

Testimony of David J. Socolow
Commissioner of the Department of Labor and Workforce Development
Before the Senate Budget Committee
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Chairwoman Buono, Vice-Chairman Sarlo, distinguished members of the committee, good afternoon. I am David Socolow, Commissioner of the New Jersey Department of Labor and Workforce Development.

The FY 2009 budget marks a turning point to help reset state finances and bring true balance to the budget without raising taxes and resorting to short term fixes. The public's message has been crystal clear: Cut government spending and cut spending on government.

The proposed budget includes \$2.7 billion in reductions to bring overall spending more than \$500 million below the current year. While the task is unpleasant, the cuts in this budget are what times demand. The Governor has made his priorities clear – education, public safety and protecting the most vulnerable. Preserving resources for these priorities means that reductions must be found everywhere else. As we evaluate each proposed reduction and how much we would like to be able to restore it, we must confront the stark reality that any restoration of funding requires a commensurate reduction in spending in another area.

With these efforts, the FY 2009 budget helps to reverse the effects of past decisions that have made present-day budgeting so painful, and move New Jersey closer to eliminating its chronic structural imbalance.

As we confront a national recession, the services and programs of this department are more vital than ever to the working men and women of our state and our employers.

The Department works to further the development of the state's world-class workforce through the Statewide One-Stop Career Center system; provides almost \$3 billion per year in vital income security to workers who are unemployed or unable to work due to illness, accident or injury; equitably enforces New Jersey's labor laws and standards; analyzes the state's labor market and demographic information; helps disabled individuals succeed in the workplace, and protects the health and safety of workers on the job.

In addition to our state-funded budget, most of the Department's programs are funded totally or largely with federal grants. Like the state budget, our federal funding is constrained. President Bush's budgets have reduced funding for workforce development programs over the past five years, and New Jersey's allocation of federal Workforce Investment Act (WIA) will be \$29 million less than fiscal year 2005 levels. This is a 34 percent cut in these vital job-training resources. In addition, the President's latest budget proposed to eliminate all Wagner-Peyser funding, about \$20 million in New Jersey, potentially ending employment services to help match unemployed workers with job openings. With the nation heading into a recession, this is not the right time to cut the heart out of critical assistance to workers.

In these challenging times, the Department of Labor and Workforce Development is using its resources in innovative ways, pursuing federal grants for regional workforce development efforts, sharing data across state government, implementing technology and new business practices to improve customer service and reduce costs, and making labor market information more accessible to enable New Jersey to benefit from data-driven decisions.

Our programs generally fall within a few broad categories: crucial social insurance and enforcement of labor standards to protect workers and employers from economic

dislocation and unfair labor practices; workforce development efforts that foster economic growth and promote an innovation economy; and programs to assist workers with barriers that impede their success in the workplace. The following summary provides an overview of some of the highlights of the Department's work over the past year.

SOCIAL INSURANCE AND WORKER PROTECTIONS

The Department strives to protect workers through our social insurance programs, and to ensuring a level playing field for all workers and employers through equitable enforcement of New Jersey's labor laws.

To succeed throughout their careers and to cope with individual challenges, workers continue to need not only reemployment assistance and job training, but also the security that vital social insurance benefits, such as unemployment insurance, temporary and long-term disability insurance, and workers compensation will be there for them when they are most vulnerable. Our Department is working to modernize the programs we operate and to improve the services that form this crucial safety net.

Unemployment Insurance

With \$1.9 billion in benefit payments to 500,000 claimants last year, unemployment insurance is the largest of the Department's social insurance programs. We are continuing to implement new technology and new business practices to provide a more user-friendly and more cost-effective unemployment insurance delivery system.

Unemployment Insurance Trust Fund

The Unemployment Insurance Trust Fund from which benefits are paid was designed to be forward-funded, building up surpluses during strong economic times to carry it through down periods of the business cycle.

Prior to Governor Corzine's first budget in FY 2007, a total of \$4.7 billion was prevented from being deposited into the UI Fund. It is to the Governor's credit and yours that we have worked together to end the practice of UI Fund diversions in the most recent three budgets. However, the legacy of past diversions has left the UI Fund artificially depleted at a time when it should have been fully funded in order to handle the growing number of claims for Unemployment Insurance benefits during a national economic downturn.

Current projections indicate that the fund balance, which includes expected revenues payable on April 30 for wages paid in the first quarter of 2008, would be expected to fall below the threshold that would trigger a tax increase this year. This would automatically impose a \$350 million increase in employer payroll taxes for the fiscal year beginning July 1, 2008.

