

New Jersey Society for Environmental, Economic Development

State Issues Briefing Book

2004-2005

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Introduction

The New Jersey Society for Environmental, Economic Development (NJ SEED) is a unique coalition of New Jersey's most prominent labor and business leaders. Our diverse membership includes labor advocates, construction and electrical workers unions, energy providers, environmental consultants, telecommunications firms, banks, residential and commercial development interests, insurance firms, educators, State Troopers and firefighters, food manufacturers and retailers, water utilities, chemical industries, pharmaceutical companies and health care interests. What we all have in common is our belief that economic growth and environmental protection are not mutually exclusive.

For more than thirty years, NJ SEED has supported balanced public policies that create private sector jobs, bolster our economy and enhance our environment.

Good things happen when labor and business leaders sit down together. We are proud to present this 2004-2005 edition of our State Issues Briefing Book, a companion to our Congressional Briefing Book published each spring. We thank all of the NJ SEED members and staff who contributed to this document.

This Briefing Book is being shared with New Jersey Legislators and policymakers, and our Congressional Delegation. As always, NJ SEED's Officers and Trustees will be pleased to meet to discuss these issues at any time.

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Transportation

- **New Jersey Transportation Trust Fund**
- **Regional Transportation Linkages:
Access to the Region's Core
Cross-Harbor Rail Freight Tunnel**

New Jersey Transportation Trust Fund

A solid infrastructure is the key to success in the future. It provides new opportunities for international trade, improves quality of life for people and fosters successful economies. There is a crucial link between investments in transportation and our state's ability to compete nationally and globally. No state or nation can thrive without a highly advanced transportation infrastructure to support the many complex activities that characterize modern society. Without continuous investment in its transportation infrastructure, a modern economy fails to grow. Delays in funding, needed maintenance and repairs are the most expensive form of under-investment.

There are few other regions in the country where the intermodal mix of highways, bridges, mass transit, airports and marine facilities are as critical or as prevalent as here in the Northeast. It is fair to say there are no regions where economic and quality of life issues are as intertwined with transportation.

In 2003, Governor James McGreevey created a Blue Ribbon Commission, comprised of leaders from businesses, academia, labor, government and regional planning organizations, to study New Jersey's transportation system and its needs. In late 2003, the Commission issued a report, which concluded that New Jersey's Transportation network is "plagued by aging infrastructure and costly congestion." The report warned that if the state's current infrastructure is not rehabilitated, the costs to its economy and quality of life will increase significantly over time. Compounding the problem is New Jersey's inability to adequately fund improvements to its transportation network. The State's Transportation Trust Fund (TTF), which has been the primary funding mechanism for capital improvements since 1984, faces insolvency without significant new revenues.

To support these conclusions, the Commission identified some of New Jersey's most pressing infrastructure needs, including:

- \$1 billion annually for the next 10 years to rehabilitate 15,289 lane miles of highway.
- \$7 billion to eliminate the backlog of structurally deficient bridges.
- \$4.9 billion over the next 10 years to restore NJ TRANSIT infrastructure to a state of good repair.
- \$7 billion over the next 10 years to increase capacity on NJ TRANSIT services.
- \$5.5 billion over the next 10 years to alleviate heavy traffic.

- \$360 million over the next 10 years for rail freight infrastructure improvements to maintain the State's economic advantage in the goods movement industry.
- \$340 million over the next 10 years to acquire and preserve the State's core airport system.

Based on their analysis, the Commission found that New Jersey's transportation capital investment needs are considerable and, without a substantial investment beyond the current level, will result in the deterioration of the state highway network and public transportation infrastructure over the next 10 years.

Beginning in FY2006, existing TTF revenue will be exhausted, bringing the NJDOT and NJ TRANSIT capital program to a halt. At that time, nearly all constitutionally dedicated revenue will be needed to repay debt service on outstanding bonds. If this were to occur, the State would lose federal transportation funding because it would be unable to meet the matching fund investment levels required by federal law.

The impending insolvency of the TTF is directly linked to decisions made over the past ten years to increase reliance on bonding, to extend the term of bonds from 10 to 20 years and to raise spending caps without additional revenues. In addition, due to inadequate general fund appropriations, the application of TTF funds has been expanded to cover many maintenance operations at a cost to the capital programs of both NJDOT and NJ TRANSIT.

Recognizing the importance of our transportation infrastructure to the economy and the environment, the Commission recommended a number of ways to address its critical capital and financial needs. They include:

1. Fund a Transportation Capital Program to Begin Improving the Condition of the Transportation Network.

The State must fund a \$3.1 billion annual capital program for NJDOT and NJ TRANSIT (\$520 million more than the combined FY2004 capital program) to improve the roadway and rail infrastructure owned by the State and local governments.

2. Increase Annual TTF Revenues

The State Motor Fuels tax must be increased by 12.5 cents per gallon, and potentially by up to 15 cents. The 12.5 cents is recommended, with the expectation that the reauthorization of the federal transportation program will bring an additional \$125 million a year to New Jersey, or the equivalent of 2.5 cents in the state motor fuels tax. The new revenue should be constitutionally dedicated to the Transportation Trust Fund Authority (TTFA) and indexed to inflation.

