



Follow the Money

THE REAL MONEY BEHIND THE NEW JERSEY
EDUCATION ASSOCIATION'S POLITICAL CLOUT

Part I of the Legal Corruption Series

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A M E R I C A N E N T E R P R I S E I N S T I T U T E

The Legal Corruption Series: Executive Summary

New Jersey is in a bad way. Our economy is weak and significantly underperforms other states. Our tax system is consistently ranked as the worst in the nation. Our public-sector pensions are in the worst condition of any state, and our unfunded liabilities are at least \$202 billion—almost six times the size of the \$35 billion annual budget.¹ We have the second-lowest bond rating of any state—save broke Illinois.² Businesses, taxpayers, and young adults are leaving our state in droves. Sadly, New Jersey’s future looks even worse.

How did New Jersey get into this position?

It was not happenstance. New Jersey is in this position because its largest public-sector union, the New Jersey Education Association (NJEA), often working in concert with its public-sector union allies, has rigged the system for its own benefit. The consummate special interest, the NJEA has dominated the state’s political system for decades. It structured a legislative regime that allowed it to siphon off hundreds of millions of taxpayer dollars to spend itself to unmatched political clout. Predictably, New Jersey’s politicians—both Republicans and Democrats—have succumbed to this clout and largely given the NJEA what it wanted. Too often, New Jersey citizens and taxpayers have been left out of the discussion, and yet it is they who will foot the bill.

If New Jersey citizens and taxpayers knew what was really going on, they would be outraged. They would be outraged that a special interest was able to control state government to their detriment. They would be outraged that their highest-in-the-nation taxes are flowing directly into union coffers to be used against their own interests. They would be outraged that the future of the state—and that of their

children and future generations of New Jerseyans—has been mortgaged for the benefit of the few over the many.

The purpose of this research is to inform New Jersey’s citizens of what is really going on and how we got into this position. Using published research, contemporaneous media accounts, and the NJEA’s own publications to ascertain the facts, this study details the deliberate exploitation of New Jersey’s political system and the resulting consequences—to the benefit of the NJEA and the detriment of New Jerseyans.

There are five parts to the research:

- **Part I. Follow the Money: The Real Money Behind the New Jersey Education Association’s Political Clout.** Funded by hundreds of millions of taxpayer dollars, the NJEA’s severely underreported political war chest dwarfs the competition. The NJEA spends many times more on political action than is reported and is by far the most powerful special interest—and political force—in the state. Far too often, this results in taxpayer dollars being used against taxpayer interests.
- **Part II. “And You Will Pay”: How a Special Interest Dominates New Jersey Politics.** The NJEA used its clout to influence politicians of both parties and structure the political system to perpetuate its power and benefit itself. This extraordinary special-interest influence has shaped the current status quo in the state and threatens the state’s solvency.

- **Part III. Job Number One: The New Jersey Education Association's Role in New Jersey's Disastrous Pension and Benefits Crisis.** Again using its money and clout, the NJEA created the broken benefit system we have today. While the NJEA seeks to blame the state, the facts show that the NJEA structured the system to maximize benefits for its members and consistently fought reform efforts. It participated in pension-asset raids and financing schemes that greatly damaged the soundness of the system. It gained for its members premium-free, "Cadillac" health plans. Because it was politically convenient, it chose not to punish politicians for underfunding the state's retiree liabilities, thus contributing to \$202 billion in underfunding that threatens the future of the state. And it recently tried to lock this bankrupt system into the state constitution.
- **Part IV. Talk Is Cheap, but Good Education Costs: The Truth About New Jersey's High Tax Burden.** Using its money and clout, the NJEA has consistently pushed for higher taxes. At the local level, the NJEA consistently pushed for higher education spending and higher property taxes. Once high property taxes became a political problem, it pushed for higher state education spending and higher state taxes. The NJEA was a major force behind the

initiation of New Jersey's first sales and income taxes and continues to push for higher taxes to this day.

- **Part V. New Jersey Is Dying: A Special-Interest-Dominated Status Quo Is Hurting the State's Economy.** High taxes and cost-of-living have hurt the state's economy. The tax system renders the state inhospitable to businesses and uncompetitive with other states—particularly with neighboring New York and Pennsylvania. Consequently, economic and job growth are weak and significantly underperform both the nation and New York and Pennsylvania. Businesses, taxpayers, and most ominously, young adults are emigrating to more favorable states. Reform and economic growth are the only way out of this fiscal hole, but our special-interest-dominated political system allows for neither.

New Jersey citizens and taxpayers must wake up to what has happened in our state and why we are where we are. In the end, the best description of what has occurred is "legal corruption." Our political system has been thoroughly corrupted—so much so that the corruption itself has been made legal. Either we change the system and root out the legal corruption or it will bankrupt the state—along with the future of our children and the next generations of New Jerseyans.

Follow the Money

THE REAL MONEY BEHIND THE NEW JERSEY EDUCATION ASSOCIATION'S POLITICAL CLOUT

Part I of the Legal Corruption Series

Mike Lilley

By all conventional measures, the New Jersey Education Association (NJEA) has long been the top political spender in the state. Published reports from New Jersey's elections watchdog, the Election Law Enforcement Commission (ELEC), make clear that when it comes to the money that is spent directly on campaigns or lobbying the legislature, the NJEA is in a class by itself. As ELEC's Executive Director Jeff Brindle concluded, "When you combine NJEA's lobbying and campaign spending, no single interest group has ever come close."³

But these reports cover only a fraction of the NJEA's true political spending.⁴ Much, if not most, of what the NJEA does is political in nature—often cloaked in seemingly benign, nonpolitical garb. Only a deep dive into the functions and activities of the NJEA and its constituent parts reveals the true magnitude of the NJEA's political spending and thus the enormity of its political clout. Taking account of all the NJEA's political activity reveals that its political spending is many times larger than the reported amounts.

With this kind of money, the NJEA's political power dwarfs that of any other special interest—or even political force—in the state. It slants the political playing field sharply in its own favor and leads to outsized influence on politicians and policies. New Jersey's pension crisis and its highest-in-the-nation taxes, to cite two examples, are consequences of the

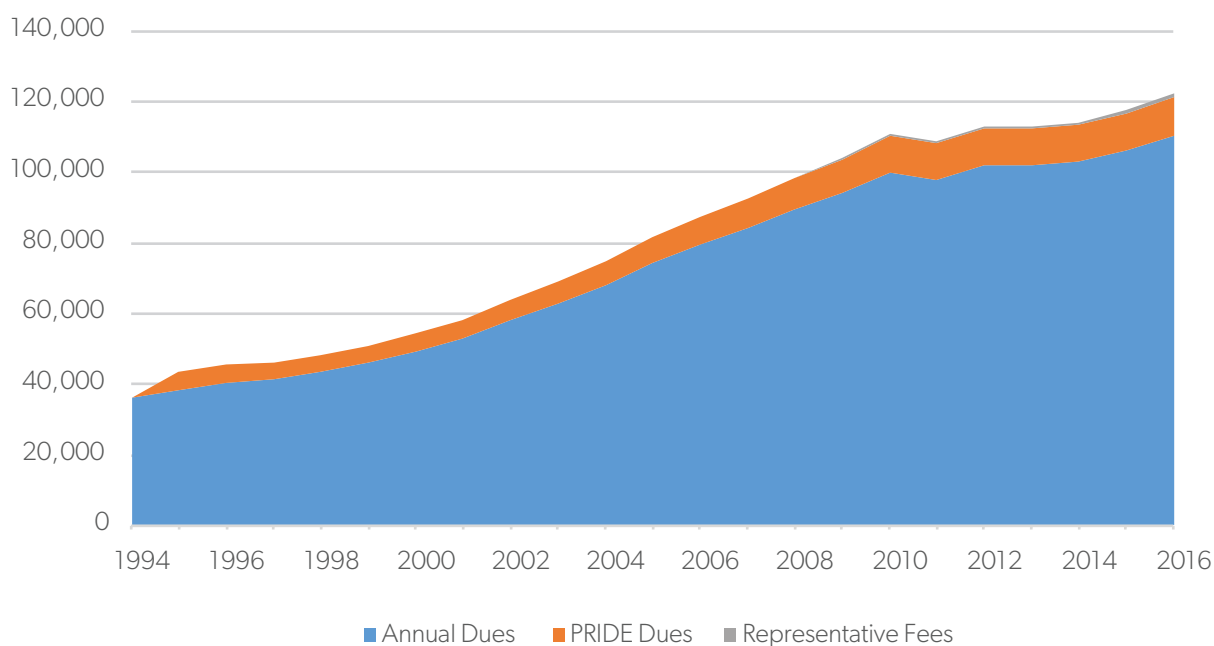
NJEA's dominant political influence. The NJEA's political clout and its real-world consequences for the state will be discussed in detail in Parts II–V of this series.

How the NJEA Gets Its Money

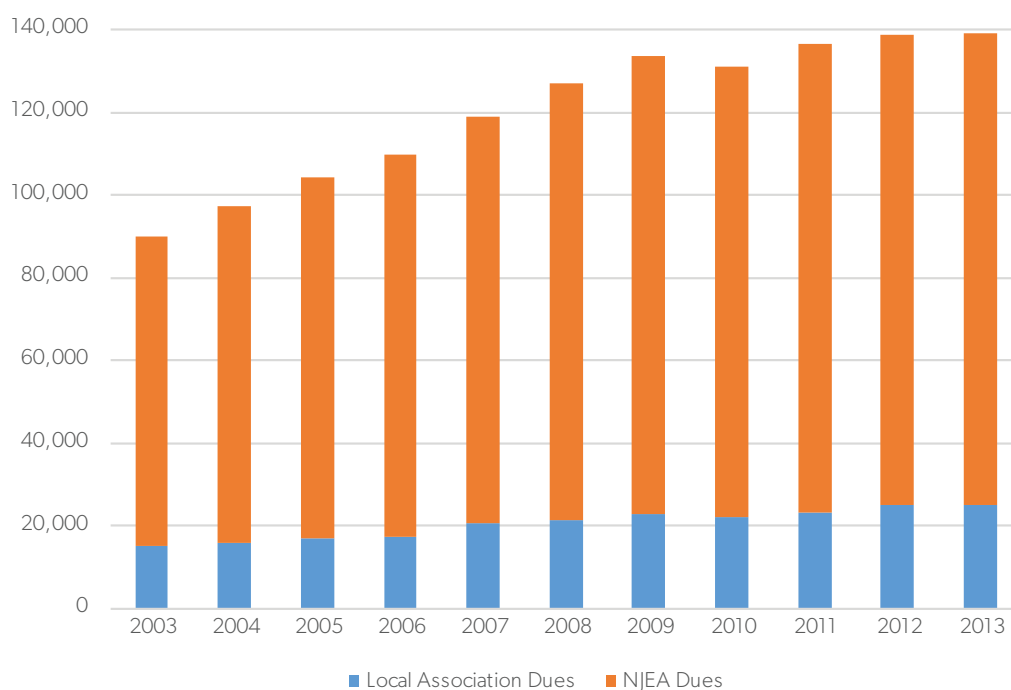
As will be discussed in Part II, the NJEA used its political clout to construct a funding system that funnels taxpayer dollars directly into its coffers. This system has three pillars: exclusive bargaining authority, agency fees, and the automatic withholding of teachers' dues. The legislature established each after prolonged NJEA lobbying.

Per legislation passed in the 1960s, the NJEA established itself as the exclusive representative of teachers⁵ and was empowered to collectively bargain with local school boards. The NJEA also gained "dues check-off": the right to have teachers' dues deducted from their paychecks automatically (after gaining permission from teachers), so that teachers and school boards effectively became pass-throughs for property tax dollars to flow directly to the NJEA.

Finally, in the 1970s, the NJEA gained the right to impose "agency fees," whereby teachers who chose not to join the NJEA still had to pay up to 85 percent of regular dues for the privilege of being represented by the NJEA and its local affiliates in local collective

Figure 1. NJEA Revenue from Dues and Representation Fees, 1994–2016 (in Thousands of Dollars)

Source: Annual audited financial statements published in *NJEA Review*.

Figure 2. The NJEA's Take of Total Teacher Dues, 2003–13 (in Thousands of Dollars)

Source: New Jersey Education Association, IRS Form 990 "Parent" and "Group" filings, 2003–13.

bargaining.⁶ This arrangement effectively coerced teachers to join the NJEA, and predictably, less than 1 percent of teachers have opted not to join the union.⁷ As a result, the NJEA has benefited from the automatic, annual flow of property tax dollars, which from 1994 to 2016 totaled \$1.85 billion and reached \$121 million in 2016 (Figure 1).

Having guaranteed this annual flow of tax dollars, the NJEA then keeps the lion's share for itself to use as it sees fit. From its inception, the NJEA has required affiliates to collect "unified" dues so that the dues for the local associations, the NJEA, and the NJEA's national parent, the National Education Association (NEA), are withheld from teachers' paychecks at the local school district level. The NJEA has used this system to concentrate the money and the resulting political clout in its own hands, with 83 percent of collected dues going to the NJEA and only 17 percent to local associations.⁸ Figure 2 depicts the stark reality that almost five times more teacher dues are going to fund the NJEA and its largely political activities than the local associations and their activities.

This legislative regime and dues structure has allowed the NJEA to amass hundreds of millions of dollars—and the resulting political clout—with local school boards, teachers, and local associations acting as mere pass-throughs. In this way, the NJEA has been able to siphon tax dollars directly into its treasury and use the money to dominate New Jersey politics in the service of its own agenda.

Reported Political Spending

ELEC regularly publishes reports detailing overt political spending. As the data show, the NJEA is by far the largest political spender at both the state and local school district level.

State-Level Political Spending. For decades, the NJEA has been widely recognized as the biggest political spender in the state. In the 1980s, it was "the highest spending political action committee."⁹ The same was true in the 1990s: "The leading special interest PAC donor during much of this decade has been the

New Jersey Education Association, and this year is no exception."¹⁰

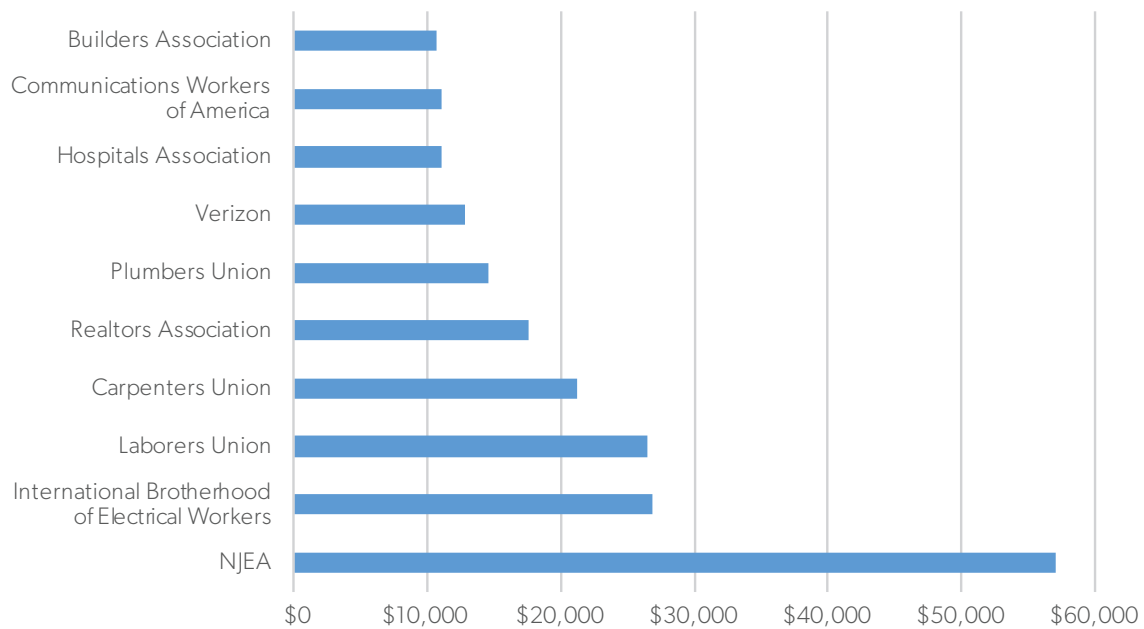
What was true then is even more true now. A 2014 ELEC report revealed that from 1999 to 2013, the NJEA spent \$57 million, more than twice the amount of the next-highest spender (Figure 3). The NJEA's direct campaign contributions made up \$16.7 million, lobbying (including state-level grassroots lobbying and issue advocacy) was \$24.8 million, and independent expenditures were \$15.6 million. During this 15-year period, NJEA spent almost one of every five political dollars in the state.

For good measure, the NJEA also set the single-year record for spending in 2013, with \$19.5 million spent.¹¹ As Brindle noted: "This is unprecedented. . . . NJEA spent 16 times more total on lobbying and elections combined in 2013 than it did 10 years earlier."¹²

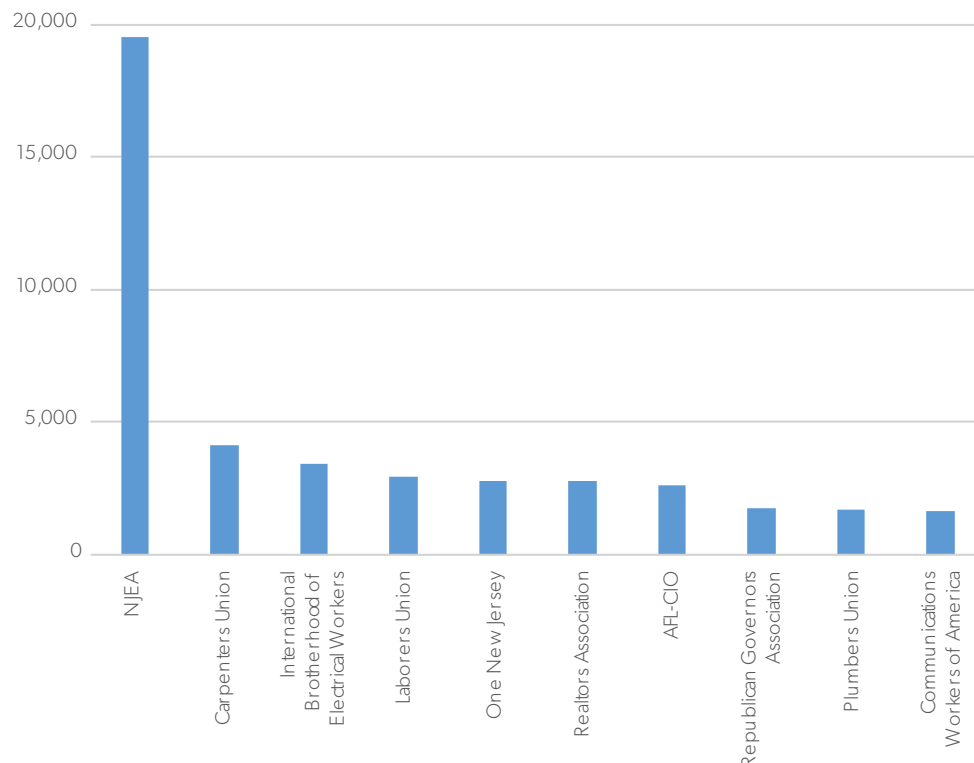
The year 2013 illustrates the NJEA's dominance of the current political landscape, in which independent expenditures and grassroots issue advocacy have become the favored vehicles for political spending. It was an important year in New Jersey politics, with a full slate of legislative elections and a gubernatorial election. Political spending that year totaled \$55.4 million, and \$19.5 million of that came from the NJEA, a whopping 35 percent of the total. The next-highest spender came in at \$4.1 million, or 7 percent (Figure 4).¹³

According to ELEC, in 2014, a year with no state legislative or gubernatorial races and in which non-education issues dominated the political landscape, the NJEA spent \$1 million, which made it the fourth-highest political spender.¹⁴ In 2015, the NJEA reverted to form with \$15.2 million in political spending and was by far the highest political spender.¹⁵ Thus, for the period 1999–2015, the NJEA spent a total of \$73.3 million. As Brindle said, no other political spender in the state comes close.

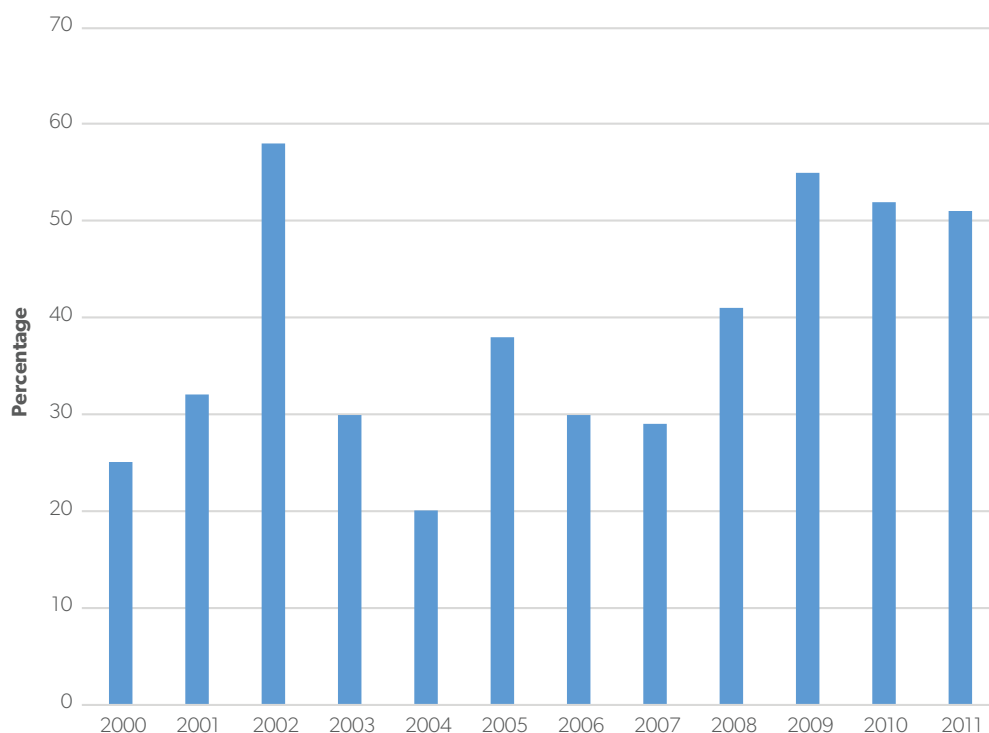
Local School District Political Spending. ELEC also did a study of spending in local school district elections from 2000 to 2009. It found that total spending in such elections had more than doubled from the previous decade. The NJEA was far and away the biggest spender at \$3.7 million, or 39 percent of

Figure 3. Top 10 Political Spenders in New Jersey, 1999–2013 (in Thousands of Dollars)

Source: New Jersey Election Law Enforcement Commission.

Figure 4. Top 10 Political Spenders, 2013 (in Thousands of Dollars)

Source: New Jersey Election Law Enforcement Commission.

Figure 5. NJEA School District Election Spending as a Percentage of Total Spending, 2000–11

Source: New Jersey Election Law Enforcement Commission.

the \$9.6 million total, with a range of 20–58 percent of the total each year (Figure 5).¹⁶ Similarly, ELEC reported that the NJEA’s local spending amounted to 52 percent of the total in 2010 and 51 percent in 2011.¹⁷ This is consistent with an ELEC study of the 1990s, in which the NJEA spent 40 percent of the total amount, by far the highest percentage of any group.¹⁸

ELEC did not break out spending by other groups from 2000 to 2009, but it did break out such spending for 2009, when the NJEA spent \$745,000, a record amount for school board elections. The next-highest spending group, individuals, came in at a mere \$177,000 (Figure 6).¹⁹

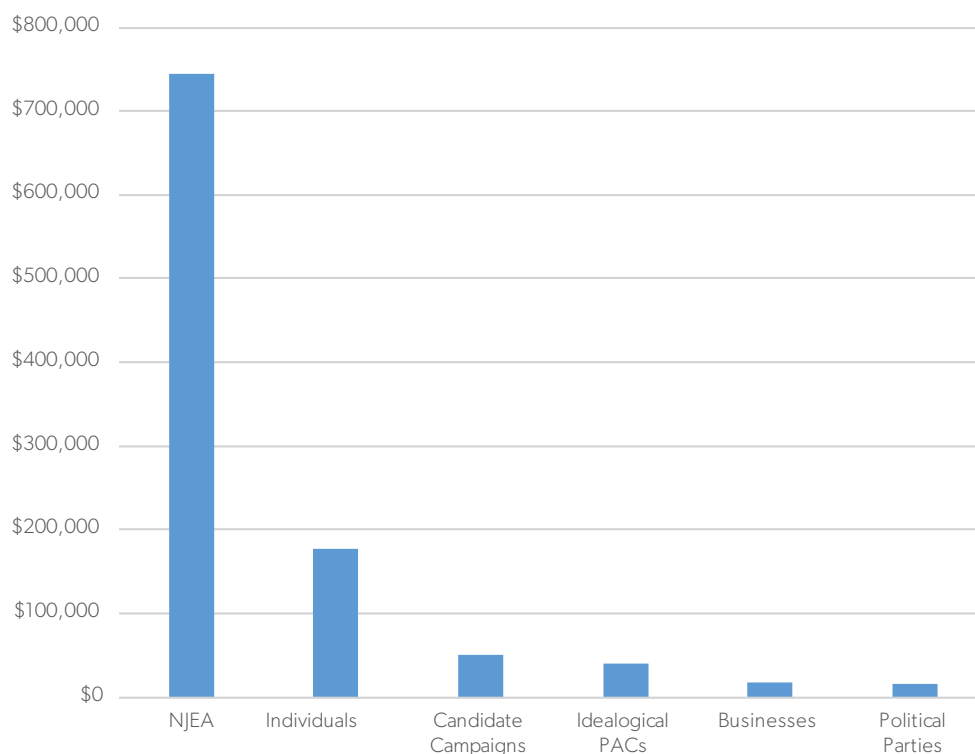
Covert Political Spending

The NJEA’s reported political spending is well-known. What is far less known—if not unknown—is the

extent of the NJEA’s covert political spending. The NJEA has been clever in using election reporting loopholes to disguise such spending, but when added up, this spending dwarfs all the NJEA’s reported political spending.

At the heart of the NJEA political effort is UniServ (short for “United Services”). The NEA created UniServ in 1971 to serve as the professional field staff in every state where the NEA has an affiliate (such as the NJEA in New Jersey).

Jointly funded by the NEA and the NJEA, UniServ representatives control the flow of NEA and NJEA resources, assist local associations in their operations, and ensure that NEA and NJEA policy objectives are transmitted down to the local level. Importantly, UniServ is essential to accomplishing the NEA and NJEA political mission by serving as the political operatives who organize, mobilize, and direct the legions of union foot soldiers.

Figure 6. Top Spenders in Local School District Elections, 2009

Source: New Jersey Election Law Enforcement Commission.

UniServ in New Jersey. In New Jersey, the NJEA describes UniServ as the “cornerstone” of the NJEA’s services to its members—that is, UniServ is the vehicle through which the NJEA connects with hundreds of local affiliates. As will be discussed later, now that the NJEA has moved from a “service model” to a more overtly political “organizing model,” UniServ is the cornerstone of that model, too. Commensurate with that shift, former UniServ political organizers now dominate the NJEA’s Executive Office.

Currently, UniServ has field representatives working out of 22 regional offices across the state, staffed with 112 dedicated professionals, who are assisted by another 120 professionals from other NJEA divisions at the NJEA’s headquarters. The scope and scale of the UniServ operation permit UniServ representatives to serve as the omnipresent eyes and ears—and muscle—of the NJEA at every local association in the state.

As such, UniServ representatives are involved in virtually every aspect of every local association’s activities.

Not all UniServ activities are political. UniServ representatives also assist with issues such as grievance adjudication, retirement consultation, and local association business management. However, as shown below, a UniServ representative’s job includes a heavy dose of political activity—including mobilizing members for political activities, administering NEA and NJEA resources such as Pride in Public Education (PRIDE) funds, organizing local associations and communities, participating in collective bargaining, and supporting local association and NJEA political goals through communications and public relations activities.

The NJEA does not break out how UniServ funds are spent, but the extent to which the NJEA and its local associations are involved in political activity is

the extent to which UniServ representatives are. And as the NJEA's political field organizer, UniServ will be integral to the NJEA's shift to an "organizing" model from a "services" model. Accordingly, the NJEA's spending on UniServ will be included as political spending with this caveat.

Political Organizing. Because much, if not most, of what the NJEA does is political in nature, UniServ's activities are heavily political. UniServ representatives are the means by which the NJEA mobilizes its army of political "volunteers" who contact legislators, turn out for rallies, staff campaigns, and otherwise provide the NJEA with its most powerful political weapon.

As NJEA President Dennis Testa said: "Our dollar contribution isn't the deciding factor. We provide phone banks and phone calls and people who are willing to go door-to-door across the state."²⁰ Leo Troy, professor of economics at Rutgers University–Newark, said that the NJEA's "political power is enormous not only because they contribute a lot of cash, but more important is the in-kind contributions, the free labor from the staff of the unions and the members of the unions."²¹

When it comes to these political operations, which are the muscle behind the NJEA's political power in the state, UniServ representatives are the political organizers and enforcers who ensure that the NJEA's policy priorities are executed at the local level. A classic example of this is when the NJEA uses a big issue of the day as an organizing tool to create political momentum to achieve or block a given policy, a common tactic that the NEA also uses.

Mobilizing Local Associations for State-Level Priorities. As part of a recent NJEA campaign to delegitimize New Jersey's new standardized tests (PARCC) and impede the implementation of a new teacher evaluation system (AchieveNJ), the NJEA created a playbook on best practices for organizing local associations and communities.

The playbook, titled "Navigating AchieveNJ: An Organizing Playbook," contains a message to the political pros who will execute the policy down at the local level: "Note to UniServ field reps: This is a

template created by the AchieveNJ Organizing Committee that may be used to organize locals around evaluation." The stated goals of the campaign are to (1) organize teachers and (2) organize parents so that they are "empowered to take action to delay or even stop AchieveNJ and PARCC," which are decidedly political goals. The NJEA provides best practice guides, brochures, and infographics to be used in organizing efforts, as well as a guide to hosting outreach events with parents.²²

Similarly, in 2005, as part of a successful effort to defeat a Constitutional Convention, the NJEA mounted a statewide organizing effort: "From Sussex to Cape May, local associations worked with their UniServ field representatives to create an organizing plan that fit their communities."²³ Later, in 2010, in the midst of another political campaign to fight Governor Chris Christie, UniServ directed local associations and members to action: "Legislative alerts [with talking points and to-do lists] will be sent . . . to local presidents from their UniServ field reps."²⁴

Often working with the NJEA's government relations division, UniServ field offices routinely send out messages to local association presidents to have them get their members to public rallies for the various NJEA political priorities of the day, such as pension protection or education funding in the budget. Presidents are also urged to get their members to rallies for allied labor organizations such as the Communications Workers of America (CWA). Often, UniServ messages take the form of outright directives to local presidents.

A sampling of the message traffic from UniServ Regions 3/4 (in Camden County) to local association presidents from 2006 to 2011 reveals the constant drumbeat of political action:²⁵

- June 2, 2006: "We need a large turnout of NJEA members" at the Public Employee Rally at the New Jersey State House to save the pension contribution.²⁶
- August 1, 2006: UniServ thanks 15 members for volunteering for the Summer Organizing Campaign.²⁷

- September 26, 2006: “We need to recruit members to attend” the Joint Legislative Hearing on Constitutional Reform of property taxes. RSVP to UniServ.²⁸
- October 4, 2006: “We need to recruit 125–150 members to fill the auditorium” for the public hearing of the Joint Legislative Committee on Public School Funding Reform.²⁹
- November 7, 2006: UniServ thanks local presidents for organizing their members “in record numbers” and reminds them to continue their efforts: “This is just the beginning of some much needed grassroots organizing.”³⁰
- April 27, 2007: UniServ reminds local presidents to “Organize Now for PAC” as part of an ongoing campaign by local presidents and Legislative Action Teams (LAT) to increase PAC donations. UniServ cracks the whip: “Trenton [the NJEA headquarters] indicates that we have only increased our PAC contributors by three new contributing members.” The UniServ representatives “strongly urge” local presidents to do better and direct them to contact UniServ with a status update.³¹
- November 15, 2007: UniServ urges local presidents to have members call their congressional delegation over the veto of a federal education bill.³²
- June 6, 2008: UniServ urges local presidents to get members to an anti-pension-reform rally in Trenton and to approach superintendents to get releases for teachers to attend the rally. Call UniServ for help if needed.³³
- November 13, 2008: UniServ also acts as political eyes and ears for the NJEA. The regional office urges local associations to contact UniServ if they have been approached by the administration regarding district consolidation.³⁴
- November 26, 2008: With an eye toward compliance with the recent Paid Family Leave Act, UniServ advises all local leaders to be “alert” for any school board activity related to family leave, which should be reported to the UniServ office before a given deadline.³⁵
- May 14, 2009: UniServ tells local presidents to get at least four members to attend a Camden County Association rally and have them wear union T-shirts.³⁶
- September 15, 2009: “We must get our members involved in the re-election of Governor [Jon] Corzine. . . . It is imperative that you and your LAT team attend” the county LAT meeting.³⁷
- September 24, 2009: UniServ invited local presidents to a UniServ campaign party for Jon Corzine.³⁸
- November 17, 2009: UniServ reminds local presidents that attendance at NJEA-sponsored organizing workshops must be set up through UniServ representatives and that PRIDE reimbursement bills must also go through UniServ.³⁹
- February 23, 2010: UniServ urges all members to contact their legislators to oppose bills reforming pensions and benefits. Lobby days in Trenton are planned on March 8, 11, and 15, and local presidents are told to contact UniServ with their lists of attendees.⁴⁰
- March 10, 2010: UniServ issues a directive to local presidents to attend an urgent meeting for all local presidents statewide and to contact their legislators and put activities in place for members to contact their legislators regarding collective bargaining rights. UniServ representatives “will be contacting each local president at the end of the week for a report as to what was done regarding the bulleted directives. Presidents who fail to respond to our consultants will receive a personal phone call from

their UniServ office as to why an association would fail to carry out these directives.”⁴¹

- April 8, 2010: UniServ asks local presidents to get their members and their LAT committee to attend a CWA rally.⁴²
- April 15, 2010: A forwarded message from NJEA President Barbara Keshishian and Executive Director Vince Giordano urges local presidents to organize members to attend a “Citizens Rally for a Just Budget” in Trenton.⁴³
- October 7, 2010: “Please bring your family and friends and rally for our members at Lawnside” (a local district where members were working without a contract). RSVP to UniServ.⁴⁴
- October 26, 2010: After the UniServ representatives returned from an all-hands meeting at the NJEA headquarters, local presidents are directed to attend an “important meeting” regarding tenure reform.⁴⁵
- November 11, 2010: UniServ invites local presidents to an NJEA workshop titled “Organizing the Offense: Fighting Privatization.” Local presidents are encouraged to “bring and build your team of organizers to fight against the privatization of your members’ jobs.” RSVP to UniServ.⁴⁶
- January 13, 2011: UniServ issues a legislative alert for local presidents to have members contact New Jersey Senator James Beach regarding a voucher bill.⁴⁷
- January 19, 2011: UniServ notifies local presidents that the regional office received a message from the NJEA government relations department that Sen. Beach needs to be contacted regarding a voucher bill. Local presidents are urged to use their communications system to get their members to contact Sen. Beach.⁴⁸

- January 24, 2012: After school districts are permitted to move elections to November, local presidents are asked to find out what their school boards are thinking and get back to the UniServ office with any information.⁴⁹

Organizing Local School District Activities. At the district level, UniServ representatives mobilize members and organize the local community to support union-friendly candidates for school board seats and pass school budgets that have been collectively bargained. By ensuring a friendly school board, local associations essentially “elect their own bosses,” who will sit across the table from the union during contract negotiations.

