% reduction of sales tax (the sales tax collected is deposited into the Enterprise Zone Assistance Fund and used for municipal improvement projects).

It has long been debated whether these programs actually create jobs, specifically well paying jobs. In the fiscal year 2010 budget, the \$2.7 million NPP program was eliminated and the Christie administration is looking to reduce UEZ benefits in the upcoming budget.

## THE PROGRAMS

### The Neighborhood Preservation Program

Gauging the success of NPP whether in respect to creating jobs or enhancing downtowns is extraordinarily difficult. The NPP grant is a multi-year commitment of financial and technical

assistance to municipalities in order to improve neighborhoods; the program is also designed to use the state grant to foster a partnership between the local governments, residents and the local banking community. The local program runs for a three-to-five year period depending on the scope of redevelopment with annual grants up to \$100,000. Furthermore, the NPP Committee, made up of local residents and business owners, can recommend that vacant and abandon buildings in the area be demolished in order to attract private investors.

The Department of Community Affairs (DCA) approves the geographic boundaries of the redevelopment area in order to assure that the scope of the project is large enough to affect the planned revitalization, but not so ambitious that the plan is no longer feasible within the framework of the grant. For example, it would not be realistic to use the NPP grant for the redevelopment of the entire city of Newark, NJ since the maximum yearly award is \$100,000. Also, since the grants are competitive, municipalities with limited resources cannot submit an adequate comprehensive revitalization plan sometimes choose not to participate in the grant program or are rejected based on the plan submitted. This issue, combined with fact that truly poor municipalities often do not have a grant writer to learn about the program and submit an application exposes a defect in the structural design of the program. The state overlooked many neighborhoods due to the bureaucratic nature of the application process and the fact that the program was not well publicized by the state to the municipalities. In the end, it appears that the municipalities that were receiving grants have the resources to revitalize their downtowns and do not need state assistance.

Due to the fact that these grants are only given for 3-5 years and are often very small often leads to limited recognizable successes. It is estimated by the Historic Tax Credit Commission that of the jobs that were created through the NPP grants, nearly 85% of them are in retail. However, this does not mean that well paying jobs were not created because of the program. The United States Department of Housing and Urban Development offers similar Main Street grants, which the department estimates that 58,780 jobs beyond the 7,000 jobs in retail, specifically in construction, manufacturing and transportation were created in 2008. The report estimates, the grants stimulated growth and brought in \$953 million in federal, state and local taxes during 2008. It must be remembered that for every new building that is built, there are more jobs involved than just those in the building. Furthermore, revitalization tends to increase local property value, which in turn raises the amount of local property taxes paid.

The Neighborhood Preservation Program and other downtown redevelopments have the potential to not only transform neighborhoods, but also to create well paying jobs in an array of sectors. If properly funded, well publicized and is part of a long-term commitment by the government, the businesses and the investors, the program could have been much more successful. The problem with many of the downtown revitalization programs is that they take many years to create a plan and to actually see the transformation occur. This causes residents

and governments to abandon the projects rather than seeing it through for what could possibly be decades. If there is proper planning, there is no reason why downtowns and shopping malls cannot coexist and be viable elements of neighborhoods.

### **Urban Enterprise Zones**

Urban Enterprise Zones began in New Jersey in 1983; to spur growth in the state's deteriorating cities. The Economic Development Authority determined the zones on the basis of numerous factors including high unemployment designated the zones, low investment in new capital, blighted conditions, obsolete or abandoned industrial or commercial structures and deteriorating tax bases. The act provides a number of incentives to attract business growth to zone areas in order to stimulate economic redevelopment. The major incentives under the act are as follows:

#### **(1) Employee Tax Credits (ETC)**

A qualified business within a designated zone may be entitled to ETC for new full-time employees hired in the preceding year and employed for at least six consecutive months during the tax year (the act provides for tax credits against the State's Corporation Business Tax in lieu of ETC when a qualified business is not eligible for ETC and has fewer than 50 employees).

#### **(2) Sales and Use Tax Benefits - Purchases**

Qualified businesses are entitled to an exemption from the State's Sales and Use Tax on the purchase of tangible, personal property and taxable services for the use of the business within a zone.

#### **(3) Sales and Use Tax Benefits - Building Materials**

The sale of materials, supplies of services to a contractor, sub-contractor, or repairman for exclusive use in building structures or improving property of a qualified business within a zone is exempt from the Sales and Use Tax.

#### **(4) Reduced Sales Tax Zones**

Zones can be designated as areas in which retail sales, except for motor vehicles, are subject to the Sales and Use Tax at 50% of the regular rate (tax receipts are deposited into the Enterprise Zone Assistance Fund and used for municipal improvement projects).

#### **(5) Unemployment Insurance Rebates**

Qualified businesses may be eligible for rebates based on the amount of unemployment insurance tax paid for certain new employees (the rebates are based on gross salaries per quarter and are graduated according to the number of years in a zone).

## **(6) Training Programs**

Qualified businesses are eligible for several employment and training programs which can assist in finding a skilled and reliable workforce (the New Jersey Department of Labor is required to develop skill training programs to meet the needs of private sector employees).

In order to be a "qualified business" within a zone, and be eligible for various zone incentives, the business must create new employment in the municipality and not create unemployment elsewhere, and at least 25% of its full-time employees must either reside within the zone or zone municipality and must be unemployed or on public assistance for at least six months prior to being hired or must be eligible for the Federal Jobs Training Partnership Act. In a 2009 report, the New Jersey Treasury reported that 27,100 businesses participate in the program and that between 14,000-20,000 jobs are created annually. Furthermore, the zones created \$1.8 billion in private investment and that the Zone Assistance Fund allows \$50 million worth in new projects to occur each year.

In addition to the traditional program the EDA established a new designation of a "UEZ-impacted business district" in 2001, refer to a business district that is classified by the authority as negatively impacted by its proximity to two or more adjacent UEZ zones and economically distressed. A qualified business within a "UEZ-impacted business district" is authorized to collect the same reduced rate sales tax as those qualified businesses in the nearby designated zones, however, unlike the sales tax collected in an existing zone all reduced rate sales tax revenues collected in a "UEZ-impacted business district" go into the general fund.

Furthermore, the EDA offers a UEZ Energy Sales & Use Exemption for Manufactures Program, which has brought 4,617 jobs to the state with an annual estimated benefit of nearly \$6 million in 2008. This program provides for an exemption from sales and use tax for retail sales of electricity and natural gas and their transport consumed at UEZ-certified sites by qualified manufacturing businesses. The program eligibility criteria for UEZ-certified manufacturing businesses require at least 250 full-time employees, with at least 50% of them in the manufacturing process.

The EDA commissioned the Response Analysis Corporation and Urbanomics to conduct a fiscal impact study of the program in 1998. The study showed that the UEZ program stimulates private capital investment and job creation in the communities. Also, the study found private investment of \$4.1 billion by companies in enterprise zones from 1984 through June 1997 in their zone businesses (with \$720 million invested in 1996 alone). The study further found that zone businesses were also successful in generating jobs and tax revenues for their respective zone, including the creation of 46,181 new jobs in the 20 zones from 1984 through June 1997. In addition, the study found that in 1996, \$81.4 million in state and local tax revenues were generated by zone businesses.

The problem with the study is that it does not estimate what proportion of economic growth in the enterprise zones may be attributable to the UEZ program and what proportion may be attributable to other factors, including the economic boom in the 1990's. However, based on survey results, the study found that UEZ incentives are a factor in encouraging businesses to expand, locate or start up in distressed urban areas in New Jersey. The study found that the UEZ program is helping to restore the economic viability of distressed urban areas and is helping to keep local property taxes down. The study also found that the cost-effectiveness of the UEZ program, i.e. the cost to the State in the form of foregone tax dollars compared to the benefits resulting from increased job creation, investments and State and local tax dollars, varies by zone and by different categories of businesses. Despite these statements, New Jersey must be careful not to keep designating more places as UEZ's, since that has created even more "UEZ-impacted business districts", which decrease revenue even more. When UEZ's were created in 1983, there were only ten eligible zones, since that time the number has skyrocketed to 32 (See Table 1.1). Lastly, the report did not study whether the zones have adverse effects on businesses in neighboring towns where the sales tax is double.

**Table 1.1:**

Zones Designated Under 1983 Act	Zones Designated Under 1993 Amendments	Zones Designated Under 1996 Amendments	Zone Designated under 2004 Amendments
(1) Camden	(1) Asbury Park/Long Branch (joint zone)	(1) East Orange	(1) Gloucester City
(2) Newark	(2) Carteret	(2) Guttenberg	
(3) Bridgeton	(3) Lakewood	(3) Hillside	
(4) Elizabeth	(4) Mount Holly	(4) Irvington	
(5) Jersey City	(5) Paterson	(5) North Bergen	
(6) Kearny	(6) Passaic	(6) Pemberton	
(7) Millville/Vineland (joint zone)	(7) Perth Amboy	(7) West New York	
(8) Orange	(8) Phillipsburg	<b>Zones Designated Under 2002 Amendments</b>	
(9) Plainfield	(9) Pleasantville	(1) North Wildwood City/Wildwood City/ West Wildwood Borough (joint municipal zone)	
(10) Trenton	(10) Union City	(2) Bayonne City	
		(3) Roselle Borough	

A 2004 study by Robert Greenbaum and John Engberg, concluded that the six states that were studied, including New Jersey, have only the appearance of a successful UEZ program. The study concluded that new business activity was occurring and outpaced non-UEZ municipalities, but many municipalities had greater difficulty retaining the businesses as compared to non-zoned municipalities.

A 2010 report issued by the State Auditor found that "zones have not established quantifiable goals and objectives nor have they implemented a process to measure the success of their programs. In addition, the lack of adequate databases and reporting has prevented properly monitoring the use of funds." The areas that should be monitored include information such as unemployment rates, vacancy rates, tax bases and similar items.

Governor Christie is attempting to freeze the funding of the zone assistance fund and allow the state to collect the entire 3 ½ % sales tax while the program is being reviewed. This will cause a great deal of pain in the UEZ municipalities, as these funds have been used traditionally used to hire police officers, firemen, installation of security camera and traffic lights, along with general streetscape improvements. Not allowing the cities to have this special funding, risks sacrificing any improvements that have been made over the years. If the Governor and Legislature want to adopt such a proposal, it must be phased in over the next several years in order for the UEZ towns to prepare for this change in their upcoming budgets.

Furthermore, it is possible to adjust the program by eliminating the reduced sales tax, yet keeping the other benefits in tact. New Jersey is the only state that offers reduced sales, which causes the state to forgo over \$100 million annually.

## **BEYOND NEW JERSEY**

The enterprise zone concept was introduced in the United Kingdom during the mid-1970s by economist Peter Hall, as a way to revive Britain's declining industrial cities. His plan included removing taxes and regulatory barriers from distressed business communities. Several zones were established in the most depressed parts of that nation's cities. "The concept called for reduced governmental regulation within economically depressed urban communities as a means of stimulating economic growth within those areas. With reduced regulation, lower taxes, and other financial incentives for businesses, economic activity would increase due to the reduced cost of operating businesses within those areas." [Hyman, 146]

In the UK, enterprise zones were introduced in 1979. They were urban areas (usually the "worst" areas of job loss and capital flight) granted a ten year relief from local taxes and the locations varied from inner cities to areas of post-industrial dereliction. The concept was introduced in the United States by Stuart Butler of the Heritage Foundation in 1979. UEZs have become increasingly popular with state governments. Louisiana was the first state to adopt such legislation, in 1981, and was followed by 39 more.

The studies of enterprise zones around the United States have demonstrated that some have been considerably more successful than others. Forty states have implemented some form of enterprise zones by the mid-1990's, with many different forms of incentives and various qualifications to receive zone designation. For example, New Jersey is the only state that uses a reduction in consumer sales tax in the zones. Furthermore, not every state uses the program for urban revitalization; a majority of states also use zones for rural development.

In Indiana, the zone incentives favor capital relative to labor. The state not only offers a property tax credit equal to 100% of the property tax imposed on all inventories located in the zone (only two other states tax inventories). Not only is this tax unusual, but also many other states offer incentives to invest in new machinery and equipment, rather than inventories. Since

inventories are procyclical, it is not clear the benefits of keeping large inventories. In addition, the inventory tax applies to the stock of the inventories for each year, not the marginal investment. This can cause the tax credit to be deficient in stimulating new investment into the zone. Besides the inventory tax credit, Indiana offers an employment up to a \$1,500 tax credit for employers that hire employees that reside within the zone. Furthermore, zone residents are given an income tax deduction of up to \$7,500. However, since these amounts are capped and not indexed for inflation, the value of these deductions will continue to decrease without legislative action.

Despite the flaws is the design of the Indiana program; there is evidence that the zone designation has had a positive effect on the local labor market. Unemployment claims in the communities has seen a permanent decline; each year after a designation claims are approximately 19% lower than they would have been without the designation (Papke, 47). Beyond stimulating employment, the program has increased the value of the inventories by 8% in the zones as compared to communities without the designation, however, the value of the machinery and equipment fell 13% because of no incentives to upgrade [Papke, 48].

With the exception of Pennsylvania, which offers defined incentives, all of the other states observed (New Jersey, New York, Virginia, Florida, Indiana and California) all offer labor subsidies, of which only California does not require the employee to be a zone resident in order to receive the incentive. In California, the largest zone incentive is a tax credit for hiring a “disadvantaged” employee. The state calculates the allowable hiring credit as a share of wages up to 150% of the minimum wage; the credit is 50% of the qualified wages in the first year and drops 10% each year [Kolko, 8]. Employees are “disadvantaged” if they have been unemployed for a significant amount of time or are part of certain eligible groups such as veterans or enrolled in welfare-to-work.

A study conducted by A.H. Peters concluded that the jobs that are created come at a significant cost per job [Greenbaum, 316]. However, since every state has considerably different incentives, qualifications and amount of zones, it is nearly impossible to make general statements. For example, Indiana has only 15 urban enterprise zones, while Louisiana created almost 2,000 zones in rural areas.

It appears that the most successful states designated zones based upon zip codes that had a considerable amount of manufacturing, lower than average per capita income, higher poverty and unemployment rates, lower high school graduation rates and in several scenarios higher populations of minority residents. The difficulty with analyzing the success of the program in regards to manufacturing falls within the fact that the United States has been losing manufacturing jobs for many years, however the growth of manufacturing has been higher in enterprise zones in comparison to areas with similar demographics [Greenbaum, 322]. Manufacturing jobs are often targeted because they tend to offer higher wages and are more

stable than other sectors, it is estimated that of the 357 zones observed, the manufacturing sector accounted for 72.6% of the jobs created or saved by enterprise zones.

Overall, zones have led to new business activity in communities, however, retaining the established businesses have proven to be more difficult if the primary focus of the incentives is only to attract new businesses. Payroll was increasing in the zones as compared to the areas that did not have the designation, but the payroll continued to fall in established businesses within the zone. The net effect was a greater decrease in overall payroll than in a comparable community that does not have an enterprise zone. The incentives most likely had unintended consequences if the new businesses were simply displacing existing businesses. In many states, the subsidies are based upon the amount of new employees and the amount of investment, leading new establishments to receive considerably larger incentives than the established business that has already hired employees and made their investments. In addition, states that only offer incentives on capital investments may have the unintended consequence of causing an increase in investments at the expense of increasing labor, leading to little growth in employment [Bondonio, 525].

Another issue with enterprise zones is that there is no evidence that it influences a businesses' location decisions across states, however, there is some evidence that it can influence location decisions between similar areas within the same state [Bondonio, 524]. Essentially, the program is masking actual successes. However, this does not necessarily mean that enterprise zones should be dissolved. The state has a compelling interest in growing the economy of distressed communities that cannot attract businesses on their own. For example, the City of Plainfield needs considerably more incentives to offer prospective investors than the quaint town of Westfield, which is several miles away and already has a vibrant community.

Another aspect that is often overlooked in enterprise zones is that even though incentives are uniform within the state, local administrators that oversee the program play an integral role in determining the success. The local administrators oversee the program are in charge of making businesses aware of the benefits and also coordinate local incentives. A qualified administrator can be the difference between success and failure in many zones [Kolko, 21].

In addition to administrators, certain enterprise zones are more successful than others even within the same state depending on employment destiny, industry mix and other demographics. The states need to create a strict model for qualifying for zone designation in order not to weaken the successes and bolster the failures. Furthermore, states need to implement a hard cap on the amount of zones that can be in existence in a given time in order to prevent cannibalization. Additionally, zone designations must not be permanent; if a zone has been successful it must lose designation after an appropriate amount of time in order to allow for a new zone to be created. Oppositely, zones that clearly have been a failure need to be removed and replaced by municipalities that have a better strategic plan.

## CONCLUSION

With New Jersey's unemployment rate still hovering at approximately 10%, more programs that will create jobs must be implemented and those that have been successful in the past must be retained. The Neighborhood Preservation Program and the Urban Enterprise Zones have been wrought with controversy for many years, partially because of institutional problems, but mostly because people and elected officials did not believe they were creating jobs and revitalizing towns. However, these programs have created jobs that are beyond the surface. The NPP has created thousands of construction, manufacturing and transportation jobs simply by virtue of needing workers to build these new buildings. The UEZ has put more police on the streets and upgraded the infrastructures of some of the state's poorest communities. Although on the surface it appears that these two programs have only continued to create low wage jobs, this certainly is not the truth. In fact, New Jersey has one of the most comprehensive enterprise zone programs that allows for success on multiple fronts. New Jersey UEZ's are more than reduced sales tax, corporate tax incentives and labor subsidies; it combines elements of all three in order to create jobs on multiple fronts.

As the UEZ program is being reviewed, successes must be measured within the true "downtowns" of the cities and not from the box stores like Ikea and Jersey Gardens in Elizabeth. These businesses will suffer little to no adverse effect by eliminating UEZ, but it can be devastating to small business owners and municipalities that rely on the revenue.

We as a society must recognize that investing in New Jersey's cities is a way to put people back to work and save these towns from crumbling even further. When we think of creating jobs, we must remember that not everyone can work for J.P. Morgan, and that there is so much potential below the surface for revitalizing our "downtowns".

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## **SECTION 2**

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by Dane Devonish

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# ENERGY EFFICIENCY JOBS: The Case for Retrofitting in New Jersey

**Abstract** Retrofitting jobs encompass a wide variety of industries including construction, planning, engineering, and management. Energy efficiency jobs account for the largest share of green jobs nationally and building retrofitting comprises the majority of those jobs. Retrofitting programs have the potential to provide significant stimulation to the New Jersey economy. The paper discusses the need to create a stronger energy efficiency sector in the state, particularly in building retrofits. The literature on the success of building retrofits in creating jobs is reviewed and recommendations are made for New Jersey's successful development and utilization of a building retrofit program.

## INTRODUCTION

A struggling economy has made finding employment a daunting task for the citizens of New Jersey. Unemployment in the state was 9.8% in December 2009 and is significantly higher in several of the largest urban centers. The state lost thousands of private sector jobs in 2009 with minimal increases in government employment. Among private sector jobs lost, construction, manufacturing, utilities sectors experienced particularly large losses [NJ Department of Labor and Workforce Development, 2010]. Job losses in aforementioned job sectors can be recovered however, as a result of growth in the new green economy. The federal government provided significant funding for the state through President Barack Obama's American Recovery and Reinvestment Act (ARRA) for investment in green job creation. Energy Efficiency (EE) and Energy Efficiency Conservation Block Grants (EECBG) provided \$75.46 million in funds for New Jersey that will help the state and local governments reduce total energy use, cut fossil fuel emissions, and improve EE in vehicles and facilities [NJ Recovery and Reinvestment Plan, 2010]. One of fastest growing EE jobs sectors is commercial, government, industrial and residential building retrofitting. The majority of EE jobs are in the retrofitting of buildings. In 2007, there were 3.75 million EE jobs compared to 218,000 renewable energy (RE) jobs, such as solar power generation, in the United States. In 2030 those numbers are expected to increase to 16.7 million in EE and 2.85 million in RE [Cleary and Kopicki, 2009]. What makes EE and retrofitting different from other RE and EE programs is the large market, apparent savings, and relative ease of acquiring the skills needed to find employment. Additionally, retrofitting programs have been successful in creating jobs in disinvested areas where unemployment is particularly high. Green buildings will make up an increasingly large share of the U.S. retrofit and renovation market in coming years, and will be an important component in the future of job creation in New Jersey.

## RETROFITTING WILL CREATE JOBS AND ECONOMIC GROWTH

Energy retrofitting is the improvement, replacement, and substitution of new or modernized equipment, parts, and systems almost exclusively to better their EE [Engineer's Guide to Retrofit, 2009]. Retrofitting helps to deliver lower monthly utilities bills for owners and a better environment for occupants.