3. Ensure Adherence to Strict Financial Standards.

To prevent future insolvency of the TTF, the following financial standards must be instituted:

- Require the TTF capital program to adhere to a 50/50 pay -as-you-go bonding ratio over the life of the program.
- Cap the diversion of revenue from capital to fund maintenance and operation costs at the current level, with the goal of eliminating this practice over the next 10 years.
- Cap the level within the annual capital program so as to not exceed the financial resources of the TTF based on the above limitations.

NJ SEED supports the recommendations of the Blue Ribbon Commission and urges the Administration and Legislature to establish a plan that prioritizes infrastructure investment and secure a dedicated source of funding for transportation capital improvements.

Regional Transportation Linkages

Comment: McNamara to add an update

Northern New Jersey's economic viability is linked to the efficiency of the area's transportation infrastructure. As traffic volume between New Jersey and New York City continues to increase and commerce from our ports grows, it is critical to the economic future of this region that our transportation linkages are expanded.

Access to the Region's Core

The Federal Transit Administration (FTA) and NJ TRANSIT, in partnership with the Port Authority of New York and New Jersey (PANYNJ), are sponsoring the Access to the Region's Core (ARC) Draft Environmental Impact Statement (DEIS). The DEIS will evaluate impacts of a series of transit improvements, including a new two-track commuter rail tunnel under the Hudson River, new track and platform capacity near Penn Station New York and other investments, such as yards and signals to support the new tunnel.

This project would improve service for current riders and accommodate projected growth in travel into and out of midtown Manhattan from New Jersey, and Orange and Rockland counties in New York.

The primary project study area extends approximately 17 miles from west to east and is bounded by Newark to the west and Sunnyside Yard in Queens to the east. It includes NJ TRANSIT's Newark Liberty International Airport Station, Newark Penn Station, Secaucus Junction, Hoboken Station, Penn Station New York and Sunnyside Yard. It also encompasses Portal Bridge over the Hackensack River and midtown Manhattan.

Additional trans-Hudson commuter rail service is needed now. All trans-Hudson crossings are at capacity for auto, bus and rail travel. In particular, the Exclusive Bus Lane from New Jersey, via the Lincoln Tunnel, to the Port Authority Bus Terminal is currently operating near capacity in the peak hour. Delays of 30 minutes or more are common at the trans-Hudson vehicular crossings.

NJ TRANSIT's recent system improvements (Midtown Direct, Montclair Connection and Secaucus Junction), make commuting to Penn Station New York accessible for tens of

thousands of commuters residing west of the Hudson River. However, Penn Station New York can no longer accommodate any future planned NJ TRANSIT rail service.

Cross-Harbor Rail Freight Tunnel

New Jersey and New York ports continue to experience increased traffic and process a larger volume of containers every year. Once off loaded, a ship's cargo needs to be able to move with the same efficiency and ease that it experienced when it was transported in. A cross-harbor rail freight tunnel would increase the flow of products into market while decreasing road and bridge congestion.

New York is the only major port city in the United States that has never built a rail freight connection across its harbor or river. Most products entering or passing through the port on rail are either detoured 280 miles to a bridge in Selkirk or loaded onto trucks and transported over the roads. The impact on New Jersey's roads and traffic congestion is stifling to our transportation infrastructure and economy. The tunnel would remove at least one million tractor-trailer trucks per year from our roads, and would result in cleaner air, reduced congestion, lower-cost consumer goods and a generally reduced cost of doing business.

NJ SEED will continue to monitor possible tunnel expansion and supports these investments in our regional transportation linkages.

The Port of New York and New Jersey: Moving our Economy and Environment Forward

- **From Ship to Shore to Store, Our Port Delivers the Goods**
- **The Arthur Kill-Channel Improvements**
- **Freight Mobility: Barge and Rail Initiatives**
- **World Class New York and New Jersey Harbor Estuary**
- **Beneficial Use of Dredged Materials**
- **Contaminant Assessment and Abatement**
- **Port Expansion/Brownfield Plans**

From Ship to Store, Our Port Delivers the Goods

From ship to shore to store, the Port of New York and New Jersey is our most important gateway to international trade, and affords each of us easy access to affordable goods. A record-breaking \$100 billion in cargo volume was handled by the port in 2003, with a throughput of 4 million twenty-foot equivalent Units (TEUs), representing an 8% increase in containerized cargo. Almost all of the products we consume and rely upon each day are made available to us because of the maritime industry operating in our backyard.

To ensure that this economic growth continues, our port must remain the North Atlantic's main ocean shipping hub by sustaining its competitiveness through deep draft, 50' navigation channels. Clear trends in commercial shipping and steamship design and construction will result in a larger percentage of the worldwide fleet of container ships that require channel depths of up to 50 feet. The ocean-going container vessels calling on our port have grown from 2,500-container ships in 1990 to 6,000-container mega ships today. And they are only getting larger. It is critical, therefore, that the Port has the required depth to accommodate these deeper draft vessels.

