

# **Governor-Elect Chris Christie Transition**

## **Reports of the Education Subcommittee January 16, 2010**

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**Governor-Elect Chris Christie's  
Transition Education Subcommittee  
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## Report I of the Education Subcommittee

### PRE K-12 EDUCATION

#### PRIORITY EARLY ACTION ITEMS

The following pages identify the highlights of numerous issues that the Subcommittee brings to the attention of Governor Christie and the next Commissioner of Education to address in the new administration. Among those issues, the following ten items are those deemed by the Subcommittee as those most critical for early action:

1. **American Recovery and Reinvestment Act Funding:** Approximately \$1 billion in state funding for recurring expenditures for Pre K-12 education was funded through Federal Stimulus grants and will not be available to the FY 2011 budget. The new administration will need quickly to develop a plan either for a replacement source of funding or for cuts to Pre K-12 funding, or a combination of the two.
2. **Phase II ARRA Funding:** The new administration should track closely federal action on the state's Phase II application for ARRA funding, on which \$327 million of FY 2010 budget expenditures rely.
3. **Expansion of Charter Schools:** The Subcommittee recommends the opening of five to ten new charters schools in high need, low-performing districts, especially the state take-over districts, in time for fall 2010 by strategically expanding the charters of highly successful proven charter school operators. Simultaneously, the charters of the lowest performing schools should be rescinded to demonstrate commitment to high standards for existing and new charter schools. An aggressive effort should be made to make available for the charter schools facilities belonging to district schools that are not being used for educational purposes, as well as any other available and appropriate state property.
4. **Race to the Top:** Even if the current administration is successful in submitting a Race to the Top application in January, it is uncertain if the application will be of sufficient quality to achieve funding in the first round of consideration. Award notices and application critiques will not be available until April, and April is too late to start on a resubmission for the June 1 second round funding. Therefore, the new administration, as soon as it takes office in January, should immediately, *de novo*, establish a process for developing a Race to the Top application and assembling all the policy and structural elements that would be necessary to a successful grant proposal.
5. **School Funding:** NJ currently spends more per-student on pre-K-12 education than forty-eight of the fifty states. Given the amount of these expenditures, the new administration should immediately establish an expert task force to review, analyze, and make recommendations about the structure of education funding in the state in two phases. Phase 1, which should be completed within 90 days, should identify immediate opportunities to eliminate waste and to reclaim

expenditures from practices and purposes that are low priority or making no or only limited contribution to the quality of education provided to children. Phase 2, which should be completed within six months, should provide an assessment of the overall funding system and recommendations for its improvement. Among the issues the task force should review is if and how funding should follow students and the advisability and methodology that might attach to any program that made a child's allotment of state funding portable.

**6. Collective Bargaining:** Current statewide contracts, as well as local district contracts, call for substantial salary increases in FY 2011. If, absent a source of funds to pay these increases, the new administration must take action to freeze salaries for all public employees in FY 2011, that freeze should pertain as well to pre K-12 employees at all levels.

**7. Moratorium and Review of Educational Rules and Regulations:** The new administration should be identified, from the very first day, with an incrementalist, de-regulatory agenda. The sheer volume and onerous requirements of regulations promulgated over time both by statute and by regulation has resulted in undue oversight, control and micro-management of school districts by the state, regardless of the district's success, failure or overall operational efficiency. Laws and regulations governing the pre K-12 enterprise are often major impediments to educational improvement and efficiency. Although the rationale for many of these rules and regulations is grounded in legitimate governmental interests, many are excessive in their scope or unintentionally result in counterproductive consequences. In addition, the sheer volume of reports required by these rules and regulations causes an enormous burden on school districts and educational institutions. As a first step, a moratorium should be placed on the 215 pages of accountability regulations (N.J.A.C. 6A:23A-1.1 et seq.) that were adopted by the Commissioner outside the normal rule-making process, as well as on the promulgation of new rules, regulations, and laws that add to the micro-management and regulatory environment in which the schools and districts must operate. As a second step, a thorough review and culling of regulations should occur, with a focus on less over-regulation and a greater focus on education and returning local control to school districts.

**8. Reciprocity of Certification:** Teachers and principals who are certified in other states and relocate to NJ cannot currently be granted NJ certification automatically. Even for teachers who are fully certified by other states and experienced, there are requirements that they have to fulfill and an approval process that has a ten week waiting time for review, while the schools remain unable to fill vacancies. The requirements are even more complicated for educational services personnel and school leaders. NJ should quickly implement a system of certification reciprocity, especially in regard to high demand disciplines, in time to ease recruitment of teachers in high-demand disciplines for fall 2010.