New Jersey has among the highest electricity rates in the country at nearly 16 cents per kilowatt-hour on average for residential, commercial, and industrial sectors. The average rate in the U.S. is 12 cents [U.S. Energy Information Administration, 2010]. Buildings are one of the largest sources of emissions and energy consumers in the United States and the world and generally older buildings have not had their windows replaced or had insulation, HVAC (Heating, Ventilating, and Air Conditioning) or lighting upgrades. There is tremendous opportunity for New Jersey in this area with New Jersey being the most densely populated state in the U.S. and subsequently having significant commercial and residential development throughout the state.

In addition to the cost savings for building owners, retrofitting has the potential to create quality, career jobs. Importantly, they are largely domestic jobs that cannot be off-shored like green manufacturing jobs can. If unionized, they also tend to pay more than similar non-green jobs. EE is the fastest, cheapest, and cleanest opportunity to address energy problems. Unbeknownst to many, simple upgrades like fixing windows and adding insulation can save people money on energy expenses. A significant amount of the infrastructure in New Jersey's metropolitan areas are older and are not equipped with energy efficient materials; which in addition to creating higher costs pose substantial health and safety risks. A study by the Apollo Alliance indicates that, 21.5 new jobs are created in the United States for every one million dollars invested in EE programs [Apollo Alliance, 2004].

A significant benefit of retrofitting programs for New Jersey is that they can serve those with varying levels of skill and even those with the least skill can train for high-level jobs. Retrofitting jobs include basic trade construction jobs including, electricians, heating/air conditioning installers, insulation workers, and inspectors. There is also a need for those with training in an administrative capacity that can manage energy efficiency programs, and ensure that retrofits deliver savings through performance evaluations. Larger industrial, commercial, and government retrofitting jobs include similar workers as residential retrofitting jobs as well as engineers, energy analysts, environmental scientists, and a number of other high skilled professions.

An important task for industrial and commercial retrofitters will be to make buildings smart grid compatible. Buildings will have to be able to monitor electronic usage in response to Smart Grid Technology, which will tell enable utility companies to better measure how much energy consumers are using; allowing for increased efficiency, as users are billed according to pricing based on peak and non peak hours. In residential, commercial, and governmental retrofitting, many of the traditional occupations in the building industry would simply have to be adapted to green retrofitting methods but there would not have to be an extensive retraining effort. Ideally, if retrofitting programs are used more frequently, a uniform set of national standards to qualify EE and retrofit workers and industry training providers will be established and will create consumer confidence, which will help in the growth of the jobs [Recovery Through Retrofit, 2009]. Importantly, these jobs would be connected to career ladders, which would provide upward mobility with increasing skills and wages.

Retrofitting is beneficial not only for the people that it employs, but for the regions it is helping to improve. Efficiency investments generated an estimated 1.63 million jobs in 2004. This is roughly twice the number of jobs in the energy supply sector. This finding is consistent with a growing body of research on energy investments and job creation showing that EE employment is likely to provide a large share of new employment in an emerging clean energy economy [Hardcastle and Waterman-Hoey, 2009]. By avoiding the economic impacts associated with increasing energy costs and emissions, green buildings contribute to New Jersey's economic prosperity. A report by the American Council for an Energy Efficient Economy found that the Northeastern eight-state Regional Greenhouse Gas Initiative (RGGI), a mandatory, market-based effort to reduce greenhouse gas emissions in the northeastern and mid-Atlantic states, would have a positive impact on the region's economy if EE investments were central to policies designed to reduce greenhouse gas emissions. Specifically, the report concludes that a doubling of the current investments in EE in the region would reduce growth in electricity consumption by two-thirds, prevent significant electricity prices increases, increase economic growth in the region by almost 1% and reduce average energy bills for residential, commercial, and industrial customers by 5–12% in 2021 [Peretz and Tonn, 2007].

Governor Chris Christie's Energy Transition Report, while relying on fossil fuels and nuclear power to fulfill energy needs, does acknowledge the significance of the rising cost of electricity and is open to strategies to utilize EE and create green jobs. Several policies will ensure that EE and job growth can be achieved in the state.

## **POLICY SOLUTIONS**

Garnering public support for a retrofitting ordinance and increasing public awareness on the benefits of retrofitting and ease with which simple renovations can be performed and financed are possibly the most important hurdles the state and municipalities would have to overcome. Demand for retrofitting and political opinions on its value will determine success. Creating industry clusters will help to create a stronger EE economy in the state.

### **RETROFITTING ORDINANCE AND COMMUNITY BENEFITS AGREEMENT**

A retrofitting ordinance is a necessary first step to creating jobs. A retrofitting ordinance will mandate the retrofitting of public buildings and will also provide opportunities for job training programs that will enable underserved communities to learn skills that will enable them to find retrofitting jobs. An ordinance along with defined conservation standards for new buildings will allow for job growth in defined EE jobs. Los Angeles is currently the only city with a green jobs ordinance which will retrofit all city buildings 7500 sq ft. or greater, or built before 1978. The ordinance also emphasizes the creation of union jobs, community economic development in areas of high poverty and unemployment, and improvements to the health and safety of workers and the community [Applebaum et. al, 2009]. A Community Benefits Agreements (CBA) is also necessary to creating retrofitting jobs. A CBA is contract signed by developers

and community groups that determine the benefits a developer will provide to a community as part of a project. Benefits are designed to improve the community where development is taking place. Benefits usually include living wage jobs for local residents among other benefits. In return for CBAs, community groups will galvanize political support of the development. CBAs for retrofit development projects will ensure that training and jobs are assured for community residents as condition of development. CBAs are equitable, improve economies and environments, and create jobs with career pathways.

### **INCREASED AWARENESS OF RETROFITTING PROGRAMS**

State funding should be provided to community based organizations (CBOs), to specifically raise awareness of green energy programs to residents, businesses, and government. “Building a truly green economy will require other instances in which community organizations, environmental groups and labor unions act in concert to seek changes that simultaneously improve labor standards and public health” [Good Jobs First, 2009]. Many are still unaware of the advantages of retrofitting and are deterred by the perceived costs associated with them. The New York State Energy Research and Development Authority, through a series of studies identified barriers to the market penetration of new energy efficient products which include, awareness, lack knowledge regarding energy savings opportunities and cost [Peretz and Tonn, 2007]. Increasing awareness about easy financing programs for residential, commercial, and governmental consumers will increase the popularity of the programs. Collaboration with the New Jersey Clean Energy Program could be useful in organizing an awareness campaign to increase brand identity. This approach proved successful for the New York Energy Smart Program and resulted in sales of more than 800,000 energy efficient appliances and almost 1.4 million efficient lighting products [Peretz and Tonn, 2007].

### **STRENGTHING THE WORKFORCE FOR GREEN JOBS**

It is important to create programs in training centers, community colleges, and universities that meet the specific needs of the EE industry. The nonprofit community development organizations, such as Trenton-based Isles Inc. and community colleges have been valuable in helping to create a skilled green jobs that can be performed with associate level training or certification e.g. energy auditors, HVAC technicians, and building performance analysts. While organization like Isles are attempting to meet the growing demand for labor in the EE market, the amount of workforce with sufficient training in professional EE jobs is limited. Many professional energy efficiency jobs will require at least a four-year degree with a specialized curriculum. In the absence of a formal EE curriculum, Industrial Assessment Centers partnered with universities, like the Rutgers Center for Advanced Energy Systems (CAES), have been a successful in providing advanced EE training for interested students. The centers provide guidance on energy efficiency improvements and productivity improvement [Rutgers CAES, 2010]. If these centers partnered with university engineering, planning, and policy programs, an improved training ground for workforce could be developed.

### **Union County Green Connection Initiative**

Workforce training for green jobs is currently being used in Union County's workforce investment board. Residents are being trained for careers as power service technicians, water conservationists, utility workers (gas), and customer service employees. The programs focus on skills relating to utility work, recognizing a trend toward energy efficiency projects among other areas. The fields were selected based on projections by utility companies regarding expected job openings for workers in the coming years. The program targets workers and older youths, as well as under-employed or disadvantaged adults, or those at risk of losing work (Union County Shares, 2010). There is not significant data on the number of jobs that have been created as yet, because the program is still early in its development; but program outcomes will prove to be beneficial for other New Jersey municipalities that want to implement energy efficiency jobs creation programs. Union county also proposed a set of cost effective green initiatives that would be useful to promoting the growth of green jobs that should be used in every municipality.

- Work with educational institutions to develop green job training. The county is partnering with Kean and Union County College to implement training programs
- Introduce teens to the idea of improved energy efficiency. Union County has introduced participants in the college for teen's program at Union County College to conservation programs, careers in green technology, energy audits and more.
- Work on measures aimed at efficiency and the development of alternative energy sources for our County buildings, including direct digital control systems and programmable thermostats [Union County Green connection, 2010].

### **FINANCING RETROFITS**

Financing energy initiatives has always required public and private capital; green technology will need the same approach. Many green technologies require significant up-front costs, which makes government funding essential. With a combination up-front government subsidies and future energy savings, building owners should be able to finance retrofits through state revolving loan funds. The loan fund allows borrowers to use low interest loans that are paid back when savings on energy bills are realized, incentivizing investment in retrofiting. The EPA has established revolving loan funds to clean up brown fields and several states, counties, and cities have used them for housing development. The revolving loan fund can recycle federal stimulus dollars over several projects. It also allows for leveraging outside investment. The federal government has promised to encourage the establishment of revolving loan funds for energy-efficiency projects in every state [Recovery through Retrofit, 2009].

### **RETROFIT FINANCING: CASE STUDY**

"Clean Energy Works is a Portland, Oregon based pilot project that will allocate \$2.5 million of stimulus money for the retrofits, starting with 10 homes and completing another 490 retrofits in the next two years. Clean Energy Works provides financing terms for improvements that will create energy savings and create jobs. Financing for property owners spreads the costs of the improvements over time so costly improvements will not deter owners from retrofitting their property. The NW Natural, Pacific Power, and Portland General Electric utility companies add loan payments as a line-item in their customer's bills. The payments are spread out over time and would show up on regular energy bills. And the monthly energy savings would likely be enough to offset the monthly increase to pay for the loan, making payback simple. Private capital is also leveraged with stimulus funds. Socially responsible investors and funds are

another potential source of capital. Many investors, like some of those that Green For All's Capital Access Program advises, will invest with a safe but modest 2-3% economic return because they value "triple bottom line" returns: economic, environmental and social gains" [Clean Energy Works Portland, 2010].

## **ENERGY EFFICIENCY INDUSTRY CLUSTER**

New Jersey can capitalize on its green knowledge based industries, EE research through universities, nonprofit and community college training centers, and skilled workforce, to create an EE cluster, of which retrofitting would be a sizable sub-cluster. The cluster can lead to the creation of manufacturing and service retrofitting jobs and a stronger EE sector.

## **CONCLUSION**

Through a combination of federal and private investment, New Jersey can create development projects that include green retrofits and subsequently create green jobs. With state support of legislation creating green infrastructure improvement projects, increased awareness of retrofitting, industry clusters, a strengthened workforce, and reasonable financing, EE has the ability to create jobs and improve the economy in New Jersey.

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## SMALL BUSINESSES: Creating Jobs in New Jersey

**Abstract** Small businesses have been the fastest growing businesses of the past decade. They perform particularly well when equipped with proper financial and technical support. Investment in these firms is necessary to creating new businesses, sustaining existing businesses, and ultimately creating more jobs. The paper describes the impact small businesses have had on New Jersey and explains what can be done to strengthen the small businesses sector in the state. Policy aiding small firms should increase state spending for small business development centers and business incubators, organize programs that will help businesses control healthcare costs, and facilitate angel investments (venture capital funding). Assisting small firms will be an important component to job growth in New Jersey and state leaders will be essential in ensuring small businesses succeed.

### INTRODUCTION

Small business is one of the most important segments of New Jersey's economy. According to the Business Administrations Office for Advocacy,<sup>1</sup> New Jersey has 205,321 small employers, accounting for 98.5 percent of the state's employers and 51.1 percent of private employment in 2009 [Small Business Administration, Office of Advocacy, 2009]. As table one indicates, between 2003 and 2006, small firms in New Jersey created 117,218 jobs while large firms lost 53,798 jobs. While it is true that the small business sector accounts for a significant amount of business failures as well as starts, typically, the net result is job growth as was the case in New Jersey from 2003-2006. Recently the small businesses have not performed as well as usual in segments of the economy that typically account for significant employment and job growth in the state. The health care and social assistance industries are typically the state's largest small business sectors and overall employers as seen in table two. However, over the last 15 years jobs in healthcare have decreased from 20% to 14%, while the pharmaceutical field grew 40% nationally [New Jersey Policy Research Organization, 2007]. This statistic is disconcerting mainly because healthcare has been a pillar of the New Jersey economy. Additionally it shows that New Jersey is missing an opportunity for growth in the state partially because of changes that need to be made in existing policy.

**Table 1: New Jersey Net Job Change by Firm Size, 2003–2006 (Nonfarm)**

	Total Net New Jobs	Employment Size of Firm						
		1-4	5-9	10-19	20-99	100-499	<500	500+
2003 - 2004	33,962	34,153	9,294	3,612	7,827	5,408	60,294	-26,332
2004 - 2005	-17,642	23,010	-132	-665	-5,643	-10,203	6,367	-24,009
2005 - 2006	47,100	30,744	6,742	6,809	8,196	-1,934	50,557	-3,457

Source: U.S. Dept. of Commerce, Bureau of the Census, [www.sba.gov/advo/research/data.html](http://www.sba.gov/advo/research/data.html)

<sup>1</sup> The Small Business Administration's Office for Advocacy is not just an advocacy organization for small business, but the United State's primary provider of small businesses data.

## **WHY IS SMALL BUSINESS DEVELOPMENT IDEAL FOR NEW JERSEY?**

- New Jersey has several densely cities and an extensive transportation system; factors that have strong and positive correlations with increasing small business starts [Bartik, 1989].
- The state possesses a workforce with a high productivity level, creating an ideal climate for small business growth.
- Developed infrastructure in the large neighboring metropolitan areas of New York City and Philadelphia offer opportunities for small firms to provide services to a larger market.
- Small businesses fill underserved segments where the labor market has high rates of unemployment. Small firms employ larger amount of minorities, teens, and the elderly than large businesses. Small businesses are more likely to employ Hispanics than large firms; 65.9 percent of Hispanics work for firms with fewer than 500 employees and small firms also employ higher shares of individuals without substantial educational attainment (63.2 percent), high school-aged workers (63.8 percent) people 65 or older (64.6 percent); and disabled workers (59.4 percent) [Headd, 2010].

As New Jersey's population changes demographically, small businesses development can help to reduce unemployment. Businesses also provide the state with opportunity increase revenue, and become more competitive region wide. New Jersey possesses all of the environmental factors necessary to create a thriving small business sector. While New Jersey's small businesses are currently proving to be beneficial to the state's economic wellbeing, an improved small business climate can still be achieved.

## **POLICY SOLUTIONS**

Several key policy decisions will enable New Jersey to support its small businesses to ensure growth and prosperity. Increased investment in the state's business development centers incubators, controlling healthcare costs, and expanding the availability of angel investments can help New Jersey Small Businesses.

### **New Jersey Small Business Development Center**

Small business development centers have been found to be extremely useful to entrepreneurs. In the first report measuring (by increases in employment and sales activity) the effectiveness of counseling services on small businesses in 1991, a survey was administered to 10,900 small businesses to gather information on how development centers helped their business. Results showed that business owners and aspiring entrepreneurs who received counseling in 1990 generated over \$3.7 billion in new sales and nearly 65,000 new jobs in 1991. These performance improvements generated approximately \$2.61 in incremental tax revenues for every dollar spent on SBDC programs in the US. Tax revenue generated by the clients far exceeded the centers operation costs [Chrisman and Katrishan, 1994]. The 1991 study is just one of several that have found that SBDC are effective in nurturing business growth and ensuring prolonged success.

The NJSBDC's (New Jersey Small Business Development Centers) are a valuable resource for small businesses in the state. NJSBDC has 11 centers and programs that help businesses with procurement, international trade, technology commercialization, and e-commerce, which are important to creating and sustaining small businesses. In 2009, NJSBDC reported achieving the following success with small business development:

- Provided 6,135 entrepreneurs and small business owners with management consulting and counseling, most of which were established businesses.
- Facilitated the creation of 730 new businesses.
- Helped facilitate \$30.4 million in loans and investment for small business, while lending institutions' loan considerations have declined since dramatically since decline of the financial services sector
- Helped small business owners save 10,837 jobs and create 1,799 new jobs [NJSBDC, 2009].

During the past two budget cycles the state cut support for the NJSBDC 75 percent, significantly constraining its resources. Those cuts reduced annual state funding from \$1 million to \$250,000 and threatened the loss of federal funding to the NJSBDC. While the NJSBDC receives \$250,000 in state funding, Pennsylvania provides \$4 million in state support to its SBDC, New York \$2 million, New Mexico \$4.85 million, North Carolina \$2.1 million, and Georgia \$3.1 million [DailyRecord, 2010]. Cuts to NJSBDC will only mean decreased resources to sustain the services that are so important for New Jersey businesses and the state's economy. The state needs not only prevent further cuts but increase the appropriation to NJSBDC. Clearly, the results that the organization, and others like it have already achieved can only be improved with increased investment. NJSBDC is currently funded primarily through SBA as well as Rutgers Business School. Such an important organization to businesses and the economy in general, should have a larger allocation of state resources.

### **Business Incubator**

Business incubators provide a targeted approach to helping a subset of small businesses succeed. Where development centers offer general business assistance to owners, incubators target start-ups. Incubators provide business early stage capital, counseling, general business education, , technology assistance, and a host of other services to small businesses. They are essential for small businesses at the outset because it is then when most businesses fail. Studies on employment and income impacts of incubator firms suggest that incubators do add jobs and income to the economy. Incubator firms also increase state government revenues, primarily through increased personal income and sales taxes. Costs per job linked with incubators compare favorably with other economic development options, and incubators have potential to succeed in communities that have limited opportunities for attracting industrial investment [Markely and McNamara, 1995]. Most business incubators in the state are affiliated with a community college or University. Rutgers sponsors incubators at its Camden and New Brunswick campuses. NJIT and Burlington Community College also offer incubation services. Incubators need to become a long-term part of the states economic development plans. Incubators, like development centers

provide an important service to the states businesses and economy. Increased funding could help incubators expand the scope of services and create more incubators across the state. More money needs to be allocated to the Commission on Science and Technology, who primarily supports incubators. The state also needs to work with the U.S. Department of Commerce's Economic Development Administration to obtain federal grants for universities and nonprofits sponsoring incubators.

### **Controlled Healthcare Costs**

Small businesses, especially those in the early stages of the business face significant healthcare costs before they have had a chance to earn revenue. This can be a hindrance to business that otherwise would have no problem starting their business. Many small business owners do not offer health insurance to their employees. High health care costs hinder business growth. In New Jersey, 40 percent of small business owners have stated that high health care costs can lead to high employee turnover or prevent business growth [Democratic Policy Committee, 2009].

Relief for small businesses will occur when federal to health care reform provisions takes effect in 2014. In the interim, the state should promote measures that could help small business pay for health care. Currently under the new legislation, small businesses would get up to a 35 percent tax credit on the premiums they pay for their employees' health coverage. Small businesses will not see returns until next year when they file their tax returns. By 2014, the tax credit will be increased to 50 percent, and the White House estimates that 4 million businesses will benefit from it. By 2014, a health insurance exchange will be in place that will allow small businesses with 100 employees or less to shop for coverage. Businesses will be required to provide health insurance to their employees if they have more than 50 workers [The White House, 2010]. New Jersey businesses will benefit from healthcare reform because of the high cost of health in the state. New Jersey has the seventh highest number of small businesses in the nation. A major cause of the state's growing uninsured problem is that small businesses cannot afford health coverage for their employees. Health reform will provide tax credits this year to most of the 215,000 businesses with fewer than 25 employees to offset the cost of providing health coverage for their employees [Hester, 2010]. Aside from the tax credit for health insurance, the following policy provisions would also be helpful in aiding small businesses:

- In some states, small firms have banded together to form healthcare pools, which qualify for lower group rates on insurance. In Cleveland, for example, companies with 500 employees or fewer can buy health insurance through the Council of Smaller Enterprises (COSE) that is partnered with the regional chamber of commerce. Rates are about 8% lower than on the open market. Nearly 14,000 companies participate in the pool [Gray, 2009]. This measure of reducing healthcare costs will be federally introduced when healthcare provisions completely take effect in 2014. States will be able to pool cost in exchanges at the state level to reduce healthcare costs. In the interim, it would be beneficial for New Jersey to create a program similar to COSE to reduce costs for businesses.