PORT FACTS:

- The Port of NY/NJ is the 3^d largest seaport in the U.S., the largest on the East Coast, 15th largest in the world.
- The estimated regional economic input is \$29 billion annually.
- The port is the largest petroleum distribution point and automobile port in the U.S.
- Over 600,000 passengers board cruise ships that dock in our harbor.
- There are over 250 miles of engineered waterways in the Port District, with depths ranging from 20-45 feet.
- A necessary deepening project to 50 feet is currently underway to accommodate larger container vessels and ensure navigation safety.
- Maintenance and improvement of these engineered waterways requires the dredging of 4-6 million cubic yards (CY) of material annually.

Without the environmentally friendly and cost-effective ocean movement of goods – which represents 95% by weight and 75% by value of all overseas trade -- the alternative would be thousands of additional trucks on the roadways for each vessel that did not call on our port, creating additional congestion, motor vehicle exhaust emissions and diminished air quality. Accommodating this growth, the \$2 billion channel navigation improvement project to deepen the New York harbor to 50 feet by 2014 has commenced. It is the largest channel navigation project in the nation, a national priority civil works project of the US Army Corps of Engineers.

The economic significance of our port is extraordinary -- a major economic driver for New Jersey and our region. Port activities support 413,000 jobs nationally. The industry continues to create new, high-skill, high-wage jobs, as containerized cargo volume grows. Our port accounts for almost 60% of the containerized cargo handled by all North Atlantic ports last year.

In addition to containerized cargo, we are the country's largest auto port, handling more than 625,000 automobiles in 2003, and its largest refined petroleum products hub. Overall, 5,000 vessels moved more than 600,000 cruise ship passengers and more than \$100 billion worth of cargo through our port last year.

A comprehensive economic study of the economic impact of our Port of New York and New Jersey details the significance of an active port industry that, during 2001, generated:

- 229,000 jobs regionally, 137,500 jobs in New Jersey
- \$14.6 billion in Gross Domestic Product (GDP)
- \$9.4 billion in personal income in the region.
- \$3.1 billion, \$1.8 billion and \$1.3 billion in federal, state and local tax revenues, respectively.

In addition to cargo flows, public and private investment is expected to total \$4.4 billion in Port-related infrastructure over the next four years. Annually, the construction phase of this investment is anticipated to:

- Support 12,550 jobs in our port region and an additional 20,560 more nationwide.
- Contribute \$584 million to workers in our port region and an additional \$486 million more nationwide.
- Generate \$58 million in state and local tax revenues in our port region.

Our quality of life is directly attributable to the efforts of the port, which serves almost one-third of the nation's population. Goods handled here supply the Northeast and Midwest markets, provide export opportunities for goods produced here – New Jersey exported \$30 million of goods in 2003 -- and facilitates the import of raw material used in domestic manufacturing. The channel deepening project will continue to provide greater transportation efficiencies to these markets with less environmental impacts locally and, as necessary, provide for better military deployment to augment our national defense.

NJ SEED strongly supports a continued partnership with the State and Federal governments to maintain and improve the nation's deep-draft navigation system through the sound investment of federal funds for the accelerated, consolidated Harbor Navigation project. For the FY 2005 budget, we are urging Congressional

support for no less than the \$100 million for construction projects approved by the House and awaiting Senate consideration, to sustain and complete the consolidated, accelerated deepening plan for the New York and New Jersey Harbor Navigation project.

The Arthur Kill-Channel Improvements

The Arthur Kill waterway is crucial to the petroleum supply line into New Jersey as well as the entire northeast region. Without this waterway, New Jersey remains at higher risk from terrorist impact.

NJ SEED supports initiatives that will lower the depth of the Arthur Kill waterway.

Freight Mobility: Barge and Rail Initiatives

Complimenting the channel navigation deepening and port infrastructure improvements is the industry's investment in environmentally sound alternatives to truck-based container movement such as short sea shipping initiative. This features feeder barge services from our Port to inland destinations both north and south. In addition, initiatives to increase rail movement of container, both long-haul and short shuttle runs, must be a public policy priority. Development of Port Inland Distribution Networks (PIDN) supplements this overall effort. A greater reliance on alternative modes of cargo movement around the port and through our region makes great economic and environmental sense. Such investments will yield traffic mitigation, air quality and overall goods movement benefits.

Landside intermodal infrastructure improvements that promote modal balance and diversity and solve highway congestion must also keep pace to accommodate the significant growth in cargo that will arrive here annually. The port saw a 143% growth in cargo volume from 1996-2000. As noted earlier, in 2003, container traffic totaled more than 2.8 million TEUs, an 8% increase over the previous year. By 2010, some 5.4 million TEUs are expected to move through our port. By 2020, estimates are for a volume of 8.2 million TEUs, and 15.2 million TEUs by 2040. Cargo volumes are growing, and the pressure to increase terminal efficiency and throughput will place a great burden on the ability to move cargo from dock to final destination. Transportation infrastructure investments must be priority projects to ensure continued freight mobility without imposing additional strain on local communities and roadways.

The lack of a world-class international intermodal corridor will shutdown the significant economic engine fueled by the various port users who move the millions of cargo containers to serve all of the 80 million consumers and port-dependent businesses in our state and region.