**9. Moratorium on QSAC:** In 2007, the Department of Education adopted a new monitoring system for all public and vocational school districts in New Jersey – the New Jersey Quality Single Accountability Continuum (QSAC). While the process has value, it is immensely burdensome to complete, and it is required for all districts every three years, regardless of whether the district is or is not a high performing district. A moratorium should be placed on the process for one year while it is streamlined and then reintroduced with more reasonable timeframes, for example, every seven years in high performing districts, every three years in lower performing districts, and even more frequently in the lowest performing districts.

10. **High and Low Performing Schools:** The new administration should introduce into NJ's vocabulary a more sophisticated definition of high and low performing schools. Currently, the only barometer of a school's success is the results of a single test at various grade levels. Other critical factors related to the educational progress made by children in the school, their overall development, the efforts made by the school to address socio-economic factors beyond the child's or the school's control, and the general safety and well-being of the children in the school are not part of the judgment. As NJ moves forward in a period of heightened standards of accountability, focused on raising standards and achievement for all children, it is critical that the Governor and the new Commissioner of Education communicate a sophisticated and well-reasoned understanding of what NJ means by a high performing school and one that is not. Although the state is required to use the federal No Child Left Behind categories defined by Adequate Yearly Progress for all subgroups, NJ can develop its own standards for school and district performance for state purposes.

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## **OVERALL ISSUES AND RECOMMENDATIONS**

### **Principles**

The Education Subcommittee represents a broad spectrum of views on the critical issues facing pre K–12 education in the State of New Jersey. In reviewing a vast range of important issues, the Subcommittee affirms that the bottom line of the entire education enterprise is the engagement and achievement of the state's children in learning, and, to that end and notwithstanding some differences in perspective, was able to agree that the underlying pre K–12 agenda for the next Governor of New Jersey had to be focused on the following basic six principles:

#### **I. Quality for All**

The quality of education available to all of the children of New Jersey should and can be excellent, and should be structured to minimize, to the greatest degree possible, differences in achievement which stem from social and economic factors beyond the control of the child.

#### **II. Choice for Families**

New Jersey families should be able to make meaningful choices in regard to the education of their children and have access to a full range of high quality educational opportunities, including a strong, traditional public education infrastructure and a robust offering of charter schools and private school options.

#### **III. Efficient Use of Resources**

The considerable resources that New Jersey expends on pre K-12 education should be utilized more efficiently and effectively in an environment that rewards judicious use of resources, creative sharing of services, and effective management.

#### **IV. Effective Management**

The administration of pre K-12 education should be liberated from an environment that is burdened and obstructed by a massive, complex and multi-layered structure for administration and decision-making and by excessive, useless, and intrusive mandates and regulations and by a one-size-fits-all mentality that make on the ground management of schools exceedingly difficult, that

stifle innovation, reform and improvement, that is demoralizing, and that add significant unproductive costs to schools, diverting both human and financial resources away from the design and delivery of a focused and coherent approach to teaching and learning.

#### **V. Real Accountability**

The accountability processes by which schools and districts demonstrate educational performance and management efficiency and integrity should be focused on the critical core issues of student achievement and effective use of resources and should be streamlined. Schools and districts should be accountable to parents as well as the broader community. The state should practice a philosophy of earned autonomy, and schools that are deemed to be performing should be released from burdensome central controls and oversight, while non-performing schools and districts should receive greater oversight.

#### **VI. Data-based Decision Making**

New Jersey should base decision-making in the pre K-12 environment on a reliable, integrated data system that links student, teacher and school performance and accountability for resource allocation and management in ways that have intellectual integrity and that provide transparency and clarity both for government and for the larger community.

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The six basic principles identified by the Subcommittee are discussed in more detail below.

#### **Principle I. Quality for All**

The quality of education available to all of the children of New Jersey should and can be excellent, and should be structured to minimize, to the greatest degree possible, differences in achievement that stem from social and economic factors beyond the control of the child.

**Issue 1:** A high quality and tightly aligned system of curriculum, standards and assessments is a basic requirement for quality education for all.

#### **Recommendations:**

a. NJ should adopt the common core standards for mathematics and reading/language arts, after meaningful review and public input, and continue to use the State Core Curriculum Content Standards in all other areas. The new DOE website that provides access to the newly revised standards, sample assessments and lesson plans, primary source materials, and other valuable planning tools for teachers and schools is a step in the right direction toward a focus on deep, student-centered, collaborative, engaging, and rigorous learning in NJ's public schools. Ongoing work is needed to have a tightly aligned system of standards, curriculum and assessments in all schools.

b. Assessment data should be made available as quickly as possible so they can be analyzed and used in a diagnostic process by teachers in a timely way to inform instruction and professional development. Support should be provided to assist teachers in using the assessment data effectively. The use of regular formative assessments in the classroom that are aligned to the core content standards and state tests should be encouraged. The resulting data collected by the

districts could be used by the Department of Education to provide additional student achievement data to augment that available through the statewide assessment program.

c. Successful innovations in instructional practices that yield higher than predicted gains in student learning should be highlighted, studied, and taken to scale in other schools and districts.