- New Jersey needs to organize and encourage wellness initiatives. Specifically, the initiative will seek to assist small businesses reduced healthcare costs by improving the overall health and productivity of their employees through scientifically proven wellness programs. This will create more jobs by increasing productivity, and reducing state Medicaid payment requirements. Research suggests that for every \$1 invested in health promotion, a company can save between \$3 to \$5 in health and safety costs, money that can possibly be used to add an additional worker [Small Business Wellness Initiative, 2010]. When illness occurs small business are less able to cope and can face financial loss. A simple state-sponsored program that will provide benefits to employees for responsible behavior could help small businesses significantly. Several wellness programs are available for state employees around the country and have proven to be effective in improving employee health and reducing business owner's costs. The programs are typically funded through money in state general funds.

### **Angel Investment**

Angel investors are individuals who invest in businesses looking for a higher return than they would see from more traditional investments. Funding can range from \$100,000 to \$1 million. Angel Investment can help to improve economic growth. The factors that lead to successful angel investment are, experienced investors, a state with a sizeable average income of residents, a university base, and a strong industry attached to the region where investment will take place. New Jersey possesses all of the components that would allow for successful angel investment. New Jersey can increase venture capital funding in the following ways:

- Help to create statewide angel networks. States can help connect investors to entrepreneurs that have been awarded SBIR (Small Business Innovation Research) awards. These awards are federal grants that finance feasibility studies and research and development. They are given to entrepreneurs that have shown promising innovation. If there were a program that could easily connect investors to entrepreneurs with award winners, it would allow for increased confidence among investors and the ability to leverage of capital with the award [NGA Center for Best Practices, 2008].
- Through state venture funds direct investments are made in local firms that will ensure that taxpayers will be repaid if firms become profitable, but also create greater responsibility for the public funds invested.
- Utilize investor education through seminars for accredited investors. Subsidizing seminars will allow investors to learn more about the financial and legal aspects of becoming an investor.

### **CONCLUSION**

Investment in small businesses can reinvigorate the job market in New Jersey. Small businesses have always been the engine to job growth post-recession and are no different now. Growth will require

state policy makers taking a leadership role in making changes that will provide some assistance to businesses in ways that will provide relief to them and benefits to the economy. The provided policy recommendations will put New Jersey in good position to create long-term job growth through its small businesses.

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# INDUSTRY CLUSTERS: Expanding New Jersey's Biotech Sector

**Abstract** New Jersey has long been known for its thriving life sciences industry. Businesses in the state have grown significantly because of investments made to form clusters of interrelated businesses that cause economic improvement. New Jersey's existing biotechnology industry cluster has been an integral part of the state's success the state in job creation. Through reviewing the literature on successful biotech industry clusters around the country, the paper determines the areas in which industry clusters can be utilized more effectively to create jobs in New Jersey. Increasing NIH funding by revamping the existing research corridor, ensuring appropriate leadership guides industry decisions, facilitating communication among cluster participants, and development of an emerging biotech subsector will keep clusters competitive, attract business, and create jobs.

## INTRODUCTION

New Jersey's biotech sector has traditionally been a stronghold of state employment, but growth in the industry has been lagging lately. According to Harvard Business School's cluster analysis studies, the state's biopharmaceutical cluster lost 6,369 jobs from 1998-2007 [Institute for Strategy and Competitiveness, 2007]. Additionally, many other regions have strong and growing life science clusters that threaten to draw business away from the state. Importantly, policy makers, industry leaders, and academics have drawn attention to concerns regarding the cooperation of area universities, working together efficiently and effectively to achieve common goals that would be beneficial to the states health industry clusters, among other concerns.

## INDUSTRY CLUSTERS

Industry clusters are critical masses in one place of linked industries and institutions, including, suppliers, universities, and government agencies [Institute for Strategy and Competitiveness, 2007]. The most famous examples are found in Silicon Valley's high-technology sector. The term was popularized by Harvard Business School professor Michael Porter, a leader in industry cluster analyses. Biotechnology companies make up the states, pharmaceutical, medical manufacturing, and various other health industries.

Industry clusters are primarily beneficial because they strengthen local economies. Savings can be achieved due to an increased availability of suppliers, a larger pool of trained workers, and targeted public funds for clusters. Clustering also enables collaboration among firms, which helps to pool resources and knowledge. Collaborating firms are more likely than to engage in activities that will increase profitability.

## NEW JERSEY'S EXISTING CLUSTERS HAVE NOTEWORTHY RESULTS

There were 248 biotech companies in New Jersey in 2008, making it the one of the largest biotech centers in the country [Bio NJ, 2008]. As Table 1 indicates, the biotechnology industry directly supported

over 10,000 jobs in New Jersey in 2006. The impact of New Jersey's biotechnology industry is estimated to be in excess of \$1.7 billion in income to state residents [Biotech Council of New Jersey, 2007].

**Table 1: 2006 Employment of New Jersey Biotechnology Industry Firms**

<b>Industry Component</b>	<b>Number of Employees</b>
Drug and medicine manufacturing	5,741
Scientific research and development services	2,563
Surgical and medical instrument manufacturing	853
Miscellaneous professional and technical services	245
Other ambulatory health care services	179
Wholesale trade	140
Analytical laboratory instrument manufacturing	43
Surgical appliance and supplies manufacturing	42
Health and personal care stores	10
Electro medical apparatus manufacturing	7
Other biotechnology industries	248
<i>Totals</i>	<i>10,071</i>
<i>Total Estimated Employee Earnings [Thousands]</i>	<i>\$711,000</i>

Source: Biotechnology Council of New Jersey, 2007]

Some of the entities in the public and private sector making up New Jersey's cluster are the Biotechnology Council of New Jersey, Merck, Johnson & Johnson, the New Jersey Biotechnology and Life Sciences Coalition, the New Jersey's Commission on Science and Technology, and Rutgers University. These entities have invested significant resources in financing early biotech companies and sustaining them with business incubators, research parks, and workforce development initiatives to ensure that New Jersey's biotech industry remain successful. The following are examples of some of the resources available to biotechnology companies:

- The New Jersey Economic Development Authority [EDA] gave \$308 million in assistance to spur scientific innovation, and create an entrepreneurial environment for life sciences and technology companies. According to the EDA, assistance provided from October 2006 through December 2008 helped to retain over 17,000 existing jobs and leveraged total public/private investment of over \$632.5 million in the State's technology and life sciences economy [NJ Economic Development Authority, 2007].

The Biotechnology Council of New Jersey also reports the following successes of New Jersey's biotech industry [BCNJ, 2007]:

- University Heights Science Park in Newark is a collaborative of NJIT, UMDNJ and Essex Community College, where research activities in infectious disease, microbiology and genetics take place.
- Business incubators have been created at NJIT, Rutgers, and Burlington County College, which provide access to laboratories, and support in developing business and technology.

- The New Jersey Technology Fellowship program offers funding to firms hiring post docs from New Jersey research universities
- The New Jersey Department of Labor and Workforce Development make training grants available to companies for specialized biotechnology training programs.

The workforce development initiatives are particularly important for New Jersey's cluster growth. Sustaining a biotech cluster requires a workforce with industry specific skills within a location where operations take place. This pooling of specialized technology and science workforce can be a critical factor for the industry to expand and firms to grow" [DeVol; et. al, 2004].

## **POLICY SOLUTIONS**

While the state has invested a lot in its universities and businesses to create a strong biotech sector, which is why it has done well comparable to other sectors in the country, there are some areas for possible improvement.

### **INCREASE SHARE OF NIH GRANT FUNDING**

Nearby states and cities of comparable or smaller in size than New Jersey, received significantly more NIH funding. In 2007, New Jersey received \$254 million dollars in federal grants, while the biotech industries in Pittsburgh and Philadelphia, Pennsylvania received 1.4 billion dollars, Research Triangle, [Raleigh, Durham, Chapel Hill] North Carolina received \$930 million, Boston 2.2 billion, and New York 1.9 billion. New Jersey needs to collaborate effectively to increase funding [Salisbury, 2008]. Collaboration among NJ universities to achieve improved outcomes is something that has been discussed in the state frequently. The Commission on Health Science, Education, and Training recommended a consolidation of universities, to in their view improve educational outcomes. Whether or not consolidation is appropriate action is beyond the scope of the paper, but the premise that the commission's argument rests on is a valid one. Partnerships, whether they are among public, private, or a combination of public and private sector companies improve efficiency, cost effectiveness, and generally improve outcomes.

### **RESEARCH PARKS**

While NJ does have research parks, like University Heights in Newark, a larger, revamped research corridor from Trenton to Newark, encompassing the capacities of Princeton, Rutgers, UMDNJ, and NJIT could rival the success of North Carolina's research triangle, or California's network of school systems. This could ultimately make the state more competitive. Arguably, Research Triangle Park (RTP) is the most and successful of all science parks in the United States. Raleigh-Durham-Chapel is in the top rank in both the biotech workforce indicating the number of biotech Ph.D.s awarded and the pool of scientists among the area's workers [DeVol et. al, 2004]. The Research Triangle Park's (RTP) success is the result simultaneous investment in education and business collaboration to develop a stronger regional economy. Research Park was created by North Carolina businessmen, industrialists and academicians in 1959 through an investment of public and private capital. The RTP nonprofit foundation in responsible

for the development of the park [Hardin, 2008]. RTP park is home to the majority of the biotechnology companies in North Carolina. In addition to the educated workforce businesses are attracted to RTP for various business development grants and loans offered that are specific to the region. Researchers assert that in addition to world-class universities and facilities, success was a result of a culture innovation and entrepreneurial leadership from those that built and created the networks that would come to be known as the Research Triangle [Link and Scott, 2000]. This finding is significant in the way the state strategizes in addressing problems facing the biotech sector. Any effort on university official's part to collaborate in would have to take into consideration not only financial, physical (facilities) consideration, but it would be important to keep in mind the importance of the social factors involved with achieving success.

New Jersey's universities have the capacity to foster state of the art biotechnology research individually but a collaborative effort would help attract R&D funding. Collaboration between universities will help to attract R&D funds. New Jersey lawmakers have recently approved, Bill A904, which will allow for the creation of three technology innovation zones spanning central to northern New Jersey [New Jersey Legislature, 2010]. The Innovation Zones will be created in Camden, Newark and the greater New Brunswick area. In addition to helping businesses a concerted effort to link workforce training with business needs will attract businesses and create a strong corridor of research and business activity. New Jersey Universities have significant presence in biotech research individually and collaboration could help to improve efficiency, cut costs, and increase innovation.

## **BUILDING SOCIAL NETWORKS**

Findings from analysis of the Research Triangle, highlighting the importance of social factors in creating successful clusters, is similar to the results found in analysis of the largest biotechnology industry cluster in San Diego. San Diego's life sciences industry, which includes pharmaceuticals, medical devices, and biotech, is directly and indirectly responsible for 55,600 jobs and \$5.8 billion in income. In a Milken Institute study comparing the strength of metro areas with large biotech sectors, measured by population, employment or gross metro product (GMP), and academic R&D dollars [to biotech] per capita, it was found the San Diego had the most successful biotechnology cluster. It ranked highest among all metro areas in R&D inputs and the impact technology transfer-taking technology startups to market. [DeVol et. al, 2004]. Labor mobility within a region, linking managers and firms was in part, a reason for the success of San Diego's biotech industry cluster. As social networks among managers developed, ties to dozens or more companies emerged, forming social networks and a rapidly expanding cluster [Casper, 2007]. San Diego's large network growth happened organically due to the density of technology companies in the region during its clusters peak but there are some measures that can be taken to facilitate growth in other regions. Creating environments where all of the stakeholders are able to communicate regularly could have a significant impact on the growth of NJ biotech clusters.

New Jersey's Economic development authority, partnering with Biotech Council of New Jersey can improve the environment by accomplishing the following recommendations [Research Triangle Region, 2008]:

- Develop and manage cluster support networks for targeted clusters.
- Recruit cluster conferences and events.
- Develop a media strategy to promote the region's entrepreneurial climate.

## **FUND EMERGING BIO TECHNOLOGY SUBSECTORS**

New Jersey needs to increase funding for emerging related biotech subsectors like nanotechnology (building materials the size of a nanometer). Biotech companies will have to integrate nanotechnology into their existing product mix and develop new products based on nanotechnology to remain competitive. Currently, 14% of the state's nanotechnology activities are found in the emerging area of nano-bio technology. Rutgers and Princeton lead the state in this area [Bitritto, 2006]. There is significant room for growth in this emerging sector. The market is expected to grow significantly with the aging of considerable amounts of the population and increased concern over UV damage to the skin [New Jersey Commission on Science and Technology, 2006] Universities with nano-bioengineering capacity like Rutgers, Princeton, NJIT, and Rowan all have funding and faculty that are experienced with nanotechnology and would easily be able to work together to develop this sector in the state. New Jersey has a significant advantage not only because of the proximity to the pharmaceutical industry and because of the university research capacity in bio-science.

## **CONCLUSION**

Industry clusters are a proven mechanism to creating employment in a region. New Jersey's biotechnology industry's success is critical to the state's economy and regional performance in the future. New Jersey is among states with an established biotechnology cluster and significant investment and research has made it one of the most successful in the country. Even with the state's success, it will be important for attentiveness to be given to factors that can possibly have negative effects on the industry. New Jersey's efforts to determine revamp its research corridor to achieve more funding

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## **SECTION 3**

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by David Greenblatt

### **WHY CONSOLIDATE? Reasons for Studying Municipal Consolidation in New Jersey**

Pages 47 - 52

### **BEST PRACTICES OF CONSOLIDATING MUNICIPALITIES IN NEW JERSEY**

Pages 53 - 58

### **CONSOLIDATING PRINCETON'S POLICE DEPARTMENTS: Concerns and Solutions**

Pages 59 - 65



# WHY CONSOLIDATE? Reasons for Studying Municipal Consolidation in New Jersey

**Abstract** Before deciding if municipal consolidation will benefit residents, and before succumbing to political pressure to support or oppose consolidation, it is important to first understand the factors that cause municipalities to consider merging with one another. Many local policy initiatives attempt to control property taxes for New Jersey residents, but property taxes do not explain the whole picture. An updated consolidation process and unique municipal characteristics combine with property taxes to create three major reasons why municipalities study consolidation. More specifically, Princeton Borough-Princeton Township, Chester Borough-Chester Township, and Sussex Borough-Wantage Township are three examples of consolidation efforts in New Jersey. The following paper will use these examples as case studies to demonstrate the significance of each reason for studying municipal consolidation.

## INTRODUCTION

In 1962, Dick Morgan wrote an article for the St. Petersburg Times that began, “Municipal consolidation is something like a marriage between cities. As in marriage, the cities must be in love if the merger is to succeed” [Morgan 1962]. Following Mr. Morgan’s metaphor, municipalities can fall in love for a variety of reasons, but both parties must be satisfied before entering into agreement. As New Jersey municipalities sometimes struggle to study consolidation, it is helpful to understand the factors that make municipalities fall in love with one another. Three identified catalysts for falling in love, and studying municipal consolidation, include property taxes, an updated consolidation process, and unique characteristics to specific municipalities. Princeton Borough-Princeton Township, Chester Borough-Chester Township, and Sussex Borough-Wantage Township are three efforts in different stages of the consolidation process, but are helpful in understanding why municipalities fall in love.

## THE POLICY PROBLEM

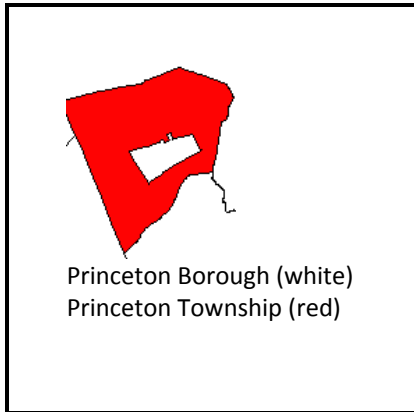
Local government in New Jersey is unique to the rest of the country. The Garden State claims the most municipalities per square mile, and yet each of its 566 municipalities enjoy authority over their own public services. This arguably leads to New Jersey charging the highest property tax rates in the nation. In response to these characteristics, some elected officials advocate municipal consolidation to control the cost of local government. Property tax rates in New Jersey are a policy problem, but municipal consolidation has not yet proven to be the answer. Supporters of consolidation argue that a merger would reduce the cost, and increase the efficiency, of local government, while opponents express concern for unequal distribution of costs and the potential for less effective public services. While the issue is contentious in New Jersey, consolidation carries significant policy implications. How consolidation grew to play such a role in New Jersey is also important to why municipalities study consolidation today.

## THE GROWTH OF NEW JERSEY MUNICIPALITIES

When local officials established municipalities in colonial New England, their democratic style of government allowed for more individual rights than the central government style of counties. Thus, individuals created many municipalities in an attempt to break away from county government oversight. Historically in New Jersey, when one particular area of a municipality was more developed, and more populous, than the rest of the municipality, it was common for that one area to pursue its self interest and create its own local entity. When one municipality surrounds another on all sides, the smaller entity becomes a “doughnut-hole” municipality [State of New Jersey 1970, 2-3]. Princeton Borough, Chester Borough, and Sussex Borough are all considered doughnut-hole municipalities.

In response to a growing number of municipalities, New Jersey passed the Home Rule Act of 1917, granting municipalities the authority to make decisions for every resident within their jurisdiction, in terms

of their general health, safety, and welfare. This encouraged local entities to charge residents for providing direct services, contributing to today’s high property taxes [State of New Jersey 1970, 3]. Some government officials suggest that municipal consolidation can control rising property taxes in New Jersey. As the following analysis will convey, however, property taxes are not the only motivating factor in studying consolidation.



### MOTIVATIONS FOR A POLICY ALTERNATIVE

As municipalities engage in the consolidation process, one cannot help but question local officials’ motivation. What is causing municipalities to consider consolidation? What specific problems do local officials hope to address by pursuing a merger? Why are municipalities deciding to study consolidation at this time? Property taxes, the consolidation process, and unique characteristics are three areas that address these questions.

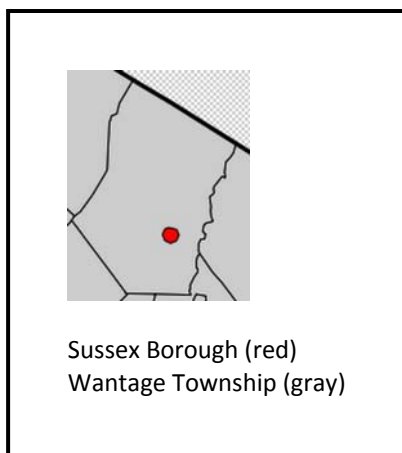
#### 1. *Property Taxes*

The Princeton Borough-Princeton Township, Chester Borough-Chester Township, and Sussex Borough-Wantage Township efforts all identified property taxes as reasons to consider municipal consolidation. The property tax liability of residents in these six municipalities, compounded by the economic recession, encouraged the pursuit of cost saving techniques however possible.

One concern about municipal consolidation is that property taxes in one municipality would increase after merging with an area charging a higher property tax rate. In response, the Tenant Property Tax Rebate Act, passed in 2007, guarantees that municipal consolidation would not raise property taxes for residents of either municipality. More specifically, the Act provides annual property tax relief to homeowners or tenants until they sell their homes or move. Relief would be the difference between the pre-consolidation year and the year in which consolidation went into effect, so as to not “penalize

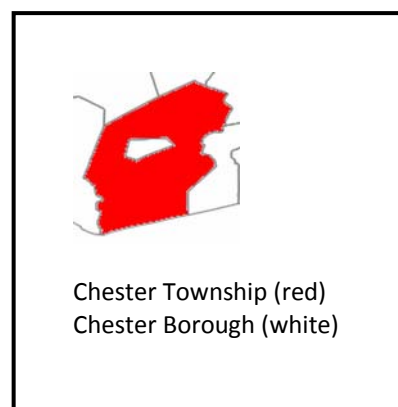
residential property owners due to [a change in] property valuation and equalization that occurs when the municipalities merge,” [Division of Local Government Services, October 2008, 3].

Local officials in Princeton Borough and Princeton Township believe that municipal consolidation could reduce residents’ property tax liabilities. The municipalities already voted on three unsuccessful consolidation referenda in the past, but have not studied consolidation since the Uniform Shared Services and Consolidation Act of 2007 changed the guidelines, and included the Tenant Property Tax Rebate Act. Residents may be willing to support municipal consolidation given the new guarantee that property tax liabilities would not increase. On the other hand, in their last attempt to consolidate, in 1996, the incentive of lower property taxes did not strongly affect the outcome. Today, local officials in Princeton are initiating the consolidation process, and hope to provide residents another opportunity to realize a cost savings.



Chester Borough and Chester Township are at a different stage of the process, currently expecting a professional assessment of consolidation in May 2010. The economic recession strained residents’ property tax liabilities, motivating local officials to explore potential cost savings. Since property taxes fund all local services and local officials’ salaries, reducing the number of local officials may allow both municipalities to realize a cost savings in the future. Despite the previous failed attempts to consolidate Chester, part of the refreshed environment is the Tenant Property Tax Rebate Act, and protection from rising property taxes upon consolidating.