One real solution is the Liberty Corridor. It would create an International Intermodal Corridor to support the economic engine powered by freight mobility, economic development, R&D and export promotion sustaining business attraction, retention and success in New Jersey and the region. The Liberty Corridor is proposed by Congressman Bob Menendez.

NJ SEED supports the Liberty Corridor Proposal that would address current intermodal deficiencies, such as:

- Lack of modal balance.
- Promotion of modal diversity such as increased use of rail and waterborne freight movement.
- Removal of highway system constraints that threaten the efficiency and growth of our international intermodal service connections.
- Enhanced PIDN service and efforts to identify federal support that will be required to sustain the service beyond the initial two-year period.

World Class New York and New Jersey Harbor Estuary

NJ SEED also supports federal funding for the clean up of the Passaic, Newark Bay and Meadowlands tributaries. Such an action will be the key to mitigating contaminated silt collecting in the Harbor. Years of dredging for both maintenance and deepening purposes have removed most of the contaminated sediment from the Harbor bottom, providing a cleaner marine environment and attracting new species of marine life. However, the natural flow of water and silt from upland waterways feeding into the Harbor carry contaminated silt back into it.

NJ SEED encourages the continued support of our state in actively pursuing Congress to seek additional funding levels for the FY2005 Civil Works budget in support of current feasibility studies underway by the Army Corps of Engineers in the New York District, which is critical to realizing the achievement of a world-class Hudson-Raritan Estuary.

Beneficial Use of Dredged Materials

With such significant economic and environmental benefits provided by the maritime industry operating in the Port of New York and New Jersey, dredging and deepening the harbor is essential to keeping our port open for business as the gateway of choice in the global economy. Since 1995, considerable resources have been allocated to the identification, evaluation and implementation of alternative management strategies for dredged materials in the Port of New York and New Jersey. Successful strategies include brownfield and landfill remediation, sediment decontamination and environmental manufacturing, abandoned mine reclamation, and confined aquatic disposal. Contrary beneficial uses have made possible the reduction in landside contamination while providing much needed construction materials and developable real estate.

Dredged Materials Facts

- Stringent standards for the placement of dredged materials at the Historic Area Remediation Site (HARS) have been adopted by the U.S. EPA (113 ppb for PCBs)
- Approximately 19,600,000 CY (cubic yards) of acceptable dredged materials have been used to remediate the former ocean dumpsite, with the need for approximately 40 million CY to complete the capping.
- The Newark Bay Confined Disposal Facility has received over 1 million CY of dredged materials to date. Remaining capacity is approximately 500,000 CY.
- Over 3 million CY of dredged materials have been beneficially used in the harbor complex to date, with an additional 9 million CY permitted or soon to be permitted.
- More than 300,000 CY of dredged materials have been used to remediate acid run-off in mines in Pennsylvania. Pennsylvania recently issued a general permit that could potentially allow the placement of over 30 million CY of dredged materials in PA mines. This mine reclamation prevents acid contamination of local freshwater streams.

Port Dredged Materials Management Options

- All dredged material is used beneficially to remediate contaminated areas and promote fisheries.
- Clean (meets all federal standards) dredged materials can be placed at the HARS.
- Beneficial use of dredged materials includes landfill closure, brownfield remediation, and abandoned coal mine closure.
- The Jersey Gardens Mall in Elizabeth is a good example of the use of dredged materials to facilitate landfill closure and economic development. Annual tax revenues from the new mall are \$6 million.
- A long-term management solution likely will include a Federal regional handling facility.

NJ SEED supports the continued beneficial use of dredged materials for environmental conservation, economic development and revitalization purposes associated with remediation and reclamation projects.

Contaminant Assessment and Abatement

The Contaminant Assessment and Reduction Program (CARP) is designed to track down sources of contaminants to the New York/New Jersey Harbor and abate them.

Approximately \$25 million has been committed by the states of New York and New Jersey to this project.

Decontamination technologies have the potential to clean Harbor sediments. The states and federal government have committed approximately \$40 million to test the feasibility of such technologies. Stringent water quality standards set by state and federal regulations have resulted in a cleaner harbor over the past several years.

An annual federal appropriation of \$100,000 is sought to fully execute this vital program.

NJ SEED supports contaminant reduction/abatement and the development of new technologies.

Port Expansion/Brownfield Plans

New Jersey's port is the fastest growing in the nation. An exponential amount of growth is expected in the next four years. As a result, highway congestion, container movement and associated jobs will expand to fill needs.

A-2277 will utilize Brownfield sites to provide warehouse space for commodities coming into the port. Increasing the warehousing capacity within the port will potentially save money on roadway repair and alleviate traffic congestion and pollution. The expansion of warehouse space also means an increase in construction, warehouse, assembly and manufacturing jobs in the port region.

NJ SEED supports initiatives that strengthen New Jersey's ports and economy.

Supporting the port and the network of businesses and jobs operating therein along with the many businesses, consumer markets and regions that are beneficiaries is about sustaining the quality of life for our citizens across the country who benefit directly or indirectly from this industry. It makes good fiscal sense to continue to wisely invest public funds in our region and nation's economy and environment.