**Issue 2:** The new NJ high school graduation requirements have the potential to ratchet up student achievement in NJ's high schools, but there are remaining policies to be set and issues to be addressed to assure that all schools and all students can meet these higher expectations. There has never been a district by district assessment of resources (physical and human) to meet the mathematics and science requirements and thus no clear picture exists of the impact of these reforms on schools and district budgets.

**Recommendations:**

a. A survey of all high schools should be undertaken, and districts should be asked to include in the 2010 long-range facilities plans any facilities upgrades necessary to meet the graduation requirements.

b. The addition of a ½ year required course on economics and financial literacy should be amended to allow inclusion of these topics in existing courses, rather than adding on a course, which is having a negative effect on art and music electives. Schools should be able to demonstrate how the content is embedded in the curriculum.

**Issue 3:** End of course exams are being phased in for mathematics, science and English/Language Arts courses to assure that all students taking, for instance, Algebra I, are in fact meeting Algebra I standards. These exams are slated to substitute for the High School Proficiency Assessment (HSPA) for high school graduation at some point in the future.

**Recommendations:**

a. Before the end of course exams become high stakes exams for all students, the results should be used first for accountability and improvement of instruction by teachers and schools. For the first five years, a passing grade should not be required for high school graduation, but the scores should count for students' grades (20%) and be used for teacher/school accountability.

b. The cost of end of course exams is borne by the state, and, therefore, if the Governor and the Commissioner deem it an appropriate cost-saving measure, the overall implementation of end of course exams could be slowed down. Since mathematics achievement is most urgent, the focus could be on the mathematics end of course exam for the first three years with a phase-in later for the other exams.

**Issue 4:** There is a new outcomes-based system of educator program approval in state regulation. It requires a State Program Approval Council, consisting of higher education and school district members, appointed by the Commissioner of Education, to implement and oversee the approval processes. Under these new regulations, ongoing program approval will be based on performance outcomes data. The National Association of State Boards of Education just cited NJ's new system of program approval as a model of performance based evaluation that meets Race to the Top guidelines.

**Recommendations:**

a. The new educator program approval process should be implemented, and, therefore, the members of the Program Approval Council should be appointed by the new Commissioner in accordance with code (N.J.A.C. 6A:9-10.1) as quickly as possible.

**Issue 5:** Teachers and principals who are certified in other states and relocate to NJ cannot currently be granted NJ certification automatically. Even for teachers who are fully qualified and experienced, there are highly complex rules and requirements that they have to fulfill and an approval process that has a ten week waiting time for review, while the schools are meanwhile desperate to fill vacancies. The requirements are even more complicated for educational services personnel and school leaders.

**Recommendations:**

a. All candidates certified by other states should be given provisional licenses: a Certificate of Eligibility with Advanced Standing (CEAS) if they completed a National Council for Accreditation of Teacher Education (NCATE) or Teacher Education Accreditation Council (TEAC) accredited program, or a Certificate of Eligibility (CE) if they completed an alternate route unaccredited program. The provisional license will enable them to begin working immediately in NJ. They will then have an opportunity to earn a recommendation for standard licensure based on their performance after two years of teaching.

b. Either the ten-week waiting period for recruitment should be reduced to two weeks, or school districts should be permitted to move forward with the recruitment process upon certification to the Department of Education that a candidate meets the requirements for hire in NJ.

c. S-2707(P.L. 2009, c. 51), passed in March 2009, established an 18-month pilot program to recruit, prepare and issue teaching certificates to individuals with strong work backgrounds and skills in mathematics and science, but lacking a major or the equivalent in those subjects. The legislation should be extended out to 36 months in order to allow enough time to gather outcome data from the pilot projects.

**Issue 6:** On one end of the continuum, tenure has been abolished for superintendents, and there are good and substantial reasons why high level management positions should not entail tenure. However, since superintendent contracts are subject to the actions of local boards of education, and since the membership of local boards is subject to a fairly steady rate of change, superintendents tend to function in a relatively unstable environment which can make long-term planning and management difficult. At the other end of the continuum, there is a very short probationary period for tenure for teachers, and principals have very little time within which to assess a teacher's capacities and outcomes before recommending tenure. Once tenure is achieved, removal of an unsatisfactory teacher is an extremely difficult, costly, and time-consuming process.