I commend Chairwoman Buono for introducing legislation, S-1698, that would enact Governor Corzine's proposal to augment the Fund balance by transferring \$260 million from the State's FY 2008 budget surplus to the Trust Fund prior to June 30, 2008 and to temporarily change the date on which the fund balance calculation is made from March 31, 2008 to June 30, 2008 for this year only. I urge the Legislature to act quickly to pass this bill.

Employee Misclassification

Under Governor Corzine's initiative to stop employers from misclassifying workers, five different state agencies in three separate Departments now share audit information to cooperatively ensure compliance with state laws so that workers are properly covered for social insurance and all employers compete on a level playing field. This initiative was bolstered by legislation passed by this body and signed by Governor Corzine in July 2006, which created a single definition to determine whether a worker is an employee or an independent contractor for gross income tax and unemployment and temporary disability insurance payroll tax purposes.

Within the Department, our information-sharing initiative means that investigations by any of our divisions are shared among the Divisions of Workers' Compensation, Employer Accounts and Wage and Hour Compliance. We have also begun a cross match of audit data with Workers' Compensation data to identify employers who are not properly providing Workers' Compensation coverage for their employees. This data-sharing procedure has led to more than 75 investigations of employers involving more than 1,300 workers. As a result of this focus on misclassification the Department has identified over 23,000 misclassified or non-reported workers and more than \$432 million in underreported wages.

Another element in these efforts stems from legislation you passed last year to provide criminal penalties for the first time for construction-industry employers that improperly classify workers as independent contractors or who pay their employees in cash off-the-books. The Department's Division of Wage and Hour Compliance is focusing enforcement efforts on the underground economy to ensure that workers are paid properly. The Department is training staff and altering procedures to aggressively pursue wage and hour violations through expedited investigations and increased filing of criminal complaints. Our field investigators visit work sites and interview workers to determine if an independent contractor should be considered an employee. The Division of Wage and Hour Compliance has also created a separate enforcement unit, which will be devoted to investigating and resolving these complaints.

Workers' Compensation

Each year, approximately 180,000 Workers' Compensation accident reports are filed by workers injured on the job. More than four out of five of these cases are resolved between the parties without the involvement of the judges of our Division of Workers' Compensation, who handle contested or permanent disability cases.

As I have testified in the past, the Department is embarked on a long-term upgrade of the Division's information technology. The COURTS system implemented to date has been

very effective. We are now developing phase IV of this system to provide even more tracking data.

One of the most important benchmarks for workers' compensation is to ensure that, while a dispute is pending resolution, workers receive proper medical care and temporary benefits. Cases with disputes over medical or temporary benefits, which make up 1.2 percent of the caseload, are resolved expeditiously. More than 99 percent (99.8%) of workers' requests for adjudication of medical or temporary benefits are resolved within four months.

Temporary Disability Insurance

When a worker is unable to work due to an illness or injury that is not work-related, New Jersey's Temporary Disability Insurance program provides partial wage-replacement income. Last year, 172,000 workers filed claims for these benefits and the Department paid out \$469 million in temporary disability insurance benefits.

Over the next year, we look forward to supplementing this vital program with the new Family Leave Insurance benefits, which will provide New Jersey's working men and women a measure of income security during times when the serious health needs of a close family member require a worker to take time away from his or her job. Governor Corzine has pledged to sign this bill and the Department will work diligently to implement it.

Social Security Disability Determination Services

The Department's Division of Disability Determination Services (DDS), funded entirely by the federal Social Security Administration (SSA), makes disability and blindness determinations that are used by SSA to process applications for long-term Social Security disability benefits by New Jersey citizens. Over the past year, our DDS program has greatly improved the quality of service provided to New Jersey's citizens who file for Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) Disability benefits.

New Jersey's DDS program was selected to pilot the national roll-out of the Social Security Administration's quick disability determination (QDD) process for the New York region. Under QDD, a predictive model analyzes specific elements of data within the electronic claims file to identify claims where there is high potential that the claimant is disabled and where evidence of the person's allegations can be quickly and easily obtained. Social Security Administration Commissioner Michael J. Astrue has acknowledged New Jersey's seamless roll-out of the process with exemplary case turn-around time.

Wage and Hour Enforcement

The Department delivers vital workplace protections for workers and fosters fair competition for law-abiding employers through fair and even-handed enforcement of New Jersey's labor laws.

Last year, our Office of Labor Standards and Safety Enforcement recovered approximately \$5.6 million in back wages and overtime pay owed to more than 8,500 workers in New Jersey. We recently increased penalties for Child Labor Law violations and implemented a Child Labor Law Advisory Board, which meets quarterly to advise the Department on the effectiveness of the law. Also, to reduce the exploitation of low-wage workers and to make it easier for workers to pursue their wage claims, the Department now holds wage collection proceedings at locations across the State to provide easier access for all parties. In addition, the Department is working with the Attorney General's Office to develop a strategy for dealing with reports from workers about employer retaliation. Under Governor Corzine's Executive Order 86, the Department now ensures that custodial, cafeteria, and maintenance workers are paid just wages at both State-owned and leased properties. These and other enforcement efforts depend on sanctions, including penalties and fines, to be effective and the Legislature has been helpful in providing the Department with tools to help deliver more effective enforcement.