Potential cost savings also motivated Sussex Borough and Wantage Township to consider consolidation. Initially, Sussex officials expressed interest in lowering their property tax rate by consolidating with Wantage, whose property taxes are lower. Sussex realized the difficulty in funding all their local services, as well as the salaries of their public employees. At the same time, Sussex residents did not want to lose control of their services by sharing or consolidating, stalling consolidation talks. In 2006, Wantage Township Administrator, James Doherty, sent a letter to local officials in Sussex seeking interest in consolidation as a potential cost savings approach. The Wantage Mayor expressed concern for the fiscal condition of New Jersey, based on economic indicators, and supported any possibility of maintaining or lowering taxes. After a failed November 2009 consolidation referendum, both municipalities continue to share an animal control department, construction codes, and court officials with the intention of saving money on full-time staff. The recent consolidation referendum is the topic of a study in Newark, and has the potential to shed light on the Sussex-Wantage process.



## *2. New Consolidation Process*

The Uniform Shared Services and Consolidation Act not only addresses the concern for rising property taxes, but also increases the role of the Local Finance Board, and provides for a more streamlined process. The new guidelines also include a state grant from the Department of Community Affairs to subsidize the cost of studying consolidation for municipalities. This incentive sought to prevent municipalities from deciding whether or not to study consolidation based on the cost of the process. The modified guidelines and requirements renewed local officials' enthusiasm to study a merger and to form consolidation commissions, particularly in Princeton and Chester. In both these examples, consolidation was very familiar, having been unsuccessful several times in the past. Once these municipalities realized that state officials supported a more streamlined consolidation process, local officials became optimistic for their next consolidation studies.

While the cost should not deter municipalities, the economy is a real concern. Given the strained fiscal resources in New Jersey, Governor Christie recently limited the amount of state funds available for municipal consolidation studies. For instance, Princeton asked for \$70,000 in state funds to study consolidation, but the state allotted \$35,000, leaving the Borough and Township to somehow generate the additional money.

Before Governor Christie took office, however, members of the Chester consolidation commission hired the Center for Governmental Research to assess implications for consolidating. One member of the commission noted that the state grant to fund the study was a crucial factor in the current effort. Also, the new process triggered the municipalities' willingness to participate in the study, and renewed motivation to address consolidation as a policy alternative. As such, both municipalities agreed to apply to the Local Finance Board for consolidation, and to take advantage of the new process. Local officials in Sussex Borough and Wantage Township, on the other hand, did not identify the new process as an important reason behind their recent attempt, as each consolidation effort has their own motivations.

## *3. Unique Characteristics*

Each of the 566 municipalities in New Jersey has their own unique identity. Consolidation of neighboring municipalities is bound to affect municipal identity and the unique characteristics among the affected localities. Similarly, each municipality will have unique concerns about merging, which a consolidation commission should address. The relationship between Princeton Borough and Princeton Township, including their 17 shared services, motivated the recent effort to study consolidation. Some of these shared services, however, experience challenges across municipal lines. Residents are concerned that one municipality is paying a disproportionate amount for a shared service, or that a shared service is not meeting their needs. Residents also question who should pay for these joint efforts. This leads to disagreement and frustration among neighbors and friends.

There is also a belief that if consolidation in Princeton is not the answer to this frustration, then both local governments should examine how they conduct business. If the Borough and Township

consolidated, residents of the single municipality would not be able to blame one another for paying less money for services. The consolidated municipality would operate as one community, with all residents in the same situation, leaving fewer opportunities for dissatisfaction.

Similarly, the relationship between Chester Borough and Chester Township also motivated their current effort to consolidate, but for different reasons. In 1930, Chester Borough became a separate municipality because of its dense population and ambitions for growth, as well as a dispute over water supply. In 1976 and 1983, local officials proposed a merger between the two municipalities, but residents defeated both referendums. Local officials again pursued consolidation in 1989, but were unable to make any progress. Their relationship creates an environment for local officials in both municipalities to work with one another, and presents an opportunity to reach consensus, even if consolidation proves unsuccessful. Today, the Center for Governmental Research is studying the feasibility of consolidating the Borough and Township. In doing so, the Center for Governmental Research created a website dedicated to disseminating information, and providing access to resources, to facilitate a discussion about municipal consolidation in Chester. These resources include documents specific to the unique characteristics of Chester Borough and Chester Township, including joint agreements on public services and asset lists for each municipality.

Sussex Borough and Wantage Township used a similar website, but to no avail. They are the most recent consolidation vote, after a failed referendum failed in November 2009. Sussex has a relatively small population, and their opportunity for growth is somewhat limited. Wantage is mostly a rural community, with areas for potential development. Due to the size and density of the Borough, some argued there was a need for more high-rise buildings. However, the location of Sussex Airport limited the Borough to only develop buildings less than three stories high, according to federal regulations. Therefore, local officials considered municipal consolidation as a viable policy alternative that would allow for more development opportunities. The unique characteristics of Wantage and Sussex were a main catalyst in studying a merger, and created an opportunity for the two municipalities to collaborate. Whether it is joint services, historical relationships, or opportunities for growth, there is no shortage of unique factors contributing to the study of municipal consolidation.

## **CONCLUSION**

Princeton Borough-Princeton Township, Chester Borough-Chester Township, and Sussex Borough-Wantage Township are three consolidation efforts worth noting in New Jersey for their motivating factors, despite being at various stages of the process. Princeton is in the beginning stages, Chester hopes to put consolidation on the ballot in November 2010, and the Sussex-Wantage effort is a case study for the National Center for Public Performance at Rutgers University in Newark. The Center's analysis of the failed attempt in Sussex-Wantage will identify weaknesses and serve as a resource for future

consolidation efforts. Common themes for pursuing consolidation in these three examples are property taxes, the modified consolidation process, and unique municipal characteristics.

Property tax rates remain a contentious issue. As one potential solution, municipal consolidation may reduce the liability for residents in each municipality. The new consolidation process and the enhanced role of the Local Finance Board also contributed to the desire of some municipalities to consider consolidation, particularly if consolidation failed in the past. Even if municipalities cannot agree to consolidate, the new process may open opportunities for a more efficient and effective relationship among the neighboring entities. Further, each municipality has unique characteristics that play a role in the consolidation process, perhaps most notably in the beginning stages as a motivating factor.

No matter the reason for considering municipal consolidation, the final decision is not in the hands of local officials, the Department of Community Affairs, or professional organizations. Residents of each municipality have the responsibility to vote on consolidating their municipality with another. Understanding major factors behind the three consolidation efforts may allow other municipalities to relate to similar situations. While municipalities in New Jersey have yet to fully experience the benefits and weaknesses of consolidating, particularly under the new process, municipal consolidation remains a controversial alternative to policy problems which include density of residents, density of municipalities, and property tax rates.

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Testimony from:

- Mr. James Doherty, Wantage Township Administrator
- Mr. Brian Murphy, Chester Township, member of the consolidation commission
- Mr. Marvin Reed, former Mayor of Princeton Borough
- Mr. Earl Snook, Chairman of the Consolidation Study Commission for Sussex Borough and Wantage Township
- Mr. Joseph Stefko, Center for Governmental Research
- Ms. Valle Schloesser, member of the Chester Consolidation Commission

By David Greenblatt

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# **BEST PRACTICES OF CONSOLIDATING MUNICIPALITIES IN NEW JERSEY**

**Abstract** The goal of this paper is to identify lessons for future municipal consolidation efforts in New Jersey. This controversial issue lacks successful attempts within the state, yet towns can learn from various efforts throughout the country. In addition to components from city-county consolidations, many lessons come from field experts, scholarly analyses, and even from failed attempts in New Jersey. Some of the areas of the consolidation process considered are characteristics of municipalities, an environment for discussion, forming a study commission, and the approval process by which individuals vote on consolidation proposals. The following collection of best practices will better allow residents in New Jersey to understand, discuss, and participate in future consolidation processes.

## **INTRODUCTION**

As some New Jersey municipalities struggle to agree on consolidation, there are limited examples within the state to call upon for guidance. Despite New Jersey's unique local government dynamic, successful consolidations throughout the country can serve as models for interested municipalities. A main concern facing consolidation advocates in New Jersey is guaranteeing a financial benefit to affected residents, while maintaining each community's local authority. The analysis below will create an environment for municipalities to address this concern.

## **POLICY SOLUTION**

### **CHARACTERISTICS OF SUCCESSFUL CONSOLIDATIONS**

Given successful municipal, or city-city, consolidations around the country, New Jersey can compare specific characteristics of its municipalities with that of successful models. A 1993 study focused on all 48 examples of city-city consolidations in the United States that occurred between 1970 and 1988. Although this study excluded consolidations with townships, all cases required approval from voters in both cities. Three factors identified as contributing to their success were population size, population trend, and the delivery of public services [Halter 1993].

Most of the successful consolidations between 1970 and 1988 occurred between municipalities with populations under 9,000 people. Also, 16.6% of the successful consolidations were between a city with less than 9,000 people and a city with 10,000 to 24,999 people, but there were no examples of large cities (25,000 people or more) consolidating with one another [Halter 1993]. The current consolidation effort between Chester Borough and Chester Township in New Jersey includes two small municipalities, each with fewer than 9,000 people, signaling the potential for success.

Both Chester municipalities also experienced population growth between 1990 and 2000. The trend in population change is that most successful consolidations occurred when both cities' populations grew.

The 1993 study found that both consolidated municipalities' populations increased over the preceding decade in 22 of the 48 successfully consolidated examples. In 18 instances, one city lost residents over the previous decade, while the other city gained residents [Halter 1993]. When both municipalities are growing, there is less concern among smaller cities that they would wield less influence in a consolidated municipality than a larger city. Since similar population sizes and population growth trends are evident in successful municipal consolidations, these factors may influence the preliminary stages of analysis and interest in New Jersey.

While the above factors can be unique to select municipalities, economic distress can affect many regions of a state simultaneously. Of the 48 successful consolidations, 45 were the result of service-delivery problems, with several respondents supporting consolidation due to financial difficulties. Other individuals expressed dissatisfaction with the delivery of public services, and promoted consolidation as a solution. Overall, the 1993 study found that, in some instances, "the need to improve service delivery may override concerns for autonomy and self-government, especially in the face of declining financial resources and service-delivery problems" [Halter 1993].

Analysis of the recently failed consolidation attempts in New Jersey refutes this statement, as municipalities' potential loss of local autonomy proved more powerful than concerns of service delivery or fiscal distress. Autonomy among municipalities is a strong factor in New Jersey, rendering the above sentiment difficult to apply in the state. Given the unique local government authority in New Jersey, not all characteristics of successful consolidations nationwide will apply. Nevertheless, it is important to identify characteristics of past successes, and those components that work among New Jersey municipalities.

### **KEYS FOR POTENTIAL SUCCESS**

Throughout the country, approaches that created opportunities for successful consolidations include combining local advocacy groups with a strong public outreach campaign, and adding collaboration among participants and stakeholders.

A study of the successful consolidation in Florida between Tampa and Jacksonville demonstrated the influence of a local elite group in support of the consolidation. While dissatisfaction towards government did not significantly affect the decision, a local elite group advocating the benefits of consolidation proved to be influential in gathering supporting votes [Halter 1993]. When residents see neighbors and friends supporting a local government decision, they are more willing to consider information and think about the issue, thus expanding the group of support. A local advocacy group can also bring forward opposition, and identify compromises, before a consolidation proposal reaches a referendum. Religious groups, education committees, and neighborhood associations are three types of local groups that can both assist the implementation of consolidation and draw attention to local concerns. In the 1996 Princeton consolidation attempt, two local advocacy groups opposed each other in their position on consolidation, and the referendum eventually failed.

In addition to opposing or supporting consolidation attempts, local groups disseminate information regarding the process and its implications. The dissemination of information is imperative to a successful consolidation, according to Ed Henschel, a recognized figure in the study of consolidation. While his suggestions do not guarantee full support for consolidation, Mr. Henschel promotes relationships among decision makers, public education, and participation by all stakeholders [Henschel 2009].

New Jersey municipalities can adopt the first key to potential success, as many neighboring local officials are familiar with one another through other experiences, yet social activities can reinforce personal relationships. Municipalities in New Jersey can also implement a public education component, which includes “public participation and outreach...to offset fear, skepticism, and protectionism” [Henschel 2009]. Outreach attempts and the dissemination of information are important for any municipal government decision. E-mails, blog entries, television and radio announcements, and postings throughout the community are some techniques for public outreach, particularly given the advancements in technology since many of New Jersey’s past consolidation attempts.

Equally important to the public education effort is the participation of all stakeholders, including residents opposed to consolidation. Community meetings can achieve multiple benefits, including a smooth start and productive discussions. If the two municipalities have little experience working with one another, organizing the details of community meetings can serve as municipalities’ first agreement and a foundation of understanding from which to work.

## **THE STUDY COMMISSION AND APPROVAL PROCESS**

While there are opportunities to create conducive environments for successful consolidation in New Jersey, the above keys to potential success can only go so far. Two areas of the consolidation process that further assist consolidation efforts are the municipal consolidation study commission and the process by which individuals decide on a consolidation proposal.

Nathan Harter, a Purdue University professor, suggests bringing municipal consolidation to referendum will ensure public defeat. Although government is a creature of the people, Mr. Harter refers to consolidation referenda as “the kiss of death,” because so many opportunities for consolidation fell at the mercy of the public’s vote [Harter 1992, 770]. When Indianapolis successfully consolidated their city and county governments in 1970, local officials did not use a referendum. Richard Lugar, then-mayor of Indianapolis, explained that it was more important to seek the approval of constitutional lawyers than to ask “persons who have not the slightest idea of what government was before or after” to decide on consolidation [Harter 1992, 771]. Further, Mr. Harter states that no matter how useful an idea, people will oppose change because of ignorance, contentment, skepticism, and suspicion [Harter 1992, 772].

In the case of a city-county consolidation, Ohio County, Indiana delayed their referendum by asking a group of private citizens and public officials to study the proposed consolidation and provide recommendations. This task force recommended against consolidation by referendum because they believed localities would only recognize acts of the state legislature, and oppose any proposal of change

[Harter 1992, 773-774]. The formation of a task force for Ohio County was a compromise between allowing the public to vote on consolidation, and following a state mandate to consolidate.

The Ohio County Task Force is comparable to municipal consolidation study commissions in New Jersey. Because of the Uniform Shared Services and Consolidation Act of 2007, the Local Finance Board assists each commission's effort to study the implications of consolidating. The task force in Ohio County expanded the number of decision makers in the process, before bringing consolidation to every affected individual. In 1996, the effort to consolidate Princeton Borough and Princeton Township included a 10-member study commission, whereas the current consolidation effort in Chester Borough and Chester Township entails a six-member commission, not including the statutorily required non-voting member from the state Department of Community Affairs (DCA). In contrast, the recently unsuccessful consolidation vote in Wantage Township and Sussex Borough involved a 10-member study commission, and a non-voting DCA representative. While a mandated municipal consolidation may be more time efficient, the role of local autonomy in New Jersey necessitates the involvement of residents.

Given the identified strength of referenda, a viable compromise for New Jersey may be to increase the size of each municipal consolidation study commission by inviting residents' comments in preparation for the referendum. This would increase the number of included stakeholders, allow the commission to consider a variety of issues, and address additional concerns before going to a public vote. In 1995, the New Jersey DCA warned against having five members from each municipality serve on the commission, because a larger group will inevitably lead to subgroups, and defeat the purpose of working together as one commission [New Jersey Department of Community Affairs 1995].

Even if members of the study commission did form small subgroups and analyze particular areas of a consolidation, this would be more helpful to the commission's objective than charging a limited number of private citizens with reviewing a multitude of issues. Between a state mandate and public referendum, a compromise would be to increase the number of members on the study commission, thus increasing its operating capacity and moving closer to a referendum without the finality of defeat.

## **LEARNING FROM PAST ATTEMPTS**

Despite various unsuccessful attempts, New Jersey does not have much experience with city-city consolidations, though studies from around the country tend to focus on city-county consolidations. If local officials believe consolidation would benefit their constituents, past examples of successful consolidation attempts can serve as guidelines for their efforts.

New Jersey's history of unsuccessful consolidation attempts is common to city-county attempts nationwide. In 2007, the Pennsylvania Economy League of Southwestern Pennsylvania [PELSW] found that of the 13 major city-county consolidations since 1947, seven encountered at least one previous failed attempt. The process by which most consolidations passed was through referendum, the exception being Indianapolis and Marion County, in 1970, which consolidated by legislative mandate. Since 1921, 30 city-

county pairs experienced 57 failed consolidation referenda [Pennsylvania Economy League of Southwestern Pennsylvania 2007, 10].

According to the PELSW, the number of defeated consolidation proposals is partly due to inappropriate legislative requirements. For example, Tennessee required that both entities, the county and the city, individually approve consolidation proposals, which is similar to New Jersey's city-city requirements. Since most states only require a single majority vote countywide to approve city-county consolidations, the PELSW found that different requirements in Tennessee might render a successful consolidation [Pennsylvania Economy League of Southwestern Pennsylvania 2007, 14].

This lesson for Tennessee would not help New Jersey very much because of the dynamic among potentially consolidated municipalities. New Jersey's recent consolidation proposals include merging a borough and a township, wherein the township surrounds the borough. Under a single majority vote, Princeton Borough and Princeton Township would consolidate in 1996, given the majority of support from the Township. A single majority vote would result in the larger municipality dictating the success of a consolidation proposal, whereas municipal consolidation in New Jersey should only proceed if a majority of residents in each municipality indicates approval. State mandated consolidation may also prove unsuccessful while fueling dissatisfaction towards government officials.

Municipalities in New Jersey can also learn from their own failed consolidation attempts. As of 2007, when the state legislature modified the consolidation process, there are no successful consolidations, and only a limited number of attempts. Analysis of the recent attempt by Sussex Borough and Wantage Township to consolidate would shed light on the unique characteristics between the two municipalities and the new consolidation process.

One difference, however, between the Sussex-Wantage consolidation attempt and the current Chester effort is the degree of transparency. Sussex and Wantage hired Government Management Advisors LLC, of East Brunswick, as consultant to provide a consolidation report, while the Chester municipalities asked the Center for Governmental Research to perform the same function. The Center for Governmental Research created, and maintains, a website to generate a community of knowledge and interest in consolidation. The website, <http://www.cgr.org/chester/>, offers resources of information, a process flowchart, and perhaps most importantly, an opportunity for the public to both contact the consolidation study commission and to receive e-mail alerts when new information arrives on the website.

Bridging the connection and enhancing the transparency between the public and the study commission are two important features of a consolidation effort, particularly with the importance of local autonomy in New Jersey. This form of transparency and the dissemination of information are crucial to attracting interest in consolidation proposals, even if the result is a failed attempt. The Chester consolidation website provides all affected residents an opportunity to engage in the process and to voice their opinions, which is something future consolidation efforts in New Jersey should emulate.

## CONCLUSION

The above analysis of best practices offers characteristics of successfully consolidated municipalities. While some characteristics are helpful when putting New Jersey's municipalities in perspective and identifying reasons for failed consolidation attempts, other characteristics may not be applicable. Future municipal consolidation attempts in New Jersey should create environments conducive to healthy discussions by learning from successful examples, as well as its own experiences. While municipal study commissions are helpful in identifying concerns and opposing views, larger commissions have several benefits and may produce different outcomes after a referendum. Additionally, a public outreach effort with particular attention to transparency can engage more residents, and, if nothing else, encourage relationships across municipal boundaries.

Maybe all the failed municipal consolidation attempts in New Jersey are the right decisions for those municipalities; but a well-defined, engaged, and transparent process will bring the issue closer to the people, and allow for effective discussion. The best ways to find out what works is to learn from previous successes and one's own attempts. Now New Jersey can learn from both.

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By David Greenblatt

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# **CONSOLIDATING PRINCETON'S POLICE DEPARTMENTS: Concerns and Solutions**

**Abstract** In preparation for an upcoming municipal consolidation effort in Princeton Borough and Princeton Township, the following analysis investigates the consolidation of municipal police services. Police department consolidation is a major issue, given the many implications for criminal activity and each department's importance to their individual communities. Three main areas of concern in consolidating police services are differing policing philosophies, staffing methods, and the impacts on cost savings and public safety. Upon explaining these concerns, this paper will provide solutions that specifically address each policy question raised.

## **INTRODUCTION**

Princeton Borough and Princeton Township are familiar with studying municipal consolidation, having voted on three, unsuccessful, referenda in the past. Today, local officials from both municipalities express confidence that an upcoming study will yield a different result from past attempts, given updated consolidation guidelines and the sensitive fiscal condition of each municipality. While the Borough and Township share 17 services, one crucial public service that remains separate is police. The following analysis will highlight concerns in consolidating the two police departments, and recommend solutions to address policy questions.