There are several elements to this role. First, UniServ representatives are professional political organizers. They provide direct assistance to local associations by devising get-out-the-vote strategies for local election campaigns.

An example of this is a front-page article in the January 2006 *NJEA Reporter* titled “Now Is the Time to Prepare for School Board and Budget Elections.” The article notes that such elections are low-turnout affairs that are decided by a small number of votes. It adds: “With a targeted campaign, local associations can have a positive influence on the outcome. NJEA offers county-wide training sessions to local and county associations as they plan for elections. For help and advice with your campaign, contact your UniServ office.”⁵⁰

UniServ representatives also advise local associations on organizing their communities to help pass local school budgets. The centerpiece of this effort is the NJEA’s PRIDE campaign, which includes media advertising campaigns and community outreach efforts that seek to foster a positive image of public schools in the local community. The goal is to gain support for passing school district budgets and mobilize voters to back the NJEA’s state-level political initiatives.

PRIDE. PRIDE was created in 1994 as a political solution to a political problem. It is essentially an NJEA-directed, district-level political organizing and public relations campaign administered by UniServ.

At the time, the NJEA felt “besieged” and “under attack” as a result of a public battle with Governor Christine Whitman over her tax-cut proposals. Almost 50 percent of district school budgets had been defeated by fed-up property taxpayers.⁵¹

In response, NJEA President Dennis Testa came up with the idea of PRIDE as “a public relations campaign” that focused on “improving the public’s perception of New Jersey’s public schools.” Testa had also promised to turn lawmakers against Whitman’s tax cuts “through a campaign of grass-roots lobbying.”⁵² PRIDE served both purposes well.

Building on Testa’s idea, the NJEA Delegate Assembly approved the PRIDE campaign with the official goals:

1. “To pass more school budgets and elect pro-education school board members.
2. To improve the outcome of collective bargaining by making maintenance and improvement of quality schools the first school board priority rather than control the tax rate.
3. To increase positive legislative initiatives concerning public schools and minimize negative proposals.
4. To create an enlarged cadre of leaders and members actively involved in continuing a program of community organizing.”⁵³

Every one of these goals was political and part of the NJEA’s solution to its political problems.

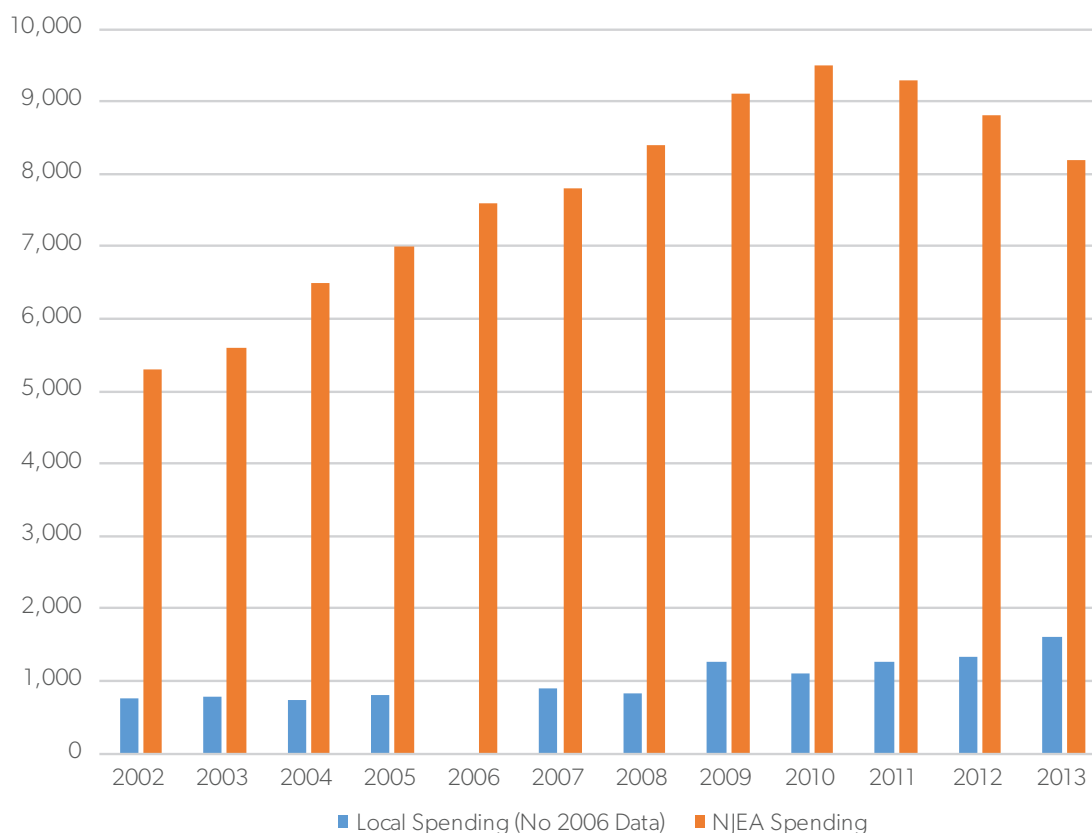
So important was the political mission behind PRIDE that the NJEA’s Delegate Assembly approved a special dues assessment of \$10 million to fund a “massive television and radio advertising budget” and local association initiatives.⁵⁴ To put that amount into perspective, in 1994, the NJEA collected \$36 million in regular membership dues. A well-funded PRIDE local organizing effort fit in well with the NJEA’s statewide campaign to alter New Jersey’s political landscape more to its liking.

And it worked—at least initially. PRIDE provided the “assistance many locals have needed to work effectively for passage of the school budget” so that for the six years after PRIDE was created, school district budget approvals shot up to 77 percent from about 60 percent before PRIDE.⁵⁵ Testa also claimed that “more and more building members are involved in the political process.”⁵⁶

PRIDE Is Largely Political Issue Advocacy Directed by the State-Level NJEA. The NJEA’s internal monthly magazine, *NJEA Review*, regularly provides pictures of PRIDE events, with lots of smiling kids and parents, so an outside observer might be fooled into thinking that PRIDE funds are primarily used for benign local community outreach events. But the reality is that local associations’ PRIDE spending amounts to only 13 percent of overall PRIDE spending (Figure 7). The state-level NJEA controls 87 percent of PRIDE spending, and the NJEA is not organizing coffee klatches. More than 60 percent of all PRIDE spending goes to media advertising, and local associations are not cutting TV ads.⁵⁷

NJEA’s use of PRIDE-funded media advertisements is part of a broader trend in New Jersey politics, as identified by ELEC’s Jeff Brindle. Brindle believes that the nature of political lobbying has changed from traditional person-to-person lobbying to a predominantly “grassroots, issue advocacy” approach. This type of lobbying uses cable TV, radio, and print advertising, with messaging shaped by political consultants and pollsters, to mobilize the public on behalf of an issue, blurring the lines between lobbying and political campaigns. Groups use “hot button issues,” with new media “connecting people to politics, recruiting supporters, and mobilizing the public.” Brindle identifies the NJEA as a leader of this trend and gets to the heart of the NJEA’s intent: “It helps to have public opinion on your side” in a political fight. As with every other form of political spending, Brindle notes that the NJEA is far outspending other groups in this area.⁵⁸

In agreement with Brindle, the NJEA also recognized the importance of public relations in politics, telling its members: “Government policy, and the public opinion that shapes that policy, affects

Figure 7. PRIDE Money Spent by Local Associations (in Thousands of Dollars)

Source: New Jersey Education Association, IRS Form 990 “Group” filings; and annual audited financial statements published in *NJEA Review*.

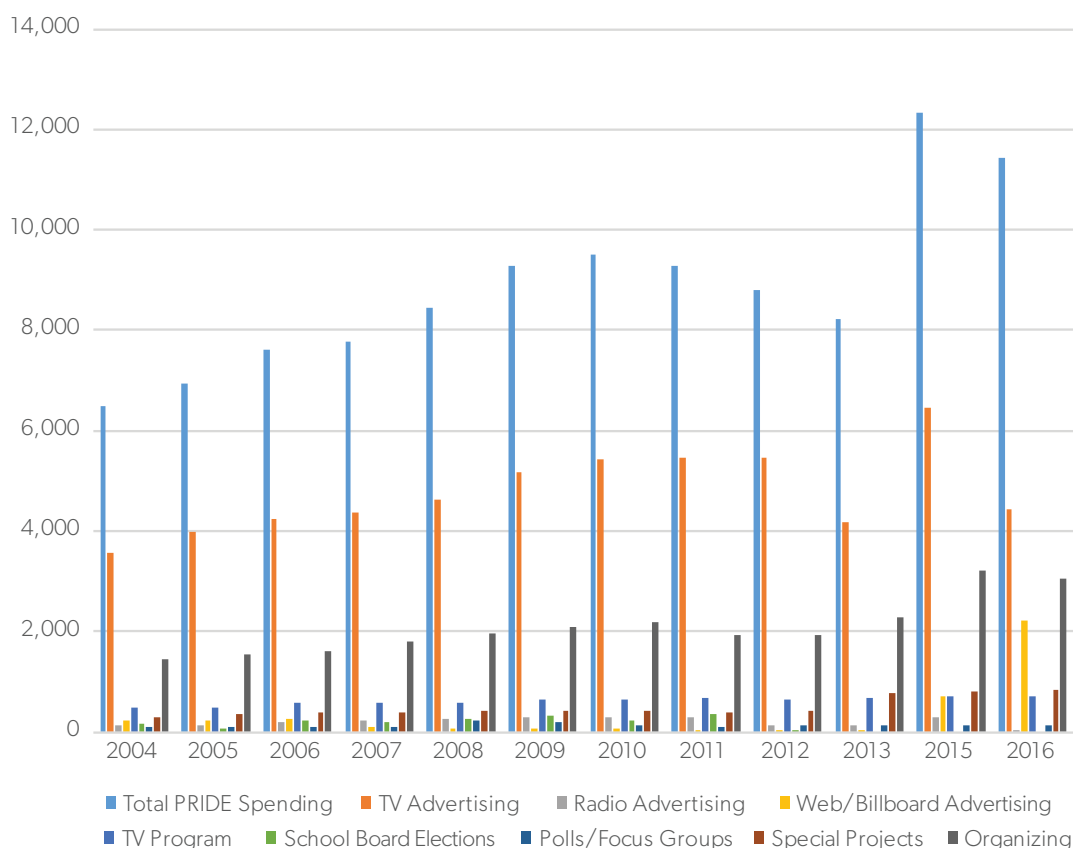
everything from your job security to your health and pension benefits to what happens in your classroom.”⁵⁹ In a political fight, it makes sense to have public opinion on your side.

So while PRIDE’s main purpose was local politics—winning more local school budget elections—it is predominantly an NJEA-directed, state-level issue advocacy and political organizing campaign. Twenty-seven percent of that effort is directly political: money spent on political organizing and school board elections. Sixty percent is mainly spent on television advertising, which is essentially political issue advocacy aimed at getting voters to pass local school budgets and support other state-level political initiatives. Per Brindle, the PRIDE expenditures for polling and focus groups also likely support issue-advocacy

efforts. All told, from 2003 to 2015, almost 90 percent of PRIDE spending was either directly political or issue-advocacy related (Figure 8).⁶⁰

The NJEA’s spending on PRIDE media campaigns certainly fits into Brindle’s definition of grassroots lobbying and issue advocacy. Likewise, the participation of any NJEA personnel—whether from UniServ, the communications division, the government relations division, or the Executive Office—in PRIDE’s issue-advocacy campaigns is also political by Brindle’s definition.⁶¹

The dominance of state-level political issue advocacy through the media was institutionalized in 2001 when the original Pride in Public Education Committee morphed into the Public Relations Committee, which was to advise the NJEA:

Figure 8. PRIDE Spending, 2003–15 (in Thousands of Dollars)

Source: NJEA annual budgets published in *NJEA Reporter*.

1. “On NJEA’s statewide advertising and public relations programs;
2. On affiliate organizations’ public relations projects and programs;
3. On programs to improve the external public’s perception of public schools . . . as transmitted by the media. . . ;
4. On media materials and organizational efforts to involve members and affiliate leaders in public relations, community action and NJEA campaigns for reaching parents and other citizens; and

5. On training opportunities for school personnel in public relations and community organizing.”⁶²

Yet the \$25 million reported to ELEC as the NJEA “lobbying” from 1999 to 2013 is but a fraction of the \$107 million spent on PRIDE during that time. As indicated by the NJEA’s 2003–15 budgets, at least 60 percent of this spending—or about \$65 million—likely was on political grassroots lobbying and issue advocacy. The official numbers clearly understate the NJEA’s actual spending.

This discrepancy is probably explained by a New Jersey election law loophole. New Jersey law requires that only state-level lobbying be reported to ELEC. All local lobbying, including all local issue advocacy,

is not required to be reported. To the extent that the NJEA characterizes the PRIDE campaign and UniServ's activities as local, this spending is not reported and thus not reflected in ELEC's political spending numbers for the NJEA. Given that the state-level NJEA controls almost 90 percent of PRIDE expenditures and that the NJEA's goals for PRIDE include influencing state-level legislation, this local versus state-level distinction appears blurred to the point of meaninglessness.

NJEA President Michael Johnson summed up this blurring of lines by describing PRIDE's overlapping local and state-level political purposes:

Everything we do and have is a direct result of legislation or regulations which are driven by the legislature. We're involved in political action because it establishes every parameter that we work within. I would like to heighten our members' awareness of the need for political involvement. The local organizing effort in terms of educating the community about the quality of what's happening in their schools [that is, PRIDE] must continue.⁶³

Per Johnson and as envisioned by Testa when he started PRIDE, PRIDE's "local" spending serves both local and state-level purposes. For example, in 1995 PRIDE local grassroots organizing helped the NJEA get more school budgets passed and fight Whitman's tax cuts. Later, the NJEA likewise linked a statewide "effort to fight privatization with the efforts to pass school budgets."⁶⁴ And in 2004, Testa noted that PRIDE "has definitely improved that public perception of our schools and that has bolstered school budget passage rates while squelching any consideration for vouchers in our state."⁶⁵

True to PRIDE's stated goals, even the 13 percent of PRIDE spending that is actually spent by the local associations is, at its root, political. This is corroborated by the details of the PRIDE grant process. PRIDE grant requests state that to qualify for PRIDE funding, a grantee must include "a description of your plans to 'get-out-the-vote' to help pass your local school budget," and the grant request includes a Get-Out-the-Vote Plan Form for this purpose.⁶⁶

Likewise, the NJEA PRIDE reimbursement form refers to the "NJEA PRIDE Community Organizing Program"—that is, community *political* organizing—and requires that the local association provide all the personal contact information from the PRIDE event so that members can follow up with attendees and "reach out to them during negotiations or privatization attacks" (but only after consulting the UniServ representative). The resulting contact information databases are made available to local associations via UniServ representatives.⁶⁷ Similarly, the "Navigating AchieveNJ" organizing playbook provides instructions for how to construct a "PRIDE database" so that community members who attend PRIDE organizing activities can be contacted for "Get-Out-the-Vote promotions" to pass school budgets.⁶⁸

In PRIDE's two decades of existence, the NJEA has spent \$153 million⁶⁹—or about \$7.3 million per year—and the special dues assessment has now become permanent. PRIDE is a powerful, yet largely unreported, weapon in the NJEA's political arsenal.

PRIDE Is Run Through UniServ. As the NJEA's cadre of political field operators, UniServ representatives play a key role in administering NJEA PRIDE grants to local associations. For example, in the November 2016 *NJEA Review*, in a piece titled "Know. Lead. Act.," members are encouraged to host events with parents and residents in the local community. NJEA PRIDE grants are offered to fund these events, and members are directed to the NJEA website for guidance on how to host an event. UniServ's role is made clear: "Don't forget to reach out to your NJEA UniServ field representative to discuss your ideas."⁷⁰

Similarly, in 2004, NJEA President Edithe Fulton called on members to organize for "pass the budget" campaigns by accessing NJEA resources and staff "who can teach you how to get out the 'yes' votes." Again, UniServ's role is made clear: "Call your UniServ office to secure the help you need to win on April 20."⁷¹

Indeed, UniServ is the conduit through which PRIDE grants pass through the NJEA system. The local association PRIDE chairperson sends a completed PRIDE grant proposal to the regional UniServ

office, which reviews and approves the proposal and then sends it to the NJEA headquarters for final approval. Once the event is held, the local chairperson submits the reimbursement form to the UniServ office, which again reviews and approves it and sends it to the NJEA headquarters for final approval.⁷²

UniServ's political role is also illuminated by its key position in the NJEA's efforts to develop local associations' social media capabilities in support of local election campaigns. Once again, the idea is to use social media to foster relationships and goodwill in the community and thereby build support for local budget elections. To support this effort, the NJEA developed training programs to teach local associations how to leverage social media to communicate directly with members and the community.

The March 2012 *NJEA Reporter* provides a primer on how to use social media to help organize the local community to pass school budgets:

Work backwards from the date of the election and set deadlines for campaign goals. Start collecting parent information, such as cell phone numbers and email addresses. . . . Plan on promoting the Facebook site no less than eight weeks before the election. . . . Tailor messages around the good work that district staff are already doing and what things the school budget would allow staff to do in the future.⁷³

The same article also makes UniServ's role clear: "Local associations seeking to communicate support for board candidates or budget, bond and other ballot questions should work closely with their UniServ field reps."⁷⁴ Likewise, local associations requesting social media training from the NJEA must go through UniServ representatives.

Tellingly, in the NJEA's 1995 financial statements, \$800,000 of the original PRIDE expenditures were placed into the UniServ headquarters line item, underscoring the key role UniServ plays in administering PRIDE. These were later backed out and placed into a separate PRIDE line item.⁷⁵

Political Organizing: The Highland Park Example. A 2014 case from the Highland Park school

district exemplifies UniServ's political organizing role and the use of PRIDE. After contract negotiations had reached an impasse, the Highland Park Education Association (HPEA) and the NJEA mobilized members and sympathetic residents to pack a Board of Education meeting in which the resulting layoffs were being voted on. The NJEA and the regional UniServ representative played an active role in the campaign. The HPEA used UniServ-administered PRIDE grants to "actively engag[e] the community" and form a new parent-activist group to support the HPEA in its effort to achieve a contract settlement.

Based on the HPEA example, the NJEA provided advice for other associations facing similar challenges: "Work closely with your UniServ field rep. . . . Build alliances with parent and residential groups. Establish a PRIDE committee and apply for NJEA PRIDE grants to enhance your community outreach."⁷⁶ Thus, Highland Park serves as a classic example of political organizing to achieve local political goals, overseen by UniServ and using PRIDE funds.

Collective Bargaining Is Political, Too. Even the assistance UniServ representatives provide to local associations in collective bargaining negotiations is political in nature.

As an initial matter, the negotiation of a contract between elected representatives of the local district (the school board) and public employees is an inherently political exercise. Such contracts determine wages and benefits, as well as other work parameters, which necessarily allocate local tax dollars as part of an overall local district budget. These elected representatives' determinations of the resulting levels of local taxation and spending are political decisions, which have traditionally been subject to local voter approval in the annual local budget elections.

Research shows that public unions such as the NJEA exert significant influence over local public policy and spending through a combination of collective bargaining and traditional political activities, such as lobbying and electing union-friendly candidates. This reality allows "an unelected body, effectively a special interest, to negotiate over the ends of public policy."⁷⁷

To put it another way, no one would question whether a private entity lobbying a state legislator for an allocation of state funds is engaging in political activity. In fact, such a lobbyist would have to report this activity to ELEC. A local teachers association (a private entity) negotiating for higher wages and benefits (an allocation of local funds) is no different. The fact that the local association's monopoly bargaining position and the school board's duty to negotiate in good faith are required by law only enhances the local association's lobbying power. In this context, local associations are effectively "super lobbyists" at the local level.

The NJEA is clear about how it uses collective bargaining as one weapon in its political arsenal. In 1988, as part of an effort to increase teacher salaries, the NJEA declared: "NJEA continues its two-pronged attack to raise members' salaries through local collective bargaining and legislative action."⁷⁸ Legislative action at the state level to achieve the same allocation of public resources is collective bargaining at the local level. Both are political actions to achieve political ends.

Adding some institutional corroboration to this assertion, the NEA's Center for Advocacy houses the departments of government relations, campaigns and elections, and collective bargaining.⁷⁹ Likewise, the NEA's description of the center's activities reveals that "advocacy" means political advocacy at the federal, state, and local levels, which further confirms that the NEA recognizes the inherent political nature of collective bargaining.⁸⁰

Furthermore, the NEA views collective bargaining as a political challenge and seeks to arm its local affiliates with the political tools to succeed. At a 2007 NEA Salary Roundtable, the NEA underscored the political nature of collective bargaining by calling such negotiations "salary campaigns."⁸¹ Participants, including UniServ representatives, provided "field-tested tactics," which basically amount to a political organizing primer:

- Mobilize members with internal communications "buzz";
- Develop good public relations through information about the good work done by school

employees, town hall meetings, polling and focus groups, and various forms of campaign messaging;

- Humanize education employees and educate taxpayers and decision makers about the vital work they do;
- Prepare for negotiations by promoting collective member activity and coordinated local approaches to different employers;
- Find creative ways to push for higher pay, such as distributing salary schedules from districts with higher starting pay (a tactic courtesy of the NJEA); and
- Put salaries in a political context, such as "making it a civil rights, a women's, and a minority issue."⁸²

UniServ's substantial role in local contract negotiations is thus essentially political in nature. And the UniServ professionals are formidable "super lobbyists," indeed. UniServ bolsters local associations at the bargaining table with "specially trained and battle-hardened"⁸³ negotiating and organizing experts, who give the locals advice on strategy and provide extensive research on contracts in nearby towns.

Oftentimes, UniServ representatives help local associations come together to form Coordinated Bargaining Councils under UniServ direction, which share negotiating best practices and develop unified bargaining positions across districts. Having unified bargaining positions benefits the local unions because "contracts established by the most affluent communities end up setting the statewide standard."⁸⁴ Exploiting "inter-district rivalries" to drive higher salaries is a standard tactic developed by the NEA and pushed at the NEA's Salary Roundtable.

The political nature of collective bargaining becomes even more evident when local associations use political organizing to achieve their collective bargaining goals. The NJEA's annual Jim George Conference (named after a UniServ field representative)

includes seminars such as “Political Organizing for Collective Bargaining” to provide members “with ideas for using political organizing to achieve success at the bargaining table.” Another offering is “Using Social Media to Communicate with Members and the Community,” in which participants learn “strategies and best practices for creating a social media plan that helps your local achieve its goals—on the web and at the bargaining table.”⁸⁵

The money the NJEA has spent on UniServ underscores the importance of UniServ’s political activities to the NJEA. From 1995 to 2015, the NJEA spent \$480.8 million on UniServ. That amounts to 31 percent of the NJEA’s total operational expenditures,⁸⁶ which were \$1.5 billion in that time frame, by far the largest expenditure line item.⁸⁷ Adding together UniServ and PRIDE, the combined spending behind these two largely political efforts comes to \$633.8 million, or 42 percent of operational expenses, and more than \$30 million per year.

Move to an “Organizing Model” Means All Politics, All the Time. In the summer of 2016, the NJEA mounted a massive campaign to support the passage of a constitutional amendment to guarantee the funding of teacher pensions. At the center of this effort was the Summer Fellows Program (SFP), a “bold and unprecedented move to organize members” in the fight.

Given the political urgency of the pension amendment fight, the NJEA told 300 SFP participants that the NJEA “is shifting its style of unionism from that existing ‘service model’ to an ‘organizing model.’” The SFP organized and mobilized members and allies as part of a statewide campaign that included phone banks, door knocking, rallies, and lobbying the legislature. As the NJEA described, this new organizing model turned 45,000 members into political activists engaged in “swift, direct member action.”⁸⁸

The SFP now appears to be a permanent program to train a statewide cadre of political organizers in support of the NJEA’s political agenda.⁸⁹ It is unclear whether the NJEA’s spending on the SFP is reported as political spending.

The shift is part of the NJEA’s vision for the future as a political organizing machine: “We need to

take New Jersey back, and we can only do that with engaged, informed, involved members who see NJEA not merely as a service provider, but as an opportunity to organize.” And: “Democracy is about learning the process by which decisions are made and organizing with like-minded people and organizations to shape those decisions.” We do not despair when we lose, “we organize.”⁹⁰ In this new world of all politics, all the time, the NJEA goes so far as to say that for all its educator members, political action is “an unwritten part of the job description.”⁹¹

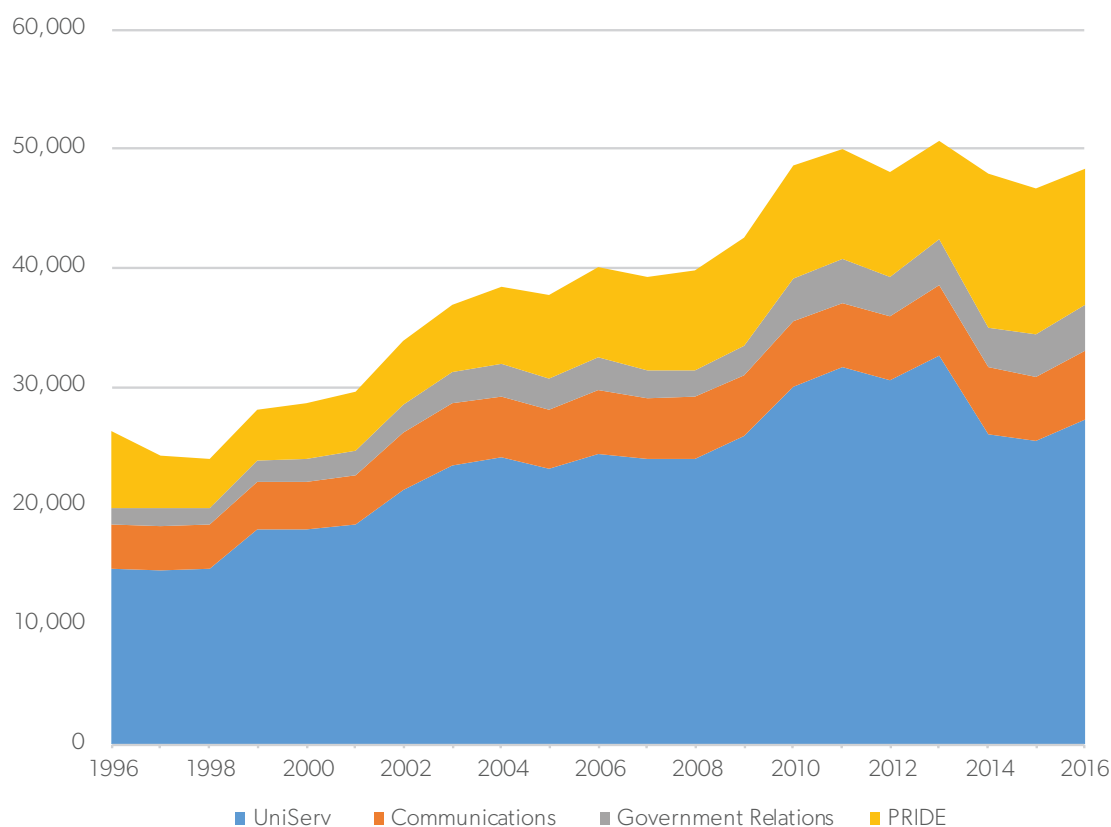
Moreover, the shift to an organizing model does not appear to be a short-term expedient. Until recently, political organizing was the province of UniServ, but since 2013, most of the senior UniServ positions have been moved to the NJEA’s Executive Office. As a result, in the NJEA’s most recent configuration, 7 of 11 professionals in the Executive Office are former UniServ political organizers, and their titles and functions appear to be very much the same. With the addition of three temporary field representatives and one unfilled organizing position, 11 out of 15 Executive Office positions are involved in political organizing. Unsurprisingly, inquiries about PRIDE grants are now routed to two political organizers in the Executive Office.⁹²

The end result is that political organizing infuses the NJEA from top to bottom, from the local associations all the way to the Executive Office. Political organizing now appears to be the NJEA’s core mission. All politics, all the time.

Other Political Spending

In addition to UniServ and PRIDE, the NJEA also spends significant amounts of money on other divisions that support the NJEA’s political efforts. This undoubtedly comprises some or all of the 120 professionals from other divisions who the NJEA describes as assisting UniServ at the NJEA’s headquarters.

Communications. The communications division is responsible for all aspects of the NJEA’s communications efforts, both internal and external. The division

Figure 9. NJEA Covert Political Spending, 1995–2015 (in Thousands of Dollars)

Source: Annual audited financial statements published in *NJEA Review*.

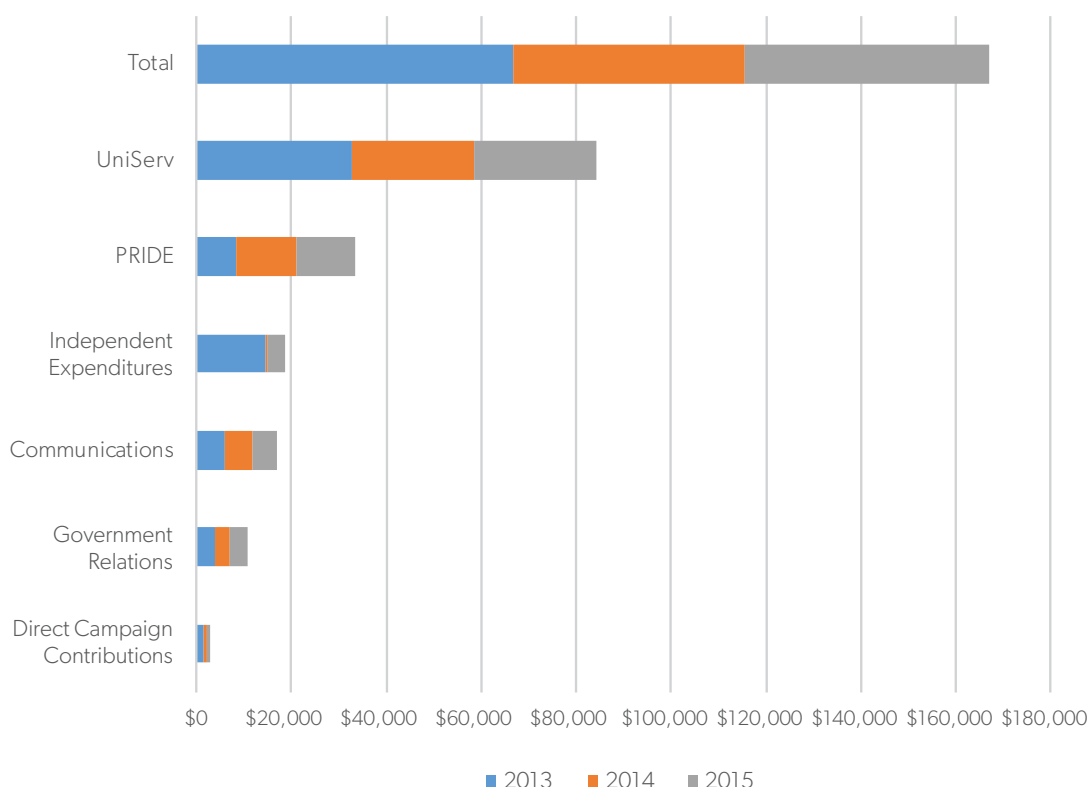
handles all media relations and uses the media to inform NJEA members, the public, and elected officials about the NJEA's objectives. Communications also helps local affiliate leaders use public relations and mass media techniques to fulfill organizational objectives.

From the above description, it is fairly easy to discern the political thread. For example, communications staff are the NJEA personnel who handle the tens of millions of dollars of PRIDE TV ads, which are aimed at winning district budget elections and supporting state-level political initiatives. Communications handles all contact with the media, and the NJEA's political activities are frequently in the news. So any spinning or amplifying of the NJEA's political initiatives in the media would come from communications. Finally, the division helps local associations

with the public relations and media aspects of their own communications efforts, which, as we have seen, are often political in orientation.

Similarly, ELEC requires that any state-level grassroots issue-advocacy expenditures be reported as political lobbying. Communications expenses (e.g., radio and TV ads) are the lion's share of this lobbying, so by ELEC's standards, the communications division's role in these efforts is political.

Interestingly, in the NJEA's 1995 financial statements, \$4.9 million of the original PRIDE expenditures was initially accounted for in the communications division and was later backed out and put into a separate PRIDE line item. That PRIDE political spending was so easily placed into the communications division line item indicates the political nature of the division's activities.⁹³

Figure 10. Total NJEA Political Spending, 2013–15 (in Thousands of Dollars)

Source: New Jersey Election Law Enforcement Commission; and annual audited financial statements published in *NJEA Review*.