The Department enforces the Prevailing Wage Act and Public Works Contractor Registration Act for contractors working on publicly funded projects and in the past year, the Legislature took important steps to close loopholes in the Prevailing Wage Act. Contractors were found to be circumventing their debarment or suspension from bidding on public work simply by changing the name of their business. The Department worked with the legislature to pass a statute change whereby the burden of proof now falls to the “new” contractor to show that it is not an “alter ego” of the debarred or suspended company. This new law also allows the Department to immediately suspend a contractor’s registration if it is determined that an immediate suspension is in the public interest. Another new law put an end to the practice of leasing property to a private entity to avoid fair pay requirements for construction workers.

Even with these new laws in place, there remain public works contractors who attempt to cut corners and make up the difference at the expense of their workers. Now, with criminal charges potentially awaiting willful violators through the aforementioned Independent Contractor Misclassification legislation, the Department is better equipped to bring contractors into compliance, thus protecting workers and providing safer and higher-quality public construction projects.

The Department conducted nearly 1,600 Prevailing Wage Inspections last year and, while debarment is the last recourse in our efforts to bring a contractor into compliance, the Department took that step and debarred 115 companies and 93 individual owners last year. The Department also revoked the Public Works Contractor Registrations of 70 contractors who violated our laws in an attempt to gain an unfair advantage over legitimate, law-abiding contractors and refused to renew the registrations of more than 200 other contractors.

BUILDING A WORLD-CLASS WORKFORCE FOR THE INNOVATION ECONOMY

Workforce Development Partnership Program

The largest source of good-paying job opportunities is in New Jersey's growing innovation economy. These jobs require higher-skilled knowledge workers. In conjunction with Governor Corzine's Economic Growth Plan, we have targeted the Department's partnerships with employers to train incumbent workers through customized training grants for skills required by the innovation economy. Through these grants, New Jersey invests in employers who invest in their own workers. The program identifies real market demand for specific skills because employers are willing to invest their own dollars in this training.

This fiscal year, we expect \$21 million in New Jersey Customized Training grants to leverage \$23 million dollars committed by employers to these training programs. As a result, nearly 28,000 workers at more than 200 companies will be better trained and equipped to succeed in the workplace in the future.

Our commitment is not limited to workers in high-skill occupations. Through the Supplemental Workforce Fund for Basic Skills (SWFBS), our Workforce Literacy Training grants are helping workers build the strong foundation of basic workplace skills so that they can continue to add skills and make their way up the career ladder. These grants provide training in core skills such as reading, math, communication, computer operations and English as a second language.

Key partners in this training initiative have been the New Jersey Business and Industry Association and the County Colleges. The Department awarded a \$1.8 million grant to this consortium to boost the availability of basic skills training for small business owners who realize that training for their workers is vital to their future success but for whom applying for a training grant on their own would not be feasible given the size of their workforce. By joining a consortium, companies that cannot afford to have a full class of

12 or more workers away from production can participate by allowing one or two workers to take time away from their work to obtain this crucial literacy training.

The Workforce Development Partnership Program also provides dislocated and displaced workers with individual grants up to \$4,000 for training to upgrade their skills in demand occupations. Over 3,750 training grants totaling \$11,795,068 were awarded to program participants during fiscal year 2007. The Department also provides services to over 800 unemployed workers under the Self-Employment Assistance program, which provides counseling, technical assistance, and entrepreneurial training grants to unemployed workers who want to establish their own businesses.

Innovation Partnership Institutes

To better prepare workers for a changing innovation economy, the Department, in partnership with the State Employment and Training Commission, Department of Education and the Commission on Higher Education, has established Innovation Partnership Institutes to learn from businesses more about the talent needs of specific industries, articulate the emerging skills required by these sectors for occupational competence, and develop cutting-edge curricula to meet the skills needs of key industry sectors.

The newest initiatives address future workforce skill needs in Clean Energy Technology; Advanced Manufacturing; Transportation and Logistics, and Energy Efficiency and Renewable Energy jobs. The Innovation Partnership Institutes will build on last year's successes in the Financial Services, Information Technology and Communication, and Life Sciences industries.