**Recommendations:**

a. The issue of the stability of the environment for superintendents should be reviewed.

b. The probationary period for tenure for school employees eligible for tenure should be lengthened to a minimum of five years.



c. Rigorous periodic post-tenure reviews should be standard, and the process of removal from tenure should be streamlined, balancing employee protections and the need to assure the quality of instruction in the schools. There should be strict adherence to the six-month timeframe for resolution of tenure charges from the date of certification of the charges by the local Board to a Commissioner decision. The period of leave without pay, while charges are being reviewed and resolved, should mesh with the six-month timeframe.

**Issue 7:** NJ has made a significant investment in preschool for 3- and 4-year olds in former Abbott districts, and that investment has had a positive impact on later student achievement in these urban districts, with both private and public providers having equally good outcomes.

**Recommendations:** The suspension of the preschool expansion makes sense in the current economic climate, but the provision of early childhood education to at-risk children should be an issue for review and consideration of the new administration.

## **Principle II. Choice for Families**

New Jersey families should be able to make meaningful choices in regard to the education of their children and have access to a full range of high quality educational opportunities, including a strong traditional public education infrastructure and a robust offering of charter schools and private school options. Middle and upper class families already have such access because they have the economic resources to choose where they live and where their children are educated. To ensure that all parents, regardless of income, can decide where and how their children will be educated, we need a state program of School Choice that affords access to multiple public school systems, to an ample array of excellent and properly funded charter schools, and to private and parochial schools through scholarships. Such a system of parental school choice has the potential to enhance the quality of all schools through competition and innovation.

### **Recommendations:**

a. Remedy the funding disparity between regular public schools and charter schools.

b. In an environment where the State will be reluctant to add to its debt burden and where the State is already struggling to provide adequate facilities support to existing public institutions, it would be difficult to take on the facilities burden of charter schools. However, where an existing school is able to share excess facilities capacity it may have with a charter school, it should be permitted to make such an arrangement. Additionally, where the state or a local district has unused or under-utilized properties, the Department should expedite making such property available to charter schools wherever feasible.

c. Improve the efficiency of the Department of Education's administration of charter schools, focusing attention on expediting the establishment of an increased number of strong charter schools, monitoring the performance of such schools, expediting the closure of weak schools, maximizing the acquisition of any federal funding available for charter schools, facilitating the transformation of private schools to charter schools, and maintaining and making available data about charter schools.

d. Enable multiple chartering authorities, including universities and large municipalities and school districts in addition to the NJ Department of Education. New chartering authorities should be

required to demonstrate their capacity for oversight, technical assistance and monitoring of charter schools. Potential new charter authorizers will require funding to provide these services so the Department will need to identify an equitable source of funding for this purpose.

e. Create opportunities in select urban areas for children who qualify for free or reduced lunch to attend public and private schools of their choice. To this end, as an initial action, support passage of the Urban Enterprise Zone Jobs Scholarship Act (S-1607/A-2897) which would provide tax credits to corporations that contribute to eligible scholarship organizations. Further, the expansion of the number of districts and scholarships in the Jobs Scholarship Act should be supported.

f. Support pending legislation (S-2982/A-3472) to expand statewide inter-district school options.

g. The Department of Education should facilitate the creation of 5 to 10 new charter schools by September 2010 by expanding the charters of already operating and highly successful charter schools. Successful schools should be those that have been in operation for at least 7 years, have demonstrated significantly higher performance than the sending districts over a number of years, and have demonstrated sound governance and financial management.

h. The Department of Education should rescind the charters of the lowest performing charter schools to demonstrate commitment to high standards for new and existing charter schools.

### **Principle III. Efficient Use of Resources**

The considerable resources that New Jersey expends on pre K-12 education should be utilized more efficiently and effectively in an environment that rewards judicious use of resources, creative sharing of services, and effective management.

**Issue 1:** New Jersey currently spends more per-student on pre K-12 education than forty-eight of the fifty states. Given that circumstance, it is difficult to argue that the overall amount of spending on education is a critical obstacle to excellence, and it is difficult to justify the continuing upward spiral of spending on education that is having negative consequences on the state and local communities. At the same time, there is a strongly held view by many that there are significant inequities in the allocation of education funds and considerable waste. The present funding structure also is perceived by many as one that lacks both incentives for good management and effective use of resources and disincentives for mismanagement or waste.

In addition, the districts exist in an environment where continuing changes and new demands are placed on them for additions to the curriculum. A few of many examples include the new high school graduation requirements, the requirement to offer foreign language to all K-12 students, the requirement to rewrite curricula and infuse technology skills into the classroom, and training teachers in the state adopted Grant Wiggins model of Understanding by Design. All of these varying demands, many of which are well founded, create competing pressures on both budget and on human resources.