## **POLICY QUESTIONS**

The Borough and Township each provide expenditures in their municipal budgets for their own police departments. The municipalities' police staffs are almost identical in size, their police budgets are very similar, and both departments maintain a uniform objective of keeping the public safe. Further, both police departments preserve good relationships with one another, and some police officers are open to working together across municipal lines. So what is preventing a successful consolidation of police departments? Through testimony of local officials and field experts, three main concerns emerge.

### **POLICING PHILOSOPHY**

It is common for police departments to maintain different policing philosophies, two of which include enforcement policing and community policing. The enforcement approach includes a more aggressive style in distributing fines, writing tickets, and actively patrolling an area. In contrast, community policing "stresses police-citizen partnerships in preventing and controlling crime and addressing quality of life and disorder issues. Police officers engage in strategies that are pro-active and that increase their visibility in the community" [Buracker 2005, 155]. A representative of the Princeton Township Police Department noted that community policing focuses on public perception, and officers' relationships with their

constituency. Since police officers typically interact with people in emotional situations, this approach may produce a level of comfort between the police department and municipal residents.

The member of the Township department also identified a difference in policing philosophies between the two municipalities. Before the two municipalities create a consolidated police department, officers must consider how they would operate. Are police officers going to concentrate on enforcement mechanisms or will the focus shift to collaborative relationships with the community?

Embedded within a policing philosophy are also communication styles and the flow of information among officers. Marc Pfeiffer, of the Division of Local Government Services within the New Jersey Department of Community Affairs, identified a similar challenge in records systems. If the Borough and Township Police Departments consolidated, who would maintain the records system and track criminal activity? The type of side-arms that police officers use, among other equipment, may also differ, and are potential challenges. The policing philosophy demonstrated by each department is a major point of concern in the consolidation discussion, but this challenge is not insurmountable.

## **STAFFING**

After questioning how a consolidated police department would operate in Princeton, officers must then agree on staffing and leadership. Police officers and members of the community echo concerns over the staffing and structure of a consolidated police department. Officers are already comfortable in their department's operations and are apprehensive to support an unknown alternative. While the Borough and Township have 30 and 31 officers, respectively, many are worried about losing their jobs if the two police departments consolidate. Simply combining departments would produce a staff of 61 officers, but a consolidated department may require fewer, potentially about 55 or so officers. How would a consolidated department reduce their staff? How many fewer officers would be necessary in a consolidated department? Which officers would lose their jobs in a consolidated staff? These questions can bring opposition to a consolidation effort, and must be seriously addressed.

Further, officers are unsure where they would fit in a consolidated department, particularly if they are nearing retirement age. Each police department has their own Chief, but a consolidated police department would only necessitate one Chief. Each department also maintains four patrol squads, all overseen by their own sergeant, but a consolidated police department might change the staffing for patrol squads. How would officers decide on a Police Chief for a consolidated department? Even if officers agreed on a Police Chief, would the department report to two separate Mayors, if municipal administrations did not also consolidate? Given the potential for confusion, this last question spurs the notion that a consolidated police department will only be successful with full municipal consolidation.

Members of both municipalities also express concern over potential staffing implications. Dr. Ernest Reock, Professor Emeritus with the Center of Government Services at Rutgers University, noted that Borough and Township residents maintain relationships with their police officers, and might even know officers on a first-name basis. In this regard, a community would support continuity in their local police

department, and oppose any potential for staffing reductions. Mr. Pfeiffer explained that residents only want to use their cops, and are uncomfortable with different police officers ensuring their safety. Similarly, consolidation advocates must anticipate opposition from local police unions. Through public interaction and campaigning in affected communities, police unions can garner opposition, among residents, to reducing the police staff. Especially in New Jersey, unions can exercise significant influence on policy initiatives, presenting another challenge for consolidating police departments.

### **COST SAVINGS AND SERVICE DELIVERY**

Although one reason behind reducing police staff is cost savings, local officials may find difficulty in defending their cost projections. The property tax burden is a particular concern to New Jersey residents, and is often used as a factor behind local policy initiatives. Thus, municipal residents would potentially oppose a local initiative if it meant higher property taxes. For this reason, one local official from Princeton Borough identified the justification of cost savings as a challenge to consolidating police departments.

In August 2000, a local government budget review of Princeton Borough, and separate review of Princeton Township, found that total cost savings from consolidating police departments would save \$1,643,565. Although these figures are about ten years old, the Borough would save \$706,733 and the Township would save \$936,832 [New Jersey Department of the Treasury 2000, 51]. There is an understanding that a cost savings is more likely in the long run, several years into the future, but immediate cost savings are unknown. Members of the community, and members of the police departments, may only express interest in immediate cost savings and thus weaken the allure of eventual savings. How much money will a consolidated police department save each municipality, if any? Would a consolidated police department yield any savings if municipalities consolidated as well? When could a municipal budget realize a cost savings?

Referring back to the policing philosophies, residents are concerned that a consolidated police department would affect their relationship with police officers, and result in a higher crime rate. Residents may believe that since a consolidated police department means fewer police officers, their neighborhoods will receive less protection from criminal activity than the current police department provides. Either way, what would a consolidated police department mean for each community's public safety? How will criminal activity respond to a joint police system? The questions regarding cost savings and the delivery of police services are difficult to answer in a theoretical framework, but some tools can provide insight to solutions.

Despite the above three areas of concern, both police departments were prepared for full municipal consolidation in 1996, but when the referendum failed, the police departments remained separate. The two police departments now have a foundation of past agreement off which to work. For the purposes of responding to the above concerns, the next section will provide suggested responses that focus along the same three topic areas.

## **POLICY SOLUTIONS**

Consolidating police departments in Princeton Borough and Princeton Township brings many questions. After identifying major concerns, the next step is to offer potential solutions and avenues of compromise. If implemented accurately, these solutions can establish an environment conducive to productive discussion regarding the consolidation of the two police departments.

### **POLICING PHILOSOPHY**

Though some officers favor their individual policing philosophy, a combination of the two approaches may prove beneficial. According to one source, if both police departments were put in a salt shaker and turned upside down, the two departments would look very similar. The rank structure, competence, training, and ultimate objective are uniform across the two municipalities. In studying the feasibility of police department consolidation in Mendham Borough and Mendham Township, Braun Management Consulting found that different policing styles were a concern. Through interviews with members of both police departments, the consultant noted that the Borough engaged in more community service activities, and the Township embodied more of an enforcement agency. Their major finding, however, was that “a merger or balance of these two approaches would be beneficial if, as stated by one officer, ‘it is done the right way’,” which may also be a solution for the Princeton example [Braun 2003, 16]. As such, a consolidated police department in Princeton could apply both enforcement activities and collaborative interaction with the community. Additionally, a consolidated department can emphasize particular policing strategies to meet the needs of each community, or even of particular neighborhoods.

Police officers, and residents, should not view this solution as weakening their department's current approach to public safety. If both departments apply community and enforcement methods, instead of utilizing only one method, officers will have the potential to enhance their effectiveness in protecting the public and discouraging criminal activity. A similar solution can apply to consolidating record systems. The merged department can either operate with two separate systems for some time, or create a new approach to recording information and criminal activity. Operating with two different sets of equipment, such as side-arms, is also a solution, until the consolidated department decides on standard procedures, equipment, and overall operations.

### **STAFFING**

Even if a consolidated department adopts both policing philosophies, there is still a question of staffing. Much of the opposition to consolidating comes from officers' concern for losing their jobs. A consolidated department would probably have fewer officers on staff than if both departments simply combined with one another. There are two solutions to reducing the number of officers in a consolidated department; one is attrition and the other is restructuring.

Similar to first combining records systems and then dissolving into one standard system, the attrition method would wait until officers retire, and then neglect to fill their empty positions. If each police department has officers nearing retirement, attrition would lead to a relatively smooth transition. However, if there are few, or no, officers nearing retirement, a consolidated department could offer incentive packages as encouragement to retire. These packages may include years in service or additional compensation. Members of the upcoming consolidation commission in Princeton should avoid losing all institutional knowledge from both departments. Veteran police officers are important community figures with much experience to share, and losing all their expertise should not be a sacrifice in consolidation. Ultimately, a consolidation study report should work with both police departments and municipal administrations to determine the optimal size of a consolidated police force that promotes efficiency and effectiveness.

Another option, particularly if both departments lack officers nearing retirement, is restructuring both departments to reduce staff members. Incentive packages can also facilitate consolidation in this approach, and may even result in a more timely integration process. If a consolidated department is unsure who to lay off, it can present every officer with the opportunity to accept an incentive package. While this approach carries a risk of losing too many officers, this situation would allow the consolidated department to hire new employees.

Once the consolidation commission addresses staffing concerns, they should consider leadership. As Mr. Pfeiffer noted, the most recent consolidation attempt in Princeton included a Police Chief nearing retirement. If both police chiefs express a desire to maintain their leadership positions, both chiefs may undergo an interview process to determine a Chief and Deputy Chief of the consolidated department. This raises the question of how a consolidated department could operate under two municipal administrations.

The consolidated department would have difficulty reporting to separate administrations, which is the main reason why a police consolidation is improbable without full municipal consolidation. Either way, the two municipalities should not create an independent organization to oversee the new department, given today's political climate and the public reaction to additional government employees. This could raise enough community opposition to halt any progress. The next consolidation commission should strongly consider how to oversee a consolidated police department, and in doing so, they may find that the only way to consolidate police departments is through full municipal consolidation. No matter the outcome, members of both police departments must be crucial components of community meetings before reaching a viable solution. As Mr. Pfeiffer suggests, the commission should consult with not just the police departments, but every party affected by consolidation – including business owners, police unions, community organizations, and as many members of the public as possible.

## **COST SAVINGS AND SERVICE DELIVERY**

Consulting the public through community meetings, correspondence mechanisms, and the distribution of information are three powerful tools that any consolidation commission should utilize, particularly to address skepticism from affected parties. The potential to save money is another issue that leaves the public skeptical of a consolidated police department. Even if consolidating saves money, local officials may keep property tax rates constant and invest that money in other services for their jurisdiction. A strong solution to address this concern is to demonstrate realistic implications of a consolidated police department, and to engage the public and current police officers in discussing different scenarios. One scenario should include municipal consolidation, which can create a more streamlined policing process and control personnel expenses. Another scenario should consider the possibility of no cost savings. In this case, advocates of consolidating police departments may highlight other benefits, including the creation of a strong community without the division of police services.

While a consolidation study report would more clearly demonstrate the potential for reducing municipal expenses, a local official from Princeton Borough noted potential savings in the future, but probably not right away. In an effort to accommodate a gradual integration of police departments, an instant cost savings may not be possible. As such, concerned members of the public should not view this consolidation as an answer to current tax burdens, but an investment in lowering future expenses.

Lower expenses do not necessarily mean a less effective police force. One of the most important factors in consolidating any police departments is that department's effectiveness. Naturally, the public is concerned that a consolidated police department will mean less effective law enforcement and an increased crime rate. One aspect of service delivery is currently the four patrol squads that each police department operates. While Princeton Borough and Princeton Township are unique from Mendham Borough and Mendham Township, the latter's feasibility study shed light on the quality and effectiveness of a consolidated patrol squad service. The consultant stated that a consolidated patrol squad function would result in better coverage, "eliminate any one-person patrols without overtime costs...[and] provide benefits of better response time and better back up" [Braun 2003, 10]. In addition to increasing the collaboration among all police officers, a consolidated patrol squad function in Princeton can emulate the proposed benefits of Mendham by more effectively allocating officers and equipment on patrols. Further, if a consolidated department uses both community and enforcement mechanisms, there is potential for an increase in service delivery, and thus more effective policing. In Princeton Borough and Princeton Township, consolidation commission members and the consultant should also address the concern of service delivery in community meetings, and incorporate these implications in the various scenarios they present to the public.

## **CONCLUSION**

An underlying theme that emerges, and a key factor in the above solutions, is interaction with the community. Throughout the study of creating a consolidated Princeton Police Department, there are

substantial concerns regarding different policing philosophies, staffing needs, and the implications for cost savings and public safety. Police officers and municipal residents should have several opportunities to understand the implications of consolidating police departments. While considering specific community needs, a combination of policing philosophies can increase the effectiveness of a consolidated police force. Additionally, methodical and thorough community meetings can provide opportunities to address staffing concerns and the skepticism associated with implications for cost savings and police services. This method should also include a transparent technique for distributing resources and informing the public. The fact that Princeton Borough and Princeton Township Police Departments were amenable to consolidation in 1996 provides an optimistic environment for consolidation talks today. Should these departments engage in healthy discussion, and ultimately reach an agreement to consolidate, they can provide another resource for the municipal consolidation study commission, and serve as potential models for the rest of New Jersey.

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Oral Testimony from:

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- Representative of the Princeton Township Police Department
- Local Official from Princeton Borough



## **SECTION 4**

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by Melissa N. Fischer

**WHY NEW JERSEY STATEWIDE IMPLEMENTATION OF  
DRUG COURTS: How it Has Reduced the Prison  
Population and Generated Revenue within the  
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**ADOPTING A HOLISTIC APPROACH TO PRISONER  
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By Melissa N. Fischer

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# NEW JERSEY STATEWIDE IMPLEMENTATION OF DRUG COURTS: How it Has Reduced the Prison Population and Generated Revenue within the Department of Corrections

**Abstract:** A stimulant of the cycle of crime is substance addictions. To target this, state judiciaries have implemented drug court programs as an alternative to incarceration for nonviolent offenders. Research not only identifies drug courts as a more effective means to treating substance abuse issues but also as a more cost-savings alternative. Due to eligibility requirements, however, many offenders do not qualify to be a drug court participant even though their criminal behavior derives from a substance addiction. The Justice Policy Center identifies that drug courts only serve about 55,000 individuals annually; even though the Bureau of Justice Statistics concludes that more than half of the United States' prison population has a substance abuse or dependency problem. In addition, the cost of operating the drug court is only a fraction of the cost of incarceration. On average, New Jersey's drug court has saved the state \$68.5 million annually. Therefore, states like New Jersey need to consider expanding its eligibility requirements to include more prison-bound offenders. By investing a proportion of the costs associated with incarceration into treatment, states can continue to capitalize on drug courts and break the cycle of crime.

## INTRODUCTION

State judiciaries began establishing Adult Drug Courts to address the growing prison population of offenders who committed a crime to support a substance addiction. This increase in prison populations resulted from the War on Drugs and the get-tough legislation that passed during the late 1980s and 1990s, which promoted incarceration as a means to end illegal drug use. Unlike criminal court, drug court's objective is to combat recidivism by targeting the extralegal factor of substance issues. Drug court's problem-solving approach relies upon a *drug court team* that involves the partnership between the criminal justice system and treatment providers. The Superior Court Judge oversees a team of prosecutors, defense councils, probation officers, treatment providers, social service agencies and other community-based organizations. This relationship establishes a unique non-adversarial court environment focusing on the offender versus the offense. Research suggests that drug courts – intensive supervision, strong treatment regiments and rehabilitative services operating within case proceedings – are more effective at diverting offenders from the criminal justice system and treating individuals [New Jersey Judiciary <https://www.judiciary.state.nj/us/drugcourt>]. Further, drug courts strengthen the recovery process by integrating both therapeutic programs and sanctions.

Evidence also shows that drug courts are a cost-effective alternative to incarceration, which is especially evident within the Department of Corrections. Not only is the cost of treatment per individual lower than incarcerating an offender, it also generates revenue by simultaneously addressing other expenditures associated with incarceration. These additional expenses include

the costs of recidivism and post-release services like housing, healthcare, and welfare. Thus, drug courts save states the money spent on incarcerating and re-incarcerating offenders as well as the resources that are supporting persistent social issues.

## NEW JERSEY ADULT DRUG COURTS

Similar to other states, New Jersey's Adult Drug Court targets nonviolent drug offenders. Before accepting a participant, the Criminal Division clinically evaluates the offender to assess the severity of the addiction. If the court clinician identifies the offender is an eligible participant, then the drug court team considers whether the individual is suitable for the program. Moreover, offenders are not eligible for the program if their current or any other pending charge(s) involve a violent offense (e.g., murder, manslaughter, aggravated assault, rape, and robbery). Nor can they have a prior conviction for a violent crime. In addition, offenders who commit a drug offense motivated by profit rather than addiction are ineligible (AOC, 2002). This criterion is standard for the majority of the nation's drug courts.

## STATEWIDE IMPLEMENTATION'S INFLUENCE ON PRISONER POPULATION

In New Jersey, the statewide adoption of drug courts has affected the proportion of offenders incarcerated for drug offenses. Through Legislation P.L. 2001, 243c, New Jersey began enacting successful components of pilot initiatives implemented in Camden, Essex, Mercer, Passaic and Union court systems. In April 2002, New Jersey entered its second phase of its statewide implementation plan and began operating the drug court program in Bergen, Cumberland/Gloucester/Salem, Monmouth, Morris/ Sussex and Ocean Counties. During this time, New Jersey lead the nation in incarcerating the highest known population of prisoners convicted of drug offenses. In comparison to the national average (20%), 36% of New Jersey's correctional population consisted of drug offenders [Schiradli and Ziedenberg, 2003]. Between 2001 and 2005, New Jersey experienced a small decrease in the number of drug offenders detained prior to the final implementation stage of the drug court program, in which it declined to 33%. The remaining five county drug courts – in Atlantic/Cape May, Burlington, Hudson, Middlesex, and Somerset/Hunterdon/Warren – became operational.

Figure 1.1

<b>New Jersey's Statewide Implementation of Drug Courts Consistently Reduced the Proportion of Incarcerated Drug Offenders</b>			
<b>Implementation Stage</b>	<b>Year</b>	<b>Total #</b>	<b>Total %</b>
Pilot Stage*	1999	10,385	32%
Phase I	2001	9,683	34%
Phase II	2002	9,720	36%
	2003	9,122	35%
	2004	9,177	35%
Phase III	2005	8,729	33%
	2006	8,478	32%
	2009	7,377	29%
	2010	6,678	27%

\*The pilot stage occurred between 1996 and 2000; however, only data from 1999 is available.

Source: Office of Policy and Planning. Offender characteristics report, New Jersey Department of Corrections.

As New Jersey's drug court program continues to establish itself, there continues to be a decline in the proportion of drug offenders incarcerated in the Department of Corrections (DOC) (Figure 1.1).

### **CONTINUING TO REDUCE THE DRUG OFFENDER PRISON POPULATION**

The number of people entering drug courts is too low for the program to achieve its objective. Research suggests that *eligibility requirements* partly contribute to drug courts' low acceptance rate. Drug courts reject a large portion of individuals based on their offense (e.g., domestic violence, distribution, theft, fraud, and prostitution) even though it related to their substance abuse. Placing these participants in correctional facilities rather than enroll them in drug court's rigorous treatment and supervision program is a poor decision. Due to their offenses, these serious offenders are receiving little to no treatment and their incarceration is contributing to the likelihood that they will recidivate. In addition, most drug courts exclude individuals with co-occurring psychiatric and substance use disorders. Some states also exclude eligible participants based upon addiction severity whether a drug problem is too serious or not severe enough [Bhati, Roman, and Chalfin, 2008]. Although the Bureau of Justice Statistics (BJS) identifies more than half of the United States prison and jail population as having a substance abuse or dependency problem, drug courts only serve about 55,000 individuals annually [Bhati, Roman, and Chalfin, 2008]. Therefore, only a small portion of eligible offenders enrolls in drug courts.

For New Jersey's Adult Drug Court program to stop crime related to substance abuse, it must go to scale to reach individuals incarcerated because of their addiction. According to the BJS, approximately 17.3% of state prisoners and 18% of people incarcerated in jails report having drug abuse issues; this does not include drug dependency nor alcohol abuse and dependency. Based on data from fiscal 2009, this translates to approximately 200 offenders housed in county penal institutions and almost 4,000 offenders incarcerated in state correctional facilities within New Jersey. That same year, however, the state's program only consisted of about 3,600 participants. [OMB <http://www.state.nj.us/treasury/omb/>]. Thus, the state's drug court perhaps reaches less than half of the individuals that could further benefit from its program.

### **CONTINUING TO SAVE**

The cost-savings generated by the drug court appears in departments other than the Judiciary system, which financially supports the program. The administration that generates the most revenue because of drug courts is the DOC, which has resulted in an average savings of \$68.5 million each year. In fiscal 2009, New Jersey spent an average of \$38,000 to incarcerate an offender. During this time, the drug courts had about 3,000 individuals engaged in treatment rather than incarcerated within the DOC. Because of diverting these offenders from the criminal justice system, New Jersey saved approximately \$139.2 million that year in incarceration costs. Meanwhile, the state spent \$38.2 million to operate the entire drug court program; thus, every

dollar spent on treatment generated \$3.66 through the DOC in fiscal 2009 [OMB [Http://www.state.nj.us/treasury/omb/](http://www.state.nj.us/treasury/omb/)]. This drug court to DOC spending ratio is evident throughout New Jersey's implementation of the program, as illustrated in Figure 1.2.