Workforce Innovation in Regional Economic Development

Labor markets are regional and are not constrained by boundaries on a map. We are pleased that the U.S. Department of Labor has invested in our efforts to meet regional labor market needs through three Workforce Innovation in Regional Economic Development (WIRED) projects totaling \$15 million. The Department's Office of Labor Planning and Analysis is providing crucial labor market and demographic information to

each of these three regions so that their workforce and economic development consortiums can make intelligent, data-driven decisions.

The North Jersey WIRED region will use a \$5.1 million grant to help mesh the workforce development systems, educational institutions and businesses within Bergen, Essex, Hudson, Morris, Passaic, Sussex, Union and Warren counties and focus on diversifying the region's economy. This initiative will provide training for health services, transportation and logistics, and retail/entertainment employment and will support small business development to produce growth in good-paying jobs over the next decade.

In southwestern New Jersey, the Delaware Valley Innovation Network (DVIN) was created as part of a \$5.1 million WIRED initiative that leveraged an additional \$1.5 million in federal funding. The governors of New Jersey, Pennsylvania and Delaware established a tri-state, thirteen-county WIRED consortium, including Burlington, Camden, Cumberland, Gloucester, Mercer and Salem counties. This initiative will focus on developing a workforce prepared to succeed in the life sciences industry and supporting technologies.

The newest WIRED investment from the federal government encompasses Central New Jersey. The BIO-1 initiative is designed to transform the rich array of existing bioscience education and training and economic development initiatives into a cohesive workforce development system. The consortium is named for the Route 1 corridor from Rutgers to Princeton, around which many of Central New Jersey's life sciences firms are clustered, and includes Hunterdon, Mercer, Middlesex, Monmouth and Somerset counties.

SERVING WORKERS WITH BARRIERS TO CAREER SUCCESS

Vocational Rehabilitation Services

As a large share of the workforce transitions into retirement, New Jersey has a golden opportunity to increase the workforce participation of people with disabilities. Many of the job vacancies that will open up as a result of this generational shift were originally filled at a time when attitudes were less welcoming of workers with disabilities and when

the workplace did not have access to current modern technologies that can facilitate the success of workers with a disability.

The Department will meet this challenge by continuing our efforts to help individuals with disabilities achieve their employment goals, so that New Jersey can tap the talents of all of the workers in our state. Last year, our Division of Vocational Rehabilitation Services (DVRS) helped place over 4,300 individuals with disabilities into jobs. Workers receiving services from DVRS realized a significant improvement in wages earned. Average weekly wages at application were \$76.05; at successful closure they had increased to \$374.36. In addition, programs and partnerships supported through DVRS provide opportunities in sheltered work sites for workers to gain good-paying jobs that enable them to participate in the economy.

This year, the Department is funding eight small business initiatives that celebrate the American entrepreneurial spirit and help people with disabilities start their own businesses. These grants will help them begin enterprises ranging from a laundry service to a bakery making pet snacks.

Expanding Literacy Training

Over 50 Workforce Learning Links (WLL) have been established at the One-Stop Career Centers and partner agencies to make adult education and literacy training available at the local level, funded by the Supplemental Workforce Fund for Basic Skills (SWFBS). Using an innovative program that merges computer-based, self-paced learning with staff-assisted instruction in a workshop setting, the WLL offers training in GED preparation, math, reading, writing, financial literacy, life skills, workplace literacy, English as a second language and basic computer skills. The goals of this program are to raise the literacy levels of participants, improve their employability and salaries, and strengthen the economy.

Welfare to Work Programs

The Department of Labor and Workforce Development and the Department of Human Services have been working in partnership to increase the work participation rate of Temporary Assistance to Needy Family (TANF) recipients and coordinating additional services through our Department's Division of Vocational Rehabilitation Services. We thank the Legislature for passing P.L. 2007, c. 97, which streamlined the sanction process and provided incentives for TANF recipients to participate in the workforce.

Prisoner Reentry

The Department also plays a vital role in Governor Corzine's re-entry strategy to assist people moving from the criminal justice system to the workforce. Our One-Stop Career Center system will provide help in finding jobs, training, and supportive services in three cities. New Workforce Learning Link sites at Department of Correction facilities will enable more inmates to increase their workplace basic skills using interactive computer technology. Ex-offenders participating in the Another Chance initiative will be assigned a job coach to assist with their job development and placement needs.

In coordination with the Department of Corrections and the State Parole Board, we expected that 450 to 700 individuals will be referred to One-Stop centers during the first year. We also are working with the Department of Corrections to improve the alignment of the training provided to inmates with the skills currently in demand by employers likely to hire ex-offenders. The Department will place Workforce Learning Links in Riverfront, Northern State and Garden State Prisons in addition to the Learning Links already established at the Edna Mahon, Mid-State and Albert C. Wagner facilities.