Environment

- **Property Liability**
- **Environmental Crimes Prosecutor**
- **Air Quality in New Jersey**
- **Brownfields Cleanup and Redevelopment**
- **Natural Resource Injury Damage**

Property Liability

The New Jersey Legislature is currently considering a bill that provides liability protection to innocent property owners who purchased contaminated land after 1997. Specifically, under this legislation those property owners would not be liable for natural resource damages or the cleanup of surrounding properties.

NJ SEED believes that property owners who purchased their property in good faith and did not contribute to the contamination should not be penalized for the actions of prior owners.

Environmental Crimes Prosecutor

The New Jersey Legislature is currently considering a bill that reestablishes a special environmental crimes prosecutor in the Department of Law and Public Safety. The position, which was eliminated during the Whitman Administration, is unnecessary since the Attorney General's Office and the DEP have sufficient resources and ample institutional knowledge to handle environmental crimes. State resources should be utilized to help businesses with environmental compliance, rather than to punish them for inadvertent violations.

NJ SEED encourages New Jersey's Legislature to seriously consider the potential negative environmental and economic impacts of Natural Resource Damages assessments, and to mitigate these impacts through appropriate legislative initiatives, including forgiveness and assessment limitations.

Air Quality in New Jersey

Recently, Governor James McGreevey announced that the Department of Environmental Protection plans to classify CO2 as an air pollutant.

The Governor and DEP Commissioner Brad Campbell need to articulate and permit comment on the scientific justification for classifying and regulating carbon dioxide as a pollutant. Similar extensive reviews by Congress and the Environmental Protection Agency, conducted over many years and through many administrations, have failed to arrive at the same conclusion.

NJ SEED is concerned that through this regulation and ultimately through attempts to control and tax carbon dioxide, the citizens of New Jersey will bear the economic consequences for this initiative in the form of lost jobs, closed manufacturing plants, and higher prices throughout the state. This policy will do little, if anything, to protect the environment.

The actions of a single country, let alone a single state, would do virtually nothing to reduce the possibility of global warming, but New Jersey's actions will certainly cause the state to export its jobs.

Brownfields Cleanup and Redevelopment

Brownfields are abandoned, idled or under utilized industrial and commercial properties in areas where expansion or redevelopment is complicated by real or perceived environmental contamination. These brownfields sites could be restored to economic vitality, provided that owners and developers are given appropriate protections and incentives (e.g., tax credits, abatements and exemptions) for cleanup.

In January 1998, legislation was enacted to expedite redevelopment of abandoned and polluted sites by streamlining the cleanup process, limiting liability and providing tax incentives. Although this law served as a catalyst to mitigate these areas, since 1998 implementation of the program has identified several policy and procedural matters that need refinement. Broadly speaking, these areas include: clarification of liability protection, creation of funding mechanisms that recognize innovative technologies, incorporation of revisions to technical requirements for remediation, simpler and accelerated permit review procedures and streamlining of the remediation funding program by the coordinating agencies, i.e., NJDEP and the NJEDA (Economic Development Authority).

A number of beneficial changes that recently occurred have further boosted cleanup efforts. First, on the November 2003 ballot, NJ SEED supported public question number 2, which was passed by the voters. It amended the New Jersey Constitution to expand the dedicated use of corporate business tax revenues to provide for a long-term and stable source of funding for the cleanup of brownfields and contaminated sites. In early 2004, two bills were signed into law that significantly improved the brownfields program. The first law simplified the process for reimbursement to allow developers to recoup funds expended by cleanup without having to meet cumbersome requirements. The second law established a transferable corporate tax credit program for cleanup costs.

Many beneficial changes have recently been made at NJDEP, such as the Brownfields Development Areas program. Further revisions are necessary to attract commercial development.

NJ SEED supports legislative and regulatory revisions that further remove barriers to development of contaminated brownfields sites. NJ SEED also supports simplifying the cleanup process by: making funding more available; streamlining and accelerating the local and state permit review process; clarifying and reducing the potential for legal liability, including natural resource damages in certain cases;

and adding financial and tax incentives to encourage the cleanup and redevelopment of brownfields.

NJ SEED suggests improvements to the existing funding mechanisms to expand the number of sites that will be cleaned up, including: (1) removing the net worth cap on the innovative technology and unrestricted use of remediation grants; (2) educating municipalities about benefits of environmental opportunity zones (EOZ) and Hazardous Discharge Site Remediation Fund (HDSRF) grants; (3) strengthening and promoting one-stop shopping for brownfields projects that coordinates both permits and financial incentive programs and (4) utilizing tax-free zones to encourage brownfields redevelopment in highly distressed neighborhoods.

Natural Resource Injury Damage

In the September 24, 2003 Policy Directive 2003-07, the New Jersey Department of Environmental Protection (DEP) instituted an aggressive program to collect "natural resource damages" (NRD) from those deemed to have caused injury to ground or surface waters in the state. The potential cost of the program to the business community is well above \$1 billion, perhaps in excess of \$2 billion. Although the state does have a large number of historically contaminated sites, many of these were fully permitted by the DEP, in essence approving operations at the sites.