Figure 1.2

<b>New Jersey's Statewide Implementation of Drug Courts Resulted in Savings within the Department of Corrections</b>								
	<b>FY 2003</b>	<b>FY 2004</b>	<b>FY 2005</b>	<b>FY 2006</b>	<b>FY 2007</b>	<b>FY 2008</b>	<b>FY 2009</b>	<b>FY 2010*</b>
No. of Current Participants (Active and Non-Fugitive)	1,310	1,829	2,200	2,498	2,876	3,280	3,636	4,018
Avg. Annual Cost per Prisoner (Based on Total Direct State Services)	\$31,049	\$31,525	\$33,573	\$34,177	\$36,862	\$37,906	\$38,285	\$39,815
Estimated DOC Savings (No. of Current Participants x Avg. Annual Cost per Prisoner)	\$40.7 million	\$57.7 million	\$73.9 million	\$85.4 million	\$106 Million	\$124.3 million	\$139.2 million	\$160 million
Total Cost of Drug Court (includes treatment/aftercare services, operations and judgeships)	\$18.4 million	\$18.6 million	\$27.2 million	\$30 million	\$31 Million	\$32.6 million	\$38.2 million	\$43.4 million
Drug Court to DOC Spending Ratio	\$1:\$2.21	\$1:\$3.10	\$1:\$2.72	\$1:\$2.85	\$1:\$3.42	\$1:\$3.81	\$1:\$3.66	\$1:\$3.69

\* Statistics for FY 2010 is based on the State Budget's Revised Data and Adjusted Appropriations

Source: Office of Management and Budget. State of New Jersey budget, The State of New Jersey Department of the Treasury; with added author's calculations.

By expanding eligibility requirements, New Jersey will generate more revenue through the DOC. As previously mentioned, the BJS identifies 17.3% of offenders housed in jails and 18% of state prisoners as having drug abuse issues, which translates to about 4,200 individuals incarcerated in New Jersey. If New Jersey diverted these offenders from the DOC and invested one-third of the cost of their incarceration (about \$43.8) into the drug court, then it could have saved another \$100 million in 2009.

## CONCLUSION

Initially, New Jersey established its Adult Drug Court to address the runaway costs of incarcerating a large number of nonviolent drug offenders. The evidence that drug courts work and are cost-effective justifies why New Jersey should expand the program. By merely revising its eligibility requirements, New Jersey could continue to save over \$100 million a year by including more prison-bound offenders whose criminal activity relates to their substance abuse issues. This does not even include savings generated in areas other than the DOC that burden taxpayers and consume scarce resources such as the costs of child/family separation, education, welfare, healthcare, and victim services. Expanding eligibility to more prison-bound offenders can produce revenue by addressing the social implications rooted in substance abuse issues. Furthermore, modifications to drug courts will enable the program to fulfill its objective of breaking the cycle of crime stimulated by substance dependency and abuse.

Court trends show that judiciaries are adopting this problem-solving methodology to adequately address social problems caused by criminal behavior. This current revolution of the justice system is evident by the establishment of courts for juveniles, domestic violence, mental health, reentry, and driving while intoxicated. If New Jersey does not advance with this trend, it will not capitalize on the actual benefits of the problem-solving capabilities of drug court's intense treatment approach.

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By Melissa N. Fischer

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# **ADOPTING A HOLISTIC APPROACH TO PRISONER REENTRY AND REINTEGRATION TO REDUCE RECIDIVISM AND THUS NEW JERSEY'S PRISON POPULATION**

**Abstract** Recidivism is often considered solely a criminal justice issue. The transition process from incarceration to free living, however, requires a holistic approach to address the shortcomings of how and where ex-prisoners return. To develop a comprehensive system, there needs to be a central entity to oversee and mediate interagency collaboration. New Jersey has piloted a reentry agency but it needs to legislatively reinforce this organization. By establishing the Statewide Reentry Program, New Jersey can continue advancing its prisoner reentry and reintegration efforts to promote public safety by reducing recidivism. Furthermore, it can strengthen urban revitalization and economic development within the unstable communities in which ex-prisoners frequently return to living. Past efforts have neglected to integrate a holistic approach; thus, states can no longer rely only on their Department of Corrections and State Parole Boards to overcome this multi-dimensional issue. There needs to be an identified Statewide Reentry Program that applies a unified approach to recidivism, which in turn will increase public safety and maximize scarce resources.

## **INTRODUCTION**

Incarceration presents many potential social costs due to its ineffective ability to deter future criminal behavior. In many cases, research suggests that imprisonment hardens offenders because correctional facilities act more like a school of crime rather than an institution of rehabilitation. Furthermore, insufficient social resources and legal barriers that restrict access to employment, housing, healthcare, and in some cases food and clothing all contribute to recidivism. This has accounted to the large increase in the United States' prison population over the past two decades. As a result, this social issue costs taxpayers money, not only for the original conviction and the post-release supervision and services but also for the additional costs of the subsequent criminal activities' administrative expenses, prosecution, and imprisonment. However, society can manage recidivism by developing strong reentry and reintegration initiatives, which address issues such as how and where the transition process occurs.

Like the rest of the nation, New Jersey needs to address prisoner reentry to combat recidivism and the social burdens it inflicts on taxpayers. About 96% of its prison population will return to the community. Each year the Department of Corrections releases approximately 16,000 offenders; however, one-third of this group will return to the community without the support of any form of supervision and direct access to services [DOC <http://www.state.nj.us/corrections>; SPB <http://www.state.nj.us/parole>]. To reduce the number of people that return to the criminal justice system, New Jersey needs to adopt a holistic approach to overcome the shortcomings of prisoner reentry.

## UNDERSTANDING THE ISSUE

The method by which ex-prisoners return to the community significantly contributes to recidivism. To prepare incarcerated individuals for release, it is first important to understand the difference between *prisoner reentry* and *prisoner reintegration*. Prisoner reentry is simply the process of leaving prison and returning to society, which is the end-result of imprisonment. State reentry policies vary in the type of assistance they provide to ex-offenders, such as supplying gate-money, clothing, medication, and transportation vouchers. In New Jersey, the state provides prisoners with no financial assistance upon release. Instead, individuals receive money from a personal savings account that they invested in from work assignments and deposits made by relatives. New Jersey does provide the opportunity for individuals to purchase a transit bus or rail ticket at a discounted price to help their transition back into the community [DOC <http://www.state.nj.us/corrections>]. In contrast to reentry, prisoner reintegration applies goals and the philosophy of rehabilitation. This practice focuses on an individual's transition from incarceration to free living, which includes jail/prison programs, release procedures, and community supervision and services. People often conflate these two concepts and how each practice influences the cycle of crime.

Furthermore, it is important to understand the context of where ex-prisoners return to living. Ex-prisoners typically return to poor- and working-class urban neighborhoods that are already experiencing a considerable amount of strain. In New Jersey, a large number of offenders come from and return to the state's *Urban 15* cities (Figure 2.1), which represent 19% of its population yet historically account for one-third of the reported Crime Index [NJSP <http://www.state.nj.us/lps/njsp/info/stats.html#ucr>].

Figure 2.1

New Jersey's <i>Urban 15</i> Cities and their County		
Bayonne City, <i>Hudson County</i>	Elizabeth City, <i>Union County</i> *	Paterson City, <i>Passaic County</i> *
Camden City, <i>Camden County</i> *	Irvington Town, <i>Essex County</i>	Trenton City, <i>Mercer County</i> *
Clifton City, <i>Passaic County</i>	Jersey City, <i>Hudson County</i> *	Union City, <i>Hudson County</i>
Toms River Twp., <i>Ocean County</i>	Newark City, <i>Essex County</i> *	Vineland City, <i>Cumberland County</i>
East Orange City, <i>Essex County</i>	Passaic City, <i>Passaic County</i>	Woodbridge Twp., <i>Middlesex County</i>

\*Categorized as "Major Urban" cities because they have populations of 80,000 or over

Source: New Jersey State Police. 2008. Crime reports and statistics: Uniform crime report. The State of New Jersey Department of Law and Public Safety, Office of the Attorney General

Thus, the Department of Corrections' (DOC) population mostly consists of offenders from the counties in which the *Urban 15* reside as illustrated in Figure 2.2. In addition, to entering unstable communities, ex-offenders encounter a multitude of barriers that hinder their ability to establish a productive lifestyle and minimize the likelihood of recidivism. These barriers make it difficult to obtain employment, housing, healthcare and in some cases food and clothing. Frequently, ex-offenders are competing with community residents over the same scarce resources, which they

are usually denied due to their criminal history. The characteristics of where ex-prisoners return underscore why society can no longer solely consider prisoner reentry a criminal justice policy issue. Thus, a holistic approach is necessary to address the issues that exist beyond public safety such as the shortcomings of poor- and working-class urban neighborhoods, social barriers, and scarce resources.

## NEW JERSEY'S TRIAL SOLUTION

Figure 2.2

In October 2007, Governor Jon Corzine launched a three-part plan – A Strategy for Safe Streets and Neighborhoods – to address violent crime and recidivism by focusing on law enforcement, prevention practices, and prisoner reentry. In regard to reentry, the strategy aims “to reduce the recidivism rate to improve public safety and save resources.” This objective relies on the strategy’s

<b>New Jersey's Top Ten Counties with the Largest Proportion of Incarcerated Offenders (characterized by county of commitment)</b>						
<b>County</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2009</b>	<b>2010</b>
<i>Total # of Offenders</i>	26,387	26,581	26,239	26,746	25,436	24,808
Essex	4,830	4,789	4,607	4,408	4,012	3,885
Camden	3,477	3,457	3,404	3,580	3,022	2,937
Hudson	2,455	2,518	2,388	2,269	2,279	2,225
Passaic	2,179	2,264	2,204	2,294	2,222	2,098
Union	2,211	2,268	2,176	2,238	2,171	2,121
Atlantic	1,918	1,929	1,808	1,795	1,921	1,792
Middlesex	1,369	1,298	1,403	1,408	1,436	1,462
Monmouth	1,430	1,394	1,393	1,414	1,350	1,211
Mercer	1,275	1,395	1,390	1,345	1,294	1,221
Bergen	1,012	996	1,004	1,024	947	833

main principle, which identifies reentry as the responsibility of multiple entities and not only the DOC. Thus, successful reentry requires the collaboration between state agencies such as the Juvenile Justice Commission (JJC), State Parole Board (SPB), Department of Children and Families, Department of Community Affairs, Department of Health and Senior Services, Department of Labor and Workforce Development (LWD), Department of Human Services, Department of Education, and Office of the Public Defender. To achieve its' objective in accordance with this principle, the reentry strategy proposes four necessary actions for New Jersey. The first action requires the establishment of a State Reentry Program, which consists of a Reentry Coordinator to oversee the state's reentry and reintegration efforts with the support of an interagency rooted Council. The second launches the demonstration project Another Chance, which implements and assesses preparatory programming for offenders returning to the *Urban 15*<sup>1</sup>. The third action demands system-wide changes to satisfy the unique needs of ex-prisoners.

Last, the strategy requires modifications to policies in order to eliminate the legal barriers that restrict successful reintegration. In addition, the reentry strategy requires a comprehensive analysis of its effectiveness. Meaning, New Jersey is not only critiquing its efforts to reduce criminal behavior (i.e., measuring rates of parole revocation, re-arrest, reconviction, and re-incarceration) but also the achievement of other important outcomes (i.e., employment,

<sup>1</sup> Originally, Another Chance was only for offenders returning to Camden, Newark, and Trenton; due to a low number of eligible participants, the state expanded the initiative to include offenders returning to New Jersey's *Urban 15*.

overcoming substance addictions, responsible parenting, and managing physical and mental health problems). Since the release of *Reentry: A Strategy for Safe Streets and Neighborhoods*, Figure 2.3

<b>Some Current Projects Involving the Statewide Reentry Program</b>
Another Chance, Inc.
Chaplaincy Network Program
County Reentry Task Force
Crisis Intervention Teams
Department of Transportation Program for Released Offenders
Expanding Social Security and Medicaid Benefits
Federally Qualified Health Centers
FORGE - <i>Female Offender Reentry Group Effort</i>
Technical Assistance in Jails for Transitioning Inmates
Transitional Housing for Special Needs Inmates
Transitional Services for Inmates with Veterans Benefits
Workforce Learning Link Lab Pilot Program

**Source:** Deputy Attorney Joseph Faranoff, teleconference with the author, April 16, 2010; Office of the Attorney General. *Crime plan: A strategy for safe streets and neighborhoods, New Jersey Department of Law and Public Safety.*

New Jersey has taken efforts to implement and consciously evaluate each of the plan's actions.

Since the program's implementation, the Reentry Coordinator has prioritized the unique needs of ex-prisoners by establishing subcommittees to focus on these specific areas: housing, healthcare, labor and workforce development, family (including juvenile offenders and children services), policy and legislation, and Another Chance. These subcommittees include members from the corresponding state agency and outside field professionals to help foster partnerships and offer policy recommendations. For example, the healthcare subcommittee is helping establish a partnership between the DOC, SPB and local Federally Qualified Health Centers (FQHC) to ensure medical services for parolees.

Through this collaboration, the subcommittee's objective is to advance prisoner reintegration by providing seamless services to individuals with chronic health conditions as they transition to back into the community. To achieve this, it is helping to develop a system in which parolees receive healthcare coverage through FQHC and transfer electronic medical records from the DOC to FQHC [Faranoff, 2010]. The Statewide Reentry Program participates in many other projects that involve the cooperation of various state and community-based agencies (Figure 2.3).

## **REINFORCING THE TEMPORARY INITIATIVE AS A PERMANENT SOLUTION**

New Jersey needs to invest in the Statewide Reentry Program and incorporate the agency within the state government. It cannot rely on the different state agencies and community organizations to foster partnerships and maintain a universal mission without a central entity to supervise and mediate that collaboration. For example, the Statewide Reentry Coordinator and Council is necessary for supporting the adoption of the Reduction of Recidivism Act in January 2010, which part of it requires the DOC to provide all individuals upon release with their birth certificate. This legislation, however, is an unfunded mandate that requires the DOC to supply all ex-prisoners with this vital document and hire any necessary staff within the limits of available appropriations. By collaborating with the Statewide Reentry Program, the DOC can enter into existing partnerships – such as the relationship between the Bureau of Vital Statistics and JJC –

to fulfill the legislation's objective in a cost-effective manner [Faranoff, 2010]. If New Jersey does not develop a unified approach to prisoner reentry, then it will further cost the state through the duplication of services and questionable use of evidence-based practices to target recidivism. This also highlights the current weakness of the Statewide Reentry Program. The agency does not capitalize on the benefits of information technology, which can connect resources from federal to local levels and across the state. Utilizing information technology to forge partnerships can help develop the use of data-driven practices, advance scarce resources, and increase public support [Corzine, 2007]. Thus, it is beneficial for New Jersey to take legislative action in reinforcing the value it places on improving public safety and maximizing resources by reducing the rate of recidivism.

Michigan exemplifies how the implementation of a central reentry agency can significantly affect an individual's transition through the criminal justice system and back into the community. The state established the Michigan Prisoner ReEntry Initiative (MPRI) to improve data analysis and locally-based planning by focusing on services in housing, employment, substance abuse and other areas necessary to increase the likelihood for successful reentry. The initiative enabled Michigan to use more data-driven practices and increase the use of indeterminate sanctions versus relying on imprisonment [Greene and Mauer, 2010]. Furthermore, MPRI utilizes information technology to strengthen communication and collaborations among interagency partners through a central website, which also provides resources and monthly status reports. In 2005, the state piloted MPRI to combat the growing prison population that consisted of more people incarcerated for a parole violation versus a conviction for a new offense. By the end of 2007, Michigan took MPRI to scale by making it operational statewide [MPRI <http://www.michpri.com>]. As a result, the number of individuals admitted to prison for a technical parole violation fell by 22% and overall technical parole revocations are down 42% since its record high in 2002. This occurred despite a 40% increase in the size of the parole population [Greene and Mauer, 2010]. Thus, Michigan is able to provide a consistent approach throughout the state while still considering the unique needs presented by local officials and community organizations.

## **CONCLUSION**

New Jersey's proposed initiative Reentry: A Strategy for Safe Streets and Neighborhoods incorporates components of both prisoner reentry and reintegration with the support of a comprehensive system. Concerning prisoner reentry, the state is providing all prisoners with more resources upon release such as through the Reduction of Recidivism Act, which ensures the provision of important personal documents. In contrast to reentry, prisoner reintegration efforts are strengthening throughout the entire criminal justice process. For example, Another Chance is empowering individuals who are returning to some of the state's most unstable communities through educational and vocational training. In addition, the reentry strategy establishes

interagency partnerships to help strengthen these efforts through a holistic approach. By coordinating this relationship, New Jersey recognizes that prisoner reentry and recidivism are a multi-dimensional issue and it weakens the barriers that restrict ex-offenders from successfully transitioning back into the community. The interagency collaboration also permits the state to maximize resources and benefit from existing experienced services providers. The Statewide Reentry Program, however, is not established enough to advance New Jersey's efforts in managing recidivism. The state needs to consider legislatively reinforcing the agency maintain review of its criminal justice planning, policies, and practices.

The most effective workable solutions to prisoner reentry and reintegration require a holistic approach. Past efforts taken to address the revolving door of recidivism have failed to integrate this necessary component. Although current criminal justice policies incorporate interagency partnerships, this collaboration is not easily attainable and is a major limitation. Michigan is an example of how a state can manage recidivism through a holistic approach supported by a central entity. If New Jersey does not address these limitations, it will continue to counterbalance its attempts to increase the rate of successful prisoner reentry; thus, also affecting public safety, urban revitalization and economic development.

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# THE NECESSARY REVISION TO NEW JERSEY'S HARSH MANDATORY SENTENCING LAWS

**Abstract** Get-tough policies have increased the number of prison admissions and lengthened the period of time in which most offenders remain incarcerated. Mandatory sentencing laws are a major contributor to this social issue. They apply a “one-size-fits-all” solution to certain crimes and restrict judges from reviewing the circumstances that may have contributed to an individual’s criminal behavior. New Jersey applies some of the nation’s harshest mandatory sentencing laws and needs to consider revising its statutes. It can adopt safety valves that enable judges to use their discretion when hearing a case and allow the Department of Corrections to release offenders who exhibit rehabilitation. As a result, these legislative changes to get-tough policies can prevent unjust punishments, protect public safety, and save taxpayers money. If New Jersey does not modify its mandatory sentencing provisions, it will not capitalize on benefits of being less reliant on incarceration.

## INTRODUCTION

In the late 1980s, states complied with the federal government in implementing mandatory minimum sentencing. This reform in sentencing provisions significantly limited judicial discretion to promote the “get-tough” on crime approach. Under mandatory minimums, people convicted of certain offenses receive equal punishments through fixed prison terms. Mandatory minimums help address the growing disparities within the criminal justice system by limiting judges’ discretion in considering legal (i.e., criminal history, offense, and culpability) and extralegal factors (i.e., race/ethnicity, gender, and age). Its stringent guidelines, however, do not allow a judge to apply appropriate punishments to first-time offenders and for crimes that range in severity. Thus, adopting the practice of mandatory minimum sentencing has had mixed effects on the entire nation.

New Jersey has utilized some of the nation’s harshest mandatory sentencing laws since 1979. Under these provisions, an offender cannot influence his release date until he completes the majority of his sentence; nor can he reduce his sentence by earning good credits (i.e., commutation, minimum security, or work) [DOC <http://www.state.nj.us/corrections>]. Since 2003, the proportion of offenders serving mandatory provisions has grown by 10.2%, even though the total prison population has decreased by 6.4% (Figure 3.1). This practice has restricted New Jersey’s ability to capitalize on the benefits of lowering admissions and increasing releases.

Figure 3.1

	Total # of Offenders Incarcerated	# of Offenders Serving Mandatory Sentences	% of Offenders Serving Mandatory Sentences
2003	26,387	16,034	60%
2004	26,581	16,746	63%
2005	26,239	17,012	65%
2006	26,746	17,286	65%
2009	25,436	17,585	69%
2010	24,808	17,654	71%

Source: Office of Policy and Planning. Offender characteristics report, New Jersey Department of Corrections.