### **Recommendations:**

a. No new programs, initiatives or requirements should be launched without a rigorous assessment of the costs associated with them and clarity about the source of funding for their implementation.

b. Given the large amount of money dedicated by the state to operating and capital expenditures for pre K-12 education and the complexity of the issues involved in school funding, the new administration should immediately establish an expert task force to review, analyze, and make recommendations about the structure of education funding in the state in two phases. Phase 1, which should be completed within 90 days, should identify immediate opportunities to eliminate waste and to reclaim expenditures from practices and purposes that are low priority or making no or only limited contribution to the quality of education provided to children. Phase 2, which should be completed within six months, should provide an assessment of the overall funding system and recommendations for its improvement. Among the issues the task force should review is if and how funding should follow students and the advisability and methodology that might attach to any program that made a child's allotment of state funding portable.

c. Districts should be supported in their efforts to regionalize, consolidate, or share services where such proposals demonstrate that current funds can be reallocated from administrative costs to educational programs and services by the Department of Education. Department personnel should identify such arrangements and work cooperatively with district leadership to achieve efficiencies and savings.

d. Any current restrictions placed on districts and schools that make regionalization, consolidation, shared services, or student movement among schools and districts difficult should be immediately eliminated.

e. High performing districts should be given immediately greater latitude in how they expend the funds provided to them by the state.

f. The new administration should review the compensation and staffing levels of employees throughout the state's education system, from the Department of Education to the schools and compare that compensation, including related issues such as merit pay, performance evaluation, contract and tenure issues, and staffing patterns to other high-performing states.

**Issue 2:** School district budgets in NJ are capped. Specifically, the law provides that a school district shall not adopt a budget with an increase in its adjusted tax levy that exceeds the tax levy growth limitation set forth in the statute. Currently, the cap is 4%. In certain cases, a waiver of this cap can be obtained, but it requires the approval of the Commissioner of Education and, in some instances the voters, who must approve it by 60% (N.J.S.A. 18A:7F-39).

It is also the case that school board budgets are the only budgets upon which taxpayers are permitted to vote. Currently, there is legislation pending (A-15/S-1861) which would permit school districts, with the approval of the Executive County Superintendent and the Commissioner, to determine the annual school budget without the requirement of voter approval so long as the budget is within the cap. The legislation would also change the date of the school board election from April to November.

**Recommendations:**

a. A-15/S-1861 should be supported and adopted.

**Issue 3:** State laws and regulations related to school construction, facilities management, and contracting are rigid and obsolete, making it impossible for districts to utilize cost-effective and innovative solutions and public/private partnerships to meet their facilities needs. In addition, the

state's review and approval processes are enormously cumbersome and time-consuming, often adding considerable costs to projects because of delays. (A4140, voted out of the Assembly Education Committee last June would have severely restricted the ability of schools and colleges to subcontract for services. There is no Senate companion bill.)

**Recommendations:**

- a. Amend laws to permit construction contracting processes that provide the efficiencies in time and cost associated with methodologies used in the private sector, such as design/build, the development of prototype plans that can be readily duplicated, public/private partnerships, and competitive future purchase contracts.
- b. Significantly improve the process associated with required reviews and inspections in order to eliminate the delays and extra costs associated with the current process.
- c. Provide districts with greater control over the administration of their capital budgets and projects.
- d. The prevailing wage requirement for projects over \$2,000 should be eliminated or, minimally, should be conformed to the higher thresholds applicable to municipalities.

**Issue 4:** The schools and districts have been burdened over time with an increasing number of unfunded or underfunded mandates, such as: mandated school district membership in the NJ School Boards Association; required one hundred hours of professional development for teachers; school bus maintenance schedules; transportation efficiency standards; giving teachers paid time off to attend the NJEA convention; expensive requirements for homeland Security in all school construction and renovation; special education mandates that exceed federal requirements; required annual training for Right to Know and required annual updates to Emergency Management plans, among other annual training and update requirements that could be done every few years instead of annually.

**Recommendations:**

- a. Examine all unfunded and underfunded mandates, eliminate unnecessary, burdensome, and unproductive requirements, and permit the schools and districts to exercise more discretion in setting their own priorities and directing their human and financial capital to those activities that best support the education, the safety, and the well-being of the children they serve.

**Issue 5:** There appears to be considerable audit activity directed at the Department of Education, the districts, and the schools from a variety of internal and external sources. However, there also appears to be lack of clarity and consistency in audit activities and lack of adequate follow-up.

**Recommendations:**

a. The new administration should undertake a comprehensive review of recent audits and, if necessary, strengthen audit standards and practices, and assure rigorous follow-up of recommended corrective actions.