NJ SEED is the lead litigant in a legal challenge to this program. NJ SEED believes that this program should have endured the scrutiny of the Administrative Rulemaking Process and that the NRD program should not use out-of-state counsel.

The concept of NRD is complicated by the fact that for NRD, DEP assumes that ALL groundwater in the state is potable. Thus, if a party happens to discharge into an aquifer that is, for example, non-potable because of historic contamination, contamination from a number of sources or salinity, the DEP intends to pursue NRD – even if the groundwater could never be used for human consumption. Likewise, if a party discharges into groundwater confined solely beneath its property and within its property boundaries, DEP still seeks NRD.

NJ SEED strongly disagrees with this policy.

The state lost 74,000 manufacturing jobs during the 2001-2003 recession, leaving 345,000 production workers, or ten percent of the state's workforce. Business is confronted with national and worldwide competition to cut costs and improve productivity. Punitive policies such as the NRD program harm corporations, developers, our economy and, ultimately, the workers.

NJ SEED concedes that there may be legitimate NRD issues, but these must only be for real ecological damages to a resource having a legitimate usefulness. To extend the reach of the NRD program beyond this is costly beyond common sense, unfair, illogical and burdensome. The program should be withdrawn before more harm is done.

NJ SEED supports the DEP administered Cleanup Star Program and recommends that the program be extended to sites with multiple areas of concern and groundwater contamination limited to the site. The existing program is too narrow and disqualifies the majority of Brownfields sites.

It is important that the DEP take steps to ensure reasonable soil cleanup criteria, finish the groundwater and historic fill mapping required in the Brownfields and Contaminated Site Remediation Act (BCSRA) and clarify developer responsibility, if any, for performing ecological risk evaluations and liability, if any, for NRD including conditions that may result from site remediation activities approved by the DEP.

NJ SEED supports the limited integration of NRD into the site remediation process provided that: assessments are defined and apply only to limited site conditions agreed to by stakeholders; liability is limited to those parties that caused the damage through unapproved activities; the development community is provided with clear criteria and policy pronouncements, certainty and finality; and the state program is no more onerous than the program administered by federal authorities.

At the local level, in municipalities with designated redevelopment areas or Brownfields sites, developers should be given the option to contract with an experienced, DEP-approved engineering firm for remediation in order to take advantage of current market and investment opportunities.

Energy

- **Our Economy and the Utility Infrastructure**
- **New Jersey's Energy Deregulation**
- **New Jersey's Petroleum Infrastructure**

Our Economy and the Utility Infrastructure

The barriers to investment in our electric, natural gas, telecommunications and water infrastructure are, by their very definition, barriers to our economic future. Unless we keep investing in that infrastructure, continue to modernize it and enable it to meet the increasing demand for essential services, our future economic development will be put into question. The construction of new infrastructure will not only supply energy, water and communications, but will also provide thousands of construction and permanent jobs and millions of dollars in new tax revenues. One study of telecommunications, for example, recently found that new broadband service alone could add over \$20 billion dollars to our economy and create more than 40,000 jobs.

Working in partnership with industry and other stakeholders, legislators and other policy makers must find and support more effective ways to attract and encourage this investment. The goal should be to open an earnest discussion on such issues as tax and regulatory incentives, devise more rational and more streamlined permitting procedures, and eliminate the outdated rules and other barriers that stand in the way of genuine progress.

NJ SEED acknowledges that there is no quick fix for the energy challenges facing New Jersey today. However, it has been long understood that policies need to be debated and adopted that significantly reduce our dependence on potentially unreliable foreign sources of oil and gas.

New Jersey's Energy Deregulation

Price caps and shopping credits issued as a result of New Jersey's deregulation of energy production have ended. As a result of rate caps being completely removed, energy costs for consumers may fluctuate over the next season. The potential for volatile price spikes is greater now that market forces are in full effect.

NJ SEED recommends that state government make only the most necessary changes for at least one year and give the energy pricing market an opportunity to adjust with the marketplace.

NJ SEED further recommends that the state government continue and expand efforts to offer appropriate incentives for energy companies to maintain and upgrade the current electricity transportation and distribution infrastructure.

New Jersey's Petroleum Infrastructure

New Jersey is home to one of the nation's most comprehensive strategic marketplaces for petroleum product supply.

- New Jersey is the home to one of four EIA North East heating oil reserve sites.
- New Jersey is one of five states to require reformulated gasoline.
- New Jersey has a major pipeline and six oil refineries.
- 67 percent of New Jersey homes are heated by natural gas.
- New Jersey has the fourth-lowest gas tax in the nation (\$0.329 as of 7/03), and is surrounded by very high-priced states (New York, Connecticut and Delaware).

NJ SEED supports investments in our infrastructure that provide a solid base for our economic future and an improved environment.

Homeland Security

- **Critical Staffing Concerns Within The New Jersey State Police**
- **Disaster Recovery**

Critical Staffing Concerns Within The New Jersey State Police

In 1989, the New Jersey State Police (NJSP) had 3,035 sworn and enlisted personnel assigned to provide its myriad of law enforcement services to the citizens of the entire state. Since then, the staffing allocated to the NJSP has declined by 318 positions, despite increases in duties and responsibilities.