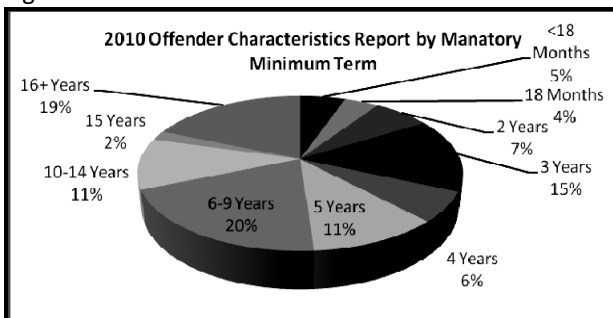
## CONSEQUENCES OF MANDATORY MINIMUMS

Mandatory minimum sentencing applies a “one-size-fits-all” solution to certain crimes. Under these guidelines, Congress or a state legislature defines the prison term that a person must receive if they commit that particular crime. This practice eliminates the opportunity to review the circumstances that may have contributed to an individual’s criminal behavior. Mandatory minimum sentencing primarily applies to drug and gun related crimes; furthermore, the type and weight of the drug involved or the possession or presence of a gun defines the statutes. For example, the Federal government mandates that a person convicted of possessing five grams of crack cocaine receive a sentence of five years in prison without parole. Thus, judges must give this sentence without taking into consideration any circumstances unique to the case before them, which often results in an unjust punishment. This pre-determined decision often leads to the incarceration of individuals who would benefit more from a diversion program such as those who exhibit criminal behavior related to a substance addiction, which are now ineligible for drug court treatment. In addition, mandatory minimums impose collateral consequences on people unjustly convicted for these crimes. Due to their criminal conviction, these individuals endure legal barriers when they return to the community, which restrict their access to employment, housing, healthcare, welfare and other social resources.

## NEW JERSEY’S MANDATORY MINIMUM SENTENCING

In 1979, New Jersey significantly revised its Criminal Code (NJSA Title 2C) to be tougher on crime, which resulted in a rapid increase in its prison population. This growth partly derived from more admissions and longer prison terms through mandatory minimums. Legislation that directly influenced this include the Graves Firearm Act (1982) – which when enacted only 11% of the prison population was serving a mandatory minimum term – and Comprehensive Drug Reform Act (1987) – which when enacted only 41% of the prison population was serving a mandatory minimum term [Greene, 2003]. In addition, mandatory sentences define a person’s length of incarceration. In New Jersey, an offender not imprisoned under a mandatory provision serves on

Figure 3.2



Source: Office of Policy and Planning. 2010. Offender characteristics report, New Jersey Department of Corrections.

average one-fifth to one-quarter of their prison term. Their counterparts, however, serve approximately twice the amount of time. In 2010, the majority of mandatory minimum terms (52%) are between 3 to 9 years, with the median mandatory term being 5 years (Figure 3.2) [DOC <http://www.state.nj.us/corrections>]. The size of New Jersey’s prison population depends on the states reliance on imprisonment,

which mandatory sentencing ensures through admissions and duration of prison terms.

New Jersey has discredited the influence these revisions have had on the state's prison population over the past three decades. When it enacted NJSA Title 2C, the state also established the Criminal Disposition Commission to review all criminal penalty features within the criminal justice system (i.e., pretrial release, imprisonment, probation, parole, treatment interventions, and monetary sanctions). The Commission recommended that state legislatures improve probation and parole supervision as well as expand the use of intermediate sanctions and alternatives to incarceration. In fiscal 1993, however, the state dismissed the suggestions and eliminated the Commission. Instead, New Jersey created the Sentencing Policy Study Commission (SPSC) to analyze its laws, policies, and practices that affect sentencing, incarceration, and parole of offenders. Even though the crime rate fell while the rate of incarceration rose during the time between 1980 and 1993, the SPSC determined that no single factor attributed to the prison population growth. It further undermined the Commission's review by recommending New Jersey compound probation and parole resources, especially in areas of drug treatment, juvenile justice and intermediate sanctions [Greene, 2003]. Since 1994, New Jersey has continued to rely on the SPSC's findings and not revised any of its mandatory sentencing statutes.

### **ALLEVIATE THE RESTRAINTS EMPLACED BY MANDATORY MINIMUMS**

To combat the negative consequences of mandatory minimums, New Jersey needs to adopt safety valves. This legislative mechanism enables judges to use their discretion in sentencing a shorter prison term to an offender that satisfies certain criteria. Special circumstances that reduce a mandatory minimum can include the offender's criminal history, the severity of the committed offense, the offender's role in the commission of the crime, and whether a weapon was used. Safety valves also prevent unjust sentences, protect public safety, and save taxpayers money. Reductions of mandatory minimums enable courts to apply appropriate punishments that consider the offender and the crime. Safety valves do not liberate people from their punishment but ensures that offenders will not receive more prison time than they deserve. This also helps secure available prison space and scarce resources for violent offenders who posse a real threat to the community. Lastly, shorter sentences generate revenue by having offenders spend less time incarcerated than they would have been [FAMM <http://www.famm.org/StateSentencing/NewJersey.aspx>]. These are a few general benefits for alleviating the restraints emplaced by mandatory minimums.

### **MODIFICATIONS FOR NEW JERSEY**

In January 2010, New Jersey reformed components of the Comprehensive Drug Act to help divert less serious drug offenders from the criminal justice system. The harsh mandatory provisions of the Drug-Free School Zone had incarcerated many individuals unjustly throughout the 1990s. New Jersey adopted safety valves to enable judges to waive the mandatory minimum

depending on the offender's criminal record and the seriousness of the offense as well as whether commission of the crime occurred within school property, near children, and during school hours [FAMM <https://www.famm.org/StateSentencing/NewJersey.aspx>]. This legislative change follows evidence that New Jersey can benefit from modifying its mandatory sentencing. In 2004, New Jersey's Attorney General permitted "open plea" bargaining for these lower level offenders and divert them into the drug court program. This practice partly influenced the drastic drop in the number of drug offenders incarcerated, dropping from 9,177 in 2004 to 7,377 in 2009. Furthermore, the "open pleas" reduced the number of individuals entering the criminal justice system from urban communities, saved taxpayers money, and enabled the state to reallocate DOC funds. Necessary revisions still exist for the Comprehensive Drug Act. The modifications to the Drug Free School Zone only targets drug offenses within school property. Therefore, the state has many more opportunities to lower the number of drug offenders incarcerated under mandatory minimums.

New Jersey continues to incarcerate a small proportion of nonviolent offenders whose base-offense is for unlawfully possessing or operating a firearm under the Graves Firearm Act. Although these offenders represent a small percent of the entire prison population, the number of offenders incarcerated for this offense is growing. In 2002, these offenders accounted for 3% of the prison population and in 2010, they account for 6% [Office of Planning and Policy <http://www.state.nj.us/corrections/offstats.html>]. Furthermore, these offenders will cost the state approximately \$58.5 million to house them in 2010. New Jersey needs to revise components of its Graves Firearm Act to combat this growing subpopulation and save resources spent on less serious offenders.

Moreover, New Jersey needs to enact safety valves within DOC release procedures to continue lowering the prison population. The state needs to introduce a merit system – that is not constrained by mandatory minimums – to promote rehabilitation efforts among offenders. The incentive for early release will encourage prisoners to use their prison term to develop educational and vocational skills and ultimately reduce recidivism. The state cannot rely solely on changing policies that admit offenders into its criminal justice system; it must also eliminate the likelihood that they will return and reward offenders who make significant life changes.

## **LESSONS FROM OTHER STATES**

Due to the overwhelming burdens inflicted by incarceration, some states have reduced their use of mandatory minimum sentencing. These states have generated revenue by becoming less reliant on incarceration without endangering public safety despite reforming their sentencing guidelines. In 2002, Michigan both reinstated most of judges' discretion in sentencing and commuted offenders' parole ineligibility status. By reforming its mandatory minimum drug statutes, Michigan not only experienced short-term relief but also benefited long-term through fewer prison admissions and higher parole releases. The revenue generated by the smaller

prison population enabled the state to invest in a statewide prisoner reentry program, Michigan Prisoner ReEntry Initiative (MPRI) [Greene and Mauer, 2010]. Rather than continuing to rely on imprisonment, the state's investment in MPRI has improved prisoner reintegration, reduced recidivism, and maximized resources.

New York also regained control of its prison population by utilizing incentives to promote early release among prisoners serving mandatory prison sentences. Through "merit time," the state enables certain nonviolent offenders to earn a one-sixth reduction to their minimum term. To qualify for merit time, an individual can achieve a general equivalency diploma, receive a substance abuse treatment certificate, earn a vocational trade certificate, or perform at least 400 hours of community service. In 2004, New York expanded merit time to certain drug offenders committed to the Department of Correctional Services prior to December 27, 2004. This modification enabled these prisoners to reduce their minimum sentence by one-sixth in addition to the standard one-sixth reduction benefit [Greene and Mauer, 2010]. Moreover, New York has lowered recidivism by requiring prisoners to obtain and strengthen the skills necessary to return to the community and live a productive lifestyle.

In addition, Minnesota financially benefits from implementing its own safety valves on mandatory minimums. For instance, the state has a five-year mandatory sentence for possession of a weapon; however, judges may apply a lesser prison sentence or probation if they determine "substantial and compelling reasons to do so" [FAMM <http://www.famm.org/StateSentencing/NewJersey.aspx>]. In 2007, Minnesota saved more than \$2.8 million in costs associated with incarceration by enacting this safety valve. This revenue derives from reduced sentences applied to 32.9% of offenders convicted of a weapon offense whose prison time were, on average, 21 months shorter [FAMM <http://www.famm.org/StateSentencing/NewJersey.aspx>]. By amending mandatory sentencing laws, states can lower its prison populations and reduce recidivism without threatening public safety.

## **CONCLUSION**

New Jersey has taken efforts to alleviate the burdens inflicted on the state by a large prison population. While it has reduced the number of people incarcerated in its correctional facilities, the state has restricted itself from further capitalizing on a lower prison population by not reforming its mandatory sentencing laws. Amending criminal penalties and department procedures with safety valves offers an opportunity for the state to prevent unjust punishments, protect public safety and save taxpayer money. Safety valves will not only provide immediate relief to the state but also long-term benefits; it will reduce the rate of recidivism and enable the state to reallocate funds where it is necessary. Mandatory sentencing laws have had mixed effects on the nation; where states have reformed their mandatory minimum guidelines, however, there has been evidence of greater benefits to becoming less reliant on imprisonment.

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## **SECTION 5**

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by Ezra Selove

### **NEW JERSEY'S CHARTER SCHOOLS: Structure and Demographics**

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### **The "Opportunity Scholarship Act", S-1872: An Evaluation**

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By Ezra Selove

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# NEW JERSEY'S CHARTER SCHOOLS: Structure and Demographics

**Abstract** In 1995, New Jersey passed the Charter School Program Act. For the first time, school choice activists and parents of students in failing schools were given the option of applying to the state to establish their own charter based public schools. Though funded by state and local revenue, charter schools are individually controlled. In exchange for this freedom, charter schools are held accountable via both an "open market" mechanism – student demand for their services – and state review. This paper outlines the fundamental structure and demographics of the New Jersey charter school law, as well as their regulations and the demographics of the students who attend them. It is intended as a primer for policy makers working on issues of school choice.

## INTRODUCTION

New Jersey is one of America's most densely populated and diverse states. Though these characteristics promote a rich cultural landscape, occasionally they lead to a series of social policy problems, including a strained public education system. The political melee over school funding in the State's Abbott districts over the last thirty years is a prime example of this stress. Though some progress has been made, for the New Jersey students in the middle of the political back and forth, theirs has been a state of educational inertia.

In response to these education policy woes, in 1995 New Jersey school choice activists pushed through the New Jersey Charter School Program Act (N.J.S.A. 18A:36A), providing a legal outlet for the creation of charter schools. As a policy option, charter schools had been gaining steam since 1991, when Minnesota became the first state to allow their establishment. Currently, 40 states and Washington, DC have charter school laws, covering a range of diverse policy preferences. Despite this relative ubiquity, charters are still hotly debated.

To that end, this brief will provide an overview of New Jersey's charter school laws and regulations in order to act as a primer for policy discussions on the topic. It will also sketch out a demographic picture of the state's current charter schools and their demographic composition. Finally, it will delve into the debate around charter school funding and school closure.

## CHARTER SCHOOL OVERVIEW

### What is a charter school?

The New Jersey Department of Education defines a charter school as "a public school open to all students on a space available basis that operates independently of the district board of education under a charter granted by the Commissioner." [N.J.S.A. 18A:36A]. Currently, there are 68 charter schools in the State [Charter Public School Association, 2010], serving approximately 20,000 students between grades K -12 [NJ DOE, 2010], with eight more schools expected to

open in Fall 2010. Unlike normal public schools, charters hold independent control over their budget, curriculum, operations, and staffing. Generally, the school forms a non-profit and is administered and supervised by a board of trustees authorized by the State Board of Education.

Hill et al. succinctly point out that in exchange for exemption from some education regulations, charter schools sign a performance agreement (their charter) with the state, based on student achievement [Hill et al, 2002, 5]. In exchange for this independence, charter schools are expected to be “accountable”; a broad expectation. This accountability extends beyond the State Board of Education and to their students and the parents who choose to send their children their, or to the local community who helps to fund their operation; perhaps even to other school districts effected by the loss of revenue and “competition”.

New Jersey approaches this issue of accountability by holding “comprehensive reviews” of charter schools. Initially, these reviews are held annually over the first four years a school is in operation. Afterwards, they are held every five years, when schools have an option to renew their charter. The review is conducted by the Commissioner of the NJ Department of Education (hereafter DOE) and includes, but is not limited to:

- 1) the impact of the charter school program on resident districts’ students, staff, parents, educational programs, and finance;
- 2) the impact of the charter school program and the increased number of schools on the economics of educational services on a statewide basis;
- 3) the fairness and the impact of the reduction of available resources on the ability of resident districts to promote competitive educational offerings;
- 4) the comparative demographics of student enrollments in school districts of residence and the charter schools located within those districts [NJ DOE, Charter School Application].

### How long has NJ had charter schools?

The New Jersey Charter School Program Act of 1995 (N.J.S.A. 18A:36A) became effective in January of 1996, with nine charter schools opening the next year. The table below provides a metric overview of the State’s current charter schools.

<b>Table 1: Charter School Metrics</b>					
Number of Schools	68		Elementary Schools	45	66.18%
Avg. Number of Years Open	8.4		Middle Schools	10	14.71%
Open 1-3 Years	14	20.6%	High Schools	5	7.35%
Open 4-6 Years	8	11.8%	Middle/High Schools	5	7.35%
Open 7-9 Years	12	17.6%	Elementary/Middle/High Schools	3	4.41%
Open 10+ Years	34	50.0%			

Source: National Alliance for Public Charter Schools, with added author’s calculations to grade level breakdown

### Who may attend charter schools?

Charter schools are open to all students “on a space available basis” and are prohibited from setting admission policies or practices based on student ability, academic achievement or

aptitude, handicapped status, language proficiency, or any criteria that would be illegal for a normal public school to employ [NJ DOE, Charter School Application, \_].

Admission may be limited though to a specific grade or by academic concentrations, such as mathematics, science, or art. These admission criteria must be “reasonable” and outlined in the school’s charter [N.J.S.A. 18A:36A-7]. Only two forms of preference may be employed in the admission process. First, students within the school’s “district of residence” or “region of residence” receive first priority. The district of residence is a “school district in which a charter school facility is physically located” [N.J.S.A. 18A:36A-7]. The region of residence is the “contiguous school districts in which a charter school operates” or a district that shares students from different municipalities in its schools [N.J.S.A. 18A:36A-7]. Students outside the district of residence receive second priority. Tuition may not be charged to in-district students. The second form of preference is granted to siblings of a student already enrolled in a charter school.

In the event that more students apply than the school may accommodate, a random selection process will be used to select students. At the same time, “to the maximum extent practicable”, admission policies must seek to enroll a “cross section of the community’s school age population including racial and academic factors.” [NJ DOE, Charter School Application]. The law does not clarify how the process must be random yet provide such a cross section.

In 2008, about 11,000 students total were on a waiting list to attend a New Jersey charter school [National Alliance for Public Charter Schools, 2010]. Though this is a sign of a strong demand, it may be more accurate to describe these lists as a sign of indignation with the current system. For those families not wealthy enough to send their children to private schools, charters are the only other option. In his campaign, newly elected Governor Christie referred to the waiting lists as a “ration of educational opportunity” and stated he’d work to push through more charter applications [Hester, 2009]. Regardless of your opinion on charter schools, rushing approval along for any program or organization that uses public funding without supervision is bad policy. As the number of charters increase, control over education funding decreases. For a State in the red, losing more control is not an option.

### **What do the demographics of charter schools look like?**

The table on the left provides an overview of the average student demographic breakdown between New Jersey’s charter schools and their districts of residence. Over 80% of the State’s charter schools reside in Abbott districts, about 65% of charter students are on free or reduced lunch, and 85% are black or non-white Hispanic. Though charters have a slightly lower total percentage of free or reduced lunch students, the total difference is with a margin of error.

	<b>Charter School Students</b>	<b>Districts of Residence Students</b>
On Free Lunch	50.95%	57.62%
On Reduced Lunch	14.08%	8.99%
Limited English Proficiency	0.61%	8.29%
<b>Ethnicity:</b>		
White	11.72%	14.12%
Black	62.12%	44.63%
Non-white Hispanic	23.21%	35.95%
Asian	1.64%	4.93%

	<b>Charter School Students</b>	<b>Districts of Residence Students</b>
White	6.90%	5.70%
Black	70.60%	53.30%
Latino	20.60%	38.50%
Asian	1.60%	2.40%
Free/Reduced Lunch	70.40%	71.30%

Sources: Top chart based on Author’s calculations using NJ DOE 2008-2009 enrollment data, Bottom chart provided by the Education Law Center, 2010

### **Who may establish a charter school?**

A charter school may be “established by teaching staff members, parents with children attending the schools of [a] district, or a combination” [N.J.S.A. 18A:36A-4.a]. Private entities or institutions of higher education may also establish a charter school by working in partnership with district parents or teachers. Some limitations are placed though on private entities seeking to open a charter. First, a board of trustees may not include a majority of representatives from a private entity, nor may the school’s name include a private organization’s name or identifying elements. As well, the private entity may not recognize a net profit from its operation of the charter. In addition, private or parochial schools are not eligible to become charter schools.

### **What major laws/regulations apply to charter schools?**

All laws applicable to public schools apply as well to charter schools. The commissioner may approve a request by a board of trustees for specific exemptions from state regulations if they can “satisfactorily” demonstrate that the exemption will advance the educational goals and objectives of the school [N.J.S.A. 18A:36A-11.a]. Exemptions may never be given for regulations pertaining to student assessment, testing, civil rights, or student health and safety.

The Charter School Program Act states charter school establishment can “encourage the use of different and innovative learning methods,” but by holding charters to State testing

requirements, they are as restrained as traditional public schools in their need to ‘teach to the test’. Standardized testing remains incongruous to innovation because its formats delineate not only what must be taught, but how as well in order for the students to recognize and understand the questions. By keeping charters in lockstep with traditional schools, they are prevented from acting as “education laboratories”.

**How are charter schools funded?**

New Jersey’s charter schools receive the majority of their funding from state and local governments, along with federal funds and private fundraising, as shown below. They are forbidden from charging tuition to students who live in their district of residence.

<b>Table 4: 2008-2009 School Year Averages</b>						
<b>Comparative Cost Per Pupil</b>	<b>State</b>	<b>Local Taxes</b>	<b>Federal</b>	<b>Tuition</b>	<b>Fund Balance</b>	<b>Other</b>
\$12,057	57%	27%	5%	0%	5%	6%

Source: NJ DOE, 2009 Comparative Spending Guide, Charter Schools

By law, “The district in which a student attending the charter school resides will pay 90% of the sum of the budget year equalization aid per pupil and the prebudget year general fund tax levy per pupil inflated by the CPI rate most recent to the calculation” [NJ DOE, Charter School Application, 84].