The net result is that the extent to which the NJEA and its local affiliates are engaging in political activity is the extent to which the communications division engages in political activity. From 1995 to 2015, the NJEA spent \$100.9 million on the communications division.⁹⁴

Government Relations. Government relations coordinates all NJEA legislative activities and political campaigns and organizes members for political action. The staff provides training for NJEA members and helps them build relationships with elected officials at all levels of government. They also direct the NJEA's Political Leadership Academy, which provides members with the tools and information they need to run for political office.

As its title suggests, and from the NJEA's description, the government relations division manifestly engages in political activity. From 1995 to 2015, the NJEA spent \$52.8 million on government relations.⁹⁵

Adding together all these weapons in the NJEA's political arsenal—UniServ, PRIDE, communications, and government relations—total NJEA spending on divisions and campaigns involved in political activities from 1995 to 2015 was \$787.5 million, or 51 percent of operational expenditures, and more than \$38 million per year (Figure 9).⁹⁶ Note that this number does not include any Executive Office expenditures, even though a significant number of UniServ's senior political organizers were moved there in 2013.

Total NJEA Political Spending

We can get a sense of the magnitude of the NJEA's political spending by adding up both the reported and covert political expenditures. As ELEC's data reach back to 1999, we can construct a 17-year picture of this spending. Total reported political expenditures for this period came to \$73.3 million.⁹⁷

From 1999 to 2015, the NJEA spent \$687 million on its covert array of political tools—UniServ, PRIDE, and the communications and government relations divisions. That is 51 percent of the NJEA's total operational expenditures of \$1.34 billion.

Covert and reported spending do overlap some. The state-level lobbying spending reported to ELEC include expenditures for staff and communications, which are likely included in the NJEA's expenses reported for the communications and government relations divisions and the PRIDE campaign. That leaves \$38 million spent on independent expenditures and direct campaign contributions. Adding this to the \$687 million comes to a total of \$725 million spent by the NJEA via its array of political tools, or 54 percent of operational expenditures, and about \$43 million per year. And this still does not account for the thousands of NJEA "volunteers" who have worked on election campaigns during this time.

While the NJEA's political spending from 1999 to 2015 gives a much more accurate reflection of the NJEA's political clout during that time, looking at the NJEA's political spending from 2013 to 2015—the modern era of political campaigns with new media, grassroots issue advocacy, independent expenditures,

and the NJEA's move to an organizing model—tells us about the NJEA of the present. From 2013 to 2015, the NJEA spent \$167 million, or \$56 million per year, and more than half of the NJEA's \$331 million in total operational expenditures (Figure 10). Note the small role of direct campaign contributions, limited as they are by campaign finance laws, and the outsized roles of UniServ and PRIDE, the unlimited drivers of the NJEA's covert political spending.

The real political spending of the modern, all-politics-all-the-time NJEA model: \$56 million a year. That is a more accurate measure of the NJEA's enormous political clout—a clout that allows the NJEA to dominate New Jersey's political landscape and slant the playing field in its favor—as will be discussed in Part II.

Two decades ago, Education Commissioner Leo Klagholz identified the NJEA as "certainly the most powerful force in Trenton—not just in education, the most powerful force period."⁹⁸ Having spent hundreds of millions of taxpayer dollars on politics since then, the NJEA remains so today. No other political force even comes close.

About the Author

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Notes

1. In accordance with Government Accounting Standards Board statements 67 and 68. Joshua Rauh of the Hoover Institution uses a more conservative discount rate to arrive at an unfunded pension liability of \$161 billion, which when added to retiree health care liabilities of \$67 billion, equals \$227 billion. The Stanford Institute for Economic Policy Research estimates unfunded pension liabilities at \$186 billion or \$253 billion with health benefits. This does not include unfunded liabilities of \$41 billion at the local government level. New Jersey Office of Public Finance, “State of New Jersey Debt Report Fiscal Year 2016,” March 10, 2017, 66 and 69.

2. The Pew Charitable Trusts, *Rainy Day Funds and State Credit Ratings*, May 2017, 10–12, http://www.pewtrusts.org/~media/assets/2017/05/statesfiscalhealth_creditratingsreport.pdf.

3. John Mooney, “State Teachers Union Shatters Records for Political Spending,” NJ Spotlight, March 7, 2014, <http://www.njspotlight.com/stories/14/03/06/state-teachers-union-shatters-records-for-political-spending/>.

4. This is consistent with research from the *Wall Street Journal*, which indicated that at the federal level unions spend four times more on political activities than reported to the Federal Election Commission (FEC). Such spending includes mobilizing members to vote and supporting political activities. As described by a former FEC official, “We have always known that much of [unions’] influence comes from political mobilization, but we have never been able to put a number on it.” Tom McGinty and Brody Mullins, “Political Spending by Unions Far Exceeds Direct Donations,” *Wall Street Journal*, July 10, 2012, <https://www.wsj.com/articles/SB10001424052702304782404577488584031850026>.

5. “Teachers” is used here to describe all the various education personnel that are represented by the NJEA, including 125,000 teachers, 49,000 education support personnel, and 28,000 retired educators. New Jersey Education Association, “Fact Sheet.” <https://www.njea.org/about/press-room/>.

6. Dues check-off and agency fees also represent a substantial taxpayer-funded subsidy to the NJEA. First, local districts are providing the services necessary to administer the dues withholding for free. More importantly, most professional organizations must devote substantial resources to recruiting members and raising funds. Absent withholding and agency fees, the NJEA would have to do the same. For a large organization with 200,000 members, this is a subsidy worth tens of millions of dollars. As Patrick Colligan, president of the New Jersey State Policemen’s Benevolent Association, acknowledged, if unions were to lose agency fees, “they’ll have to market themselves to potential members.” Samantha Marcus, “N.J. Public Unions Defend Mandatory Dues Challenged in U.S. Supreme Court,” NJ Advance Media, January 11, 2016, http://www.nj.com/politics/index.ssf/2016/01/nj_public_unions_defend_mandatory_dues_amid_scutus.html.

7. The NJEA indicates that there are 2,041 nonmembers paying agency fees out of a base of more than 204,000 teachers. Bill Wichert, “Chris Christie Claims Nonmembers of the NJEA Must Pay 85 Percent of Annual Dues,” Politifact, April 5, 2012, <http://www.politifact.com/new-jersey/statements/2012/apr/05/chris-christie/chris-christie-claims-nonmembers-njea-must-pay-85-/>.

8. New Jersey Education Association, IRS Form 990 “Parent” and “Group” filings 2003–13.

9. Peter Kerr, “Campaign Donations Overwhelm Monitoring Agencies in the States,” *New York Times*, December 27, 1988, <http://www.nytimes.com/1988/12/27/nyregion/campaign-donations-overwhelm-monitoring-agencies-in-the-states.html>.

10. Joe Donoghue, “New Jersey Teachers Union Again Leads PACs in Donations,” *Star-Ledger*, October 23, 1999.

11. New Jersey Election Law Enforcement Commission, “News Release,” press release, September 10, 2014, http://www.elec.state.nj.us/pdffiles/press_releases/pr_2014/pr_09102014.pdf.

12. Mooney, “State Teachers Union Shatters Records for Political Spending.”

13. New Jersey Election Law Enforcement Commission, “News Release,” press release, September 10, 2014, http://www.elec.state.nj.us/pdffiles/press_releases/pr_2014/pr_09102014.pdf.

14. New Jersey Election Law Enforcement Commission, “News Release,” press release, December 17, 2015, http://www.elec.state.nj.us/pdffiles/press_releases/pr_2015/pr_12172015.pdf.

15. New Jersey Election Law Enforcement Commission, “News Release,” press release, December 2, 2015, http://www.elec.state.nj.us/pdffiles/press_releases/pr_2015/pr_12022015.pdf.

[nj.us/pdffiles/press_releases/pr_2015/pr_12022015_b.pdf](http://www.elec.state.nj.us/pdffiles/press_releases/pr_2015/pr_12022015_b.pdf); New Jersey Election Law Enforcement Commission, “News Release,” press release, August 25, 2016, http://www.elec.state.nj.us/pdffiles/press_releases/pr_2016/pr_08252016.pdf; and New Jersey Election Law Enforcement Commission, “News Release,” press release, March 2, 2017, http://www.elec.state.nj.us/pdffiles/press_releases/pr_2017/pr_03022017.pdf.

16. The NJEA’s School Elections Committee spent this \$3.7 million in supporting the passage of school budgets. This amount does not include money spent on ads in statewide issue-advocacy campaigns that were aimed at influencing local elections. New Jersey Election Law Enforcement Commission, “School Elections Campaign Financing: An Update,” December 2010, <http://www.elec.state.nj.us/pdffiles/whitepapers/white21.pdf>; and New Jersey Election Law Enforcement Commission, “News Release,” press release, December 10, 2012, http://www.elec.state.nj.us/pdffiles/press_releases/pr_2012/pr_12102012.pdf.

17. New Jersey Election Law Enforcement Commission, “News Release,” press release, September 10, 2014, http://www.elec.state.nj.us/pdffiles/press_releases/pr_2014/pr_09102014.pdf. Local election spending data are relevant only up through 2011. A 2012 state law permitted school districts to move elections to November and forgo budget votes so long as they remained under legislated spending caps. This law resulted in more than 86 percent of school districts doing so, leading to a precipitous drop in school board election spending.

18. New Jersey Election Law Enforcement Commission, “School Board Campaign Financing,” April 2002, 28, <http://www.elec.state.nj.us/pdffiles/whitepapers/white15.pdf>.

19. New Jersey Election Law Enforcement Commission, “School Elections Campaign Financing: An Update,” December 2010, 9, <http://www.elec.state.nj.us/pdffiles/whitepapers/white21.pdf>.

20. Neil Reisner “Political Donations Target Status Quo,” *Record*, December 31, 1995.

21. Herb Jackson, “Unions a Force in NJ Politics Give a Big Boost to Democrats,” *Record*, September 3, 2001.

22. New Jersey Education Association, “Organizing Around Evaluation,” www.njea.org/achieve/njorganizing.

23. New Jersey Education Association, “NJEA Succeeds in Aggressive Organizing Plan,” *NJEA Reporter* 49, no. 1 (September 2005): 7.

24. New Jersey Education Association, “Visit Your Member Action Center,” *NJEA Reporter* 54, no. 2 (October 2010): 9.

25. Each message comes from the NJEA-UniServ-Regions 3/4 blog. New Jersey Education Association, “NJEA-UniServ-Regions 3/4,” njeauniserv3.blogspot.com.

26. UniServ, “Public Employee Rally—June 19, 2006,” June 2, 2006, <http://njeauniserv3.blogspot.com/2006/06/public-employee-rally-june-19-2006.html>.

27. UniServ, “Summer Organizing Campaign,” August 1, 2006, http://njeauniserv3.blogspot.com/2006/08/summer-organizing-campaign_01.html.

28. UniServ, “Constitutional Reform and Citizen’s Property Tax Convention,” September 26, 2006, <http://njeauniserv3.blogspot.com/2006/09/constitutional-reform-and-citizens.html>.

29. UniServ, “Public Hearing—Tuesday, October 10th,” October 4, 2006, <http://njeauniserv3.blogspot.com/2006/10/public-hearing-tuesday-october-10th.html>.

30. UniServ, “Many Thanks from UniServ!!!,” November 7, 2006, <http://njeauniserv3.blogspot.com/2006/11/many-thanks-from-uniserv.html>.

31. UniServ, “Organize Now for PAC,” April 27, 2007, <http://njeauniserv3.blogspot.com/2007/04/organize-now-for-pac.html>.

32. UniServ, “Override of Education Budget Vote,” November 15, 2007, <http://njeauniserv3.blogspot.com/2007/11/override-of-education-budget-vote.html>.

33. UniServ, “Your Help Urgently Needed!,” June 6, 2008, <http://njeauniserv3.blogspot.com/2008/06/your-help-urgently-needed.html>.

34. UniServ, “Regionalization and Consolidation Alert,” November 13, 2008, <http://njeauniserv3.blogspot.com/2008/11/regionalization-and-consolidation-alert.html>.

35. UniServ, “Paid Family Leave Act,” November 26, 2008, <http://njeauniserv3.blogspot.com/2008/11/paid-family-leave-act.html>.

36. UniServ, “Camden County Rally—May 21,” May 14, 2009, <http://njeauniserv3.blogspot.com/2009/05/camden-county-rally-may-21.html>.

37. UniServ, “Welcome Back! Ready for Action!,” September 15, 2009, <http://njeauniserv3.blogspot.com/2009/09/welcome-back-ready-for-action.html>.
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"And You Will Pay"

HOW A SPECIAL INTEREST DOMINATES
NEW JERSEY POLITICS

Part II of the Legal Corruption Series

Mike Lilley

NOVEMBER 2017

A M E R I C A N E N T E R P R I S E I N S T I T U T E

The Legal Corruption Series: Executive Summary

New Jersey is in a bad way. Our economy is weak and significantly underperforms other states. Our tax system is consistently ranked as the worst in the nation. Our public-sector pensions are in the worst condition of any state, and our unfunded liabilities are at least \$202 billion—almost six times the size of the \$35 billion annual budget.¹ We have the second-lowest bond rating of any state—save broke Illinois.² Businesses, taxpayers, and young adults are leaving our state in droves. Sadly, New Jersey’s future looks even worse.

How did New Jersey get into this position?

It was not happenstance. New Jersey is in this position because its largest public-sector union, the New Jersey Education Association (NJEA), often working in concert with its public-sector union allies, has rigged the system for its own benefit. The consummate special interest, the NJEA has dominated the state’s political system for decades. It structured a legislative regime that allowed it to siphon off hundreds of millions of taxpayer dollars to spend itself to unmatched political clout. Predictably, New Jersey’s politicians—both Republicans and Democrats—have succumbed to this clout and largely given the NJEA what it wanted. Too often, New Jersey citizens and taxpayers have been left out of the discussion, and yet it is they who will foot the bill.

If New Jersey citizens and taxpayers knew what was really going on, they would be outraged. They would be outraged that a special interest was able to control state government to their detriment. They would be outraged that their highest-in-the-nation taxes are flowing directly into union coffers to be used against their own interests. They would be outraged that the future of the state—and that of their

children and future generations of New Jerseyans—has been mortgaged for the benefit of the few over the many.

The purpose of this research is to inform New Jersey’s citizens of what is really going on and how we got into this position. Using published research, contemporaneous media accounts, and the NJEA’s own publications to ascertain the facts, this study details the deliberate exploitation of New Jersey’s political system and the resulting consequences—to the benefit of the NJEA and the detriment of New Jerseyans.

There are five parts to the research:

- **Part I. Follow the Money: The Real Money Behind the New Jersey Education Association’s Political Clout.** Funded by hundreds of millions of taxpayer dollars, the NJEA’s severely underreported political war chest dwarfs the competition. The NJEA spends many times more on political action than is reported and is by far the most powerful special interest—and political force—in the state. Far too often, this results in taxpayer dollars being used against taxpayer interests.
- **Part II. “And You Will Pay”: How a Special Interest Dominates New Jersey Politics.** The NJEA used its clout to influence politicians of both parties and structure the political system to perpetuate its power and benefit itself. This extraordinary special-interest influence has shaped the current status quo in the state and threatens the state’s solvency.

- **Part III. Job Number One: The New Jersey Education Association’s Role in New Jersey’s Disastrous Pension and Benefits Crisis.** Again using its money and clout, the NJEA created the broken benefit system we have today. While the NJEA seeks to blame the state, the facts show that the NJEA structured the system to maximize benefits for its members and consistently fought reform efforts. It participated in pension-asset raids and financing schemes that greatly damaged the soundness of the system. It gained for its members premium-free, “Cadillac” health plans. Because it was politically convenient, it chose not to punish politicians for underfunding the state’s retiree liabilities, thus contributing to \$202 billion in underfunding that threatens the future of the state. And it recently tried to lock this bankrupt system into the state constitution.
- **Part IV. Talk Is Cheap, but Good Education Costs: The Truth About New Jersey’s High Tax Burden.** Using its money and clout, the NJEA has consistently pushed for higher taxes. At the local level, the NJEA consistently pushed for higher education spending and higher property taxes. Once high property taxes became a political problem, it pushed for higher state education spending and higher state taxes. The NJEA was a major force behind the

initiation of New Jersey’s first sales and income taxes and continues to push for higher taxes to this day.

- **Part V. New Jersey Is Dying: A Special-Interest-Dominated Status Quo Is Hurting the State’s Economy.** High taxes and cost-of-living have hurt the state’s economy. The tax system renders the state inhospitable to businesses and uncompetitive with other states—particularly with neighboring New York and Pennsylvania. Consequently, economic and job growth are weak and significantly underperform both the nation and New York and Pennsylvania. Businesses, taxpayers, and most ominously, young adults are emigrating to more favorable states. Reform and economic growth are the only way out of this fiscal hole, but our special-interest-dominated political system allows for neither.

New Jersey citizens and taxpayers must wake up to what has happened in our state and why we are where we are. In the end, the best description of what has occurred is “legal corruption.” Our political system has been thoroughly corrupted—so much so that the corruption itself has been made legal. Either we change the system and root out the legal corruption or it will bankrupt the state—along with the future of our children and the next generations of New Jerseyans.

“And You Will Pay”

HOW A SPECIAL INTEREST DOMINATES NEW JERSEY POLITICS

Part II of the Legal Corruption Series

Mike Lilley

“And you will pay.” So threatened New Jersey Education Association (NJEA) Director of Government Relations Ginger Gold Schnitzer to Democratic lawmakers over the 2017 budget vote.³ Schnitzer’s threat is just the latest example of the NJEA using its unmatched political clout to intimidate the state’s lawmakers.

For more than 50 years, the NJEA has dominated New Jersey politics. Indeed, the modern era of New Jersey politics has been one continuous saga of the NJEA wielding extraordinary influence to serve its own interests. As detailed in Part I, it has constructed a system that automatically and annually generates tens of millions in taxpayer dollars—and presently more than \$120 million—funneled directly into its coffers. These taxpayer dollars have permitted annual political spending that runs into the tens of millions of dollars and dwarfs all other political spenders.

Ninety percent of the NJEA’s endorsed candidates routinely win in legislative elections. It has an army of political foot soldiers that reaches every district in the state. It can run multimillion-dollar media campaigns whenever it chooses and regularly stages rallies with thousands of protesters. It has flipped legislatures, blocked reforms, and secured legislation that locks in its dominant position. No other special interest—or political force—in the state comes close.

Public Education Funding Is Political

Funding public education is part of the political process. Interested parties lobby elected representatives for spending allocations, budgets are negotiated, and taxes are decided. In New Jersey, these tax and spending decisions are made at the local level by elected school boards and at the state level by the legislature and the governor.

The NJEA has long recognized the political nature of public education funding. Accordingly, it sees its political clout as a matter of survival. Back in 1969, the NJEA stated:

NJEA perceives politics and education as being inseparable. Public schools are part of the political domain and have to compete annually for a share of the funds used in the operation of the State government. NJEA directs its lobbying program toward insuring [*sic*] education’s share of the distribution of State monies.⁴

To the NJEA, ensuring education’s share means working “to elect candidates who support our public schools and public school employees.”⁵ Essentially, the NJEA and its affiliates are electing their own bosses. Accordingly, success in local and state elections is the NJEA’s lifeblood.

Almost every aspect of the administration of public education—from instructional spending to salaries to

retirement benefits—derives from political decisions made by elected officeholders. So, in addition to electing friendly officeholders, persistent political power and influence are essential for the NJEA.

Again, the NJEA is well aware of this. Reflecting this reality, in 1985 NJEA President Dennis Giordano called on his members “to maintain our efforts to be the preeminent political force in our state. The politicians control much of what affects our careers now and into retirement. It is imperative that we remain politically powerful.”⁶ Or, as President Michael Johnson put it a decade later: “We must either master politics or be mastered by those that do.”⁷

Money Equals Clout, and the NJEA Is the Top Political Spender by Far

The NJEA has lived up to Giordano’s and Johnson’s words. As shown in Part I, by all conventional measures—as reported by New Jersey’s elections watchdog, the Election Law Enforcement Commission (ELEC)—the NJEA greatly outspends all other political spenders in the state. But conventional measures do not capture all the NJEA’s political spending.

An essential element of the NJEA’s clout is its ability to organize and mobilize its 200,000 members down to the district level. Stephen Salmore of the Eagleton Institute of Politics at Rutgers University noted that the NJEA is “in every district and every town and they have the ability to really help or hurt a candidate. They still have a 40-district army they can bring to bear.”⁸ Leo Troy, professor of economics at Rutgers University–Newark, concurred: The NJEA’s “political power is enormous not only because they contribute a lot of cash, but more important is the in-kind contributions, the free labor from the staff of the unions and the members of the unions.”⁹

Therefore, the personnel who organize and mobilize this army, the media campaigns that get the NJEA’s message out to the public, and the full-time headquarters staff who coordinate and direct the overall political effort must be taken into account to get a full picture of the NJEA’s political spending. When these elements are included, from 1999 to 2015,

NJEA political spending was 10 times larger than the reported amounts, totaling \$725 million and averaging about \$43 million a year.¹⁰ This is a better indication of the importance of political power to the NJEA and the amount of money behind its clout.

This kind of money gets results. Throughout its history, the NJEA has been successful in getting a huge share of “State monies” and the state tax increases to fund it. It has achieved tremendous gains for itself and its members—including collective bargaining, dues check-off, agency fees, pensions and health benefits, and salary schedules. In 1994, Education Commissioner Leo Klagholz described the NJEA as “the most powerful force in Trenton—not just in education, the most powerful force, period. And for that reason, they succeed.”¹¹

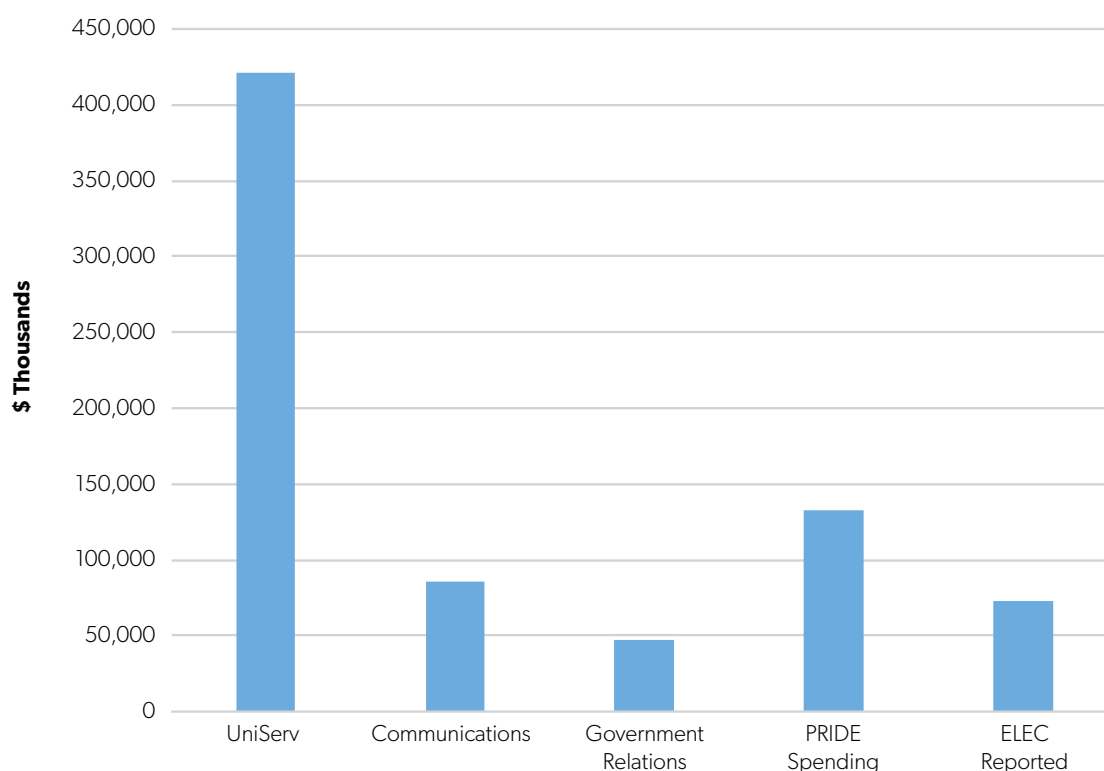
Today, the NJEA remains the most powerful political force in the state and exercises extraordinary influence over school boards and state lawmakers, who are, in effect, their bosses. While not always successful, the NJEA has largely been able to shape the political landscape to its liking, getting what it wants and defeating what it does not.

The NJEA Builds the Foundations of Its Political Power

The NJEA’s long-standing political clout has evolved with the times. In its early days, the NJEA used traditional lobbying methods designed to influence legislators via personal relationships, face-to-face meetings, and letter-writing campaigns.¹² It often worked with other statewide organizations to achieve its top priority: getting state education aid to local school districts struggling with the cost of local education and high property taxes.

Fully cognizant that the funding for such aid had to come from state-level taxes, the NJEA worked for years to get both parties to drop their “no new taxes” platforms in 1961 and ultimately won passage of New Jersey’s first sales tax in 1966.¹³ Leading up to the enactment of the sales tax, the NJEA’s political plan was clear: “an all-out drive to enact a sales tax, an income tax, or a combination of the two . . . NJEA

Figure 1. Total NJEA Political Spending, 1999–2015



Source: Annual audited financial statements published in the *NJEA Review*.

will be fighting as hard as possible for a new tax solution.”¹⁴ The NJEA consistently pushed this position as part of its legislative lobbying agenda.¹⁵

Again using traditional lobbying, the NJEA gained essential legislation in 1967 to permit withholding teachers’ dues from their paychecks (known as “dues check-off”).¹⁶ Dues check-off had been a NJEA legislative priority for years and is a key mechanism in funding the NJEA and its unmatched political spending, essentially rendering teachers and school boards as pass-throughs for taxpayer dollars to flow directly into the NJEA’s coffers.

A real game changer occurred in 1968 when the NJEA helped secure the passage of the Public Employer-Employee Relations Act (PEERA), which for the first time permitted public educators to unionize and collectively bargain with local school boards. As the NJEA said: “It took years of intensive lobbying and the Legislature’s override of Gov. Richard T.

Hughes’ veto to secure [PEERA].”¹⁷ The NJEA accurately described it as a “major victory for NJEA.”¹⁸

In the aftermath of PEERA, the NJEA worked to unify all New Jersey’s local associations under its umbrella and then connect to the National Education Association (NEA). It secured a key source of its funding by having local associations agree to collect dues for all levels of the organization and withhold dues from teachers’ paychecks. Securing this dues structure was an essential building block for a much larger and more politically active NJEA.

Less than a decade after PEERA passed, the NJEA declared itself “the preeminent lobbying organization in New Jersey.”¹⁹ And rightfully so: State legislators were complaining about pressure from the NJEA to pass a host of teacher- and union-friendly legislation, including agency fees and enhanced pensions. The key to the NJEA’s power was its presence in Trenton, regional field offices, and every school and legislative

district in the state. As the *New York Times* reported, “Perhaps the most disconcerting thing to politicians about the N.J.E.A. is not its legislative program, but its political clout. Not only do the state’s 80,000 public-school teachers and their families troop to the polls at almost every election, but they also reach down into their wallets.”²⁰

Teachers had to either join the union and pay dues or not join and pay agency fees of up to 85 percent of regular dues. Predictably, this coercion has resulted in 99 percent of teachers joining the union.

Not only were NJEA members voting and donating, but the NJEA modernized its lobbying methods by mobilizing its members to attend large rallies in Trenton. In 1976, as part of its battle to pass the state’s first income tax, the NJEA described its modus operandi: “Through massive and continuing NJEA lobbying, the financial crisis in the State was broken. The pressure on the State Legislature was climaxed by the ‘Teachers’ March on Trenton’ in May when over 2,000 educators demonstrated.”²¹ It worked. After years of intense NJEA pressure and a \$100,000 advertising campaign, the NJEA touted the passage of the income tax as one of its legislative accomplishments for the year.²²

Another key legislative success was the 1979 passage of an agency fee law, which permitted the NJEA to charge nonmembers an “agency fee” to represent

them in collective bargaining. This had been a priority for the NJEA for many years and succeeded despite opposition from the New Jersey School Boards Association, the Chamber of Commerce, and the New Jersey Business & Industry Association. Along with dues check-off, agency fees were the key building block in the NJEA’s funding, as teachers had to either join the union and pay dues or not join and pay agency fees of up to 85 percent of regular dues. Predictably, this coercion has resulted in 99 percent of teachers joining the union.²³

Dues check-off and agency fees have provided the NJEA with an automatic and substantial annual stream of tens of millions of taxpayer dollars—currently \$121 million.²⁴ This legislative construction has funded the NJEA’s political dominance.

A Shift of Tactics to Direct Involvement in Elections

The NJEA’s augmentation of its traditional lobbying with public rallies was part of a broader transition in the NEA from strictly lobbying to direct involvement in elections. The *New York Times* described the NEA and its state affiliates, including the NJEA, as “organizations that once shunned political activity as incompatible with ‘professionalism’—have become one of the nation’s most aggressive and effective political forces.”²⁵

One victim of the NJEA’s new tactics and enhanced clout was Democratic Assemblyman Daniel Newman, then the chairman of the Assembly Education Committee and one of the most powerful figures in New Jersey education. In 1979, Newman crossed the NJEA by leading a floor fight against an increase in state education aid and giving teachers the right to strike. The NEA and NJEA “mobilized their 5,000 members to defeat him at the polls, and Mr. Newman readily concedes that their efforts cost him re-election.”²⁶ But the impact went beyond Newman and affected the whole legislature: “Legislators are scared of the teachers groups as a result of my experience,” said Newman.²⁷

True to Newman’s words, the NJEA’s enhanced clout rippled through the legislature. Facing a budget

crisis, Governor Brendan Byrne proposed cutting state aid, “but none of the lawmakers—mindful of the heavy opposition generated by NJEA and other education groups a year ago—would sponsor a second round of cuts.”²⁸ The NJEA’s reaction was “so vehement that the Administration could not find even one legislator in either house who was willing to sponsor the Administration’s school aid cut bill. This remarkable event testifies to NJEA’s increasing political strength.”²⁹

During the 1980s, the NJEA ramped up its political operations in other ways as well. It created 21 legislative action teams (LATs) across the state to integrate local associations and their members into the NJEA’s legislative agenda and bring the organization’s force to bear on state lawmakers. The LATs were to help “develop an organization structure in local associations to generate telephone, mail, and personal contacts with legislators” and “promote attendance at . . . teacher lobby days in Trenton [and] special rallies.”³⁰

The NJEA also continued to improve its political tactics and capabilities. In 1983, the NJEA launched an unprecedented multimedia lobbying campaign to expand the scope of collective bargaining, spending \$100,000 on radio, billboard, and newspaper ads. Once again, legislators faced “enormous pressure” to pass the bill. New Jersey School Boards Association Executive Director Russell Newbaker noted the upgrade in the NJEA’s tactics: “The N.J.E.A. has poured enormous resources into . . . a Madison Avenue-style advertising campaign.”³¹

Despite New Jersey having a Republican governor for most of the decade, the NJEA racked up an impressive number of important victories. From 1985 to 1987, the NJEA was instrumental in getting Governor Tom Kean to set a minimum salary level for teachers and establish fully paid health benefits for retired teachers. In 1988, the state senate passed a school takeover bill, but only after amending it “at the behest of the powerful NJEA.” Similarly, on a teacher tenure bill, the senate dealt Kean a “stinging defeat” and forced him to compromise with the NJEA to amend the bill.³²

The NJEA Flips the Legislature

The year 1989 was a particularly successful election year for the NJEA, then regarded as “the No. 1 PAC [political action committee] in the state.”³³ The NJEA-endorsed Jim Florio won the governor’s race, and 91 percent of NJEA-endorsed candidates won legislative seats.³⁴ The NJEA has explained why its endorsements are highly valued: “Candidates covet an NJEA PAC endorsement because they know our members spend countless hours of their spare time volunteering on the campaigns of NJEA PAC-endorsed candidates.”³⁵

But a new Florio proposal, the Quality Education Act (QEA), threatened to give local school districts responsibility for teacher pensions, thereby inhibiting the NJEA’s ability to maximize salaries and pensions.³⁶ The NJEA launched an all-out war.

NJEA President Betty Kraemer promised to defeat any Democrat who voted for the QEA: “Our people are angry and feel they have been betrayed. I never thought I’d be in bed with the Republicans.”³⁷ The NJEA mobilized its political operation: “The Statehouse was surrounded by demonstrators from the New Jersey Education Association,”³⁸ and the NJEA “staged protests . . . against the Governor’s school aid plan at 20 sites around the state, hoping to deal the new Democratic governor his first legislative defeat.”³⁹

Flexing its political muscles in November 1990, the NJEA targeted and defeated two Democratic lawmakers in special elections. As a result, the pension shift was postponed for two years. The NJEA told its members: “Make no mistake, these changes only came about because of the continued forcefulness of NJEA and its members.”⁴⁰

The Democratic legislature then moved \$360 million of tax-hike revenues from education aid to property tax relief, once again incensing the NJEA. Kraemer responded that her organization “is gearing up for the biggest November election campaign in history. . . . The Democratic Party must bear the responsibility.”⁴¹

True to Kraemer’s words, the NJEA endorsed 46 Republicans and three Democrats in the 1991 election—the first time the NJEA had endorsed more Republicans than Democrats. The result was one of

the most remarkable political coups in modern New Jersey history: a stunning Republican sweep, with the Republicans going from a minority to a supermajority in both houses. While other factors came into play—both anti-tax and anti-gun-control groups were active in the elections—the NJEA garnered the lion’s share of the credit. As noted in a national news report, “Most observers said the NJEA played the biggest role in turning Democratic majorities in the Assembly and Senate into veto-proof Republican majorities.”⁴²

The NJEA was jubilant, with Kraemer declaring that “this organization accomplished nothing short of a miracle.”⁴³ Ninety percent of NJEA-endorsed candidates won, and the Republicans controlled both houses for the first time since 1971.

Decades later, Florio observed that the 1991 legislature flip and his subsequent reelection loss in 1993 “taught future governors two extraordinarily dangerous lessons about New Jersey politics: Don’t mess with the teachers, and if you raise taxes you’ll get the boot.”⁴⁴

The NJEA had a big hand in the 1991 Republican victory and “expects favors in return.”