The NJSP has expended significant organizational efforts toward three critical activities: preventing domestic terrorism; fulfilling the commitment of Governor McGreevey to the Anti-Crime Partnerships in the cities of Camden and Irvington; and achieving compliance with the mandates of the consent decree.

The September 11th attacks have dramatically changed law enforcement priorities. The NJSP has expanded its mission into counter terrorism and emergency preparedness by adding nine positions to counter terrorism. With the recent addition of the Homeland Security Branch, the NJSP also deploys significant contingents of troopers whenever particular situations dictate a response or code levels are elevated.

These additional duties and responsibilities have transferred resources from one location to another, and have effectively downsized the NJSP's staff without downsizing its responsibilities. This has further exhausted already strained resources of the NJSP.

There has been an undeniable effect in terms of proactive police work. Currently, the Investigations Section is operating at 43.3 percent below the authorized November 2001 staffing levels. Staffing reductions such as these severely impact the ability to perform proactive investigations on criminal networks.

The NJSP has been forced to make resource allocation decisions that strain resources. That is, New Jersey continues to shift resources around the system in an ever-increasing manner without growing them. In the end, these kinds of economic systems are unsustainable.

Chronic understaffing places the NJSP in an increasingly untenable position to protect the health and safety of the citizenry. If the staffing situation continues unabated, substantial costs will be incurred in terms of diminished service, decreased effectiveness, demoralized staff and dwindled deterrence. It is critically important that staffing for the NJSP be viewed as an investment in the citizenry of New Jersey, as well as the surrounding area. Given the current demands on the organization and the increased threat of terrorism, additional resources will yield invaluable dividends in terms of the health, safety and economic prosperity of the citizenry and the region.

Furthermore, New Jersey's geographic location on the eastern seaboard, proximity to New York City and strategic importance as a major United States port all but guarantee that our State Police will be first responders in future incidents of terror on American soil.

NJ SEED urges New Jersey policy makers to support the New Jersey State Police in any and every way possible, and to ensure that New Jersey receives an appropriate share of funding for Homeland Security and anti-terrorism activities.

NJ SEED believes that the New Jersey State Police must have its staffing needs addressed through short- and long-range plans and budget commitments so that New Jersey's Troopers will be equipped to achieve success in their law enforcement mission as currently defined, including the prevention of domestic terror.

Disaster Recovery

With a leading Newark-based insurance company recently cited among a list of possible terrorist targets, New Jerseyans faced a harsh reminder of the world in which we operate today. Natural disasters, acts of terrorism and power outages are realities that Garden State businesses and state government cannot afford to ignore.

As leaders in the technology, pharmaceutical, and telecommunication sectors, it is imperative that New Jersey companies take steps to address risks posed by an attack. NJ SEED members work to improve Homeland Security, and we believe that disaster prevention and recovery are key elements of protecting our state's infrastructure and assets. Unless appropriate preparations have taken place, corporations risk their reputations, revenue and, in the worst case, their entire operations.

A sound approach in preparing for an emergency is to develop a disaster recovery plan, commonly referred to as a business continuity plan. Priority areas for companies and government agencies to consider are processes, facilities, work functions, employees, customers, applications, information structures, platforms, networks and security. The best start in tackling these components may be to enlist the help of a professional equipped to create a plan that focuses on the levels of recoverability for the core operation. Companies right here in New Jersey, such as AT&T, offer these types of services.

In addition to "hard" threats, a solid business continuity plan incorporates the logical (cyber), economic, social and political aspects. While different institutions (i.e., public or private), call for different levels of recoverability, the common denominators remain methodology, discipline and a steadfast commitment to reduce the risk associated with disasters.

Once the plan is in place, it is advisable for the agency to seek a third-party evaluation. If a third party signs off, a full range of tests ensures that the plan is tried and true.

Budget concerns may preclude some companies from instituting an emergency backup plan. The most cost-effective approach to disaster recovery is to conduct a business impact analysis (BIA) and a threat vulnerability assessment. Once determining highest risks and greatest vulnerabilities, corporations can then set objectives surrounding recovery time and points for each process.

Research indicates that organizations without business continuity plans have a 5% chance of recovering from a disaster. Companies with plans realize a 20% recovery factor. Agencies with plans tested out of context face a 65-80% probability of recovery. The ideal scenario is an organization with a plan tested in context of its entire process. That group can expect an 85-95% chance of recovery.

In the wake of a disaster, a thoroughly mapped out, well-tested business continuity plan can make the difference between staying in or going out of business.

NJ SEED supports common sense initiatives that improve our security infrastructure and prepare for potential disasters.

Economic Development

Policies That Will Help Grow the Life Sciences in New Jersey

New Jersey is home to more than 80,000 employees in the various life sciences sectors of pharmaceuticals, medical technology, diagnostics and biotechnology. This sector of employment also supports nearly 100,000 additional positions in companies that support the activities of the life sciences. This sector is the second highest paying of all job categories in the state (over \$96,000 annually), exceeded only by stock and securities brokers.

The growth in this well-paying sector is in the field of research and development and investing in the employees who help discover new medicines and new technologies.