<b>Table 5: Average PPF by Charter School as a percent of District of Residence PPF</b>	
2006-2007	67.25%
2007-2008	68.25%
2008-2009	70.65%

Source: NJ DOE, 2009 Comparative Spending Guide, Charter Schools

As shown in the table on the left, on average, New Jersey charter schools are receiving well below 90% of funding of traditional schools. This is a point of contention in the charter school community. Charters face other funding challenges as well. Law forbids New Jersey charter schools forbidden from constructing or renovating any facility with public funds. As schools grow, this places greater pressure on their fundraising

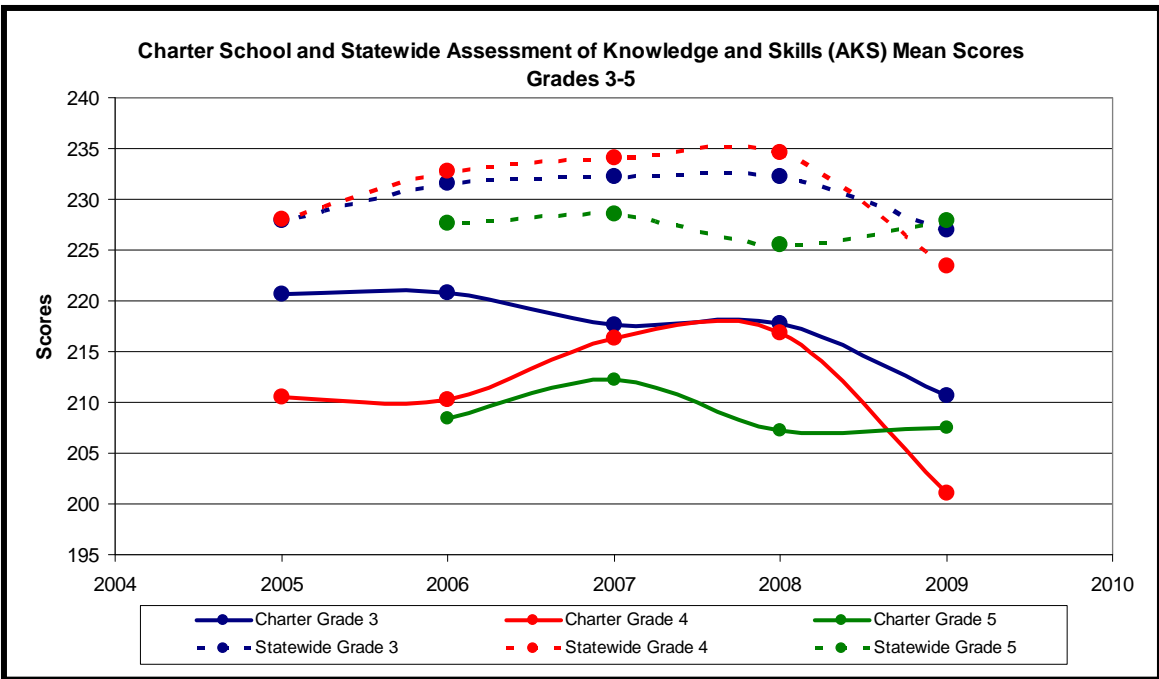
abilities, which can be a distraction from strictly academic concerns. In addition, charter schools may not incur debt for longer than a period of 12 months, unless the debt is fully secured by charter school assets (including its property), so that the total debt does not exceed the full amount of the appraised value of all charter school assets or property by which the debt is secured [New Jersey Administrative Code § 6A:23-9.6a]. Together, these stipulations place an almost de facto limit on the speed most charter schools can grow.

Though certainly an issue worth attention, differences in education funding should not be centered on total funds received, but on whether a school is receiving less money for delivering the same services, under the same conditions as another. For example, charter schools in New Jersey cater to a much smaller percentage of special needs and limited English proficiency

students, two groups that require more funding to support. It is worth noting though, that the Robert Treat Academy Charter School in Newark was a 2008 Blue Ribbon School while receiving only 61% of the per pupil funding that Newark did [author's calculations]. Legality aside, total PPF does not appear to be the lynchpin to student achievement.

**How do charter schools perform on state based assessment testing?**

In general, charter schools have lagged behind State averages on both the High School Proficiency Assessment (HSPA) given in the 11<sup>th</sup> grade and the Assessment of Knowledge and Skills (AKS) tests given annually between grades 3 – 8. Mean math scores provide a strong example of overall testing trends. As show in the table below, charter schools have scored below statewide averages for the last few years. Lower percentages of charter school students are also reaching 'proficient' or 'advanced proficient' scores on exams as well. This trend extends not only to the statewide scores, but also to DFG A, or the most common seeding districts for the State's charter schools.



Source: New Jersey Department of Education, Assessment of Knowledge and Skills Scores, 2005-2009

One study has show that New Jersey's charter schools are not the only charters being outpaced by traditional public schools. In February 2010, The Center for Research on Education Outcomes (CREDO) at Stanford University released a study comparing student academic growth on reading and math scores between charters and traditional schools across the country. They found "in unmistakable terms that, in the aggregate, charter students are not faring as well as their TPS counterparts" and that "the overall findings of this report indicate a disturbing — and far-reaching — subset of poorly performing charter schools." [CREDO, 2009, 6, 8]. The authors acknowledge that charters may still be having a positive impact on their students, such as

## **Equity**

Like the other tuition tax credit bills before it, S-1872 seeks to expand the ability of students to attend private school on public funds without explicitly saying it. This is inherent in the stipulation that students do not have to attend a chronically failing school to receive a scholarship; they only need to live in a district with a failing school. Therefore, like previous attempts, this is a backdoor voucher program and comes with the same pitfalls and equity shortcomings.

## **Eligibility**

Scholarships would be available to all students in a district with a chronically failing school, not just those students attending a chronically failing school or about to advance into one. Given the state's high demand for charter schools, it is to be expected that the scholarships will have more applicants than available funding, at which point the selection process will turn to a lottery to choose recipients. If the goal of the bill is to assist those "parents of limited means [who] are less able to provide educational options for their children" [S-1872 2(a)], the bill should have been targeted only at students in chronically failing schools or those about to advance into one. In a lottery system, students currently attending a chronically failing school have no greater chance to receive funding as those attending adequate schools. As a bill to improve educational mobility for the most underserved students, it should have been strictly applied to those students in the greatest need of a new option. Because it is not, its true motives of seeking to fund private school educations with public funding are undeniable.

Indeed, the bill would allow up to 25% of the scholarship money per district to be given to students not attending a traditional public school [S-1872 6(c)(2)]. This includes those going to private and parochial institutions. Moreover, if funds are still available after August 1<sup>st</sup> of any school year, this limit may be exceeded. The bill does not make a stipulation for the speed at which the money must be distributed, so it is possible it could be held until after this date to avoid this limit. This is more likely if the non-profit providing the scholarships has an ideological bent towards private schools or if administration of the program is slow to start.

The bill also does not clarify why providing scholarships to students outside of the public school system will advance or strengthen the education of public school students. Proponents of school choice generally claim that competition between public and private schools will motivate innovative practices in traditional public schools, thereby raising standards and keeping up with their private 'competitors'. Once a student has left the system though, this potential competitive pressure would not be felt. It is irrational to expect much if any movement from private to public schools, even with students given the chance to attend a public school outside of their home district.

improved socialization or stabilization, but the magnitude of this effect(s) is not reflected in standardized test scores.

Worthy of note, these results have been called into question by a recently published National Bureau of Economic Research (NBER) paper, citing a statistical error made by CREDO in their calculations of student achievement, in addition to violating four rules for the empirically sound use of matching methods [NBER, 2009]. The paper states “It is not possible to say exactly how such these violations affect the estimates,” but their objections to the CREDO results is noteworthy for comparing New Jersey scores to other states [NBER, 2009, 11].

**What are the most common reasons for charter school closures?**

The previously mentioned CREDO study noted that, “For a number of reasons — many of them understandable — authorizers find it difficult to close poorly performing schools. Despite low test scores, failing charter schools often have powerful and persuasive supporters in their communities who feel strongly that shutting down *this* school does not serve the best interests of currently enrolled students. Evidence of financial insolvency or corrupt governance structure, less easy to dispute or defend, is much more likely to lead to school closures than poor academic performance” [CREDO, 2009, 8].

Table 6: Reasons for Charter School Closure		
Financial Mismanagement	144	33.64%
Mismanagement	137	32.01%
District	48	11.21%
Academic	44	10.28%
Facility	34	7.94%
Unknown	11	2.57%
Other	10	2.34%

Source: Center for Education Reform, Closed Charter Schools By State, February 2009

This observation was echoed by a 2006 study done by the Center for Education Reform (CER), a pro-charter, non-profit advocacy group based in Washington, DC. CER conducted a national survey of charter school closures and divided the primary causes into seven categories, aggregated in Table 6. ‘Financial Mismanagement’ was the most common reason cited, exceeding ‘Mismanagement’

by only a few cases. Financial mismanagement applied to “budgetary problems resulting from involuntary causes”, or poor financial planning, whereas mismanagement applied to “deliberate actions” by organizers resulting in inadequate programs or lack of accountability [CER, 2009]. These results echo the CREDO observation that financial insolvency or corrupt governance will be noticed before poor academic performance.

Looking specifically at the New Jersey charter schools that have closed since the law was enacted in 1996, a similar trend is observed. Of the 19 charters that closed by the State, eight have been for ‘Mismanagement’ and seven for ‘Financial Mismanagement’, while only three have closed for academic reasons.

**CONCLUSION**

As a policy option, charter schools provide a choice to those students in any of the 205 failing schools currently in New Jersey. This is the central reason over 80% of the State’s charters are in

Abbott districts. Given the conditions these students must endure, it seems appropriate to begin by giving charter schools at least in failing districts the benefit of the doubt and proper support. This is not to suggest we disregard the funding and institutional problems charter schools face, such as receiving lower per pupil funding than their seeding districts, limits in their ability to expand, and a history of poor standardized test scores. Instead, by working with those schools who have received positive responses from their community, their successful practices may be spread to public schools, so that those students who can not be enrolled in a charter may still find their education experience improve. At the same time, the State should not hesitate in revoking the charters of underperforming schools. Independence is earned only through accountability.

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Data on failing schools also provided by the office of New Jersey State Senator Raymond J. Lesniak

By Ezra Selove

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## The “Opportunity Scholarship Act”, S-1872: An Evaluation

**Abstract** Currently pending in the New Jersey State Senate, S-1872, The Opportunity Scholarship Act, would provide scholarships for low-income students in districts with a chronically failing school. In exchange for tax credits, private corporations would fund the scholarships. Versions of this bill have been introduced over the last few years in both the Senate and the Assembly, but have failed to become law. These scholarships would likely suffer from the same achievement and equity flaws that plague voucher programs, such as poorly targeted subsidy and increased stress on public school resources, though not the same legal or political battles, making them politically attractive. An analysis of the bill shows it would cut state education aid by over \$300 million, with some fraction of this funding being returned to chronically failing schools through a competitive grants process. Along with the potential equity and accountability issues, it is not recommended that this bill become law.

### Introduction

If passed, the "Opportunity Scholarship Act" (S-1872), introduced on March 22, 2010, would create a new school choice program for low-income students in districts with chronically failing schools. The bill would establish two new pilot programs. The first would provide tax credits to private corporations that contribute funding to nonprofit organizations who provide educational scholarships to low-income children in eligible districts. The second pilot program would award competitive grants to chronically failing schools to fund the adoption of innovative educational practices. Senators Raymond Lesniak (D) and Minority Leader Thomas Kean, Jr. (R) sponsored the bill, with a co-sponsorship from Senator Joseph Kyrillos Jr. (R). Nearly identical bills have been presented within the last few years in both the Senate and Assembly, but none have passed.

Very little peer-reviewed literature has focused on tuition tax credit programs, despite five states permitting them – Arizona, Florida, Pennsylvania, Iowa, and Rhode Island [Institute on Education Law and Policy, 2007]. A significant variety of research has been done on voucher and other school choice programs and though these policies are not the same as of tuition tax credits, the lessons are still applicable. A 2001 literature review of research on tuition tax credits by Clive Belfield of the National Center for the Study of Privatization in Education at Teacher’s College at Columbia University reached two findings, 1) these programs tend to lower state revenues and 2) those who already have children in private school tend to benefit the most [Belfield, 2001]. Other research into the impact of school choice by Luis A. Huerta and Chad d’Entremont, reached similar conclusions as Belfield, with substantial obstacles restricting the implementation of Education Tax Credits, at least when provided to parents [Huerta and d’Entremont, 2007].

Given that lack of evidence for their effectiveness, this evaluation of S-1872 will focus on other factors and more broadly on how, if passed, the bill would affect the greater public

education system. This is all the more fitting as about 92% of the New Jersey's students attending the State's public, charter, and vocational schools would not be directly eligible for assistance from S-1872,<sup>1</sup> though tax expenditures and direct spending from the state's general fund would be footing the bill. The following analysis concludes that the bill as written would provide little clear-cut assistance to the overall health of public education, while lowering state revenue during a budget crisis. After giving a basic description of its key elements, this brief will review its cost to the state, the equity issues it raises, and its measures of accountability.

## **Nuts and Bolts**

Corporations may give unlimited donations to approved scholarship organizations, with no less than 95% of the contribution being assigned to scholarships for low-income students. The tax credit is then applied for the full amount contributed on a dollar-for-dollar basis, within the boundaries of current tax liability law. The scholarship organizations will be chosen by the Opportunity Scholarship Fund Board, consisting of three members, with one each appointed by the Governor: the President of the Senate, and the Speaker of the General Assembly. The board would choose one 501(c)3 organization in each county where a failing school district resides to administer the scholarships or have one organization oversee multiple counties.<sup>2</sup> Once chosen, the amount available to each county will be based on the proportion of student enrollment within chronically failing schools to total State student enrollment, multiplied by the total funds available.

A low-income student would only need to live in the same district as a chronically failing school to receive a scholarship. A low-income student is defined within the bill as a child from a household with an annual income that does not exceed 2.5 times the official federal poverty level based on their family size. For a family of four, this is \$55,125 [U.S. Department of Health and Human Services, 2009]. A chronically failing school is defined as any public school where the percent of students scoring in the partially proficient range in *both* the language arts and mathematics subject areas exceeds 40% in the prior two school years, or where the percent of students scoring in the partially proficient range exceeds 65% in *either* the language arts or mathematics subject areas for the past two years.

Finally, for each student in a district that receives a scholarship, the district's state aid is reduced by the per pupil amount awarded to the district, as defined in the School Funding Reform Act of 2008. If any portion of that reduction is greater than the scholarship amount, the difference would be deposited in the "Educational Innovation Fund," which would provide competitive grants

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<sup>1</sup> S-1872 would apply to 205 of the approximately 2,580 traditional public, charter, and vocational schools in the state, or about 8%. Information provided by direct communication with the office of Senator Raymond Lesniak.

<sup>2</sup> Those counties are Atlantic, Bergen, Camden Charters, Cumberland, Essex, Hudson, Mercer, Middlesex, Monmouth, Passaic, and Union. Information provided by direct communication with the office of Senator Raymond Lesniak.

to chronically failing schools to finance the adoption of “innovative educational practices” [S-1872 12a(3)(b)]. The Commissioner of Education would distribute the grants.

### **Cost**

The bill would authorize the Division of Taxation to distribute tax credits to businesses (which are reductions in state revenue) for providing funds to scholarship organizations in amounts not to exceed \$24 million the first fiscal year, \$48 million the second year, \$72 million the third year, \$96 million the fourth year, and \$120 million the fifth year [S-1872 4(d)]. On a per student basis, the scholarships would be a minimum of \$6,000 or 40% of the previous year’s per-pupil funding for all eligible districts for students grades k–8 and \$9,000 or 59% of the previous year’s per-pupil funding for all eligible districts for students grades 9–12. In an analysis of a nearly identical 2005 bill with the same tax credit allotments, the NJEA estimated that full implementation would cost the State budget \$225 million in lost revenue over five years if the corporate business tax (CBT) revenue continued to grow as it had the previous seven years (1.113% average annual growth) [New Jersey Education Association]. With no growth in the CBT, the state would lose \$360 million in revenue.

These reductions would come at time when education funding is being eviscerated statewide. Bergen County alone will have their state aid cut by 41%, a \$102 million decrease [Brody, 2010]. At the same time though, Education Commissioner Bret Schundler has stated he expects charter school funding to stay flat next year [Spoto, 2010].

Currently, 83% of eligible students are in elementary or middle school, with the rest in high school. This lopsided proportion means that most of the money would likely go to primary students. Essex County has the greatest number of failing schools, so it is also likely most of the money funds would be distributed there. If all of the scholarship money were to be distributed to Essex County elementary school students, the total reduced education revenue to local districts, not counting money redistributed from the Education Innovation Fund, would be over \$300 million in the fifth year of the program. This calculation is shown below. Essex County has 56 chronically failing schools within 6 of its 22 districts (East Orange, Essex County Vocational, Irvington Twp, Newark, Orange Twp, and Belleville). The average PPF from these districts based on 2008-2009 enrollment and state aid totals is \$18,163.

Proposed Minimum Scholarship amount for elementary students: \$6,000  
\$120,000,000 = \$6,000 x 20,000 students (year 5 program cost)  
20,000 students x \$18,163 = \$363,259,954.68 (Year 5 State Aid Reductions)

How much of this reduction would be returned as grant money is unknown. It would depend on how much the scholarship fund puts towards each individual student. Money is only put back into the system when the per-pupil funding is greater than the amount awarded in the scholarship.

## **Accountability**

The Opportunity Scholarship Board, responsible for overseeing the program, would be required to commission an independent study reviewing the pilot's implementation and any changes in student achievement. The individual or entity responsible for the report would be empowered to design the entire study and deliver its results by January 1st of the pilot's fifth year. The study's funding would have to be raised privately; scholarship funds are explicitly prohibited from being used as support. By exclusively using external fundraising, the donor's political ideologies may bleed into the final report. While it's true these would be one-time donations, those Opportunity Scholarship Board will likely be made up of political actors who must maintain positive relationships with donors. Unless the program is supported through anonymous donations, an unbiased evaluation cannot be guaranteed. Without an unbiased evaluation, then the program and those responsible for its implementation cannot be held properly accountable for their decisions.

## **Viability**

Under No Child Left Behind, any student of a Title I funded school (for which the State has over 1,400) [U.S Department of Education, 2010] may attend another school in their district at no cost to their parents if their school has been identified for school improvement, corrective action, restructuring, or fails to make adequate yearly progress in achievement [U.S Department of Education, Non-Regulatory Guidance, 2010]. This bill would expand on that option, by offering eligible students the chance to attend schools outside of their district, as well as private schools. Yet, as stated in an analysis of a previous version of the bill done by the Institute on Education Law and Policy at Rutgers University, Newark, "we should have no illusion that the scholarships authorized by the bill actually would be used in public schools" [Institute on Education Law and Policy, 2007, 5]. This fact has important ramifications.

To begin, no school, public or private, would be required to accept these scholarships. If one did choose to accept a student, the scholarship money must be accepted as the full tuition. As reported by Bruce Baker, an Associate Professor in the Graduate School of Education at Rutgers, the weighted average tuition across all school types for New Jersey private schools in 2007-2008 was \$10,206 [Baker, 2010]. This is higher than the minimum scholarship required for all grade levels. It is unlikely private schools would choose to accept these students and operate at a loss for their enrollment, limiting the schools that likely to accept these scholarships. This is not the only limiting factor.

A 1998 Department of Education survey of private schools in the U.S found most private schools only accept students from voucher or scholarship type programs if they can maintain their current admissions standards [Muraskin and Stullich, 1998]. Specifically, only 15 to 31 percent of the private schools would participate in such programs if the were required to accept students with learning disabilities, limited English proficiency, or low achievement. If a similar pattern were

to emerge in New Jersey, the students accepted by these schools then would come from families closer to the upper income limits. This is in line with NJEA findings from an analysis of a previous version of S-1872, "Scholarship recipients would most likely be from the more affluent families (i.e. the high income end of the limits). This is evidenced by similar corporation tax credit programs such as in Pennsylvania and Florida" [NJEA, 2005, 3].

This leaves the question of who would accept the scholarships. On average, Catholic schools are the most inexpensive private schools in the state, averaging just under \$6,000 a year in tuition. About 67% of all state private school students attend a Catholic school [Baker, 2010]. By including a public school option in the bill, it would likely avoid litigation over Establishment Clause violations (the Constitutional requirement for a separation between church and state), even though many of the scholarship recipients would enroll in a sectarian institution. In 2002, the United States Supreme Court ruled that an Ohio voucher program was constitutional because it was neutral with respect to religion. Writing for the majority, former Chief Justice Rhenquist said, "[The Ohio program] provides benefits directly to a wide spectrum of individuals, defined only by financial need and residence in a particular school district", which is how S-1872 has been crafted, even if its implementation would rarely if ever involve students enrolling in a traditional public school [Zelman v. Simmons-Harris, 2002, 662].

## **Conclusion**

S-1872, The Opportunity Scholarship Act, currently pending in the State Senate would seek to provide scholarships for low-income students by enticing private companies to donate money for tuition in exchange for tax credits. As a more political attractive option than vouchers, tax credits perform the same function of routing public funds to private education institutions. Instead of direct spending, they are on the books as tax expenditures, an easier political sell because they do not have the same negative stigma among the left or moderate voters as vouchers. Although the intentions of the bill are honorable, the realities of its implementation would reduce education aid to local districts at a time when they are already being slashed, without even providing a direct path for the most underserved students to have a stronger education. In its attempts to avoid political and legal battles, the bill creates too broad a field to target the scholarship money to students most in need. As well, it has the potential to put hundreds of millions in local education funding under the control of ideological forces that do not have the best interests of the public education system in mind. This bill would weaken New Jersey public education at the expense of its most underserved students.

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