The same applied to legislators. Republican State Senator John Ewing noted that even though the postponed pension shift would have resulted in significant cost savings, “Republican lawmakers might have trouble resisting pressure . . . by the NJEA.” The NJEA had a big hand in the 1991 Republican victory and “expects favors in return.”⁴⁵

In health care, a new law signed by Governor Florio in 1992 gave retired education support personnel premium-free health benefits for life. Democratic Senate Minority Leader John Lynch called the

benefits expansion “a political payoff to the powerful New Jersey Education Association” that garnered large majority support from both parties.⁴⁶

But the NJEA still had some unfinished business regarding the QEA. Having postponed the pension shift, the NJEA permanently got it repealed in 1993 by waging “a massive lobbying and letter-writing campaign.”⁴⁷ In the wake of the 1991 election, the NJEA had achieved its top two legislative priorities: health care expansion and blocking the pension shift.⁴⁸

Co-opting the Republicans in the 1990s

With the election of Republican Governor Christine Whitman in 1993, the NJEA maintained its active political profile and continued to upgrade its campaign capabilities. It opposed Whitman’s first budget with a half-hour TV ad—a first for the union. The NJEA then launched the largest rally in New Jersey’s history,⁴⁹ mobilizing 25,000 people in Trenton to pressure the legislature to reject Whitman’s budget.⁵⁰ Thousands of NJEA members also attended regional organizing rallies and lobby days to fight state aid cuts.⁵¹

In a poignant sign of the times, Republican Senate President Donald DiFrancesco sided with the NJEA against a governor from his own party regarding Social Security subsidies for teachers. Looking back on that era, the *New York Times* concluded: “In the tightly knit universe of New Jersey politics, no organization has had more muscle than the New Jersey Education Association and none has been more willing to use it.”⁵²

In the late 1990s, the NJEA used its political muscle to win a big victory: gaining members the non-forfeitable right to promised pensions.⁵³ This meant that, once a teacher had been employed and enrolled in the plan for five years, the teacher had a contractual right to the benefits promised, which could not be reduced in the future. The long-term ramifications of this victory will be discussed in Part III.

The NJEA’s influence reached a new high in 2001, when DiFrancesco became the acting governor. DiFrancesco had been a senator running for

reelection when the NJEA flipped the legislature in 1991 and afterward was generally supportive of union demands as senate president. Kevin Davis, a senior adviser to the Republican Senate PAC, noted the NJEA's effect on Republicans in the legislature: “Far more than their colleagues in Washington, Republican legislative leaders in New Jersey have tried since they took office in 1992 to curry favor with labor. This year was no exception. When we get a union endorsement, we not only gain for our candidate, we take it away from the Democrat, so it's a double benefit.”⁵⁴

Under DiFrancesco and a friendly Republican legislature, a 2001 law increased all teacher pensions by 9 percent, including those held by retirees. The bill also dubiously reached back to 1999 to value the pension assets at peak levels, which made the pension raid look affordable, even though by 2001 the dot.com-busted pension assets were billions lower. The legislature passed the bill with one dissenting vote. The NJEA described its success: “NJEA won passage of a new pension enhancement law that will increase member pensions by roughly 9%! . . . Of course none of this would have been possible without the help of pro-public education policymakers”⁵⁵—pro-education policymakers who the NJEA was able to control.

A New Century: Democrats Back in Charge but the Same Clout

In 2001, the NJEA mounted a successful campaign to elect an even more pro-NJEA governor and legislature. Jim McGreevey was elected governor, and the Democrats retook the assembly, with 94 percent of NJEA-endorsed senate candidates and 85 percent of NJEA-endorsed assembly candidates winning.⁵⁶ In 2003, another 93 percent of NJEA-endorsed candidates won, as the Democrats regained control of both houses of the legislature.

The NJEA's waxing clout resulted in the passage of a long-sought bill that significantly strengthened local associations' collective bargaining powers by removing school boards' ability to impose their “last, best offer” after a negotiating impasse and requiring

arbitration instead. The NJEA worked with Governor McGreevey and legislative leaders and held lobby days to push the legislature to pass the bill.

The NJEA's clout not only gained political victories but also allowed the NJEA to block legislation it opposed. One such bill pushed for a state Constitutional Convention (Con-Con) to address New Jersey's ever-increasing property taxes. A task force appointed by Governor McGreevey had recommended a Con-Con, and the assembly passed a bill to enable it. The NJEA opposed Con-Con out of a fear that the process would fundamentally change the existing status quo in education funding. Understandably, the NJEA wanted the legislature to control these issues, given the NJEA's proven ability to control the legislature, and it urged Acting Governor Richard Codey to call a special session of the legislature instead.

NJEA President Edithe Fulton wanted to send a “strong and loud message to our legislature” against Con-Con.⁵⁷ Accordingly, the NJEA promised to “organize its members to lobby on this issue and utilize a public relations campaign to influence public opinion.”⁵⁸ Its efforts included a rally in Trenton in April, 15,000 emails, 250,000 postcards and letters to legislators, a February lobby day, five op-eds in New Jersey newspapers, and visits to legislators in Trenton and in home districts.⁵⁹ This ambitious attack worked: Con-Con died in the senate.⁶⁰

In 2005, Codey created a benefits review task force to look into public employee pensions and benefits and recommend changes that would control costs and taxes. The NJEA geared up to fight any ensuing legislative proposals. It reported that it had “two major task forces comprised of over 75 leaders and staff working on every aspect of this issue, including lobbying, organizing, and advertising.”⁶¹

Based on the task force's November 2005 report, legislation was introduced to reform pensions. The NJEA mobilized to defeat the bill with a rally with 5,000 union members to protest pension cuts,⁶² and Vice President Barbara Keshishian celebrated the victory: “Thanks to the swift action of NJEA members . . . a bill that would have sharply reduced pensions and benefits was withdrawn.”⁶³

In 2005 the NJEA also launched an “unprecedented” ramp-up of NJEA’s get-out-the-vote (GOTV) effort to elect NJEA-friendly Jon Corzine as governor. Corzine won, as did 90 percent of NJEA-endorsed legislative candidates.⁶⁴

Corzine soon showed the value of his election and the extent of union—and NJEA—influence over him. At a 2006 rally of 6,000 public employees in support of his \$1.2 billion pension payment plan and proposed sales tax hike, Corzine brazenly told the assembled special interests: “I will fight for you”⁶⁵—seemingly forgetting that New Jersey citizens elected him to fight for them. As part of its support for Corzine’s budget, the NJEA launched a \$2 million media campaign that included 15,000 postcards sent to legislators, as well as cable TV and radio ads.⁶⁶ Corzine’s budget with full pension funding passed.

The NJEA’s Clout Prevails Again: The 2006 Special Session

Confronting the perennial problem of New Jersey’s highest-in-the-nation property taxes, Governor Corzine ordered the legislature into a special session in 2006 to reign in the costs driving up property taxes by reducing public employee benefits. The legislature created four committees, which came up with 41 recommendations.⁶⁷

The NJEA showed why it preferred a special session of the legislature to a Con-Con: “The entire organization organized around the special session.”⁶⁸ President Joyce Powell pledged “the full resources of the organization . . . working non-stop” to oppose any adverse proposals.⁶⁹ As part of its campaign, the NJEA intensively lobbied the legislature, monitored all the committees and testified before many of them, sent 24,000 emails, and “conducted the biggest employee rally in more than a decade.”⁷⁰

At the rally, 25,000 teachers and other public employees gathered outside the State House protesting proposed changes to pensions. They wore buttons that read, “In November, We’ll Remember.” Reflecting the NJEA’s bipartisan clout, 15 legislators—six Democrats and nine Republicans—attended the rally.

The message to Governor Corzine was clear: The political director of the NJEA-allied Communications Workers of America declared that rather than solve the issue with legislation, “We expect the Governor to live up to his commitment to negotiate these issues. If he doesn’t, it will be a major problem.”⁷¹ Likewise, NJEA President Joyce Powell stated that any pension cuts would be met with “severe opposition from NJEA members across the state.”⁷²

The special session ultimately produced only minor changes to the pension system, a result that suited the NJEA but has been a disaster for New Jersey.

Corzine got the message. He backed off and got the Democratic legislature to follow suit. A few property tax reforms were passed, but Corzine ignored most of the special session’s recommendations. Acceding to union wishes, he promised to deal with health benefits as part of collective bargaining with state public employees—in the hope that this would in turn affect the collectively bargained agreements at the local school district level that covered educators.

Clearly pleased with its success, the NJEA took credit for being “able to hold off harmful pensions and benefits bills that emerged from the special session.”⁷³ The special session ultimately produced only minor changes to the pension system, a result that suited the NJEA but has been a disaster for New Jersey.

As for health care, the NJEA was able to shape the resulting bills to its liking. As openly stated in the sponsor’s statement, “reflecting discussions with the

New Jersey Education Association,”⁷⁴ the legislation guaranteed premium-free retirement health benefits and created a new educator-only School Employees Health Benefit Plan in which the NJEA had “greater representation and more control over what happens to members’ benefits than under the old SHBP [State Health Benefits Plan].”⁷⁵

In an after-action assessment, the NJEA revealed that it had had three main objectives in discussions with Corzine regarding teacher health care reforms: separate teacher benefits from state worker benefits, ensure retirement security, and maintain quality. The NJEA achieved all three.⁷⁶

Similarly, the NJEA was able to affect the other major law coming out of the special session regarding school district budget caps.⁷⁷ A *New York Times* editorial concluded that “the special interests, including the self-interests of the legislators themselves, are undermining reform at everyone else’s expense.”⁷⁸

The year 2008 brought familiar challenges and results. Two powerful Democratic senators, Majority Leader Steve Sweeney and Budget Chair Barbara Buono, proposed bills based on the special session to rein in pension costs. The NJEA once again kicked into high campaign gear.

President Joyce Powell made the message clear: “Legislators need to know that when it comes to pensions and benefits, we don’t play games—other than hardball.”⁷⁹ Its brand of hardball included 80,000 emails, thousands of postcards, lobby days, radio and newspaper ads, and a five-day TV ad campaign.⁸⁰ It also mobilized 12,000 members for demonstrations at 35 district offices of 30 senators and a demonstration in Trenton vowing to “Remember in November.”⁸¹

The NJEA got its desired result: “For two weeks, no legislator could escape hearing about NJEA’s opposition to pension reduction.”⁸² The NJEA killed three Sweeney/Buono bills and watered down others. Powell proclaimed, “This outcome represents a clear victory over Sens. Sweeney and Buono.”⁸³

Predictably, the NJEA went all-out for Corzine in 2009, spending money, mobilizing 4,677 members to volunteer for the Corzine campaign, and even locating a Corzine campaign office in the NJEA’s headquarters. Members made phone calls to the entire

NJEA membership and engaged in face-to-face contact with locals.⁸⁴ And changes to vote-by-mail laws allowed the NJEA to extend its GOTV program into a two-month campaign.⁸⁵ Corzine lost, but 97 percent of NJEA-endorsed candidates won.⁸⁶

The Christie Era

In 2009, Republican Chris Christie was elected governor on promises to reform the ways of Trenton, but once elected, he had to face the NJEA and its union allies. As a noted New Jersey columnist characterized it at the time: “The unions’ political power among incumbent legislators, whose careers have been bankrolled by union largess, remains a daunting hurdle” to reform.⁸⁷

With a hostile governor, the NJEA ramped up its political efforts. NJEA members protested education aid cuts, caused by the Great Recession, in Christie’s first budget. The NJEA also spent \$300,000 on TV, radio, and newspaper ads criticizing Christie. NJEA Executive Director Vince Giordano threw down the gauntlet: “We put out that \$300,000 and we’ll put out tenfold if we have to, to maintain that fair voice in the public arena. . . . No tactics are off the table in 2010. There could be mass rallies and job actions. The union could pull back on contributions to lawmakers who vote against its interests.”⁸⁸ True to Giordano’s words, the NJEA and its union allies launched a massive 35,000-person protest in Trenton in May⁸⁹ and spent \$6 million on TV and radio ads.⁹⁰

These activities carried over into 2011 as the pension and benefits fight continued. The NJEA held rallies at key senators’ offices and lobby days in Trenton and invested heavily in a media campaign. It also developed new political tools to aid its fight, such as regional response teams in each county to organize members to respond to new challenges. It created a new website to encourage New Jerseyans to send legislators form emails protesting the cuts. During Christie’s first two years in office, the NJEA spent a record \$17.5 million on lobbying.⁹¹

The *New York Times* characterized the NJEA of the early Christie years as “easily the most powerful

union in New Jersey and one of the more powerful local unions in the country. In Trenton, the union’s organizing might—and its willingness to use that might to intimidate candidates and lawmakers—has sunk a small shipyard of promising careers.”⁹²

But Governor Christie was a political force in his own right. He teamed up with Democratic Senate President Steve Sweeney and moderate Democrats to pass New Jersey’s first serious pension and health care reform laws.

In response, the NJEA staged “raucous protests by thousands of people whose chants, vowing electoral revenge, shook the State House” and broadcast advertisements attacking Democrats who supported the bill.⁹³ Not one lawmaker who voted for Christie’s pension reforms was endorsed by the NJEA in 2011. As NJEA President Barbara Keshishian explained, “Our members refuse to give resources and their own time to campaign for legislators who hurt them and their families.”⁹⁴

The NJEA continued to seek better ways to exert its political clout. In an ominous change, it created the NJEA Political Leadership Academy, “a conscious initiative by NJEA to help members run” for public office.⁹⁵ The NJEA brought in the best campaign fundraisers and managers to teach candidates how to plan a campaign and raise funds.⁹⁶ Unbothered by the blatant conflict of interest, the NJEA’s rationale was clear:

It’s no longer enough to elect friends of education to public office; we must elect members of the education family. No one in public office will speak up as strongly for public education as our own members. . . . It’s no longer enough to lobby decision-makers. We must become decision-makers.⁹⁷

Even with Governor Christie coasting to reelection in 2013, the NJEA spent \$3 million for a cable TV campaign against Christie.⁹⁸ Christie won decisively, but 89 percent of NJEA-endorsed candidates were elected to the legislature. The NJEA claimed success in “electing a pro-education legislature.”⁹⁹

Although 2014 was an off year for state elections, the NJEA remained active and revealed another facet

of its political clout. With the State Board of Education considering regulations for a new teacher evaluation system, the NJEA launched a letter-writing campaign. It succeeded: “The changes to the evaluation system came about because of a massive, concerted and sustained lobbying effort orchestrated by the Association.”¹⁰⁰ NJEA President Wendell Steinhauer offered special praise for “the thousands of NJEA members who responded to the call for action.”¹⁰¹

The Pension Funding Fight

In 2015, the NJEA initiated a campaign to force full pension funding in the legislative budget. It started with a multimillion-dollar TV ad campaign and followed with the two largest lobby days in the NJEA’s history.¹⁰² The NJEA claimed to have 20,000 member “activists” ready to support the fight and, with assembly elections looming in the fall, vowed to hold legislators accountable for their votes.¹⁰³

Governor Christie vetoed the legislature’s budget, but the NJEA delivered on its threats and did not endorse any legislator who voted against the fiscal year 2016 state budget.¹⁰⁴ At long last, the NJEA also defeated four incumbent Republicans who had voted against the budget. “NJEA Members Achieve Huge Election Victory,” trumpeted the headline in the *NJEA Review*.¹⁰⁵

President Steinhauer made clear that the NJEA was finally holding lawmakers accountable for their pension-funding votes:

NJEA members delivered a resounding message to all legislators in the Nov. 3 elections and it will reverberate for a long time: . . . if you refuse to uphold the law to fund our pensions, we will elect candidates who will. That’s exactly what we did, because in addition to re-electing every Assembly member who supported pension funding last spring, NJEA members were instrumental in replacing four incumbent Republicans who opposed pension funding. Whatever it took, our members did it. They organized. They phone-banked. They door-knocked. They urged families, friends and neighbors to support

our candidates. And they won. . . . Every elected official in New Jersey, Democrat and Republican alike, understood that NJEA members’ votes cannot be taken for granted.¹⁰⁶

In all, 88 percent of NJEA-endorsed candidates were elected.¹⁰⁷

The NJEA once again revealed a new tactic in its political efforts. Previously, it had primarily used its volunteer army to mobilize its own members to vote. Starting in 2015, the NJEA played a direct role in providing volunteers to staff candidate campaigns.¹⁰⁸ The NJEA acted as a recruiter and coordinator for NJEA-endorsed candidates, telling members: “NJEA can arrange that visit for you. . . . If you want to help out with the campaign literature distribution or other kinds of get-out-the-vote efforts, NJEA can help you find a place to work where you can make a difference.”¹⁰⁹

Concurrently, the NJEA’s Leadership Academy continued to increase the number of NJEA members running for public office, with 239 members on the ballot for various local elections.¹¹⁰

The Showdown with Sen. Sweeney

On the back of the 2015 budget defeat, the NJEA developed an audacious new plan to secure pension funding. The New Jersey Supreme Court had ruled that while educators had a nonforfeitable contractual right to their promised pension benefits—as granted by the 1997 law—they did not have a right to the funding of those pensions. The NJEA sought to change that by amending the state constitution. To do so, the legislature had to approve putting the amendment on a ballot by votes in two consecutive sessions. The NJEA succeeded in getting the 2015 legislature to pass the amendment and pushed for the 2016 legislature to do the same in time to secure a position on the November 2016 election ballot.

Once again, the NJEA kicked into full campaign mode. Revealing its almost unlimited resources, no expense was spared. Early in 2016, the NJEA started polling and holding focus groups to test public

attitudes and shape messaging. It hired experts to advise the NJEA on member engagement, public messaging, and voter turnout. The NJEA made clear that “we aren’t going to guess at messaging or leave our target audiences to chance. . . . We will devote the resources necessary to succeed. . . . Members working on the ground campaign . . . will give us the margin we need to win.”¹¹¹ Those on-the-ground efforts included the #VoteNJPension website and social media platform and a campaign to get members to talk to friends, family, and colleagues and urge them to become “pension activists.”

In a new twist, the NJEA also established the Summer Fellows program (SFP), through which it hired and trained 300 members (called “pension fellows”) to educate and organize the full membership for political action. The fellows “worked to motivate member volunteers around the state and coordinate campaign-related activities.”¹¹²

The SFP had seven regional offices and mobilized 45,000 “pension activists” who made 130,000 phone calls, knocked on 5,000 doors, and attended four rallies and a lobby day.¹¹³ As the August deadline for passing the amendment came, the fellows organized a rally to push for the pension amendment vote. Members descended on Trenton and “booed and hooted from the packed galleries” as the senate deliberated.¹¹⁴ At the rally, Assembly Speaker Vincent Prieto echoed Governor Corzine from a decade earlier: “In November . . . I will work with each and every one of you and leadership to make sure this is a reality and we get an affirmative vote and we get it passed. . . . So, together we can get it done.”¹¹⁵ Predictably, the assembly passed the bill.

Moving to the senate, the NJEA resorted to its time-tested intimidation tactics to pressure Senate President Steve Sweeney. The NJEA called the state’s Democratic Party county chairmen and threatened to not make any campaign contributions to Democrats until the senate voted on the amendment.¹¹⁶

NJEA President Steinhauer challenged Sweeney directly: “Next year isn’t good enough. . . . We need a leader who will keep the promise. We will not accept anything less than the amendment he [Sweeney] promised this year.”¹¹⁷ NJEA Vice President Marie

Blistan led a rally with hundreds of NJEA members outside of Sen. Sweeney’s home district office. Press accounts noted the political stakes for Sweeney: “Delaying the pension proposal could damage Sweeney politically, since he is likely to run for governor in an anticipated primary next year where union support will be crucial.”¹¹⁸

Its taste for revenge not sated, the NJEA has since set up an anti-Sweeney website and spent \$317,800 on attack ads during the 2017 legislative primaries.

When Sweeney ultimately did not allow a vote and the amendment died, the NJEA vowed revenge. President Steinhauer threatened: “We’re going to be involved at every level. We’re going to take the energy that we were putting into this amendment and turn it right over and channel it into finding better leaders for the next year and a half.” NJEA protesters at an anti-Sweeney rally chanted, “Bye, bye, Sweeney.”¹¹⁹

True to Steinhauer’s threats, the NJEA PAC Operating Committee unanimously passed a resolution to become involved in gubernatorial primaries. Traditionally, the NJEA had rarely been involved in primaries, but the committee’s vote was “precipitated by Senate President Steve Sweeney’s failure to hold the constitutional amendment pension vote.”¹²⁰ The NJEA was unequivocal: “If we don’t like the decisions that are being made, we have an obligation to change the decision-makers.”¹²¹

So the NJEA’s political machine pivoted. The summer fellows went from being “pension” activists to “bye, bye Sweeney” activists. As the NJEA described, “Instead of calling on members to pressure the Senate to pass SCR-2, [fellows] alerted members to the need for their involvement in the primary election process.” Blistan told members, “Rather than only casting a vote on a constitutional amendment, we need to shift our focus to include casting our ballots for people . . . who actually keep their word”—meaning someone other than Sweeney.¹²²

Shortly thereafter, the NJEA endorsed gubernatorial candidate Phil Murphy in the Democratic primary, and Sweeney soon indicated he would not run. Its taste for revenge not sated, the NJEA has since set up an anti-Sweeney website and spent \$317,800 on attack ads during the 2017 legislative primaries,¹²³ with the NJEA once again being the top spender in a record amount of independent expenditures for primary elections. The NJEA has also threatened to challenge Sweeney for leadership of the state senate¹²⁴ and, echoing 1991, has endorsed Sweeney’s Republican opponent (a Trump supporter) in the 2017 election. The fight continues to this day.

All Politics, All the Time

Following a series of political setbacks in 2016, the NJEA took an even more aggressive route, leading with the phrase, “Don’t mourn. Organize.” It told members, “Every member . . . has a role to play at all levels: locally, statewide, nationally, and personally. . . . Get involved in local politics.”¹²⁵

The NJEA took its own message to heart, informing summer fellows that the NJEA was “shifting its style of unionism from that existing ‘service model’ to an ‘organizing model.’”¹²⁶ The SFP’s trained political organizers formed the core of this shift. Areas of potential action ran the gamut of the NJEA’s political challenges: stalled contract negotiations, outsourcing of public services, underfunding, standardized tests. Looking to the future, the NJEA sees itself as an all-politics-all-the-time organization: “We need to take New Jersey back, and we can only do that with

engaged, informed, involved members who see NJEA not merely as a service provider, but as an opportunity to organize.”¹²⁷ So, presumably in addition to teaching, the NJEA now sees political action as “an unwritten part of the job description.”¹²⁸

As part of this transformation, the SFP appears to have evolved into a permanent training program for a statewide political organizing cadre. The NJEA is currently offering a paid, five-week training course for members to gain “firsthand experience in union organizing with a primary focus on statewide elections and member engagement.”¹²⁹ Fellows will work with NJEA staff to develop campaign plans and networks of volunteers to be organized for the November 2017 elections. The goal is to create “sustainable member led advocacy teams . . . to continue organizing work past the fellows program” and “to schedule events into the fall on support of NJEA electoral goals.”¹³⁰ All fellows will be expected to volunteer a minimum of 10 hours from September to November to help the NJEA’s election efforts statewide.¹³¹

In another apparent long-term shift, the NJEA’s core political organizing leaders have been moved to the executive office. Until recently, political organizing was the province of the NJEA’s UniServ division, but since 2013, most of the senior UniServ positions have been moved to the NJEA’s executive office. As a result, in NJEA’s most recent configuration, 7 of 11 professionals in the executive office are former UniServ political organizers, and their titles and functions appear to be very much the same. With three new temporary field representatives and one unfilled organizing position, 11 out of 15 executive

office employees are involved in political organizing. All politics, all the time.

In furtherance of this new model, the Leadership Academy continued to churn out NJEA-member candidates, with 254 members running for county, municipal, and school board offices in 2016.¹³²

Modern New Jersey Politics Is a NJEA-Dominated Status Quo

New Jersey’s political status quo is largely of the NJEA’s making. With its outsized political clout, it has rigged New Jersey’s political playing field in its favor. While currently favoring Democrats, the NJEA has been so powerful that it has influenced lawmakers from both parties and gained favorable legislative outcomes regardless of which party is in power. Save for brief periods of retrenchment—such as during Governor Christie’s first term—there has been little interruption of the NJEA’s dominance.

The New Jersey we have today—with the highest taxes, the worst-funded pension, and the worst business climate in America—is the result. It is time for New Jersey to wake up to this reality before it is too late.

About the Author

Mike Lilley served for four years as the executive director of Better Education for New Jersey Kids, a super PAC dedicated to electing reform-minded leaders. He is a Princeton graduate and longtime New Jersey resident.

Notes

1. In accordance with Government Accounting Standards Board statements 67 and 68. Joshua Rauh of the Hoover Institution uses a more conservative discount rate to arrive at an unfunded pension liability of \$161 billion, which when added to retiree health care liabilities of \$67 billion, equals \$227 billion. The Stanford Institute for Economic Policy Research estimates unfunded pension liabilities at \$186 billion, or with health benefits, \$253 billion. This does not include unfunded liabilities of \$41 billion at the local government level. The Office of Public Finance of the State of New Jersey, “State of New Jersey Debt Report Fiscal Year 2016,” March 10, 2017, 66, 69.
2. The Pew Charitable Trusts, *Rainy Day Funds and State Credit Ratings*, May 2017, 10–12, http://www.pewtrusts.org/~media/assets/2017/05/statesfiscalhealth_creditratingsreport.pdf.
3. Matt Friedman, “Christie Adds Government Shutdown to His Legacy,” *Politico*, July 1, 2017, www.politico.com/story/2017/07/01/christie-new-jersey-government-shutdown-240162.
4. Victor J. W. Christie, “NJEA: The Power and the Glory,” *NJEA Review* 42, no. 6 (February 1969): 19.
5. New Jersey Education Association, “NJEA PAC—Focus on New Members,” *NJEA Reporter* 49, no. 2 (October 2005): 2.
6. New Jersey Education Association, “Some Goals for ’85–’86,” *NJEA Review* 59, no. 1 (September 1985): 6.
7. New Jersey Education Association, “Politics Affects Us All,” *NJEA Review* 71, no. 6 (February 1998): 6.
8. New Jersey has 40 legislative districts. John Mooney and David Glovin, “Teachers Union Losing Ground? State Making Gains on NJEA,” *Record*, December 31, 1995.
9. Herb Jackson, “Unions a Force in NJ Politics Give a Big Boost to Democrats,” *Record*, September 3, 2001.
10. While the law requires that state-level grassroots lobbying and issue advocacy be reported to the state elections watchdog (ELEC), such local activity does not. Consequently, tens of millions of dollars spent on media ad campaigns aimed at influencing school district elections or helping to politically organize local unions and voters have not been reported to ELEC. The total NJEA political spending figure of \$740 million excludes the lobbying spending reported to ELEC because that is likely already accounted for in the totals for the unreported political spending.
11. Neal Thompson, “Sense of Urgency Marks NJEA Convention,” *Record*, November 13, 1994.
12. Christie, “NJEA: The Power and the Glory,” 18.
13. Ibid.
14. New Jersey Education Association, “Five Obstacles Before a Broad-Based Tax,” *NJEA Review* 37, no. 4 (December 1963): 262.
15. See, for example, New Jersey Education Association, “A-463 Is Signed,” *NJEA Review* 37, no. 5 (January 1964): 276–77; New Jersey Education Association, “State Aid for Local School Operating Expenses,” *NJEA Review* 38, no. 5 (January 1965): 284–87; and New Jersey Education Association, “It’s Precious, Cast It Wisely,” *NJEA Review* 39, no. 1 (September 1965): 5.
16. See, for example, New Jersey Education Association, “The NJEA Legislative Program,” *NJEA Review* 38, no. 5 (January 1965): 291; New Jersey Education Association, “1966 NJEA Legislation,” *NJEA Review* 39, no. 6 (February 1966): 282; New Jersey Education Association, “The 1967 Legislative Program,” *NJEA Review* 40, no. 6 (February 1967); and New Jersey Education Association, “The 1968 NJEA Legislative Program,” *NJEA Review* 41, no. 6 (February 1968): 26.
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Job Number One

THE NEW JERSEY EDUCATION ASSOCIATION'S
ROLE IN NEW JERSEY'S DISASTROUS PENSION
AND BENEFITS CRISIS

Part III of the Legal Corruption Series

Mike Lilley

NOVEMBER 2017

A M E R I C A N E N T E R P R I S E I N S T I T U T E

The Legal Corruption Series: Executive Summary

New Jersey is in a bad way. Our economy is weak and significantly underperforms other states. Our tax system is consistently ranked as the worst in the nation. Our public-sector pensions are in the worst condition of any state, and our unfunded liabilities are at least \$202 billion—almost six times the size of the \$35 billion annual budget.¹ We have the second-lowest bond rating of any state—save broke Illinois.² Businesses, taxpayers, and young adults are leaving our state in droves. Sadly, New Jersey’s future looks even worse.

How did New Jersey get into this position?

It was not happenstance. New Jersey is in this position because its largest public-sector union, the New Jersey Education Association (NJEA), often working in concert with its public-sector union allies, has rigged the system for its own benefit. The consummate special interest, the NJEA has dominated the state’s political system for decades. It structured a legislative regime that allowed it to siphon off hundreds of millions of taxpayer dollars to spend itself to unmatched political clout. Predictably, New Jersey’s politicians—both Republicans and Democrats—have succumbed to this clout and largely given the NJEA what it wanted. Too often, New Jersey citizens and taxpayers have been left out of the discussion, and yet it is they who will foot the bill.

If New Jersey citizens and taxpayers knew what was really going on, they would be outraged. They would be outraged that a special interest was able to control state government to their detriment. They would be outraged that their highest-in-the-nation taxes are flowing directly into union coffers to be used against their own interests. They would be outraged that the future of the state—and that of their

children and future generations of New Jerseyans—has been mortgaged for the benefit of the few over the many.

The purpose of this research is to inform New Jersey’s citizens of what is really going on and how we got into this position. Using published research, contemporaneous media accounts, and the NJEA’s own publications to ascertain the facts, this study details the deliberate exploitation of New Jersey’s political system and the resulting consequences—to the benefit of the NJEA and the detriment of New Jerseyans.

There are five parts to the research:

- **Part I. Follow the Money: The Real Money Behind the New Jersey Education Association’s Political Clout.** Funded by hundreds of millions of taxpayer dollars, the NJEA’s severely underreported political war chest dwarfs the competition. The NJEA spends many times more on political action than is reported and is by far the most powerful special interest—and political force—in the state. Far too often, this results in taxpayer dollars being used against taxpayer interests.
- **Part II. “And You Will Pay”: How a Special Interest Dominates New Jersey Politics.** The NJEA used its clout to influence politicians of both parties and structure the political system to perpetuate its power and benefit itself. This extraordinary special-interest influence has shaped the current status quo in the state and threatens the state’s solvency.

- **Part III. Job Number One: The New Jersey Education Association's Role in New Jersey's Disastrous Pension and Benefits Crisis.** Again using its money and clout, the NJEA created the broken benefit system we have today. While the NJEA seeks to blame the state, the facts show that the NJEA structured the system to maximize benefits for its members and consistently fought reform efforts. It participated in pension-asset raids and financing schemes that greatly damaged the soundness of the system. It gained for its members premium-free, "Cadillac" health plans. Because it was politically convenient, it chose not to punish politicians for underfunding the state's retiree liabilities, thus contributing to \$202 billion in underfunding that threatens the future of the state. And it recently tried to lock this bankrupt system into the state constitution.
- **Part IV. Talk Is Cheap, but Good Education Costs: The Truth About New Jersey's High Tax Burden.** Using its money and clout, the NJEA has consistently pushed for higher taxes. At the local level, the NJEA consistently pushed for higher education spending and higher property taxes. Once high property taxes became a political problem, it pushed for higher state education spending and higher state taxes. The NJEA was a major force behind the

initiation of New Jersey's first sales and income taxes and continues to push for higher taxes to this day.

- **Part V. New Jersey Is Dying: A Special-Interest-Dominated Status Quo Is Hurting the State's Economy.** High taxes and cost of living have hurt the state's economy. The tax system renders the state inhospitable to businesses and uncompetitive with other states—particularly with neighboring New York and Pennsylvania. Consequently, economic and job growth are weak and significantly underperform both the nation and New York and Pennsylvania. Businesses, taxpayers, and most ominously, young adults are emigrating to more favorable states. Reform and economic growth are the only way out of this fiscal hole, but our special-interest-dominated political system allows for neither.

New Jersey citizens and taxpayers must wake up to what has happened in our state and why we are where we are. In the end, the best description of what has occurred is "legal corruption." Our political system has been thoroughly corrupted—so much so that the corruption itself has been made legal. Either we change the system and root out the legal corruption or it will bankrupt the state—along with the future of our children and the next generations of New Jerseyans.

Job Number One

THE NEW JERSEY EDUCATION ASSOCIATION'S ROLE IN NEW JERSEY'S DISASTROUS PENSION AND BENEFITS CRISIS

Part III of the Legal Corruption Series

Mike Lilley

"Protecting and enhancing members' pensions and benefits has been Job Number One for NJEA since 1896."

—NJEA President Joyce Powell, 2006³

The New Jersey Education Association (NJEA), the state's largest teachers union, has lived up to Powell's words—much to the detriment of New Jersey citizens.