**Issue 6:** In regard to the difficult area of Special Education, there are a number of concerns: (1) In January of 2008, Governor Corzine signed legislation placing the burden of proof on the school districts when disputes arise between school districts and parents regarding the appropriate provision of special education services, even though the U.S. Supreme Court in 2005 upheld the decision that “the burden of proof in an administrative hearing challenging an IEP [Individualized Education Plan] is properly placed upon the party seeking relief.” This shift in burden of proof in NJ has created a system in which parents are challenging the placements of children more frequently, which is, in turn, leading to significantly increased school district legal fees. (2) School districts pay the costs for the placement of some Special Education students in private school settings when the public school does not have appropriate programs or facilities for the child. However, while the districts are held to the 4% cap on their tax levy funding, the Department of Education has approved 8-10% increases in tuition at the private schools. (3) The NJ Special Education Code exceeds the requirements of the Federal Code, and, at the same time, the state does not provide the 40% of funding for Special Education as proposed in the original Individuals with Disabilities Education Act (IDEA). This significant unfunded mandate has placed a substantial hardship on the school districts.

**Recommendations:**

- a. NJ should bring its laws in line with the federal standard.
- b. Assign three to five Administrative Law Judges to specialize in Special Education matters so there is a judiciary that is current in the very fluid and changing world of Special Education.
- c. Apply the tax levy growth limitation cap to all services that require Department of Education approval to do business with school districts.
- d. NJ should undertake a review of how other states with successful education systems address the issue of the funding and provision of services for Special Education.

**Principle IV. Effective Management**

The administration of New Jersey pre K-12 education should be liberated from an environment that is burdened and obstructed by excessive, useless, and intrusive mandates and regulations, by multiple levels of decision-making authority, and a one-size-fits-all mentality that make on the ground management of schools exceedingly difficult, that stifles innovation, reform and improvement, that is demoralizing, and that adds significant unproductive costs to schools, diverting both human and financial resources away from the education of children.

**Issue 1:** The education enterprise in the state has evolved into an increasingly complex and multi-layered organization. On top of the school, the entity that comprises the student and the teacher, sits layers of a massive administrative structure, dispersing and duplicating responsibility and authority in arcane ways across the jurisdictions of the district superintendent, the local board of

education, the executive county superintendent, the Department of Education and the Commissioner of Education, and the State Board of Education.

The State Board of Education is the agency head for the Department of Education, and, as such, promulgates regulations and appoints senior staff. (A-4307, which was reported out of the Assembly Education Committee in December of 2009, would restore to the Board the authority to decide legal cases as well. There was no Senate companion bill.) The State Board is seen by many as a powerful advocate for educational interests in the state and by others as an obstacle to the exercise of appropriate authority and initiative by the Commissioner and the Governor.

The Department of Education has been frequently criticized as being overly bureaucratic, slow to act, and unresponsive to the needs of the schools and districts. The structure of the Department is complex, duplicative, and inefficient and not organized to support what should be its primary role, to assist the districts in providing the highest possible educational opportunities to the children of New Jersey. KPMG did an extensive audit of the Department of Education in 2007 “to identify organizational and staffing deficiencies that may hinder the Department’s ability to provide effective oversight of school districts, and to develop recommendations for the reorganization of the Department...” That material is available at <http://www.state.nj.us/education/genfo/audit/>. Not including the 198 employees at the Katzenbach School for the Deaf, there are currently 651 funded positions at the Department, of which 631 are currently filled. Of these funded positions, 394 are state funded, 199 are federally funded, and 58 are funded from other sources, such as revolving funds that do not lapse from year to year. The largest numbers of these employees are deployed to Administration and Support Services (163) and to Special Education (82).

The Department, over time, has spent increasing amounts of its resources in promulgating and implementing hosts of regulations and procedures and ministerial functions that bear only a limited relationship to the provision of an excellent education to all students. The sheer volume and onerous requirements and regulations promulgated over time by the Legislature and the Department has resulted in undue oversight, control and micro-management of schools and districts by the state, regardless of their success, failure or overall operational efficiency. For example, the Fiscal Accountability, Efficiency and Budgeting procedures section of the NJ Administrative Code, promulgated under the past administration and running to 215 pages places an undue burden on the manner in which school districts conduct their operations. Although the rationale for all these rules is grounded in legitimate governmental interests, many are excessive in their scope or unintentionally result in counterproductive consequences. Further, the rules do not differentiate between districts and circumstances, resulting in unnecessary burdens being placed on schools or districts that are already performing at high levels. In addition, the excessive volume of reports required by these rules and regulations provides an enormous burden on school districts and schools and diverts resources away from instructional activities.