NJ SEED favors:

- Continuation of State incentive policies, such as the Business Employment Incentive Program (BEIP) and Business Relocation Assistance Grant programs, that will allow New Jersey to compete with other states for new life science jobs and programs like the Springboard Fund, which help provide incentives for emerging life sciences incubator operations.
- Support for State policies such as Governor McGreevey's initiatives to promote New Jersey as a place for new clinical trials for cancer research.
- State efforts that have resulted in the establishment of the Stem Cell Research Institute collaboration between Robert Wood Johnson University Hospital and the University of Medicine and Dentistry of New Jersey.
- Opposing attempts to place price controls, or restrict drug access to patients in government programs through preferred drug lists or bulk purchasing agreements. If such programs were to be adopted in the "Medicine Chest of the World" that is New Jersey, other states would soon move to adopt them as well.
- Especially important to the sometimes capital-starved emerging biotech industry is full restoration of the Net Operating Loss (NOL) carry-forward.
- State educational policies that will allow our research universities to further collaborate with the life sciences industry in clinical trials, clinical research and basic research. These policies should also allow all universities to enhance curriculum that will train students for jobs in the life sciences.

It is estimated that an additional 10,000 jobs in the life sciences industry could come to New Jersey in the remainder of the decade. The life sciences sector spends in excess of \$4.3 billion annually on vendors, and more than \$1.2 billion on capital construction, making it the largest private sector industry in construction activity.

NJ SEED is a strong supporter of policies that will allow the life sciences industry to flourish in New Jersey.

Other Issues

- **Containing Rising Insurance Rates**
- **Property Tax Reform and Education**

Containing Rising Insurance Rates

Even under the most positive conditions, New Jersey is an expensive state in which to live in and conduct insurance business. It is the most densely populated state in the nation and the population is expected to grow by one million people over the next decade. There are more than 5.7 million licensed drivers in the state and more registered motor vehicles per square mile than in any other state. Add to these realities New Jersey's more than 34,000 miles of roads and highways and the more than 17 million vehicle trips accommodated over our State's roads.

All of the above are a recipe for automobile accidents – lots of them. In 2002, there were 319,980 automobile accidents in the State of New Jersey. Claims require the payment of personal injury protection benefits for injuries, repair contracts and costs incurred by insurers to defend policyholders against lawsuits.

It is no wonder that New Jersey auto insurance rates are among the nation's highest. Sensible development policies and transportation infrastructure improvements can help to contain rising insurance costs.

New Jersey recently enacted automobile insurance reform that is beginning to show progress in addressing regulatory issues and stabilizing the state's long-troubled insurance market.

NJ SEED supports sensible and balanced initiatives to help keep automobile insurance reform headed in the right direction.

Property Tax Reform and Education

There is a direct relationship between the funding of education and an educated workforce, and stable and increased property values in New Jersey. However, it is time for policy makers to evaluate the current tax revenue plan, which relies too heavily on property taxes. Nationally, 42.9 percent of local property taxes are used for school spending. New Jersey gets 58.1 percent of its school spending from local property taxes.

NJ SEED calls on New Jersey's elected officials to develop solutions to the dilemma of over reliance on property taxes for school funding. A fair plan must be established that balances tax revenues, meets state spending needs and allows New Jersey to maintain excellence in its public schools.

Federal Issues/Abstracts

The “Food Promotion Act of 2004”

On June 15th, Chairman Goodlatte and Ranking Member Stenholm of the House Agriculture Committee introduced H.R. 4576, “The Food Promotion Act of 2004,” a market-based country of origin labeling (COOL) bill.

The retail industry strongly supports the Goodlatte-Stenholm bill and is solidly in favor of the concept of market-based country of origin labeling.

This Goodlatte-Stenholm bill has strong backing in the agricultural producer community. Among its supporters are: the National Cattleman’s Beef Association; the National Pork Producers Council; the Produce Marketing Association; the United Fresh Fruit and Vegetable Association; and the National Fisheries Institute.

The bill addresses a number of concerns raised by the grower/producer community:

- It will create a voluntary labeling program, including a provision for a new U.S.-grown type of label.
- It will establish a strong federal tracking survey, with remedies if the industry fails to provide substantial labeling.
- It will allow state and regional designations (Idaho potato, Jersey Fresh, Vidalia onion) to count as a “U.S.” label, allowing state and regional marketing programs to shine.
- It will allow maximum use of existing labeling options suppliers currently use — from packaging to PLU codes to brand tags and more. This will be easy to accomplish.
- It will take advantage of existing rules, and will not impose burdensome record keeping or auditing requirements, nor will it prompt retailers to ask their suppliers for those things.

Mandatory country of origin labeling is expensive and inefficient, and it threatens to disrupt supply chains and commercial relationships that have taken decades to develop. It creates a “five steps back, one step forward” situation that threatens to impose millions of dollars in costs and may even put smaller producers and retailers out of business.

The Goodlatte-Stenholm voluntary COOL bill is market-driven and vastly superior to the compulsory law currently on the books.

NJ SEED urges support of the Goodlatte-Stenholm bill.