The Facts

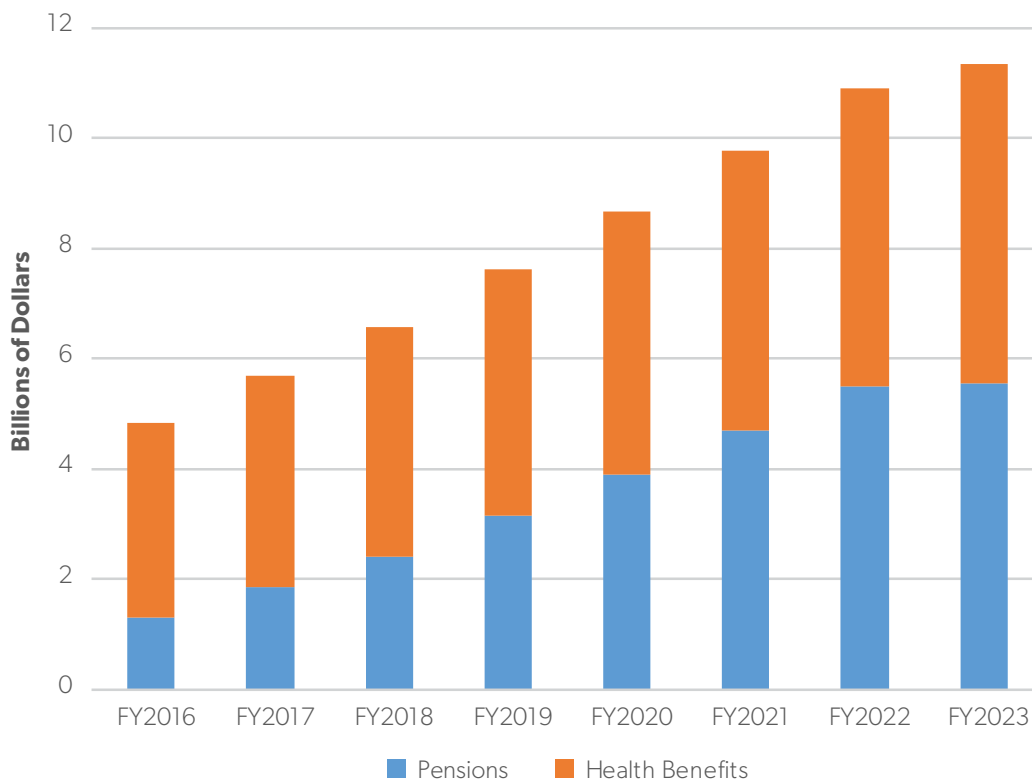
New Jersey's public pension and health benefit system is a looming disaster that threatens the state's future. Under new, more realistic accounting standards, the state government reports that the total amount of the state's unfunded public pension and health care liabilities is \$202 billion.⁴ The entire state budget is \$35 billion. This is a major reason why the Mercatus Center ranks New Jersey dead last among states in fiscal condition and why New Jersey has the second-lowest bond rating of any state (above only broke Illinois).⁵

New Jersey's public pensions are in the worst condition of any state in the nation, with funding at less than 38 percent of what the state owes, resulting in unfunded liabilities of \$135 billion.⁶ The state's largest

public pension fund—the Teachers Pension and Annuity Fund (TPAF)—is less than 29 percent funded and is expected to be fully depleted and unable to cover its payments by 2027.⁷ Other public employee pension funds are in even worse shape.⁸ Moreover, given the state's high investment return assumptions and the riskier portfolios required to meet them, New Jersey may well be one market downturn away from an even more perilous position.

The state pays for New Jersey's active employee and retiree health care liabilities on a "pay as you go" basis, meaning the funds come directly from annual budget appropriations. No money is set aside and invested to help meet these obligations. As the number of retirees and their life spans grow and the cost of health care increases, these liabilities grow. The state reports that this liability currently stands at \$67 billion.⁹

New Jersey's unpaid pension and benefit debts are threatening the state's fiscal solvency. Shifting to a "negative" outlook for New Jersey's already second-lowest state bond rating, Standard & Poor's cited "declining pension funding levels and growing

Figure 1. Annual State Pension and Health Benefit Costs

Source: New Jersey Pension and Health Benefit Study Commission.

retirement liabilities.”¹⁰ These twin problems are placing an unbearable burden on future generations.

As the situation stands, New Jersey has no way out of this massive problem. The recent New Jersey Pension and Health Benefit Study Commission (the “Study Commission”) concluded that fully funding all the benefits promised is “no longer within the State’s means.”¹¹ As seen in Figures 1 and 2, the total cost of these benefits to the state currently stands at \$4.8 billion, or just under 15 percent of the state budget. These costs are projected to rise to \$11.3 billion, or more than 27 percent of the state budget, by 2023.¹²

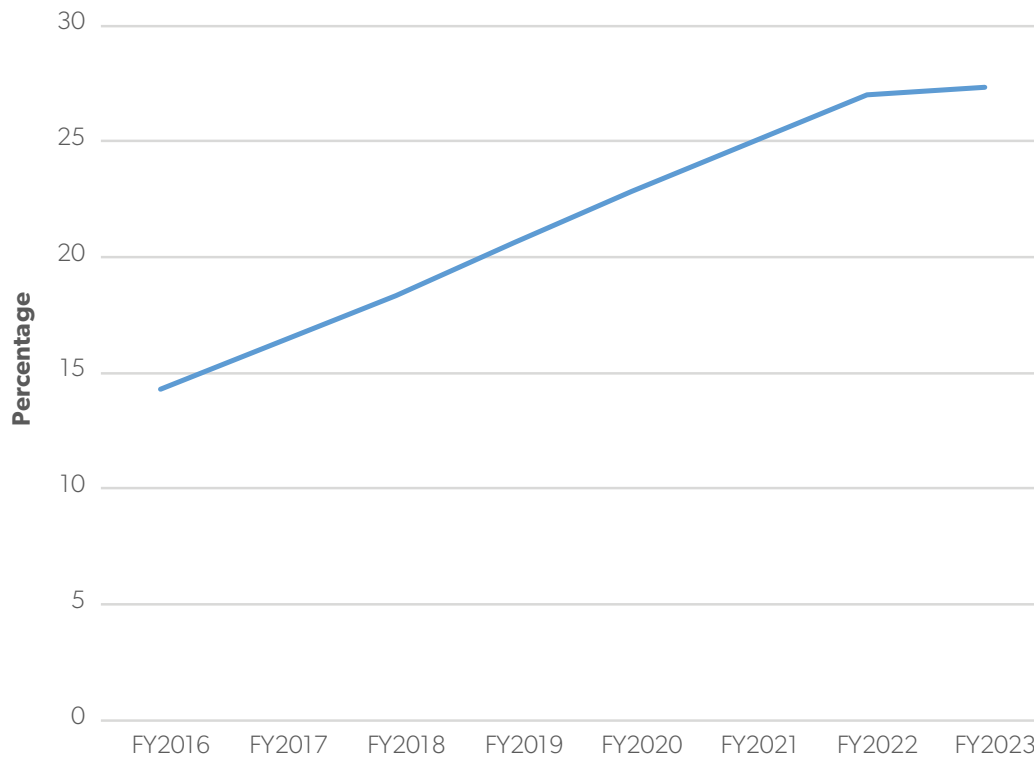
But locked-in funding requirements mean that New Jersey’s budgets are tight and in persistent structural deficit, so increased funding for pensions and benefits portend an untenable situation. The Study Commission determined that 87 percent of state revenues are committed to federal mandates, bonded obligations, and other required funding demands.

The remaining 13 percent funds essential services such as law enforcement, public safety, and state government.¹³ Accordingly, the Study Commission made clear that if total benefit costs exceed 15 percent of the state budget, the state will be in “financial jeopardy.”¹⁴

The Study Commission concluded that, without reform, meeting these projected costs would require either massive tax increases or drastic cuts in services, or both.¹⁵

How Did New Jersey Get into This Position?

Unsurprisingly, the NJEA blames it all on the state: “The state’s failure to fund its share of pension costs is the only reason for [the] pension crisis faced by the state.”¹⁶ This self-serving answer conveniently ignores the NJEA’s own role in this looming disaster.

Figure 2. Annual State Pension and Health Benefit Costs as a Percentage of the State Budget

Source: New Jersey Pension and Health Benefit Study Commission.

The NJEA’s role—along with that of its public employee union allies—was summarized well by University of Georgia Professor Jeffrey Dorfman, who described how Illinois became the state with the lowest bond rating:

The basic process by which states get in such severe financial trouble is well established. Unions get protection from any future diminishing of pension obligations enshrined into state law or, ideally, the state constitution. Then public sector unions give state politicians big campaign contributions in exchange for large, irresponsible future pension benefits. The state legislature then underfunds those pensions, keeping the taxpayers from realizing the full cost of the promised pensions and eliminating any near term pain from the pension promises. Unions don’t object to the underfunding because they know the law protects their pensions no matter how bad the situation gets.¹⁷

This describes precisely what occurred in New Jersey.

Public pension and health benefits are political creations. All their features are determined by political decisions. The NJEA recognizes this. During a 2015–16 push for a constitutional amendment guaranteeing pension funding, NJEA President Wendell Steinhauer told his members: “Election organizing is pension organizing.”¹⁸ In 1998, NJEA President Michael Johnson was more explicit: “Most of the ‘benefits’ our members enjoy are directly linked to and provided because of politics.”¹⁹ The NJEA knows that if it wants to affect benefits, it has to exert political power.

As shown in Parts I and II, no political power in the state comes close to the NJEA. The NJEA dominates the political playing field from Trenton all the way down to the smallest school district.

The NJEA Structured the System It Wanted

True to President Powell's words, for decades the NJEA has used its enormous and unmatched political clout to construct the pension and retiree health system that exists today. Until recently, it helped elect and keep in office politicians who made overly generous promises but did not fund them. It participated in pension raids and bond schemes that worsened the condition of the pension system. It insisted on and protected exceedingly generous employee and retiree health benefits. It forcefully and consistently fought reforms that might have altered New Jersey's path to penury. And to top it all off, it tried to lock this disastrous system into the state constitution—just as Dorfman described.

Defined benefit pension plans are inherently volatile: The liabilities climb every year, while assets go up and down with the markets and contribution rates.

Pensions Maximized. The vast majority of public pensions in New Jersey are defined benefit plans, whereby the state guarantees a pension at levels set by law. If there is a shortfall in funding these pensions, the state, and therefore taxpayers, are on the hook for the promised amounts. Because of their high cost, defined benefit plans are extremely rare in the private sector.

As the Study Commission pointed out, defined benefit pension plans are inherently volatile: The liabilities climb every year, while assets go up and down with the markets and contribution rates. In flush

years, pension surpluses may be temporary, so these surplus assets must be retained against the bad years. This was not done in New Jersey.

The NJEA was mostly a willing participant in numerous schemes to create surplus pension assets that were then substituted for regular pension contributions and used to enhance benefits. This meant that no new money was coming into the pension system, leaving it vulnerable to the market downturns that inevitably occurred. Increased benefits, less-than-expected returns, and insufficient funding are the main culprits for New Jersey's enormous unfunded pension liabilities.

But this does not capture the full role the NJEA played. New Jersey's pension system was deliberately structured to maximize what is owed to retirees. First, due to persistent and powerful political influence from the NJEA in collaboration with allies, teacher pensions are the obligation of the state, while the teacher salaries on which those pensions are based are the obligation of local school districts. As the Study Commission found, this disconnect meant that local teachers unions could "collectively bargain for salaries with local school districts freed from the need to consider the impact of the resulting salaries on pension costs."²⁰ By design, local taxpayers, whose property taxes fund local education budgets, did not have to foot the full cost of employing teachers in local schools, removing an important check on excessive compensation. The actual and intended result: Teachers could maximize both salaries and pensions. The Study Commission concluded that this disconnected structure is "a major source of the State's budget crisis."²¹

In their study of New Jersey, Eileen Norcross and Frédéric Sautet of the Mercatus Center noted how this separation of responsibility reduced accountability for spending at the local school district level: "By fracturing the relationship between those who benefit (e.g. local school districts) and those who pay (e.g. state income taxpayers), the incentive to control costs, and accountability for spending has been systematically weakened through fiscal illusion."²² This deliberately fractured system thus gave the NJEA a freer hand to push for higher local education spending.

With the cost of salaries separated from the resulting cost of pensions, local teachers unions, with the NJEA's assistance and guidance, were free to set up salary- and pension-maximizing salary structures. Thanks to the NJEA's lobbying, state law permits collective bargaining for multiyear contracts with career salary schedules.²³ The NJEA directs local associations to use "step and lane" salary guides, which are now universal in New Jersey.

Under these guides, employees get automatic raises from year to year ("steps") with multiple columns providing higher pay for graduate degrees such as masters and doctorates ("lanes"). Combined with NJEA-backed laws that privilege teacher seniority, these factors inevitably result in higher compensation costs as teachers move along in their careers. The NJEA has consistently pushed to increase the salary levels in these guides.²⁴

Regarding local budgets and taxes, what these salary guides do is take the decision to give raises out of the hands of local school boards. The NJEA states this clearly: "If there is not a salary guide, employees would only receive a negotiated raise. There would be no built-in annual increases . . . and no way to progress to the highest salary."²⁵

To exploit the salary guide structure during contract negotiations, the NJEA provides professional UniServ negotiators and "best practices" to maximize salaries as quickly as possible. The NJEA sums up its philosophy well: "The quicker a member reaches maximum, the more years he or she will be paid at maximum, increasing career earnings as well as pension earnings."²⁶ In addition to structuring salary guides to maximize teacher pay, local associations, again aided by negotiating professionals from UniServ and explicit NJEA guidance, use higher-paying salary guides from nearby or comparable districts to push local school boards to match or exceed them.²⁷

On the pension side, thanks to NJEA lobbying, pensions are by law based on the highest salary levels—usually the three years at the end of a teacher's career. This practice differs from Social Security, in which career average salary is used as the basis for pensions. So in New Jersey's system, the teacher's

contributions over the course of a career will not be sufficient because they are based on all the years of employment—including the earlier years when the teacher was earning less—whereas the pensions are based on only the highest salary years at the end of a career. As the 2006 report of the special session of the legislature (the "Special Session") found: "The insufficient contributions result in an underfunding of the pension system."²⁸ In other words, the pensions were systematically underfunded.

Each dollar awarded in final average salary results in a \$9.66 increase in the state's pension obligations.

This conclusion is backed by research. Georgetown University's Edunomics Lab researched New Jersey's pension system and found that it is indeed a pension-maximizing system: Each dollar awarded in final average salary results in a \$9.66 increase in the state's pension obligations.²⁹ As shown above, teacher salary raises are fixed in "step and lane" salary guides that are usually given as a percentage of salary. Because these salaries inexorably climb, by the end of a career, a teacher has reached the highest salary years, which then determine the pension payout. Thus, the cumulative value of the pension payout is highly sensitive to even modest changes in late-career salaries: "Give a raise in the final years of teaching, and the teacher gets a raise for life."³⁰

Moreover, because in New Jersey school districts are responsible for salaries and the state is responsible for pensions, school districts do not bear the pension consequences of salary increases and thus are more generous with raises. Again, the structure of New Jersey's pension system virtually guarantees underfunding.

Another harmful characteristic of the pension system is the consistent use of high investment return assumptions, which means that current employee and employer contributions are based on a lower overall contribution requirement. New Jersey public pension plans use the investment return assumption for plan assets as the discount rate for plan liabilities: the higher the discount rate for the future liability, the lower the required current contribution. New Jersey has consistently used very high return assumptions—currently 7.65 percent but for almost 20 years as high as 8.75 percent—thus minimizing the required employer (state and local governments) and employee contributions. If the pension investments come up short of the investment return assumption, more funding from employees and employers is not required, so the entire shortfall (including the loss of any future investment returns on those assets) is borne by taxpayers.

In sum, the pension system was deliberately structured in a way that allowed it to be gamed and permitted maximizing both salaries and pensions while minimizing contributions. No wonder, then, that NJEA President Michael Johnson said in 1998: “Our excellent pension system . . . [is] the result of hard-fought legislation and politics.”³¹

“Cadillac” Active Employee Health Benefits.

Like teacher salaries, employee health benefits are negotiated on a multiyear basis and provide inexorable upward pressure on local school district budgets. All active education employees are provided exceptionally generous and exceedingly costly health coverage. The Study Commission found that these employees get coverage “at platinum-plus levels rarely found in the private sector.”³² New Jersey’s public-sector health plans cover an average of 96 percent of the total cost (meaning out-of-pocket costs for the employee are a mere 4 percent) compared with an average of 90 percent for Affordable Care Act Platinum Plans and 80 percent for Gold Plans.³³

Yet these employees must pay only a relatively small portion of the plans’ actual costs. Even after the employee contribution increases mandated by the 2011 reform law (now expired), active employees had

to pay a relatively low 17.7 percent of their premiums compared with the nationwide private-sector average of 25 percent.³⁴ Before the 2011 law, employees paid far less than 17.7 percent, and most paid nothing at all.³⁵ When looking at the overall cost to employees, the Study Commission found that the total cost for family health benefits coverage averaged \$30,322, of which the employee paid \$6,365 in premiums and out-of-pocket expenses, with New Jersey taxpayers picking up the remaining \$23,957.³⁶

By way of comparison, the Study Commission found New Jersey’s health plans cost 50–60 percent more than the national averages for both public and private plans³⁷ and concluded that a large part of the state health programs’ high and increasing cost is “due to the extensive benefits and relatively low cost to employees.”³⁸ According to a Pew study, only two states have higher average state employee health care costs than New Jersey.³⁹

As with salaries, New Jersey’s “Cadillac of health plans”⁴⁰ is the product of a concerted NJEA effort. The NJEA provides specific guidance to local associations that when negotiating for health benefits, local associations are to push for maximum coverage at minimum cost to employees, regardless of the cost to school boards or taxpayers.⁴¹ Likewise, the NJEA pushes local associations to use nearby or comparable districts’ health plans to increase benefits.⁴²

Incredibly, for decades, the NJEA’s goal was premium-free health coverage. As NJEA Executive Director Richard Bonazzi said in 2004: “Full-paid health benefits are the standard for public school employees in New Jersey. . . . So of course we’re angry when a board of education wants you to pay for your health benefits package.”⁴³

Because of the NJEA’s and the local associations’ efforts, until recently, the vast majority of NJEA members got “Cadillac” health benefits for themselves and their dependents completely premium free.⁴⁴ Before the 2011 reform law, 87 percent of school districts did not require any contribution from employees.⁴⁵

State Retiree Health Benefits for Free. Thanks to 1987 and 1992 laws that the NJEA lobbied long and hard for, the state provides retirement health benefits

to all education employees. The Study Commission noted that the roots of the current benefits crisis could be traced to 1987, when free retiree health benefits were first provided to teachers based on what was then perceived to be a surplus in the TPAF.⁴⁶

Before the 2010 reforms, no education retirees made premium contributions to their retirement health care. Existing retirees and active employees with more than 25 years of service in 2010 were grandfathered and thus currently make no premium contribution to their retirement health coverage. The Study Commission determined that 103,000 retired educators are in this category.⁴⁷

Retirees fall into two categories: early retirees who retire before age 65 and Medicare-eligible retirees who retire at age 65 and older. The Study Commission called early retirees “the perfect storm” for health benefits funding.⁴⁸ There are 20,000 retired educators in this category,⁴⁹ which the Study Commission noted showed how early retirement had expanded beyond its origins in the unique career demands of police and firefighters.⁵⁰ These retirees are the costliest segment on a per capita basis, comprising 11 percent of subscribers but 21 percent of the cost and averaging \$29,748 per year. Such retirees get the same platinum-plus health coverage as active employees until they reach 65 but are more expensive to insure due to their age and health status. Grandfathered in by the 2010 law, they make no premium contribution, whereas, nationally, the average early retiree pays 40 percent of the cost of coverage.⁵¹

There are 83,000 Medicare-eligible education retirees at an average cost of \$9,970 because most of their expenses are covered by Medicare.⁵² The state offers a supplemental plan that covers virtually all other medical costs not covered by Medicare—amounting to about 20 percent of total retiree health costs—at no premium cost to them. By way of comparison, only 25 percent of large employers offer such supplemental care. Of those that do, only 8 percent are fully funded by the employer (like New Jersey), and 48 percent require that the retiree pay the entire premium. Across all employers, 91 percent require premium contributions from Medicare-eligible retirees.⁵³ New Jersey is clearly an

outlier in the generous supplemental health benefits it provides to retirees.

Either way, the great majority of retired educators receive exceptionally generous health coverage for free. These benefits are well in excess of what is available in the private sector, where most taxpayers work. Over the decades, the NJEA worked continuously—and largely successfully—to expand health benefits and fight any efforts to reduce them. Modest reform came about only in 2010 after the election of Gov. Chris Christie.

So New Jersey’s dire fiscal condition is not a matter of happenstance. It was caused by deliberate policies and actions that were at root part of a political process. As the most powerful political actor in the state, the NJEA had a strong hand in bringing about these policies and actions.

The NJEA’s Political Clout at Work: A Brief History

New Jersey provided its first pension for teachers in 1896. Presaging the current crisis, that pension plan collapsed due to inadequate funding, which led to the TPAF’s creation in 1919. The NJEA is well aware of this historical fact and would be expected to have learned from it that adequate funding is crucial to a pension plan’s viability. This should be remembered when assessing the NJEA’s later posture toward pension underfunding.

The 1919 version of the TPAF serves as a benchmark for a more prudent commitment of taxpayer dollars. Teachers were expected to contribute 50 percent of their expected retirement benefit with the state supplying the other half. The 1919 law’s pension formula used a more conservative years-of-service multiplier⁵⁴ and based a teacher’s pensionable salary on the last five years of earnings. From 1919 on, the NJEA worked ceaselessly to loosen the original formulation and enhance pension benefits.

In 1955, the legislature passed a law “at the request of NJEA”⁵⁵ that increased the multiplier by 17 percent⁵⁶—a “big improvement” in teacher pensions, according to the NJEA president at the time.⁵⁷ The

teacher's retirement age and contribution rates were reduced, and provisions for early retirement were established. In 1971, the calculation of pensionable earnings was changed to be based on the average of a teacher's highest three years of earnings, which Gov. William Cahill claimed would increase retirement benefits by 10 to 20 percent.⁵⁸ The provisions for early retirement were also loosened so that the benefits reduction for early retirement was reduced by 50 percent.

The NJEA has largely been successful at blocking or weakening pension reform efforts.

While the NJEA openly and successfully pushed for the state's first income tax in 1976, it also managed to block changes to a key pillar of New Jersey's pension structure. The new tax revenues helped relieve the budgetary pressure caused by the New Jersey Supreme Court's school funding decision and helped block an attempt to shift pension funding to local school districts. The NJEA proclaimed that it had "once again fought off a dangerous . . . proposal that the employer's share be paid by each local district . . . and payments will come once again from the State Treasury."⁵⁹

The NJEA has largely been successful at blocking or weakening pension reform efforts. In 1984, Gov. Tom Kean created the Pension Study Commission to control rising pension costs. Among other reforms, this commission recommended increasing the retirement age and putting new employees into a less expensive system. NJEA President Edithe Fulton called the recommendations "the most outrageous assault ever attempted on the state pension system" and vowed to "protect our benefits with every resource we have."⁶⁰ The NJEA went so far as to call for a boycott of businesses of people who served on the commission.⁶¹ The recommendations were never implemented.

The NJEA scored a huge political success in 1987 when it gained fully paid health benefits for retired teachers, which was "achieved through years of NJEA lobbying."⁶² Once again, the NJEA helped shift what had been a local school district responsibility to the state, relieving pressure on local school budgets and therefore teacher salaries. This long-sought goal was the NJEA's "greatest legislative achievement of 1987."⁶³ Retiree health benefits and cost-of-living adjustments (COLAs) become a liability of the TPAF and were both pre-funded on a reserve basis. Foreshadowing another future legislative success, the NJEA promised to "vigorously pursue" the same health benefits for retired support staff, which became a perennial NJEA lobbying priority until it succeeded in 1992.

Meanwhile, the NJEA continued to push for further pension enhancements, stating that it "has initiated legislation to provide significant improvement in pension benefits."⁶⁴ These benefits included increasing the pensionable earnings multiplier another 20 percent,⁶⁵ calculating pensionable earnings based on the single-highest salary year rather than the average of the top three years, and removing the 10-year service requirement to allow for automatic vesting.⁶⁶ These enhancements were consistently part of the NJEA's lobbying agenda until the major pension increase in 2001.

Once again thwarting reform attempts, the NJEA and its public-sector allies "worked hard" to defeat the creation of a Pension and Health Benefits Review Commission that would look at pension and health benefit legislation and evaluate its financial impact on the state before the legislature could act on it. The NJEA realized that such a commission would provide information to legislators that would have "made passage of pension and health benefit legislation more difficult" and had a "negative effect on our efforts to make improvements in the area of pension and health benefits legislation."⁶⁷

The NJEA Flips the Legislature. In one of the more remarkable feats of political power in modern New Jersey history, the NJEA showed its enormous political clout when newly elected Gov. James Florio revived the idea of shifting responsibility for

teacher pensions to school districts. After a New Jersey Supreme Court ruling mandated increased state aid to poor districts, Florio sought to raise taxes and devise a new school funding formula while relieving the state of the teacher pension burden as part of the 1990 Quality Education Act. NJEA President Betty Kraemer highlighted why the NJEA feared such a shift: “In a few scant years, increasing pension costs will eat into the dollars available for programs in schools. Local property taxes will have to rise to support programs.”⁶⁸

When Florio and other Democrats enacted the pension shift and subsequently cut state education aid, the NJEA endorsed 46 Republicans and three Democrats and put its full muscle behind flipping the legislature in the ensuing 1991 legislative election. The result: The NJEA was credited (and credited itself) with turning a Republican minority into a veto-proof Republican majority.⁶⁹ The pension shift was postponed and ultimately repealed.

Decades later, former Gov. Florio observed that the 1991 flip of the legislature and his subsequent reelection loss in 1993 “taught future governors two extraordinarily dangerous lessons about New Jersey politics: Don’t mess with the teachers, and if you raise taxes you’ll get the boot.”⁷⁰ Neither Democrats nor Republicans forgot the lessons.

In 1992, the NJEA-friendly legislature granted the NJEA its “top legislative priority”⁷¹: the long-sought expansion of fully paid retiree health care to education support personnel, which passed by an overwhelming majority. To fund this expansion, lawmakers started the lamentable and ultimately destructive practice of using pension asset surpluses to offset required pension contributions. The law revalued pension assets to market value rather than book value, generating a \$5 billion increase in assets. This windfall was used to fund a reserve for the new health benefits, refund prior employer pension payments, and lower present contributions. The law also raised the investment return assumption to 8.75 percent from 7 percent. This higher rate was used to discount the liabilities, thus lowering required contribution rates. In total, there was a \$1.5 billion reduction in state and local pension contributions over two years.⁷²

More of the Same Under a Republican Governor. In 1993, Republican Christine Whitman was elected governor, giving the Republicans full control of state government. To fund the income tax cuts she had campaigned on, Whitman changed the accounting method for determining the amount of required pension contributions. The new method essentially back-loaded required contributions into the future, thereby reducing present contribution levels.⁷³ This saved the state money upfront.

Whitman also ended the pre-funding of health benefits and COLAs established in the 1987 and 1992 benefit expansions. Henceforth, these benefits would be funded by annual appropriation (known as “pay as you go”). Overall, another \$1.5 billion in state and local contributions were reduced over two years.⁷⁴ Unable to overcome the tax-cut movement in the legislature, the NJEA sued the Whitman administration for underfunding pensions.

The stock market boom of the late 1990s allowed for serious manipulation and erosion of the state’s pension funding.

With the constant budgetary pressures created by her tax-cut pledges, Whitman sought to revive the idea of shifting pensions from the state to local school districts. Once again, the NJEA was able to fend off the proposal.⁷⁵

The stock market boom of the late 1990s allowed for serious manipulation and erosion of the state’s pension funding. Enticed by the lure of high equity-market returns, in 1997, Whitman proposed to borrow \$2.8 billion of pension obligation bonds (POBs) to plug the unfunded liability gap. The theory was that investment returns on the proceeds from the bond sale would exceed the interest paid on the

bonds. Unfortunately, New Jersey will ultimately spend more than \$10 billion in servicing this expensive debt.⁷⁶ The legislature has since enacted a moratorium on POBs.

The NJEA supported this scheme and actively pressured lawmakers to pass the bill. NJEA President Dennis Testa was willing to make a deal because the NJEA would gain for its members the nonforfeitable right to promised pensions (after only five years of service) and the proceeds from the bond sale would reduce pressure to shift pension to local districts.⁷⁷ “After three years of intense lobbying,”⁷⁸ the NJEA “lobbied for and won”⁷⁹ the nonforfeitable right, which passed by an overwhelming majority. In return, the NJEA dropped the underfunding lawsuit against the Whitman administration. The nonforfeitable right meant that future pension reform efforts could target only new employees. Thus the Study Commission found that, even when pension reform laws were finally passed in 2010 and 2011, 89 percent of teachers were protected from any reduction in their pensions.⁸⁰

The 1997 law, ironically dubbed the “Pension Security Plan,” also changed state law by officially sanctioning the use of surplus assets to reduce the normal contributions (which is what the NJEA sued over in the first place). The Special Session report found that “this change in funding policy resulted in either full or partial reductions in the state’s and local government employers’ otherwise required normal contributions to the retirement plan for fiscal year 1997 through fiscal year 2003.”⁸¹ The change also reduced employee contributions from 5 percent to 4.5 percent of salary. Overall, the NJEA called the POB deal a “success” and “victory.”⁸² The 2006 Special Session report determined that in the aftermath of the 1997 law—from 1997 to 2006—state and local employers avoided approximately \$8 billion in pension contributions.⁸³

Notably, the NJEA did not oppose Gov. Whitman’s reelection but was “neutral” despite Whitman’s “years of . . . lower contributions from the state.”⁸⁴ The state’s underfunding of pensions was supposedly a big issue for the NJEA, yet the NJEA chose not to make it a campaign issue and did not work to defeat Whitman or make an example out of her.

The Pension Raid. The NJEA had been lobbying for years for pension enhancements, and the dot-com boom of the late 1990s gave the NJEA and its allies the nominal surplus assets to pay for them. Police and firefighters got pension enhancements in 1999, and the NJEA was “moving quietly behind the scenes to improve retirement benefits for teachers and to muster the legislative support to make them a reality.” Republican President of the Senate Donald DiFrancesco made his plans clear: “We’re talking to the teachers union. . . . The way I look at it, if the pension system is healthy, if we can give them some benefit resulting from a good economy, I say give it to them.”⁸⁵

But Gov. Whitman remained an impediment. In 2000, the NJEA-friendly Republican legislature sent a substantial pension enhancement bill to Whitman’s desk, which she promptly vetoed. The NJEA soon got a second chance when DiFrancesco became acting governor after Whitman left office to join the George W. Bush administration.

Faced with legislative elections in 2001, lawmakers fell over themselves to please the NJEA, granting both existing and prospective retirees a 9 percent pension increase.⁸⁶ Further, the law was passed in conjunction with statutory provisions excusing non-funding of both the newly enhanced and preexisting benefits for several years. As a final sop to the NJEA, the law temporarily reduced employee contributions from 4.5 percent to 2.5 percent. In a particularly underhanded move aimed at creating “surplus” assets to fund the enhancement, the legislature reached back to June 30, 1999, to value pension assets when they were \$5.3 billion higher than under the then-current valuation method—even though by 2001 the dot-com bust had in reality reduced the value of those pension assets by billions of dollars.

Legislators were fully aware that this bill was depleting pension assets. In evaluating the bill, the Office of Legislative Services stated clearly that the bill “does reduce the available assets in the pension funds” and noted that valuing the assets at 1999 levels “does not reflect losses due to current market conditions.”⁸⁷ Yet, the bill was passed quickly with little debate and only one dissenting vote. This time,

NJEA-friendly Acting Governor DiFrancesco signed the bill.

To help secure passage of the pension enhancement in 2001, the NJEA engaged in “a major grassroots effort.” The NJEA reasoned that the pension funds “contain surplus assets that can and should be used to finance an improved pension formula.”⁸⁸ This is a curious argument from an organization that had protested and even filed a lawsuit against the state’s underfunding of pensions. Increasing the liabilities of a system that is already underfunded worsens the situation and adds the necessity of even greater funding in the future, which the NJEA knew would be problematic for the financially stressed state. Doing so by artificially inflating asset values to “pay” for the pension increase is even worse. Yet the NJEA crowed that it was “one of the most significant legislative accomplishments in NJEA history.”⁸⁹

This raid on pension assets was so egregious that subsequent legislatures enacted a moratorium on pension enhancements. The Study Commission underscored how this raid hurt the condition of the pension plans: “The burden of this instant retroactive increase in the state’s pension obligations, combined with an extended pension-funding holiday, has been a key contributing factor to the current crisis.”⁹⁰ The 2005 Benefits Review Task Force appointed by Acting Governor Richard Codey (the “Codey Task Force”) similarly called the raid a “poster child for why the current system is a failure. . . . The process by which it was undertaken and the manner in which it was justified and implemented was indefensible.”⁹¹ Yet the NJEA was 100 percent behind it.

Returning the favor, the NJEA endorsed DiFrancesco in the Republican primary—the first time the NJEA had endorsed a candidate in a gubernatorial primary.⁹²

Under the Democrats, More of the Same. The pension-funding legerdemain continued under new Democratic Gov. Jim McGreevey, elected in 2001, who confronted a budget squeeze in 2002. When Gov. Whitman stopped pre-funding retiree health benefits in 1994, the legislation required the state to put 0.5 percent of employee salaries into a health care reserve

fund. Under a new 2002 law, the state used the \$327 million built up in this reserve fund to reduce the state’s normal pension contribution.

In 2003, faced with another budget squeeze at all levels of government, McGreevey proposed to phase in employer pension payments over five years. The law allowed local employers to phase in their total contributions in increments of 20 percent to reach full funding for the TPAF by 2008. Echoing 2002, the state reduced its own contributions by using the Benefit Enhancement Fund (effectively surplus assets) from the 2001 law, which was supposed to be used to pre-fund its pension enhancements. For three years up to 2007, the legislature took money out of the Benefit Enhancement Fund to make the state’s pension contribution. This, too, was a pension raid, as assets were depleted and no new money was injected into the pension system.⁹³

The non-funding status quo apparently suited the NJEA just fine.

Once again, the NJEA chose not to punish lawmakers for underfunding pensions. During the 2003 legislative elections, 82 percent of all incumbents received NJEA endorsements, and 93 percent of NJEA-endorsed candidates won.⁹⁴ The non-funding status quo apparently suited the NJEA just fine.

Blocking Reforms. The NJEA not only used its political clout to lobby for enhanced benefits but also wielded that power to block reform efforts. By not allowing reform of the system when its problems were less severe, the NJEA helped ensure that those problems would become more severe in the future.