**Recommendations:**

- a. Reconstitute the State Board of Education as an advisory board to the Commissioner, with a central focus on long-term planning, and return authority and responsibility for the direction and administration of the state’s schools to the Governor and the Commissioner of Education.
- b. The next Commissioner of Education, under the direction of the Governor, should review, refocus and prioritize the efforts of the Department of Education to focus on the transformation of NJ’s schools to achieve excellence for all students, rather than focus on compliance and control that

perpetuate the status quo and proliferate bureaucracy. In this review, attention should be paid to the uses and sources of funds supporting Department personnel, 40% of which is funded by federal funds, grants and fee revenues. Particular attention should also be paid to the extent to which the Department is utilizing currently available and highly flexible and interactive technologies to provide information, communicate, implement regulations and reviews, and make decisions in ways that are fast and transparent.

c. The range of authority and decision-making flowing from the Department of Education, the counties, the districts and the schools should be reassessed and streamlined to reduce bureaucracy and maximize efficiency, and principals and superintendents of high-performing schools should be given more authority to manage their programs, budgets and operations.

d. The significance of the role played by the 21 executive county superintendents and the 81 employees in the county education offices should be reviewed and a cost/benefit analysis made of maintaining or eliminating this additional level of administration or considering a smaller number of regional offices with a redefined, non-regulatory purpose.

e. A moratorium should be placed on the 215 pages of accountability regulations (N.J.A.C. 6A:23A-1.1 et seq.) that were adopted by the Commissioner outside the normal rule-making process, as well as on the promulgation of new rules, regulations, and laws that add to the micro-management and regulatory environment in which the schools and districts must operate. As a second step, a thorough review and culling of regulations should occur, with a focus on less over-regulation and greater focus on education and returning local control to school districts throughout the State.

**Issue 2:** During the administration of Governor McGreevey, school districts lost the ability to invoke a “last best offer” at the bargaining table when negotiations were at an impasse. This change provides an incentive to unions to prolong the bargaining process and stresses the budgets of the districts, not just in regard to the final contract terms, but also in terms of the costs of the bargaining process itself. A-4142, which is currently before the Assembly on second reading (there is no companion bill in the Senate) would expand arbitration to discipline of non-tenured teachers, creating even more costly and time consuming processes for taking personnel actions.

**Recommendations:**

a. Restore the local Boards of Educations’ ability to invoke the “last best offer” after the steps of fact-finding and super-mediation have been exhausted.

b. Create regional salary guides to control escalating salary increases.

c. Do not adopt A-4142 or any successor bill that restricts appropriate personnel management.

**Issue 3:** Workers’ compensation laws and regulations as they affect the school districts are misguided, costly, and create incentives for abuse.

**Recommendations:**

a. The new administration should review the workers’ compensation issue and take appropriate actions to correct the current requirements and practices.

## **Principle V. Real Accountability**

The accountability processes by which schools and districts demonstrate educational performance and management efficiency and integrity should be focused on the critical core issues of student achievement and effective use of resources and should be streamlined. Schools and districts that are deemed to be performing should be released from burdensome central controls and oversight, while non-performing schools and districts should receive greater oversight.

**Issue 1:** In 2007, the Department of Education adopted a new monitoring system for all public and vocational school districts in New Jersey – the New Jersey Quality Single Accountability Continuum (QSAC). The process consists of five self-evaluation reviews conducted by the district in the areas of curriculum and instruction, fiscal management, operations, personnel, and governance. Department of Education officials make a site visit annually to verify the districts’ responses. Each of the five reviews is scored on a numeric basis, with various scores triggering possible penalties or state intervention strategies. Each district that satisfies 80% or more of the review indicators is deemed “high performing.” Each district that scores below 80% is required to submit a district improvement plan to address deficiencies.

The QSAC process takes place every three years for all districts, regardless of whether it is or is not a high performing district, and the Department of Education does not have enough personnel to conduct all the on-site reviews, which results in long delays in the process. Additionally, the process itself is extremely time-consuming for the districts and uses considerable human and budgetary resources to implement.

### **Recommendations:**

- a. The QSAC process has value, but a moratorium should be placed on it for a period of one year while it is streamlined to assure that it is both an effective measure of performance and an efficient process.
- b. The timing of the QSAC process should be changed so that instead of being administered in every district every three years, it is administered in high-performing districts every seven years, in lower performing districts every three years, and even more frequently in the lowest performing districts.

**Issue 2:** Currently, the only barometer of a school’s success is the results of a single test at various grade levels. Other critical factors related to the educational progress made by children in the school, their overall development, the efforts made by the school to address socio-economic factors beyond the child’s or the school’s control, and the general safety and well-being of the children in the school are not part of the judgment. In a period of heightened standards of accountability, as the state is focused on raising standards and achievement for all children, overly simplified branding of a school as high or low performing does a disservice to both educators and students and fails in the state’s responsibility to provide accurate information to families and communities.

### **Recommendations:**

- a. The education community, under the leadership of the new Commissioner, needs to develop a sophisticated and well-reasoned understanding of what NJ means by a high performing school and one that is not.



## **Principle VI. Data-based Decision Making**

New Jersey should base decision-making in the pre K-12 environment on a reliable, integrated data system that links student, teacher and school performance and accountability for resource allocation and management in ways that have intellectual integrity and that provide transparency and clarity both for government and for the larger community.