Faced with the manifest and perennial problem of state funding for retiree benefits, Acting Governor Codey created the Codey Task Force to look into public employee pensions and benefits and recommend changes that would control costs. The NJEA

geared up to fight any ensuing legislative proposals. It reported that it had “two major task forces comprised of over 75 leaders and staff working on every aspect of this issue, including lobbying, organizing, and advertising.”⁹⁵

The Codey Task Force’s 2005 report recommended raising the retirement age, reverting back to using the highest five years for pensionable salaries, and requiring that all active and retired employees contribute to their health care, among other changes.⁹⁶ Based on this report, legislation was introduced to enact several of the recommendations. The NJEA mobilized to defeat the bill, and Vice President Barbara Keshishian celebrated the victory: “Thanks to the swift action of NJEA members . . . a bill that would have sharply reduced pensions and benefits was withdrawn.”⁹⁷

In 2006, newly elected Democratic Gov. Jon Corzine confronted the perennial problem of New Jersey’s highest-in-the-nation property taxes and ordered the legislature into a Special Session to reign in the costs driving up property taxes by reducing public employee benefits. The legislature created four committees, which came up with 41 recommendations.⁹⁸

The NJEA political operation kicked into high gear: “The entire organization organized around the special session.”⁹⁹ President Joyce Powell pledged “the full resources of the organization . . . working non-stop” to oppose any adverse proposals.¹⁰⁰ As part of its campaign, the NJEA intensively lobbied the legislature, monitored all 41 committee hearings and testified before many of them, sent 24,000 emails, and “conducted the biggest employee rally in more than a decade.”¹⁰¹

At the rally, 10,000 teachers and other public employees gathered outside the State House protesting proposed changes to pensions and retiree health care. They wanted their retiree health benefits to be negotiated in local collective bargaining agreements rather than set by legislation. Testifying during the Special Session, NJEA President Joyce Powell made clear the NJEA’s position: “Ms. Powell stated the NJEA’s position that pension and medical benefits should not be tiered or reduced.”¹⁰² (“Tiered” benefits separate out part-time employees.) Further,

Powell stated that any pension cuts would be met with “severe opposition from NJEA members across the state.”¹⁰³

Corzine got the message. He backed off and got the Democratic legislature to follow suit. Acceding to union wishes, he promised to deal with health benefits as part of collective bargaining with state employees—with the aim that this would in turn affect the collectively bargained agreements at the local school district level that covered educators. In the end, Corzine ignored most of the Special Session’s recommendations.

Clearly pleased with its success, the NJEA took credit for being “able to hold off harmful pensions and benefits bills that emerged from the special session”¹⁰⁴—including an attempt to reverse the irresponsible 2001 pension increase. The laws coming out of the Special Session ultimately produced only minor changes to the pension system, which suited the NJEA but has been a disaster for New Jersey.

In the decade leading up to the Special Session, the combination of underfunding and increased benefits severely damaged the pension system. All told, benefit enhancements enacted from 1999 to 2007 cost state and local government employers more than \$6.8 billion,¹⁰⁵ while, as mentioned above, from 1997 to 2006, state and local employers avoided more than \$8 billion in required contributions. Both the beneficiaries and the sitting politicians benefited but not New Jersey taxpayers, who will ultimately be responsible for the pension liabilities. As the sponsor’s statement to one of the Special Session laws noted, “Far too often, the taxpayers’ interests are absent from this debate.”¹⁰⁶

As for health care, the NJEA was able to shape the bills resulting from the Special Session to its liking. As openly stated in the official statement made by the bill’s legislative sponsor, “reflecting discussions with the New Jersey Education Association,”¹⁰⁷ the legislation guaranteed premium-free retirement health benefits and created a new educator-only School Employees Health Benefit Plan in which the NJEA had “greater representation and more control over what happens to members’ benefits than under the old SHBP [State Health Benefits Plan].”¹⁰⁸

The year 2008 brought another attempt to reform retiree benefits. Two powerful Democratic senators, Senate Majority Leader Steve Sweeney and Budget Chair Barbara Buono, proposed bills based on the Special Session's recommendations to rein in retiree benefit costs. The NJEA once again kicked into high campaign gear.

NJEA President Powell made the message clear: "Legislators need to know that when it comes to pensions and benefits, we don't play games—other than hardball."¹⁰⁹ Its brand of hardball included 80,000 emails, thousands of postcards, lobby days, radio and newspaper ads, and a five-day TV ad campaign.¹¹⁰ The NJEA also mobilized 12,000 members for demonstrations at the district offices of 30 senators and a large demonstration in Trenton vowing to "Remember in November."¹¹¹

The NJEA got its desired result: "For two weeks, no legislator could escape hearing about NJEA's opposition to pension reduction."¹¹² The NJEA killed three Sweeney/Buono bills and watered down others. Powell proclaimed, "This outcome represents a clear victory over Sens. Sweeney and Buono."¹¹³

In the end, the NJEA helped thwart three major attempts to address New Jersey's burgeoning retiree liabilities by reforming the system. All the while, the unreformed pension and health care plans continued to accrue liabilities in the same reckless, underfunded manner, guaranteeing that New Jersey's fiscal condition would continue to deteriorate. It took the election of Republican Chris Christie to the governor's office to bring about much-needed reforms.

Modest but Real Reforms Under Christie. The Great Recession and the election of Republican Chris Christie—a rare New Jersey politician of either party willing to stand up to the NJEA—in 2009 finally brought about some needed, albeit modest, reforms. But because of the nonforfeitable right to promised pensions granted by the 1997 law, any pension reforms could apply only to newly hired educators, leaving almost 90 percent of teachers unaffected. The NJEA's reaction to the hard times caused by the recession was particularly revealing. President Powell made clear what the NJEA's posture would be: "While

we are concerned about the impact of the current economic crisis . . . the security of our members' pensions remains paramount."¹¹⁴

In 2010, Christie teamed up with Democratic Senate President Steve Sweeney to enact a number of the proposals from the 2006 Special Session that had been successfully blocked. Applying only to new hires, these reforms required that employees work full time to earn pension benefits, reversed out the 2001 pension increase, repealed the nonforfeitable right to pensions, and set a maximum pensionable salary. On the health care side, the bill mandated that all employees had to pay 1.5 percent of their salaries for their "Cadillac" health plans. In return, the state committed to reaching full pension funding incrementally over seven years.

Subsequent 2011 reform legislation raised employee pension contributions to 6.5 percent from 5.5 percent, plus another 1 percent phased in over seven years. For new employees, the law tightened early retirement provisions, increased the retirement age to 65, and rescinded COLAs until they are reactivated. The law also gave employees a contractual right to state pension funding, which the New Jersey Supreme Court later ruled unconstitutional. On health care, all employees were required to contribute at least 1.5 percent of their salaries, with the actual rate varying according to salary level and the provisions expiring after four years.

As in the past, the NJEA vigorously fought these reform efforts, engaging in a record-breaking campaign against them.¹¹⁵ The NJEA launched a multimillion-dollar media assault, organized massive protests in Trenton and across the state, and lobbied legislators directly.¹¹⁶ No legislator who voted for the reforms was endorsed in the 2011 legislative elections.¹¹⁷

The Constitutional Amendment Fight with Sen. Sweeney. The 2011 pension reform law granted educators a contractual right to pension funding, but the New Jersey Supreme Court ruled that unconstitutional. The court recognized that educators had a nonforfeitable contractual right to their promised pension benefits—as granted by the 1997 law—but they did not have a right to the funding of those pensions.

Consequently, the NJEA developed an audacious new plan to secure pension funding by amending the state constitution. To do so, the legislature had to approve putting the amendment on a ballot by votes in two consecutive sessions. The NJEA succeeded in getting the 2015 legislature to pass the amendment and pushed for the 2016 legislature to do the same in time to secure a position on the November 2016 election ballot.

Once again, the NJEA kicked into full campaign mode, declaring: “We will devote the resources necessary to succeed.”¹¹⁸ True to its words, early in 2016, the NJEA started polling and holding focus groups to shape messaging, hired experts on voter turnout, and trained a specialized cadre of political organizers to spearhead the effort.

No legislator who voted for the reforms was endorsed in the 2011 legislative elections.

Thanks to NJEA efforts, the assembly passed the bill. Moving to the senate, the NJEA resorted to its time-tested intimidation tactics to pressure Senate President Sweeney. The NJEA called the state’s Democratic Party county chairmen and threatened to not make any campaign contributions to Democrats until the senate voted on the amendment.¹¹⁹

NJEA President Steinhauer challenged Sweeney directly: “We need a leader who will keep the promise. We will not accept anything less than the amendment he [Sweeney] promised this year.”¹²⁰ NJEA Vice President Marie Blistan led a rally with hundreds of NJEA members outside of Sen. Sweeney’s home district office. Press accounts noted the political stakes for Sweeney: “Delaying the pension proposal could damage Sweeney politically, since he is likely to run for governor in an anticipated primary next year where union support will be crucial.”¹²¹

When Sweeney stood up to the NJEA and did not allow a vote, the amendment died. The NJEA vowed revenge. President Steinhauer threatened: “We’re going to be involved at every level. We’re going to take the energy that we were putting into this amendment and turn it right over and channel it into finding better leaders for the next year and a half.”¹²² NJEA protesters at an anti-Sweeney rally chanted, “Bye, bye, Sweeney.”¹²³

True to Steinhauer’s threats, the NJEA PAC Operating Committee unanimously voted to become involved in the 2017 gubernatorial primaries. Traditionally, the NJEA had rarely been involved in primaries, but the committee’s vote was “precipitated by Senate President Steve Sweeney’s failure to hold the constitutional amendment pension vote.” The NJEA was unequivocal: “If we don’t like the decisions that are being made, we have an obligation to change the decision-makers.”¹²⁴

Shortly thereafter, the NJEA endorsed gubernatorial candidate Phil Murphy in the Democratic primary, and Sweeney soon indicated he would not run. Its taste for revenge not sated, the NJEA has since set up an anti-Sweeney website and spent \$317,800 in anti-Sweeney attack ads in the 2017 legislative primaries.¹²⁵ In an echo of 1991, it endorsed Sweeney’s Republican opponent (a Trump supporter) in the 2017 legislative elections. The NJEA is also threatening to challenge Sweeney for leadership of the state senate.¹²⁶ The fight continues to this day.

Choices Have Consequences

Up until the Great Recession and the advent of Gov. Christie, the NJEA was able to construct the retiree benefit system it wanted and fought every attempt at reform. In addition to placing retiree health care with the state, the NJEA fought hard to keep teacher salaries negotiated at the local level while the resulting pensions remained with the state. Districts—and local property taxpayers—were thus freed from the full consequences of their pension-maximizing salary structures. At the state level, the NJEA worked to enhance and protect pensions and structure them so that they were systematically underfunded.

The result was exceptionally generous retirement benefits. Gov. Christie maintains that the average teacher puts in \$195,000 over a 30-year career and gets back \$2.6 million in benefits.¹²⁷ The 2005 Codey Task Force reached a similar conclusion.¹²⁸ This is quite a contrast with the original TPAF in which teachers were expected to fund half their retirement benefits.

The only thing the NJEA did not achieve was full funding. Politicians, keenly focused on self-preservation and presented with the choice of pleasing the NJEA or keeping state taxes down, did both—they gave the NJEA what it wanted on retiree benefits but did not spend the money to fund them. Sure, the NJEA made a lot of noise at rallies and in the press and filed a few lawsuits, but until 2015, it never directly punished lawmakers for underfunding the way it punished them for trying to shift pensions to local districts, cutting state education aid, or reducing benefits. Instead, during the time that pensions were being shortchanged, both incumbents and NJEA-endorsed candidates were elected at extremely high rates.

In the end, the NJEA wanted a system in which it could negotiate ever-increasing teacher salaries at the local level free from the competing demand of funding the pensions that were based on them. Of course, had teacher pensions been the local school districts' responsibility, increasing pension costs would have crowded out education spending (and teacher salary hikes) or required higher property taxes. That is a situation the NJEA did not want and fought vigorously to prevent.

But this choice has consequences. Local districts must balance their budgets without the fiscal shenanigans available at the state level, so they have been more diligent about funding their pension obligations to police and firefighters. These pensions are therefore in better condition than teacher pensions.¹²⁹ But

the NJEA chose for the state to handle teacher pensions, and for many years, state lawmakers gave the NJEA what it wanted without paying for it.

As a result, the state is headed toward a fiscal train wreck. As Figures 1 and 2 show, retiree benefit payments are predicted to climb to an unsustainable \$11.3 billion and 27 percent of the budget by 2023. As the Study Commission concluded—and even the NJEA has acknowledged—the state simply does not have the money to pay for these benefits without either severe cuts in services or massive tax increases—and most likely both.¹³⁰ Yet that is what the NJEA wanted to lock into the constitution—without any reform and regardless of the consequences to the state.

The NJEA's Role

The facts reveal that the NJEA—the most powerful political force in the state—had a direct and substantial role in creating New Jersey's pension and benefits crisis. They show that the NJEA consistently pushed for enhanced benefits while depleting the assets that supported them. And they show that the NJEA was well aware of the importance of funding pensions and yet participated in schemes that persistently underfunded them. Now the NJEA wants to deflect the blame onto the state and stick New Jersey citizens with the ruinous bill.

About the Author

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Notes

1. In accordance with Government Accounting Standards Board statements 67 and 68. Joshua Rauh of the Hoover Institution uses a more conservative discount rate to arrive at an unfunded pension liability of \$161 billion, which when added to retiree health care liabilities of \$67 billion, equals \$227 billion. The Stanford Institute for Economic Policy Research estimates unfunded pension liabilities at \$186 billion, or with health benefits, \$253 billion. This does not include unfunded liabilities of \$41 billion at the local government level. The Office of Public Finance of the State of New Jersey, *State of New Jersey Debt Report Fiscal Year 2016*, March 10, 2017, 66 and 69.
2. The Pew Charitable Trusts, *Rainy Day Funds and State Credit Ratings*, May 2017, 10–12, http://www.pewtrusts.org/~media/assets/2017/05/statesfiscalhealth_ceditratingsreport.pdf.
3. New Jersey Education Association, “Members Prepare for ‘PenBen’ Campaign,” *NJEA Reporter* 49, no. 11 (June 2006): 1.
4. This figure is in accordance with Governmental Accounting Standards Board statements. Financial Accounting Foundation, Governmental Accounting Standards Board, “Statement No. 67 of the Governmental Accounting Standards Board: Financial Reporting for Pension Plans,” June 2012, http://www.gasb.org/jsp/GASB/Document_C/DocumentPage?cid=1176160220594&acceptedDisclaimer=true; and Financial Accounting Foundation, Governmental Accounting Standards Board, “State No. 68 of the Governmental Accounting Standards Board: Accounting and Financial Reporting for Pensions,” June 2012, <http://www.gasb.org/resources/ccurl/988/315/GASBS%2068.pdf>. Joshua Rauh of the Hoover Institution uses a more conservative discount rate to arrive at an unfunded pension liability of \$161 billion, which when added to retiree health care liabilities of \$67 billion, equals \$227 billion. Joshua D. Rauh, “Hidden Debt, Hidden Deficits: 2017 Edition,” Hoover Institution, May 2017, 13. The Stanford Institute for Economic Policy Research estimates unfunded pension liabilities at \$186 billion, or with health benefits, \$253 billion. Stanford Institute for Economic Policy Research, US Pension Tracker, <http://us.pensiontracker.org/stateSummary.php?id=NJ&selYear=2015&varName=field21&summary=1>. This does not include unfunded liabilities of \$41 billion at the local government level. The Office of Public Finance of the State of New Jersey, *State of New Jersey Debt Report Fiscal Year 2016*, 66 and 69.
5. Eileen Norcross, *Ranking the States by Fiscal Condition*, Mercatus Center at George Mason University, July 2015, 29, <https://www.mercatus.org/sites/default/files/Norcross-StateFiscal-Condition.pdf>.
6. Martin Z. Braun, “New Jersey Tops Illinois as State with Worst-Off Pension System,” Bloomberg, November 2, 2016, <https://www.bloomberg.com/news/articles/2016-11-02/new-jersey-tops-illinois-as-state-with-worst-off-pension-system>.
7. The Office of Public Finance of the State of New Jersey, *State of New Jersey Debt Report Fiscal Year 2016*, 66.
8. The Public Employee Retirement System, the primary fund covering state employees, is projected to be fully depleted by 2024 and the judicial pension fund by 2021. New Jersey Pension and Health Benefit Study Commission, *A Roadmap to Resolution: Report of the New Jersey Pension and Health Benefit Study*, State of New Jersey Department of the Treasury, February 24, 2015, 4, <http://www.state.nj.us/treasury/pdf/FinalFebruaryCommissionReport.pdf>.
9. The National Association of State Retirement Administrators calculated that New Jersey’s unfunded retiree health care liabilities are more than \$81 billion, which is the highest absolute amount of any state, and that these liabilities come to 5.2 percent of total state expenditures, the highest percentage in the country. Alex Brown, “Spotlight on Retiree Health Care Benefits for State Employees in Fiscal Year 2015,” National Association of State Retirement Administrators, Center for State & Local Government Excellence, May 2017, <http://slge.org/wp-content/uploads/2017/05/RHC-Brief-Final.pdf>.
10. Samantha Marcus, “Citing Pension Woes, S&P Just Cut N.J.’s Outlook to Negative,” NJ Advance Media, March 23, 2016, http://www.nj.com/politics/index.ssf/2016/03/sp_just_cut_nj.html.
11. New Jersey Pension and Health Benefit Study Commission, *Supplemental Report on Health Benefits*, State of New Jersey Department of the Treasury, February 11, 2016, ii, <http://www.state.nj.us/treasury/pdf/NJPensionCommission-Supplemental-Report-on-Health-Benefits.pdf>.
12. Ibid., ii. These projected costs reflect the phased-in contributions mandated by the 2011 pension reform law up to 2018 and a

further phase-in up to 2023. These amounts do not reflect the cost of fully funding these benefits. See New Jersey Pension and Health Benefit Study Commission, *Supplemental Report on Health Benefits*, 29. The full funding amount—rather than the phased-in amounts—required to meet the state’s total obligation for 2016 is \$8.05 billion, or 23 percent of the state budget. New Jersey Pension and Health Benefit Study Commission, *A Roadmap to Resolution*, 5.

13. New Jersey Pension and Health Benefit Study Commission, *A Roadmap to Resolution*, 8.
14. New Jersey Pension and Health Benefit Study Commission, *Supplemental Report on Health Benefits*, i.
15. New Jersey Pension and Health Benefit Study Commission, *A Roadmap to Resolution*, 3.
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20. New Jersey Pension and Health Benefit Study Commission, *A Roadmap to Resolution*, 22.
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24. New Jersey Education Association, *NJEA Collective Bargaining Manual*, 49, <http://www.eiaonline.com/NJEA-Collective-Bargaining-Manual.pdf>.
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27. New Jersey Education Association, *NJEA Collective Bargaining Manual*, 45.
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32. New Jersey Pension and Health Benefit Study Commission, *Supplemental Report on Health Benefits*, 10.
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46. New Jersey Pension and Health Benefit Study Commission, *A Roadmap to Resolution*, 40.
47. New Jersey Pension and Health Benefit Study Commission, *Supplemental Report on Health Benefits*, 32.
48. New Jersey Pension and Health Benefit Study Commission, *A Roadmap to Resolution*, 16.
49. New Jersey Pension and Health Benefit Study Commission, *Supplemental Report on Health Benefits*, 9.
50. *Ibid.*, 13.
51. New Jersey Pension and Health Benefit Study Commission, *A Roadmap to Resolution*, 17.
52. New Jersey Pension and Health Benefit Study Commission, *Supplemental Report on Health Benefits*, 13.
53. *Ibid.*, 15.
54. To derive what proportion of a teacher's earnings will constitute a retired teacher's annual pension benefit, the number of years of service is divided by a fixed denominator. Under the 1919 law, the denominator was set at 70, so the formula was $n/70$, with n being the number of service years. Then $n/70$ is multiplied against a teacher's pensionable salary, which under the 1919 law was based on the average of the teacher's five highest-paid years.
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56. The law increased the multiplier by reducing the denominator from $n/70$ to $n/60$.
57. New Jersey Education Association, "Busy, Right Away," *NJEA Review* 29, no. 1 (September 1955): 8.
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71. New Jersey Education Association, *NJEA Review* 63, no. 7 (March 1990): 27.

72. State of New Jersey Benefits Review Task Force, *The Report of the Benefits Review Task Force to Acting Governor Richard J. Codey*, December 1, 2005, 10, http://www.state.nj.us/benefitsreview/final_report.pdf.

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85. Tom Hester, “New Jersey Public Employees Seek Improved Benefits,” *Knight Ridder Tribune*, August 25, 2000.

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www.washingtontimes.com/news/2015/jun/26/christie-vowing-to-veto-tax-hikes-to-act-on-2016-b/.

128. Total member contributions make up 25 percent of total benefits, and government contributions make up 75 percent, but the total government liability would likely be far greater under the new, more realistic accounting rules. Calculations are based on the Public Employee Retirement System, which is largely similar to the TPAF in construction. This includes pensions, COLAs, and retiree health care benefits. State of New Jersey Benefits Review Task Force, *The Report of the Benefits Review Task Force to Acting Governor Richard J. Codey*, 53.

129. For example, the Police and Firemen's Retirement System, which is funded entirely at the local level, is 53 percent funded, whereas the TPAF, which is funded entirely at the state level, is only 29 percent funded. The Office of Public Finance of the State of New Jersey, *State of New Jersey Debt Report Fiscal Year 2016*, 66.

130. The NJEA acknowledges that taxes will have to increase to meet pension payments of \$4.5 billion in 2018. "That money isn't available in the current budget, and it will take a combination of a growing economy and substantial new revenue [taxes] to accomplish that difficult goal." New Jersey Education Association, "Facing the New Jersey Pension Crisis," *NJEA Review* 88, no. 9 (April 2015): 20.



Talk Is Cheap, but Good Education Costs

THE TRUTH ABOUT NEW JERSEY'S HIGH TAX BURDEN

Part IV of the Legal Corruption Series

Mike Lilley

NOVEMBER 2017

A M E R I C A N E N T E R P R I S E I N S T I T U T E

The Legal Corruption Series: Executive Summary

New Jersey is in a bad way. Our economy is weak and significantly underperforms other states. Our tax system is consistently ranked as the worst in the nation. Our public-sector pensions are in the worst condition of any state, and our unfunded liabilities are at least \$202 billion—almost six times the size of the \$35 billion annual budget.¹ We have the second-lowest bond rating of any state—save broke Illinois.² Businesses, taxpayers, and young adults are leaving our state in droves. Sadly, New Jersey’s future looks even worse.

How did New Jersey get into this position?

It was not happenstance. New Jersey is in this position because its largest public-sector union, the New Jersey Education Association (NJEA), often working in concert with its public-sector union allies, has rigged the system for its own benefit. The consummate special interest, the NJEA has dominated the state’s political system for decades. It structured a legislative regime that allowed it to siphon off hundreds of millions of taxpayer dollars to spend itself to unmatched political clout. Predictably, New Jersey’s politicians—both Republicans and Democrats—have succumbed to this clout and largely given the NJEA what it wanted. Too often, New Jersey citizens and taxpayers have been left out of the discussion, and yet it is they who will foot the bill.

If New Jersey citizens and taxpayers knew what was really going on, they would be outraged. They would be outraged that a special interest was able to control state government to their detriment. They would be outraged that their highest-in-the-nation taxes are flowing directly into union coffers to be used against their own interests. They would be outraged that the future of the state—and that of their

children and future generations of New Jerseyans—has been mortgaged for the benefit of the few over the many.

The purpose of this research is to inform New Jersey’s citizens of what is really going on and how we got into this position. Using published research, contemporaneous media accounts, and the NJEA’s own publications to ascertain the facts, this study details the deliberate exploitation of New Jersey’s political system and the resulting consequences—to the benefit of the NJEA and the detriment of New Jerseyans.

There are five parts to the research:

- **Part I. Follow the Money: The Real Money Behind the New Jersey Education Association’s Political Clout.** Funded by hundreds of millions of taxpayer dollars, the NJEA’s severely underreported political war chest dwarfs the competition. The NJEA spends many times more on political action than is reported and is by far the most powerful special interest—and political force—in the state. Far too often, this results in taxpayer dollars being used against taxpayer interests.
- **Part II. “And You Will Pay”: How a Special Interest Dominates New Jersey Politics.** The NJEA used its clout to influence politicians of both parties and structure the political system to perpetuate its power and benefit itself. This extraordinary special-interest influence has shaped the current status quo in the state and threatens the state’s solvency.

- **Part III. Job Number One: The New Jersey Education Association's Role in New Jersey's Disastrous Pension and Benefits Crisis.** Again using its money and clout, the NJEA created the broken benefit system we have today. While the NJEA seeks to blame the state, the facts show that the NJEA structured the system to maximize benefits for its members and consistently fought reform efforts. It participated in pension-asset raids and financing schemes that greatly damaged the soundness of the system. It gained for its members premium-free, "Cadillac" health plans. Because it was politically convenient, it chose not to punish politicians for underfunding the state's retiree liabilities, thus contributing to \$202 billion in underfunding that threatens the future of the state. And it recently tried to lock this bankrupt system into the state constitution.
- **Part IV. Talk Is Cheap, but Good Education Costs: The Truth About New Jersey's High Tax Burden.** Using its money and clout, the NJEA has consistently pushed for higher taxes. At the local level, the NJEA consistently pushed for higher education spending and higher property taxes. Once high property taxes became a political problem, it pushed for higher state education spending and higher state taxes. The NJEA was a major force behind the

initiation of New Jersey's first sales and income taxes and continues to push for higher taxes to this day.

- **Part V. New Jersey Is Dying: A Special-Interest-Dominated Status Quo Is Hurting the State's Economy.** High taxes and cost of living have hurt the state's economy. The tax system renders the state inhospitable to businesses and uncompetitive with other states—particularly with neighboring New York and Pennsylvania. Consequently, economic and job growth are weak and significantly underperform both the nation and New York and Pennsylvania. Businesses, taxpayers, and most ominously, young adults are emigrating to more favorable states. Reform and economic growth are the only way out of this fiscal hole, but our special-interest-dominated political system allows for neither.

New Jersey citizens and taxpayers must wake up to what has happened in our state and why we are where we are. In the end, the best description of what has occurred is "legal corruption." Our political system has been thoroughly corrupted—so much so that the corruption itself has been made legal. Either we change the system and root out the legal corruption or it will bankrupt the state—along with the future of our children and the next generations of New Jerseyans.

Talk Is Cheap, but Good Education Costs

THE TRUTH ABOUT NEW JERSEY'S HIGH TAX BURDEN

Part IV of the Legal Corruption Series

Mike Lilley

“N.J. had the highest property taxes in nation in 2016 (again),” blared a recent *Newark Star-Ledger* headline.³ This surely came as no surprise to New Jersey taxpayers, many of whom reside in the seven New Jersey counties that rank in the top 10 counties nationwide for highest property taxes.⁴

But it is not just property taxes that are high in New Jersey. In its 2017 report, the Tax Foundation ranked New Jersey as the worst tax climate in the country—for the third straight year. The state ranked last for property taxes, in the bottom three for income taxes, and in the bottom 10 for sales and corporate taxes.⁵ In dollar terms, WalletHub found that New Jersey has the highest absolute state and local tax burden in America at \$10,969, a full 60 percent higher than the combined tax burden on the median US household of \$6,855.⁶

Why Is New Jersey Such a High-Tax State?

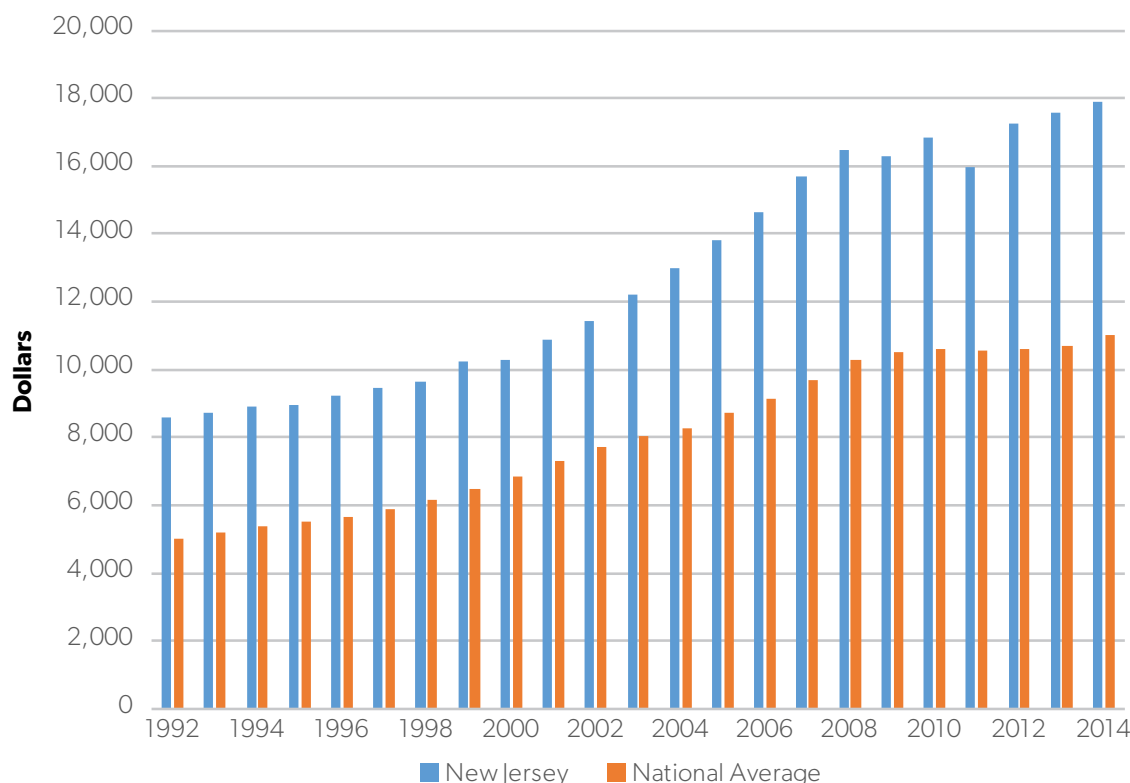
One common answer is that New Jersey has 585 municipalities, 611 school districts, and 21 county governments, and these overlapping layers of government drive up costs. Certainly, redundancies, overstaffing, and other factors associated with bureaucratic creep play a role, but research has shown that they are not significant drivers of New Jersey's sky-high taxes.⁷

The real answer is simpler: The single biggest driver of New Jersey taxes is the cost of public education, which is by far the largest portion of a resident's average annual tax bill. School-related property and income taxes make up more than 40 percent of the average tax bill—almost three times the next-largest source of taxation.⁸ New Jersey Education Association (NJEA) President Michael Johnson stated the obvious reality: “Our salaries and the funding for education programs and services comes from one source—tax dollars!”⁹

In their study of New Jersey, Eileen Norcross and Frédéric Sautet of the Mercatus Center concurred: “The progression of tax policy and spending in New Jersey reveals that much of this system evolved due to the political pressures applied by interest groups to increase spending in certain areas, in particular education.”¹⁰ By relentlessly pursuing higher education spending, the NJEA—through both its local collective bargaining monopoly and its unmatched state-level political clout (described in Parts I and II)—has been a constant and powerful driver of higher taxes in New Jersey.

The Cost of Local Public Education Drives Local Property Taxes

Public education is by far the largest component of the average New Jersey 2016 property tax bill, making

Figure 1. Per-Pupil Spending: New Jersey vs. National Average

Source: US Census Bureau.

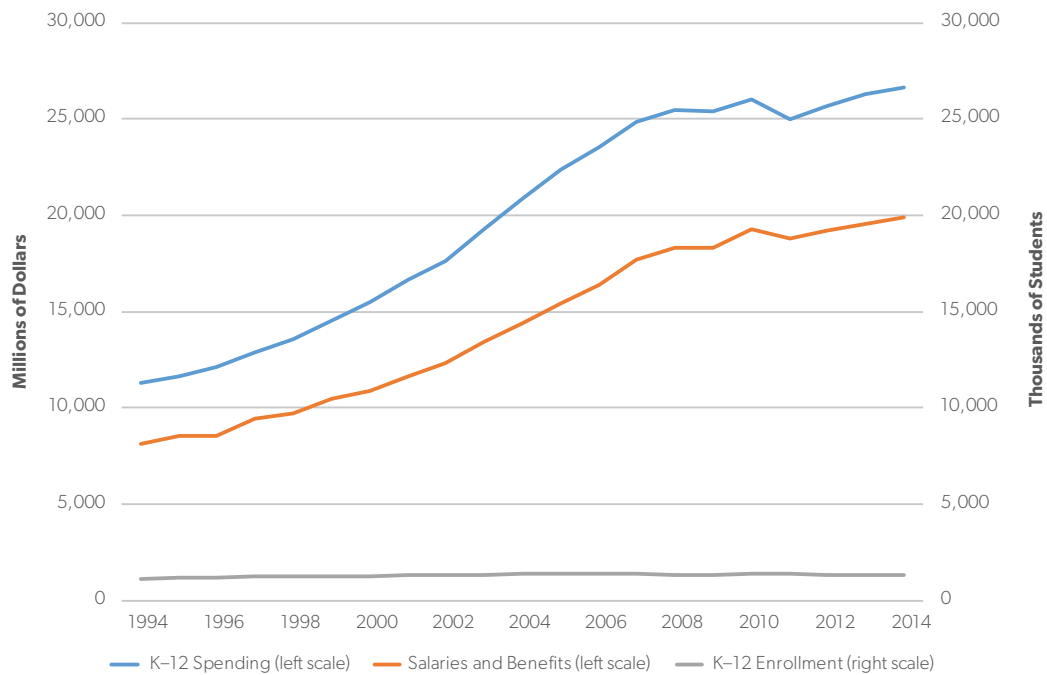
up 52 percent (versus 30 percent for municipal government and 18 percent for county government).¹¹ In 2014, New Jersey spent an average of \$17,907 per pupil, the third highest among the states and 63 percent higher than the national average. In fact, New Jersey has ranked among the top three states in per-pupil spending since 1992 and has spent on average 59 percent more than the national average during that time (Figure 1).¹²

Looked at another way, from 1994 to 2014, while K–12 student enrollment basically remained flat (up 16 percent in 21 years), overall K–12 spending and employee salaries and wages have risen 136 percent and 145 percent, respectively (Figure 2).¹³

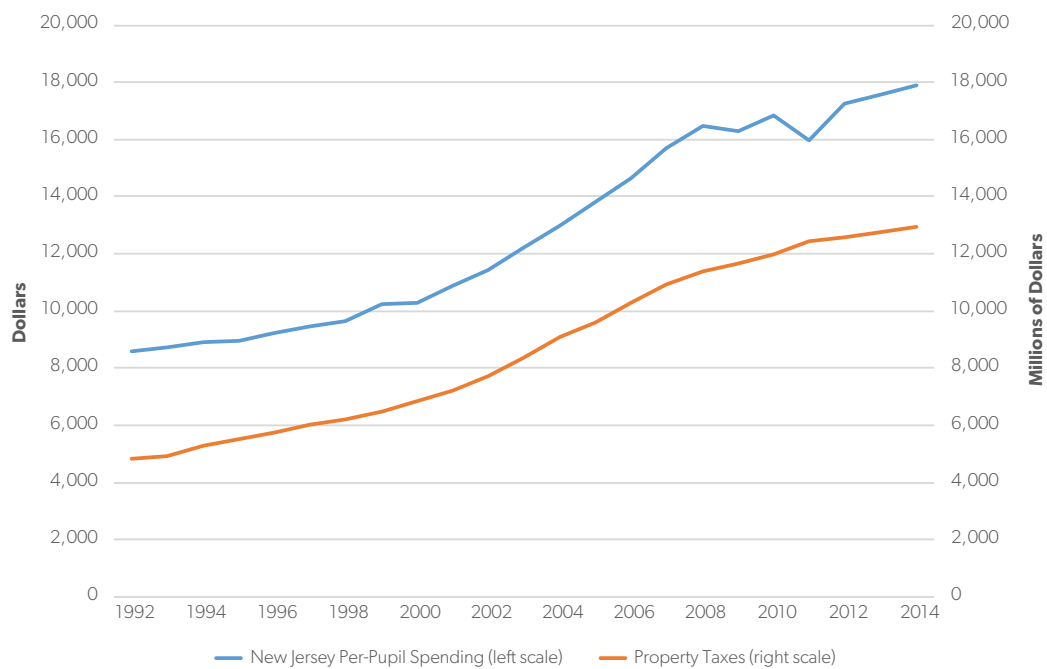
Naturally, the NJEA’s first priority has always been increased local public education spending, with

property taxes serving as a means to that end. Indeed, the NJEA has confirmed that one of its main goals in local district politics is “making maintenance and improvement of quality schools the first school board priority rather than control of the tax rate.”¹⁴

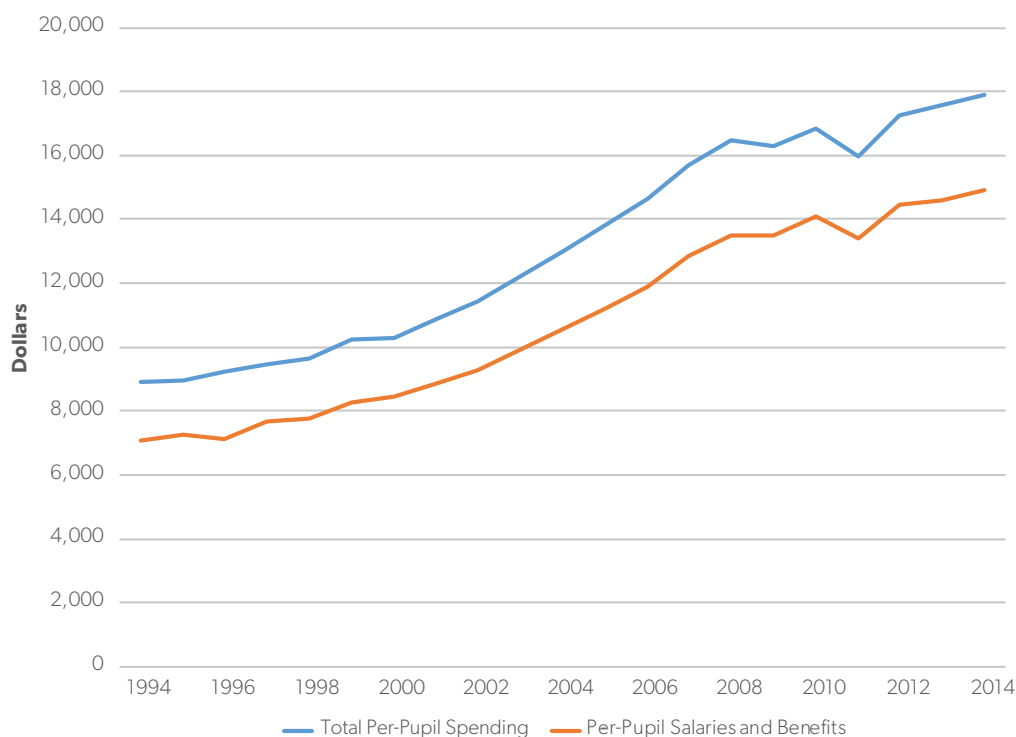
New Jersey’s elections watchdog, the Election Law Enforcement Commission, found that local education spending has a “direct and significant impact on local property taxes.”¹⁵ High education spending means high property taxes, and in New Jersey education spending is very high. Accordingly, property taxes have gone up every year since 1978 (Figure 3).¹⁶ Despite three major attempts¹⁷ at property tax reform since 2004 by both Democratic and Republican administrations, there has been little change in that trajectory.

Figure 2. K-12 Spending, Salaries and Benefits, and Student Enrollment

Source: US Census Bureau.

Figure 3. Per-Pupil Spending and Property Taxes

Source: US Census Bureau.

Figure 4. Salaries and Benefits Drive Per-Pupil Spending

Source: US Census Bureau.

Teacher Salaries and Benefits Drive Local Education Spending

Salaries and benefits drive education spending, averaging 82 percent of per-pupil spending from 1994 to 2014 (Figure 4).¹⁸ Compared to other states, New Jersey’s salaries and benefits are high, with New Jersey ranking in the top three every year since 1992 and averaging 59 percent higher than the national average during that time.¹⁹

Understanding teacher salary structures is key to understanding why this is so. Thanks to the NJEA’s lobbying, state law permits collective bargaining for multiyear contracts with career salary schedules. The NJEA directs local associations to use “step and lane” salary guides,²⁰ which are now universal in New Jersey. These salary guides take the decision to give raises out of the hands of local school boards.

Under these guides, employees get automatic raises from year to year (“steps”) with multiple columns providing higher pay for graduate degrees (“lanes”). Combined with NJEA-backed laws that privilege teacher seniority, these factors inevitably result in higher compensation costs as teachers progress in their careers. The NJEA has consistently pushed to increase the salary levels within these guides.²¹

To exploit the salary guide structure during contract negotiations, the NJEA provides professional UniServ negotiators and “best practices” to maximize salaries as quickly as possible. The NJEA sums up its philosophy well: “The quicker a member reaches maximum, the more years he or she will be paid at maximum, increasing career earnings as well as pension earnings.”²² In addition to structuring a salary guide to maximize teacher pay, local associations, again aided by negotiating professionals from UniServ and explicit NJEA guidance, use higher-paying salary

guides from nearby or comparable districts to push local school boards to match or exceed them.²³

As a result, since 1992, New Jersey has ranked first or second among all states in per-pupil teacher salaries, averaging 57 percent higher than the national average.²⁴ The NJEA is justifiably proud of the high salaries it has achieved for its members. Indeed, the NJEA boasts of “the union pay advantage,” whereby the average teacher salary in New Jersey is nearly \$20,000 more than for teachers in right-to-work states. Elsewhere, the NJEA touts “the union dividend,” by which it means that since 1985, the average starting salary is 22 percent higher than it would have been if salaries had only increased at the inflation rate.²⁵

“Cadillac” Health Benefits Also Drive Up Costs

Like teacher salaries, employee health benefits are negotiated on a multiyear basis and put inexorable upward pressure on local school district budgets. All active education employees receive exceptionally generous and exceedingly costly health coverage. The New Jersey Pension and Health Benefit Study Commission (the “Study Commission”) found that these employees get coverage “at platinum-plus levels rarely found in the private sector.”²⁶

These employees pay a small portion of the actual costs of the plans.²⁷ The Study Commission found that the total cost for family health benefits coverage averaged \$30,322, of which the employee paid \$6,365 in premiums and out-of-pocket expenses, with New Jersey taxpayers picking up the remaining \$23,957.²⁸ The Study Commission found these health plans cost 50–60 percent more than the national averages for both public and private plans²⁹ and concluded that a large part of the high and increasing cost of the state health programs “appears to be due to the extensive benefits and relatively low cost to employees.”³⁰ The Study Commission found that only two states have higher average state employee health care costs than New Jersey.³¹

As with salaries, New Jersey’s “Cadillac of health plans”³² is the product of a concerted NJEA effort.

When local associations are negotiating health benefits, the NJEA advises them to push for maximum coverage at minimum cost to employees, regardless of the cost to school boards or taxpayers.³³ The NJEA also pushes local associations to use nearby or comparable districts’ health plans to increase benefits.³⁴

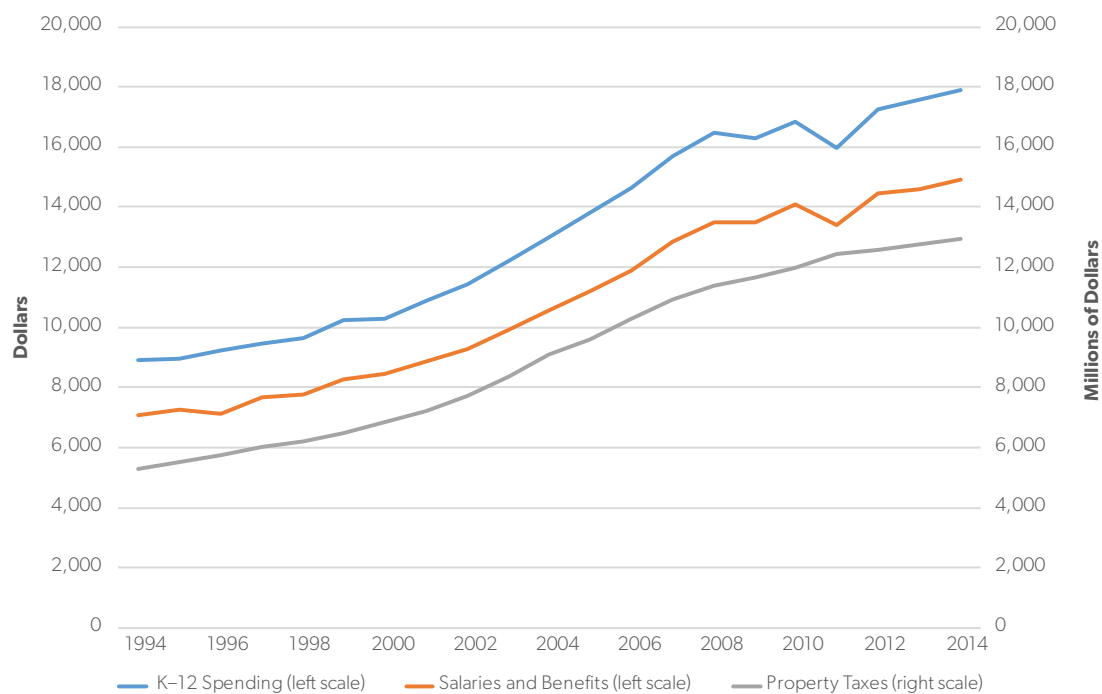
Incredibly, for decades, the NJEA’s goal was premium-free health coverage—and by and large, it achieved that goal. As NJEA Executive Director Richard Bonazzi said in 2004, “Full-paid health benefits are the standard for public school employees in New Jersey. So of course we’re angry when a board of education wants you to pay for your health benefits package.”³⁵ Before the 2011 reform law, only 13 percent of school districts required any employee contribution.³⁶

But the NJEA had not yet entirely rigged the system. Exploiting the governorship of Jon Corzine—whom the NJEA helped elect and who famously told public union members at a rally, “I will fight for you”³⁷—the NJEA successfully pushed for creating a state-administered health program for only school employees, the School Employees Health Benefits Program (SEHBP). The NJEA and its allies then gained significant control over the board, which sets the benefit levels available to employees.³⁸ As NJEA President Joyce Powell explained, the SEHBP board structure “means that NJEA will have much greater ability to control what happens to our members’ benefits.”³⁹

High Salaries and Health Benefits Mean High Property Taxes

In 2006, the *Bergen Record* declared that public worker salaries and benefits were “the biggest factors in New Jersey’s highest-in-the nation residential property taxes.” It concluded that “the unchecked influence of the police and teachers unions” built budget increases into the system, forcing budgets to rise even when local revenue or state aid decreases (Figure 5).⁴⁰

The NJEA is acutely aware of the relationship between public school costs and local property taxes. NJEA President Edythe Fulton stated it clearly in 1982: “When we ask people to support school budgets, we are asking them to vote to raise their own taxes.”⁴¹

Figure 5. Per-Pupil Spending, Per-Pupil Salaries and Benefits, and Property Taxes

Source: US Census Bureau.

When Taxpayers Revolt

The NJEA's big dilemma is that property taxpayers will only stand for so much, and before a 2012 law,⁴² they could always express their dissatisfaction by rejecting school budgets at annual local budget elections.⁴³ Budget rejections threw a wrench into the NJEA's plans because the previous year's budget would remain in place, resulting in zero increase in overall spending. So locked-in rising teacher salaries and benefits inevitably squeeze other parts of the budget and often result in cuts. As NJEA President Joyce Powell said in a 2006 letter to members: "When budgets fail, our members pay the price."⁴⁴

A local association could of course avoid a budget squeeze by forgoing locked-in raises, but the NJEA's best practice for negotiations is no salary givebacks.⁴⁵ So schools, parents, and students will always face layoffs, reduced programs, larger class sizes, and higher fees.

The NJEA's reaction to the Great Recession provides a perfect example of this unwillingness to "give back" locked-in salary increases. Due to falling tax revenues and the end of federal stimulus money, the state had a massive budget deficit, and state education aid was reduced by \$820 million. Gov. Chris Christie proposed a solution to help make up for this shortfall. At a time of double-digit unemployment in the state, he "called on teachers, who received scheduled raises during the recession, to accept a one-year freeze . . . to avoid widespread teacher layoffs in cash-poor districts."⁴⁶ Making abundantly clear that its interests took precedence over those of New Jersey's citizens and school children, the NJEA responded that "local contracts should not be negated to make up for state budget shortfalls."⁴⁷ As a result, fewer than three dozen of 591 districts adopted freezes.⁴⁸

The Push for State Taxes

But the NJEA had to get at the root of its dilemma: School funding—and funding for teachers' salaries and health benefits—largely relied on local property taxes, and local voters would reject school budgets when property taxes increased too much. As a result, the NJEA has for decades called for more state aid to local school districts to alleviate the burden on local property taxpayers.

The NJEA has not disguised this fact. Indeed, the NJEA boasts that it “has either led the way or has been in the forefront of every major campaign to win greater state funding for education.”⁴⁹ But to get the level of state education spending the NJEA wanted, it had to push for higher state taxes: “Raising additional revenue is the only reasonable approach. . . . If raising property taxes isn’t the answer, then we must look to [state] income taxes.”⁵⁰

Pushing for state-level taxes also reduced accountability for spending increases at the local school district level. Mercatus' Norcross and Sautet found: “By fracturing the relationship between those who benefit (e.g. local school districts) and those who pay (e.g. state income tax payers), the incentive to control costs, and accountability for spending has been systematically weakened through fiscal illusion.”⁵¹ This fiscal illusion and lack of accountability served the NJEA's purposes well.

As would be expected, the NJEA has a history of pushing for state tax increases dating back to the 1930s. After World War II, the NJEA worked for 16 years to get both political parties to eliminate their “no new tax” platforms in 1961.⁵² With that foundation, the NJEA was a key force behind the introduction of the first sales tax in 1966.

Leading up to the enactment of the sales tax, the NJEA's political plan was clear: “an all-out drive to enact a sales tax, an income tax, or a combination of the two . . . NJEA will be fighting as hard as possible for a new tax solution.”⁵³ The NJEA consistently pushed this position as part of its legislative lobbying agenda.⁵⁴

Once it succeeded in getting the state sales tax passed, most of the revenues were funneled back to

municipalities to alleviate the property tax burden.⁵⁵ However, sharply rising education costs nullified the hoped-for improvement in state finances, and by the next year, local property taxes were once again rising by record amounts.⁵⁶

In the 1970s, the New Jersey Supreme Court added to the funding pressure at the state level by ruling that New Jersey's property-tax-based school funding system was unconstitutional. This and subsequent rulings required that the state remediate education funding disparities between wealthier districts and districts the Supreme Court deemed to be underfunded. As a result, more than half of state education aid was redirected to 31 districts, forcing the other 550-plus districts to rely heavily on local property taxes to fund public education.⁵⁷

In response, Gov. Brendan Byrne proposed a new state income tax. Strongly in support, the NJEA launched a major media campaign to push for, in the words of NJEA Executive Director Frederick Hipp, “the substantial tax that we all know is needed to do the job right,”⁵⁸ which it defined as “a personal income tax . . . at whatever rates and levels are necessary” to fund education.⁵⁹ After the income tax was passed in 1976, the NJEA justifiably touted it as one of its legislative accomplishments for the year.⁶⁰

The income tax's main purpose was property tax relief. The New Jersey Constitution requires that all state income tax revenues go into the Property Tax Relief Fund. Reflecting the inherent relationship between property taxes and local school spending, 73 percent of the distributions from the fund have gone to school aid, while 18 percent have gone to municipal aid and 8 percent to property tax rebates to homeowners.⁶¹

At the same time, the new income tax law threatened the NJEA's stranglehold on local education spending. When the legislature passed the income tax law, it included a municipal budget cap law⁶² that limited local spending increases as “a response to the failure of localities to reduce property taxes after the enactment in 1966 of a state sales tax.”⁶³ Because teacher salaries and benefits made up more than 80 percent of education spending and were increasing at locked-in rates above the caps, teachers and

their unions had the most to lose from the caps, and the NJEA fought the caps at every turn.⁶⁴ When confronted with the inevitable trade-off of higher salaries versus lower property taxes, the NJEA chose higher salaries and higher taxes.

As with the state sales tax in 1966, the property tax relief provided by the state income tax was short-lived. Due to state budget shortfalls, Gov. Byrne once again proposed cuts to state education aid, which portended rising property taxes just five years after the income tax was instituted to stem such rises. Acutely aware of the connection between rising property taxes and school budget defeats, the NJEA warned its members: “We’re going to be in for another round of school budget defeats if we continue to shift costs back to the local property tax.”⁶⁵ Raising state-level taxes remained the solution to the perennial problem.

As with the state sales tax in 1966, the property tax relief provided by the state income tax was short-lived.

The problem remained the same after Gov. Tom Kean’s election in 1981: Declining revenues from existing state taxes were insufficient to cover rising costs. The NJEA and its allies pushed for sales and income tax increases, as well as increases to other state taxes, to generate more revenue.⁶⁶ NJEA Executive Director James Connerton made his position clear: “The time to raise State taxes . . . is now.”⁶⁷ He got his wish when Gov. Kean signed legislation increasing income, sales, gasoline, and corporate taxes.

By 1989, reduced state education aid (caused by declining state tax revenues) combined with rising local education costs meant that local property tax increases were again resulting in defeated school budgets—the most since before the creation of the state

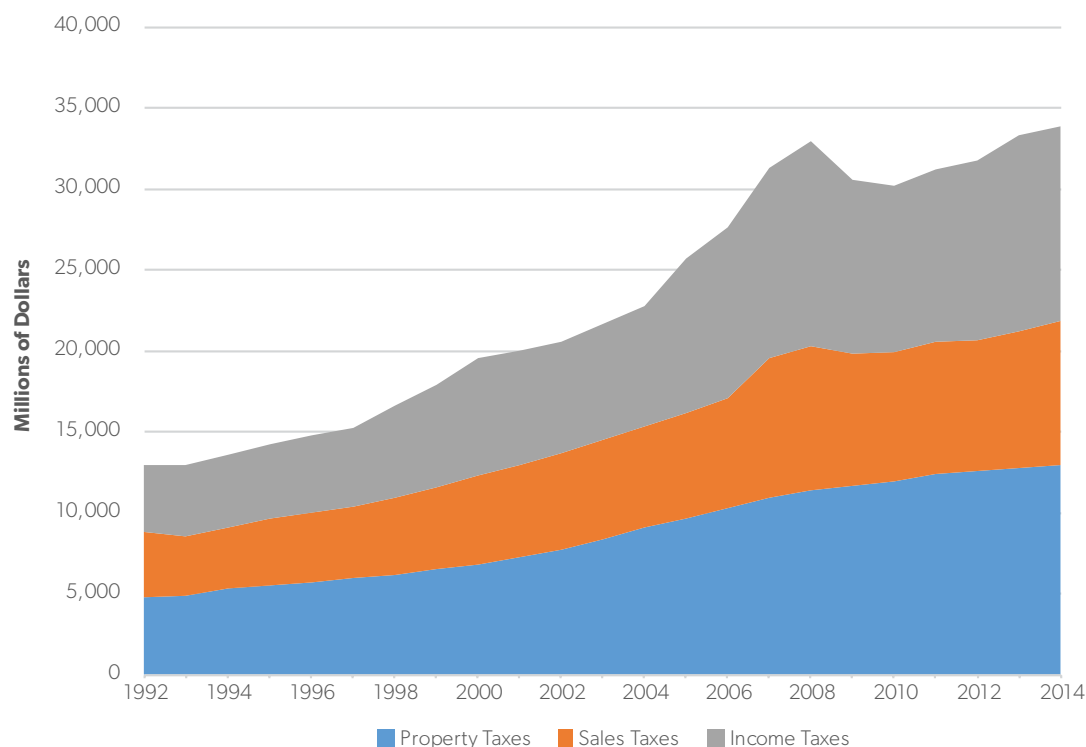
income tax in 1976.⁶⁸ Once again recognizing the connection between rising property taxes and defeated budgets, the NJEA called for “added revenues for education from sources more equitable than the local property taxes”⁶⁹—meaning state-level taxes.

At the time, the NJEA further revealed its myopic pursuit of its own self-interest even at the expense of New Jersey citizens by reasoning that, to fund education, “the state may have to cut back on other state services. What good will those programs be in the future if the state’s citizens and its students are being short-changed educationally? Talk is cheap. But good education costs.”⁷⁰

The NJEA vigorously supported Jim Florio for governor in 1989 and, after Florio won the election, urged him to increase state tax revenues in order to decrease reliance on local property taxes for education funding.⁷¹ In 1990, Florio signed a record state tax increase of \$2.8 billion to support a new school funding formula in the Quality Education Act (QEA) that directed more state aid to lower-income districts, as required by another New Jersey Supreme Court ruling. An amendment to the QEA subsequently allocated \$360 million of the new tax revenues for property tax relief. Although the NJEA had fought for the tax increases, President Betty Kraemer made clear in her response to property tax relief that the NJEA serves its own interests every time: “Diverting education funding to property tax relief and imposing severe caps on local budgets undermine the entire concept of a quality education.”⁷²

Gov. Christine Whitman was elected in 1993 on a platform of cutting state income taxes. The NJEA opposed her candidacy, telling its members that the tax cuts “threatened your salary, your health benefits and your pension.”⁷³

During the 1990s, the NJEA also opposed the Initiative and Referendum (I&R) movement, which would have allowed voters to put laws on a ballot by petition. I&R had been used in other states to lower property taxes and, in the words of NJEA Executive Director Richard Bonazzi, would “provide the impetus for our enemies to organize at the local level for lower taxes, for spending caps, against our school budgets.”⁷⁴ The I&R movement ultimately failed in New Jersey.

Figure 6. New Jersey Sales, Income, and Property Tax Revenues

Source: US Census Bureau.

As the new century dawned, the NJEA's state budget priorities remained the same: increasing state education aid and easing local budget caps.⁷⁵ Before long, the NJEA was back calling "for an income-tax increase on high earners to avert some of the severe cuts,"⁷⁶ and it built a coalition (the Fairness Alliance), set up lobby days, and held rallies to that end. With Democrat James McGreevey as governor and a Democratic legislature, and after 18 months of extensive lobbying, the Fairness Alliance was a "principal player" in the successful push for an income tax increase on wealthy New Jerseyans.⁷⁷ However, the revenue generated by the tax increase was earmarked for rebates for homeowners rather than for education, prompting criticism and further calls for increased taxes by the NJEA.⁷⁸

By 2005, the song remained the same. With the Benefits Review Task Force appointed by Acting Governor Richard Codey recommending greater

contributions from educators for their pensions and health benefits, NJEA President Joyce Powell called specifically for a sales tax hike: "What the state needs to protect our pensions and benefits is more revenue. . . . And in particular, it needs the penny increase in the sales tax."⁷⁹ The NJEA joined the "Not One Penny Less" campaign and mobilized its members to pressure the legislature. It worked: The NJEA claimed the sales tax increase as one of its major legislative successes for 2005.⁸⁰

When newly elected Gov. Jon Corzine called a special session of the legislature to address property taxes, the NJEA mobilized its members with lobby days, an email-writing campaign, and the "biggest employee rally in a decade." This move stymied reform efforts and got Corzine and the legislature to ignore the vast majority of the legislative committee's recommendations on how to reduce property taxes.⁸¹

As the decade moved on, the NJEA continued to oppose budget caps and votes on local school budgets and continued to push for tax increases even under Republican governors.⁸² Today, the NJEA has launched a coalition named Better Choices NJ, calling for a millionaire's tax, a surcharge on corporate income, and the closing of corporate tax loopholes and ending of various corporate tax breaks.⁸³

"And Who Has Been Complaining About the Sales Tax Anyway?"

The NJEA's recent pro-tax reaction to Gov. Christie's plan to fund the Transportation Trust Fund shows that nothing has changed. In a deal with legislative leaders, Christie repealed the estate tax and cut the sales tax while raising the gasoline tax. The NJEA supported raising the gasoline tax but was against cutting the other taxes. Just like his predecessors, NJEA President Wendell Steinhauer proclaimed that "New Jersey has a revenue crisis" and that "repealing the estate tax is a terrible idea."⁸⁴ NJEA Executive Director Ed Richardson concurred:

NJEA strongly believes the state should focus on generating new revenues. . . . Increasing gas taxes makes sense. But it's irresponsible to negotiate a deal that raises this tax while reducing other state revenues. . . . And who has been complaining about the sales tax anyway?⁸⁵

The cumulative toll of all these tax hikes on New Jersey citizens has been massive. Total property, income, and sales taxes have increased 161 percent since 1992 (Figure 6).⁸⁶

This is the inevitable result when the NJEA, the most powerful political force in the state, pushes for higher taxes for decades: New Jersey becomes the highest-taxed state in America.

About the Author

Mike Lilley served for four years as the executive director of Better Education for New Jersey Kids. He is a Princeton graduate and longtime New Jersey resident.

Notes

1. In accordance with Government Accounting Standards Board statements 67 and 68. Joshua Rauh of the Hoover Institution uses a more conservative discount rate to arrive at an unfunded pension liability of \$161 billion, which, when added to retiree health care liabilities of \$67 billion, equals \$227 billion. The Stanford Institute for Economic Policy Research estimates unfunded pension liabilities at \$186 billion, or with health benefits, \$253 billion. This does not include unfunded liabilities of \$41 billion at the local government level. The Office of Public Finance of the State of New Jersey, *State of New Jersey Debt Report Fiscal Year 2016*, March 10, 2017, 66 and 69.
2. The Pew Charitable Trusts, *Rainy Day Funds and State Credit Ratings*, May 2017, 10–12, http://www.pewtrusts.org/~media/assets/2017/05/statesfiscalhealth_creditratingsreport.pdf.
3. Jeff Goldman, “N.J. Had Highest Property Taxes in Nation in 2016 (Again), Study Finds,” *Newark Star-Ledger*, April 6, 2017, http://www.nj.com/politics/index.ssf/2017/04/nj_still_has_highest_property_taxes_in_nation_stud.html.
4. Samantha Marcus, “Here’s How Much Your Property Taxes Went Up (Again) in N.J. Last Year,” NJ Advance Media, February 9, 2016, <http://www.nj.com/politics/index.ssf/2016/02/average-nj-property-tax-bills-topped-8300-in-2015.html>.
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6. For the tax burden on the median New Jersey household, see John S. Kiernan, “2017’s Tax Rates by State,” WalletHub, March 14, 2017, <https://wallethub.com/edu/best-worst-states-to-be-a-taxpayer/2416/#detailed>. New Jersey is “51st behind all states and the District of Columbia when it comes to the cumulative level of income, sales, property, and corporate taxes.” Michele Siekerka, “Op-Ed: Comprehensive Reform Must Start with New Jersey’s Outsized Tax Burden,” NJSpotlight, June 27, 2016, <http://www.njspotlight.com/stories/16/06/26/op-ed-comprehensive-reform-must-start-with-new-jersey-outsized-tax-burden/>.
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New Jersey Is Dying

A SPECIAL-INTEREST-DOMINATED STATUS QUO
IS HURTING THE STATE'S ECONOMY

Part V of the Legal Corruption Series

Mike Lilley

NOVEMBER 2017

A M E R I C A N E N T E R P R I S E I N S T I T U T E

The Legal Corruption Series: Executive Summary

New Jersey is in a bad way. Our economy is weak and significantly underperforms other states. Our tax system is consistently ranked as the worst in the nation. Our public-sector pensions are in the worst condition of any state, and our unfunded liabilities are at least \$202 billion—almost six times the size of the \$35 billion annual budget.¹ We have the second-lowest bond rating of any state—save broke Illinois.² Businesses, taxpayers, and young adults are leaving our state in droves. Sadly, New Jersey’s future looks even worse.

How did New Jersey get into this position?

It was not happenstance. New Jersey is in this position because its largest public-sector union, the New Jersey Education Association (NJEA), often working in concert with its public-sector union allies, has rigged the system for its own benefit. The consummate special interest, the NJEA has dominated the state’s political system for decades. It structured a legislative regime that allowed it to siphon off hundreds of millions of taxpayer dollars to spend itself to unmatched political clout. Predictably, New Jersey’s politicians—both Republicans and Democrats—have succumbed to this clout and largely given the NJEA what it wanted. Too often, New Jersey citizens and taxpayers have been left out of the discussion, and yet it is they who will foot the bill.

If New Jersey citizens and taxpayers knew what was really going on, they would be outraged. They would be outraged that a special interest was able to control state government to their detriment. They would be outraged that their highest-in-the-nation taxes are flowing directly into union coffers to be used against their own interests. They would be outraged that the future of the state—and that of their

children and future generations of New Jerseyans—has been mortgaged for the benefit of the few over the many.

The purpose of this research is to inform New Jersey’s citizens of what is really going on and how we got into this position. Using published research, contemporaneous media accounts, and the NJEA’s own publications to ascertain the facts, this study details the deliberate exploitation of New Jersey’s political system and the resulting consequences—to the benefit of the NJEA and the detriment of New Jerseyans.

There are five parts to the research:

- **Part I. Follow the Money: The Real Money Behind the New Jersey Education Association’s Political Clout.** Funded by hundreds of millions of taxpayer dollars, the NJEA’s severely underreported political war chest dwarfs the competition. The NJEA spends many times more on political action than is reported and is by far the most powerful special interest—and political force—in the state. Far too often, this results in taxpayer dollars being used against taxpayer interests.
- **Part II. “And You Will Pay”: How a Special Interest Dominates New Jersey Politics.** The NJEA used its clout to influence politicians of both parties and structure the political system to perpetuate its power and benefit itself. This extraordinary special-interest influence has shaped the current status quo in the state and threatens the state’s solvency.

- **Part III. Job Number One: The New Jersey Education Association's Role in New Jersey's Disastrous Pension and Benefits Crisis.** Again using its money and clout, the NJEA created the broken benefit system we have today. While the NJEA seeks to blame the state, the facts show that the NJEA structured the system to maximize benefits for its members and consistently fought reform efforts. It participated in pension-asset raids and financing schemes that greatly damaged the soundness of the system. It gained for its members premium-free, "Cadillac" health plans. Because it was politically convenient, it chose not to punish politicians for underfunding the state's retiree liabilities, thus contributing to \$202 billion in underfunding that threatens the future of the state. And it recently tried to lock this bankrupt system into the state constitution.
- **Part IV. Talk Is Cheap, but Good Education Costs: The Truth About New Jersey's High Tax Burden.** Using its money and clout, the NJEA has consistently pushed for higher taxes. At the local level, the NJEA consistently pushed for higher education spending and higher property taxes. Once high property taxes became a political problem, it pushed for higher state education spending and higher state taxes. The NJEA was a major force behind the

initiation of New Jersey's first sales and income taxes and continues to push for higher taxes to this day.

- **Part V. New Jersey Is Dying: A Special-Interest-Dominated Status Quo Is Hurting the State's Economy.** High taxes and cost of living have hurt the state's economy. The tax system renders the state inhospitable to businesses and uncompetitive with other states—particularly with neighboring New York and Pennsylvania. Consequently, economic and job growth are weak and significantly underperform both the nation and New York and Pennsylvania. Businesses, taxpayers, and most ominously, young adults are emigrating to more favorable states. Reform and economic growth are the only way out of this fiscal hole, but our special-interest-dominated political system allows for neither.

New Jersey citizens and taxpayers must wake up to what has happened in our state and why we are where we are. In the end, the best description of what has occurred is "legal corruption." Our political system has been thoroughly corrupted—so much so that the corruption itself has been made legal. Either we change the system and root out the legal corruption or it will bankrupt the state—along with the future of our children and the next generations of New Jerseyans.

New Jersey Is Dying

A SPECIAL-INTEREST-DOMINATED STATUS QUO IS HURTING THE STATE'S ECONOMY

Part V of the Legal Corruption Series

Mike Lilley

“New Jersey is dying. The infrastructure is crumbling, smart young people go out of the state for college and don’t return, taxes are out of control.”

—A New Jersey CEO to Chief Executive in 2016³

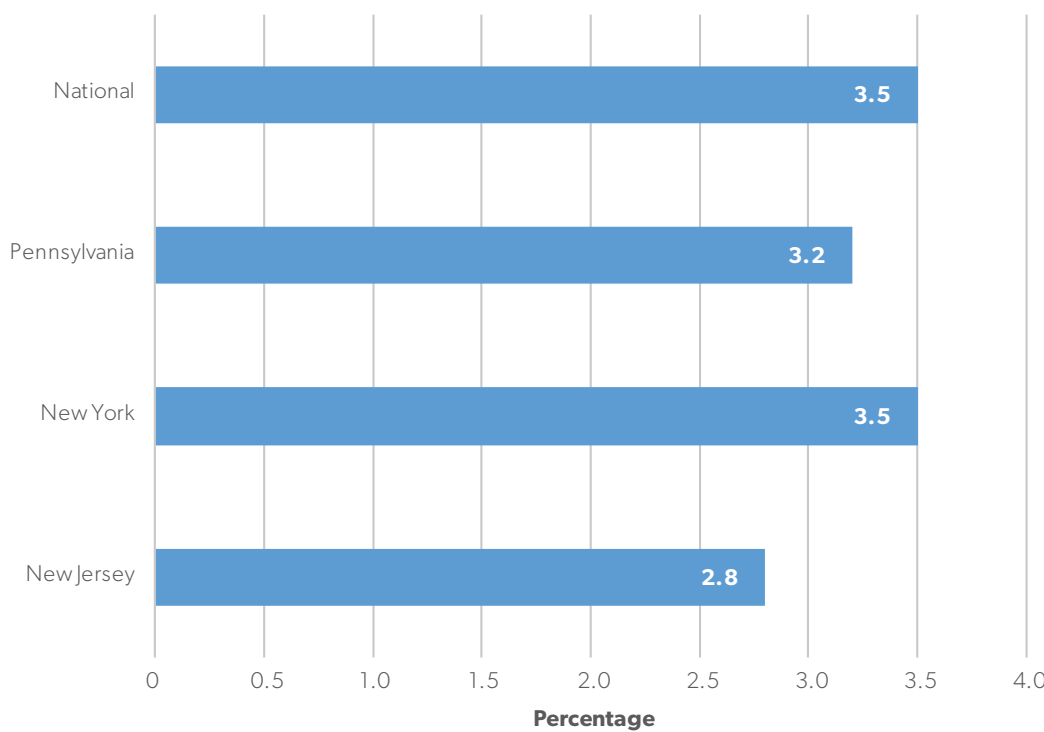
This is a troubling comment—and for more reasons than just the obviously bleak prognostication. As outlined in Part III, New Jersey is ranked as the state in the worst fiscal condition. New Jersey’s unfunded pension and benefit liabilities are at least \$202 billion, almost six times larger than the state’s \$35 billion annual budget. Without robust economic growth, it will be impossible for New Jersey to meet these obligations without economy-killing tax hikes or drastic cuts in services, or both. The bottom line is that New Jersey needs a strong economy if it is to overcome the enormous fiscal problems that threaten the state’s future. And, yet, as this CEO says, New Jersey’s economy is not strong; it is dying.

New Jersey is certainly not without hope. It has several natural advantages. After all, it is the Garden State, located on the Northeast Corridor adjacent to New York City and Philadelphia and blessed with 127 miles of ocean beaches. It is home to top universities and Fortune 500 companies. It is one of the wealthiest states, with per capita personal income of \$61,968, the third highest in the country and 25 percent above the national average.⁴

But as the above CEO said, all is not well in New Jersey. For the past decade, New Jersey has had one of

the weakest economies in the nation, well below the national average for jobs and economic growth. Its economic environment is inhospitable to businesses, both large and small. Its tax climate is the worst in the country, and the cost of living is sky high. Both New Jersey’s fiscal condition and its pension and benefit underfunding are the absolute worst in the nation, earning it the second-lowest bond rating of any state. As a result, New Jersey is experiencing an out-migration of businesses, taxpayers, and most disturbingly its youngest citizens.

As detailed in Parts I and II, New Jersey’s political status quo is dominated by the state’s largest teachers union, the New Jersey Education Association (NJEA). The NJEA has constructed a system that siphons off taxpayer dollars directly into its coffers, giving it unmatched money and political clout. The NJEA has used this clout to dominate New Jersey politics, allowing it to perpetuate its power and gain pensions and benefits for its members that threaten to bankrupt the state (detailed in Part III). As shown in Part IV, the NJEA has also been a persistent and successful advocate for more state education spending and the higher taxes to support it. As the most powerful political force in the state for 50 years, the NJEA

Figure 1. Annual Growth Rate of State Personal Income, 2006–16

Source: Bureau of Economic Analysis, US Department of Commerce.

has played a significant role in bringing the state economy to its current woeful condition.

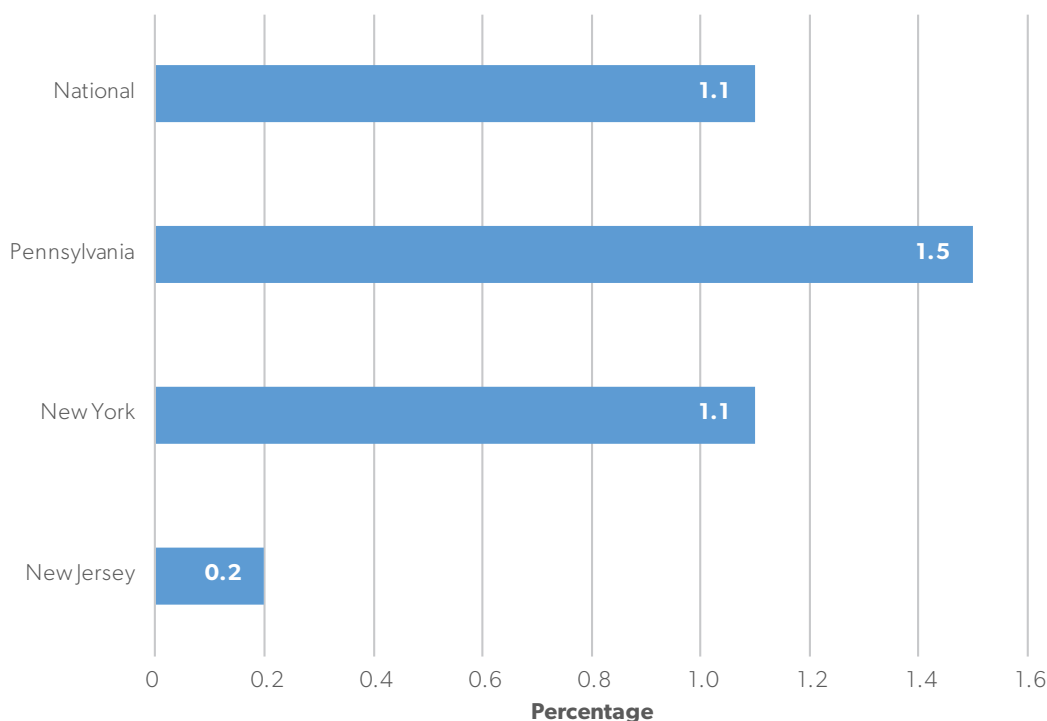
New Jersey's Underperforming Economy

Over the past decade, New Jersey's economy has underperformed other states. According to the US Bureau of Economic Analysis, from 2006 to 2016, the annual growth rate for the state's aggregate personal income was 2.8 percent, 20 percent below the national average of 3.5 percent. The annual growth of the state's real gross domestic product (GDP) was a mere 0.2 percent, more than 80 percent below the national average of 1.1 percent.⁵ In terms of jobs, while the nation has gained 6.2 percent more jobs since the Great Recession, New Jersey's job growth has been less than 1 percent.⁶ From 2007 to 2016, New Jersey's job growth was the eighth worst in the country.⁷

Not only is New Jersey underperforming the national economy, but also it is underperforming its neighboring states of Pennsylvania and New York. New Jersey competes against these two northeast states for businesses, jobs, and residents. As shown in Figure 1, from 2006 to 2016, New York's aggregate annual personal income growth matched the national average of 3.5 percent and outperformed New Jersey by 25 percent. Pennsylvania's aggregate personal income grew 3.2 percent, which underperformed the national average but beat New Jersey's annual growth rate by 14 percent.

In annual GDP, New York matched the national average at 1.1 percent, and Pennsylvania exceeded it with 1.5 percent growth. Both massively outperformed New Jersey's near-recessionary 0.2 percent growth (Figure 2).

The picture held true for jobs as well. From 2007 to 2017, New York added a whopping 9.1 percent of jobs, far outpacing the national 6.1 percent rate. Pennsylvania's job growth was 2.4 percent, which

Figure 2. Annual Growth Rate of State GDP, 2006–16

Source: Bureau of Economic Analysis, US Department of Commerce.

underperformed the national average but more than doubled New Jersey's anemic 0.99 percent increase (Figure 3).⁸

As the data show, for the past decade, New Jersey's economy has been a significant underperformer—both compared to all other states and to its northeast neighbors.

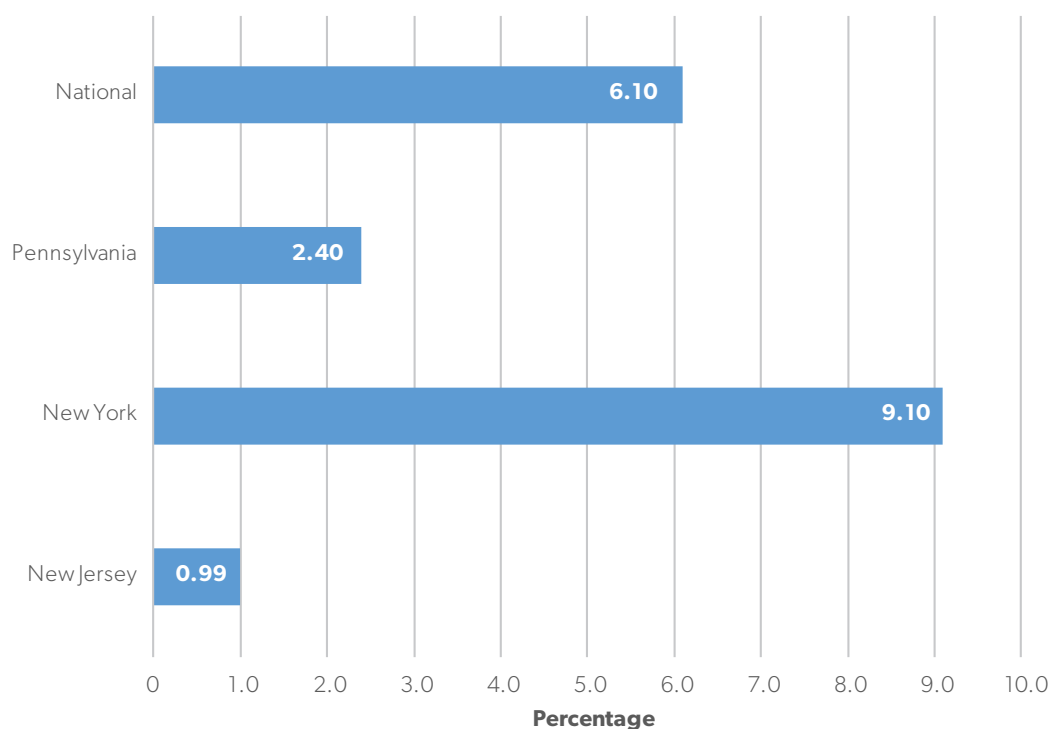
Research confirms that New Jersey's lackluster economy ranks as one of the worst among the states in long-term economic performance. The American Legislative Exchange Council's (ALEC) Economic Performance Rank combines three economic measures that are highly influenced by state policy: a state's GDP growth (2005–15), domestic out-migration (2006–15), and employment growth (2005–15). New Jersey's woeful long-term economic performance ranked 47th among the states (Table 1). According to ALEC, New Jersey's economic future looks even worse: New Jersey's Economic Outlook Rank (measuring 15 state policy variables) was 48th among the states.⁹

Why Does New Jersey Have Such a Weak Economy?

First and foremost, New Jersey has a terrible business climate, mostly due to its sky-high taxes. Whether for large corporations or mom-and-pop small businesses, New Jersey ranks as one of the most inhospitable states for businesses.

In the Tax Foundation's 2018 annual ranking of state business tax climates, New Jersey came in dead last among the 50 states—for the fourth straight year (Table 1). Its property taxes were the worst, its income and sales taxes in the bottom five, and its corporate taxes in the bottom 10.¹⁰

Chief Executive ranked the best and worst states for business, and New Jersey came in 47th for the fourth year in a row (Table 1). The magazine quoted a New Jersey business consultant as saying that the bottom states, including New Jersey, "have consistently high tax burdens and onerous

Figure 3. Total Increase in Nonfarm Payrolls, 2007–17

Source: US Bureau of Labor Statistics.

regulatory environments—so they’re not only perceived as being business-unfriendly, they are. It’s reality.”¹¹

Not only was New Jersey a lousy environment for large corporations, but also it was even worse for small businesses. Small businesses are extremely important for New Jersey’s economy. Since the 1970s, they account for 55 percent of all jobs and 66 percent of new jobs. They currently employ 50.1 percent of the state’s workforce.¹² The Small Business & Entrepreneurship Council (SBEC) ranked New Jersey 49th among the states for its tax system for small businesses (Table 1).¹³ SBEC’s 2014 report noted that New Jersey’s “negatives are overwhelming,” citing the state’s high taxes and high levels of government spending and debt. The report scathingly criticized New Jersey’s anti-small-business posture: “New Jersey’s nickname is the Garden State. Unfortunately, the state’s hostile policy climate is barren soil for planting and growing a business.”¹⁴

A recent McKinsey & Company survey of 70 New Jersey business leaders validated this criticism. The report found that New Jersey underperforms other states when it comes to startups growing into larger companies, with just 5 percent of companies in the state with 500 or more employees being 10 years old or younger, compared with 11 percent nationally. As a McKinsey partner said: “Net job creation is being driven by these young companies. We need more companies that are 500 employees going to 2,000.” Equally important, such companies would help stem the outflow of millennials from the state (discussed below) by “creating opportunities to work in these new, young and growing businesses.” Indeed, millennials are often the entrepreneurs starting these businesses.¹⁵

New Jersey also ranks poorly when it comes to overall economic freedom (Table 1). The Cato Institute’s annual ranking of states placed New Jersey 47th in economic freedom among the states. New Jersey

has been 47th or worse since 2006. New Jersey was also 47th in regulatory freedom and 46th in labor market freedom, among other measures.¹⁶

Table 1. New Jersey's Ranking in Studies of State Economic Policies and Performance

Study	Ranking
Tax Foundation	50
Small Business & Entrepreneurship Council	49
American Legislative Exchange Council	47
<i>Chief Executive</i>	47
Cato Institute	47

Source: Author.

As might be expected, New Jersey's business leaders are downcast about New Jersey's outlook. In a recent Rutgers University poll, only 38 percent of these leaders rated New Jersey's economy as "good," and even fewer, 36 percent, predicted improvement next year. The survey reported that "executives are perturbed about New Jersey's high taxes and the state government's approach to business." As one New Jersey business executive said: "It's really that simple, lower taxes."¹⁷

Slower economic growth has had concomitant effects on New Jersey's fiscal condition. Standard & Poor's assessed New Jersey's recovery since the Great Recession: "The state's economic growth continues to lag the nation, contributing to growth in [state] revenues that has not kept pace with expenditure growth."¹⁸

Consistent with Standard & Poor's findings, recent research shows that New Jersey has the greatest gap between revenues and expenses in the nation. The Pew Charitable Trust determined that from 2002 to 2015, New Jersey took in enough revenue to cover only 92.4 percent of its expenses—the smallest percentage of any state. New Jersey and Illinois were the only two states with aggregate deficits exceeding 5 percent and the only states to have annual deficits in each of the 14 years analyzed.¹⁹ While neighbors Pennsylvania and New York managed to turn the situation

around in 2015, each generating greater revenues than expenses, the Mercatus Center found that New Jersey's state government took in revenues that covered only 91 percent of its expenses in 2015, once again the worst ratio in the nation.²⁰

Nor do these chronic deficits portend well for the future. The Pew report noted that such chronic shortfalls indicate a "serious structural deficit in which revenue will continue to fall short of spending absent policy changes" and potentially create "an unsustainable fiscal situation."²¹ Long-term, structural budget deficits inevitably result in borrowing and debt, and as might be expected, New Jersey is the worst in the nation in that regard as well.

Thus, further adding to—indeed causally related to—New Jersey's inhospitable business climate is the deplorable financial condition of New Jersey's state government. A 2017 Mercatus Center study ranked New Jersey dead last among the states in overall fiscal condition. New Jersey performed particularly poorly when it came to budget solvency (49th) and long-run solvency (50th). As the report stated: "On a long-run basis, New Jersey's metrics are dire."²² The state's long-term liabilities (including pensions and health benefits) equal 3.6 times its total assets, or \$16,821 per capita, the highest in the nation and almost four times the national average of \$4,272.²³

On a per-taxpayer basis, New Jersey's debt situation is even worse. Truth in Accounting found New Jersey's debt per taxpayer to be \$59,400, the worst in the country and \$10,000 higher than the second worst state, Connecticut. New Jersey's debt load was more than four times the national average of \$13,514.²⁴

New Jersey is a lousy place to do business.

The Causes of New Jersey's Poor Business Environment

New Jersey's poor and uncompetitive business environment is driven by three main factors: its high taxes, its high cost of living, and its crumbling transportation infrastructure.

High Taxes. As the Tax Foundation report indicated, New Jersey has the worst tax climate in the country,²⁵ and as detailed below, taxes have significant negative effects on economic growth.

High taxes raise costs and create disincentives for economic undertakings such as working, entrepreneurship, and investment. They take resources away from productive private-sector activities and give them to elected officials and bureaucrats to spend according to political incentives. As shown in Parts I–IV, that has certainly been true in New Jersey, where its most powerful special interest, the NJEA, has used its unmatched political clout for decades to push for ever-higher government spending, budget-busting pension and health benefits for its members, and the higher taxes it takes to pay for them.

The SBEC's 2016 report noted the commonalities between the best states for small business and the worst ones. From 2011 to 2014, real economic growth in the top 25 states was 29 percent higher than in the bottom 25 states (1.68 percent to 1.3 percent). The population growth of the top 25 states averaged 4.9 percent, almost double the 2.5 percent of the bottom 25.²⁶

The SBEC's 2017 report cited 26 studies that “consistently point to significant negative effects of taxes on economic growth.”²⁷ Among other findings, the report found that high taxes affect personal income growth and, citing a Tax Foundation report, that high marginal tax rates reduce “investment, risk taking, and entrepreneurial activity since a disproportionately large share of these activities is done by high income earners.”²⁸

In addition, the SBEC report cited research that showed that raising taxes more than neighboring states led to slower economic growth and reduced per capita income. Former New Jersey State Treasurer Andrew Sidamon-Eristoff concurred: “The focus of New Jersey’s tax policy should be to avoid being notably uncompetitive, particularly within our region.”²⁹ Having the highest taxes in the region—as New Jersey does—pushes high earners and their “taxable income and thus revenue out of New Jersey.”³⁰

Looking at New Jersey’s tax rates compared to New York and Pennsylvania helps explain the disparities in

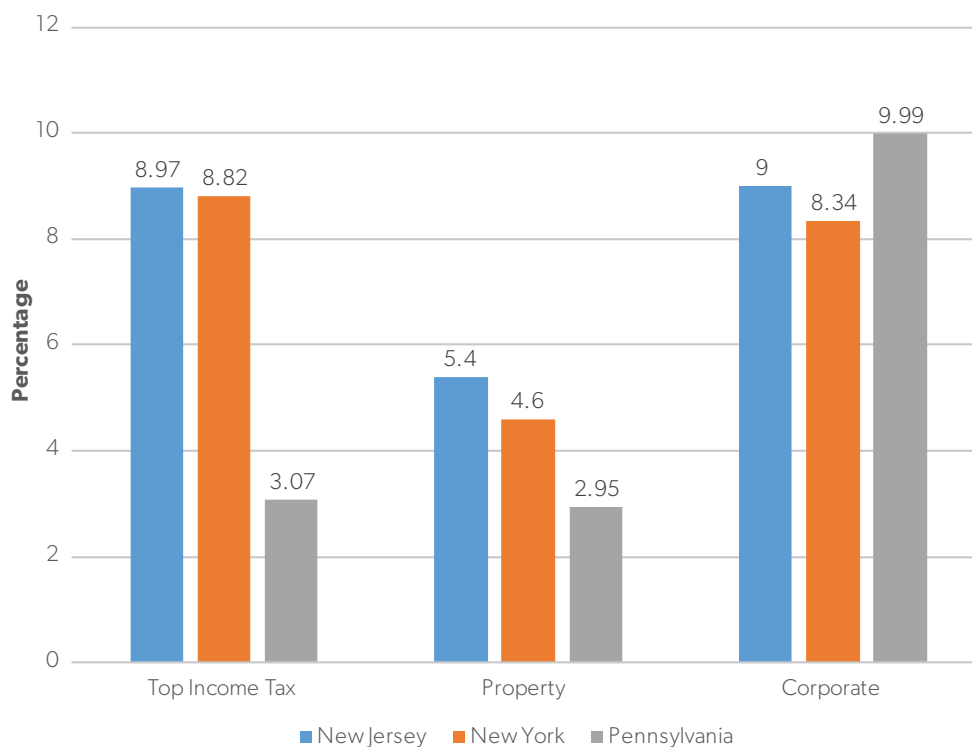
economic performance. New Jersey’s top income tax rate is 8.97 percent, with New York at 8.82 percent and Pennsylvania at a flat 3.07 percent. As to property taxes, New Jersey has the highest in the country at 5.4 percent, versus 4.6 percent for New York and 2.95 percent for Pennsylvania. Finally, on corporate taxes, New Jersey’s rate is 9 percent, with New York at 8.34 percent and Pennsylvania at 9.99 percent. As Figure 4 shows, and as the Tax Foundation found, New Jersey’s combined taxes are the worst of the three states.³¹

Michele Siekerka, president of the New Jersey Business & Industry Association (NJBIA), homed in on this relationship. New Jersey’s tax burden “is a significant factor. New Jersey is now at or near the bottom of every category including, income, sales, property, corporate and estate and inheritance taxes. And where do the residents go? . . . It is actually Pennsylvania and New York that are the top two outmigration states, both of which fare better on these taxes than New Jersey.”³²

The Mercatus Center likewise found that “higher state taxes generally reduce state economic growth, GSP [gross state product], and even population. It is clear that people produce or consume less, or even move to a different state.”³³ A 1 percent increase in a state’s average tax rate led to a 1.9 percent decline in economic growth rate. The study also found that business startup creation, which accounts for 20–50 percent of a state’s overall productivity growth, is sensitive to income tax progressivity, with a 1 percent increase in personal income tax rates associated with a 1.2 percent reduction in the growth rate of new firms.³⁴

High Cost of Living. High taxes drive the high cost of living in New Jersey. Just as New Jersey has among the highest tax burdens in the nation, so it has among the highest cost-of-living rankings, tied for the third highest with California.

Overall, New Jersey prices for all goods and services (including rent) were 13.4 percent higher than the national average.³⁵ The United Way found that New Jersey was the fourth most expensive state for housing, with prices up 19 percent from 2007 to 2012.

Figure 4. Comparative Tax Rates for New Jersey, New York, and Pennsylvania

Source: Tax Foundation.

Rental costs were up 32 percent and health care 36 percent,³⁶ with New Jersey becoming the seventh most expensive state for renting housing.³⁷ Along with high taxes, New Jersey's high cost of living has had a significant impact on New Jersey's migration patterns.

Transportation Infrastructure. Cited in the CEO's quote at the beginning of this piece, New Jersey's crumbling transportation infrastructure contributes to its poor economic climate. This CEO is not alone in believing this. The McKinsey survey indicated that New Jersey's limited and outdated transportation infrastructure was second only to the high cost of doing business as the reason companies are not located in or expanding to New Jersey.³⁸

But as the recent deal cut by Gov. Chris Christie and the legislature revealed, fixing or expanding infrastructure requires money, and New Jersey is already overtaxed and short of revenues. Christie's fix required higher gasoline taxes, but to minimize the negative

impact on New Jerseyans, these were offset—much to the NJEA's chagrin, as shown in Part III—by reducing the sales tax and phasing out the estate tax.

In the end, the ability to address New Jersey's infrastructural shortcomings will be determined by the same factors that affect New Jersey's business climate: Taxes are already too high, and the state already has too much debt. In the long term, money for infrastructure must come from either a reduction in other state spending or robust economic growth, or both.

The Consequences of New Jersey's High Taxes and Weak Economy: Out-Migration

Domestic migration patterns serve as a barometer for a state's economic conditions. Cato found that domestic migration patterns were "one of the best indicators of the growth of a state's economy" because a state that attracts people from other states

“almost certainly does so because it is offering more employment opportunities or a better quality of life than other states.”³⁹ According to the Cato Institute, from 2000 to 2014, New Jersey was 49th among the states in terms of net migration to and from the other states, with a net migration rate of -7.8 percent. Unfortunately, this trend appears to be getting worse, not better: The American Community Survey found that in 2015, New Jersey saw a net domestic out-migration of -0.9 percent, behind only Illinois (-1 percent) and tied with New York (-0.9 percent).⁴⁰

From 2000 to 2014, New Jersey was 49th among the states in terms of net migration to and from the other states, with a net migration rate of -7.8 percent.

United Van Lines reached a similar conclusion: In 2014, New Jersey lost more residents as a percentage of population than any state in America, and it has been in the top three since 2006.⁴¹ The same study in 2016 found that New Jersey had the widest gap between people moving out and people moving in. Sixty-three percent of the moves were outbound, meaning that about two people moved out of the state for every one who moved in. New Jersey has the dubious distinction of topping this category since 2012.⁴²

In looking at the similarities among the findings of several studies and rankings of state economies, a Mercatus Center report found that the bottom-ranked states shared the most in common: “The burdensome tax and regulatory regimes in these states

are driving citizens and businesses to vote with their feet and move to other states.”⁴³ The 2016 SBEC report concurred, with the top 25 states in their tax climate rankings seeing a net domestic in-migration of two million people and the bottom 25 seeing a net out-migration of two million. In fact, nine out of the bottom 10 states lost population.⁴⁴ This is consistent with Mercatus Center research that showed that “a higher personal income tax rate is associated with a higher probability of residents migrating to a state with a lower tax rates [*sic*].”⁴⁵

The NJBIA’s Siekerka agreed: New Jersey’s “cost of living, including our tax structure, is not competitive with our neighboring states and those vying for our residents and our jobs.”⁴⁶ The facts back her up. From 2005 to 2014, New Jersey lost more than two million residents to other states. On a net basis—taking into account in-migration from other states—New Jersey lost 682,000 residents.⁴⁷ The inflow of foreign immigrants keeps New Jersey’s population from declining on an absolute basis, but relative to other states, New Jersey’s share of the US population decreased from a high of 3.5 percent in 1970 to 2.85 percent in 2010. New Jersey’s relative decline is strikingly captured by the resulting loss of congressional seats, which dropped from 15 to 12 during this time period, a 20 percent decline.⁴⁸

But it is not just people and congressional seats that New Jersey loses; it also loses these residents’ incomes, spending, and taxes. All told, since 2005, the NJBIA calculated that New Jersey lost \$20.7 billion of net adjusted gross income, which resulted in losing \$13.1 billion in economic output, nearly 87,000 jobs, and \$4.6 billion in labor income.⁴⁹ Moreover, the residents choosing to leave New Jersey are relatively high income, averaging \$85,000 in adjusted gross income in 2013,⁵⁰ which was almost 20 percent higher than New Jersey’s median household income of \$71,637.⁵¹

Underscoring the consequences of New Jersey’s comparative disadvantages with its neighboring states of New York and Pennsylvania, the two top destinations for out-migrating New Jersey residents were Pennsylvania (385,000) and New York (350,000).⁵²

Who Is Voting with Their Feet?

Given New Jersey's high cost of living, New Jersey loses retirees—many of whom are on fixed incomes—to lower-tax states. Bankrate rated New Jersey as the 40th best state for retirement, citing the high taxes and cost of living as New Jersey's biggest negatives (outweighing positive factors such as weather, health care, and relatively low crime).⁵³ The NJBIA reports that from 2006 to 2010, New Jersey lost an average of 19,000 retirees per year to states with more favorable tax structures.⁵⁴

Describing the outflow of retirees, Melissa Sullivan of United Van Lines stated that “New Jersey is really losing big segments of that population. And it’s not just a one-off. It’s been pretty consistent.”⁵⁵ And this situation is not likely to improve: In an NJBIA survey of 35- to 59-year-olds, two-thirds of the respondents said they would retire outside New Jersey.⁵⁶

Sadly, and more ominously, while it might be predictable that retirees on fixed incomes would opt for lower-tax states, New Jersey has seen an exodus of millennials and young college graduates. And no wonder. Due to the state’s poor economy and high housing costs, an astounding 807,000 18- to 34-year-olds in New Jersey are living with their parents, making up 47 percent of that age-group, which is the highest in the nation by far and 38 percent higher than the national average.⁵⁷ James Hughes of Rutgers University noted how extraordinary this retrogression is: “It is sort of unprecedented, we would have to go back generations, to come to this situation where grown children live at home to the extent that they are today.”⁵⁸

The result is that New Jersey’s young adults are voting with their feet. From 2007 to 2014, New Jersey lost 111,674 18- to 34-year-olds, with a net loss of 57,566.⁵⁹ Indicating that this worrisome trend might be getting worse, in 2015, New Jersey was last in the country with a net out-migration of 22,000 from this age-group. By way of comparison, neighboring Pennsylvania saw a net in-migration of 19,000 in 2015.⁶⁰

According to the NJBIA, this out-migration of millennials “has an impact on the broader state economy because companies are looking to add millennials.”⁶¹

This exodus also represents a poor return on investment for the state. As the NJBIA’s Siekerka points out, New Jersey on average spends about \$19,000 per year per student, which over 13 years amounts to \$247,000 spent educating a young New Jerseyan. She notes that “to let those students walk out of the state, we’re losing our pipeline.”⁶²

Why Are Residents Leaving New Jersey for Other States?

The New Jersey Policy Perspective explained that New Jersey’s out-migration of millennials is more drastic than that nationwide “because it is a very, very expensive place to live, and this is happening at a time where wages are pretty much stagnant.”⁶³ In other words, it is New Jersey’s lousy economy and high cost of living.

Former State Treasurer Sidamon-Eristoff likewise states that there is ample statistical data linking New Jersey’s high taxes to the out-migration of wealth and people.⁶⁴ He notes that many wealthy taxpayers opt for nonresident status, with the percentage of citizens with incomes over \$500,000 filing as nonresidents up from 5.9 percent to 7.9 percent since 1996. He believes that this increase is “hugely consequential given the concentration of our income tax base at the high end”—with the top 10 percent paying 72 percent of the state income tax—and nonresidents typically slash their tax payments to New Jersey.⁶⁵

The Mercatus Center also found that “higher state income-tax rates cause a net out-migration not only of higher-income residents, but of residents in general.”⁶⁶ The effect of high property taxes—of which New Jersey has the highest—is “significantly stronger than the effect of high-income tax rates,”⁶⁷ with a 1 percent increase in the property tax rates having almost three times the effect of a 1 percent rise in income tax rates. As has been the case in New Jersey, “these data suggest a recipe for population depletion.”⁶⁸

The New Jersey Department of the Treasury reached a similar conclusion. Looking at data from 1992 to 2008, the researchers found that “average

marginal tax increases have a small but significant effect on net out-migration from a state.”⁶⁹ In particular, they estimate that the state’s cumulative losses up to 2011 from the 2004 “millionaire’s tax” totaled 25,000 taxpayers, \$3 billion in gross income, and \$150 million in income tax revenue. They note that New Jersey’s steady out-migration has been attributed to “the state’s relatively high tax rates, high cost of living, and the decline of manufacturing in the Northeast.”⁷⁰

These studies are corroborated by current research. According to the Tax Foundation, the top nine highest-tax states had net domestic out-migrations,⁷¹ as did the eight states with the highest costs of living, according to Bureau of Economic Analysis data.⁷²

A Downward Spiral

More ominously, the Department of the Treasury researchers described a vicious cycle developing in New Jersey whereby losses from departing taxpayers spread to other taxes such as corporate, sales, and property taxes and degrade a state’s overall economic performance, which leads to more out-migration.⁷³

Illinois—the one state with a worse bond rating than New Jersey—is experiencing the same negative cycle. The rating agency Moody’s describes Illinois’ plight: “Perhaps more important, population loss can be a cause, as well as an effect, of economic deterioration. A self-reinforcing cycle of population loss and economic stagnation could greatly complicate Illinois’ effort to stabilize its finances.”⁷⁴ According to Illinois Policy’s Michael Lucci, raising taxes, as Illinois just did, is not the solution because “taxes are already driving out residents and more taxes to pay for government spending will drive out even more residents as the state population continues to shrink.”⁷⁵

The warning to New Jersey is clear: New Jersey’s weak economy and high taxes are driving residents from the state, and this out-migration will reduce economic growth and tax revenues. But a weaker economy and rising tax rates will simply drive more residents out of the state.

The Political Force Behind the Status Quo

New Jersey needs a growing population and economy to maintain its quality of life and support the state’s massive unfunded pension and benefit liabilities. But New Jersey’s current high-tax, antibusiness economic environment is not generating sufficient growth and jobs, especially when compared to neighboring states. The resulting out-migration of residents—and especially young adults—is an ominous sign that portends a grim future.

It does not have to be this way. High taxes are strangling New Jersey’s economy, and these taxes were imposed for a reason. As set forth in Part IV, New Jersey’s worst-in-the-nation tax system exists primarily to pay for New Jersey’s public education system: first at the local property tax level, where more than half of property taxes go to fund district schools, and then at the state level after high property taxes generated political backlash.

Behind New Jersey’s descent to the worst tax system in the country was the constant push by the state’s most powerful political force, the NJEA, for higher education spending and higher taxes to fund it. As shown in Parts I and II, over the past 50 years, the NJEA has used its unmatched political clout to rig the system in its favor—causing hundreds of millions of taxpayer dollars to be siphoned directly into the NJEA’s treasury and used to dominate politics from the local school district level all the way to the State House. No other political force in the state even comes close.

Due to this enormous political power, the NJEA has been able to elect friendly candidates, influence lawmakers, and fend off attempts at reform. From generous salaries and pensions to premium-free “Cadillac” health plans to the ever-increasing taxes to pay for them, the NJEA has largely gotten what it wanted—much to the detriment of the state and its citizens.

New Jersey’s status quo is dominated by taxpayer-funded special interests, led by the most powerful of them, the NJEA. Most New Jerseyans are unaware of this fact. Most are unaware that their tax dollars are being used against their own interests. Most are

unaware that the future of the state and its next generations are imperiled by this malign status quo. If things do not change, they will be made aware—but only after a fiscal train wreck, when it is too late.

It is time to change the status quo.

About the Author

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Notes

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