**Issue 1:** A robust system of teacher and principal evaluation focused on outcomes can help drive student achievement.

### **Recommendations:**

a. A teacher/principal evaluation system should be developed that provides multiple sources of data, including data on student achievement, such as value added or gain score data, to provide a web of evidence of teacher and principal performance. While the system should not be an instrument with a one size fits all approach, it must be one which permits the DOE to map district evaluation systems against teaching standards to aggregate data. Local instruments should be fair and comprehensive with clear differentiation for different levels of teacher performance. Evaluations should not be a one-time snapshot, but should include observations, walkthroughs, student data, student and teacher work samples and feedback conferences.

b. Teacher and principal evaluation should drive school improvement and should be embedded in a culture of accountability with use of data for formative assessment. Strong performance outcomes for students must be the bottom line and the common goal.

c. Resources currently available for professional development should be used intentionally for demonstrably high quality experiences and programs that address the specific areas in need of improvement.

d. The state's student data system must be linked to the teacher/principal data system.

**Issue 2:** Given the current emphasis on school accountability, tests and proposals for additional tests have proliferated. While appropriate testing is critical to an accountable educational environment, testing is costly and ill-considered and excessive testing can have a negative impact on teaching and learning.

### **Recommendations:**

a. The new Commissioner should undertake a review of state testing, including which tests are and should be given, how often they are and should be administered, what costs are associated with test administration, the source of funding for those costs, and, ultimately, a rigorous cost/benefit analysis of what educational benefits accrue to the testing.

b. Based on this review, the new Commissioner should work with the U.S. Department of Education to influence federal policies in regard to testing.

## Report II of the Education Subcommittee

### HIGHER EDUCATION

#### Organization

Higher Education is not organized as a department of state government in New Jersey, nor does it report to any department of state government. Each institution functions autonomously under the governance of a board of trustees. (See Higher Education Restructuring Act – N.J.S.A. 18A:3B-1 et seq. and also N.J.S.A. 18A:62-1 et seq.)

There are 12 senior public institutions:

#### 7 Universities:

- Rutgers, the State University (N.J.S.A. 18A:65-1 et seq.): The Board of Governors of Rutgers is comprised of 11 voting members, 6 appointed by the Governor of NJ and 5 appointed by the University's Board of Trustees (which was the governing board of Rutgers when it was a private institution). Rutgers is NJ's only comprehensive research university. Having been transformed from a private college to a state university in 1956, quite late in its history, it was granted constitutional autonomy by the state. During the decade of the 1980s, Rutgers made the major move forward to become the research university that exists today. Rutgers has three campuses, but, from a national perspective, the research university is New Brunswick, which, with approximately 35,000 students, is among the largest research universities in the country in terms of student enrollment. The Newark and Camden campuses are relatively small regional campuses which house strong professional schools in business and law.
- The University of Medicine and Dentistry of NJ (N.J.S.A. 18A:64G-1 et seq.): All members of the Board of Trustees are appointed by the Governor, and, for this institution only, the Governor also appoints the Chair of the Board. The Commissioner of Health of NJ sits, *ex-officio*, as a member of the Board. UMDNJ has been NJ's only medical institution, and it has a substantial investment in bio-medical research. It is free-standing, having been separated from Rutgers by Governor Cahill in 1970. By action of the legislature in June of 2009, a plan for a second medical school was advanced, to be located in South Jersey under the jurisdiction of Rowan University (see below). Creation of a new medical school will need to be recognized in budget planning as a new cost center.
- Montclair State University, Rowan University, Kean University, William Paterson University, New Jersey City University (N.J.S.A. 18A:64-1 et seq.): All members of the Boards of Trustees are appointed by the Governor. Of these five state universities, Montclair State is the largest (18,000 students) and most comprehensive academically, with the largest investment in graduate programs. Rowan University has built particular strength in Engineering, has created an incubator for business innovation, and has the benefit of the largest endowment. Kean and William Paterson are well-regarded regional universities, and New Jersey City University is a Hispanic-serving institution that is principally focused on serving the urban population of Jersey City.

#### 4 Colleges:

- The College of New Jersey, Ramapo College of NJ, Richard Stockton State College, Thomas Edison State College (N.J.S.A. 18A:64-1 et seq.): All members of the Boards of Trustees are

appointed by the Governor. Of these four state colleges, The College of New Jersey has the strongest reputation, the most selective admissions standards, and the highest graduation rates. Ramapo and Stockton are well-regarded regional liberal arts colleges, one in the north, and one in the south, and Thomas Edison is a non-traditional institution that serves only part-time, working adult students through distance learning, including many students in the military. Edison does not have a full-time faculty or campus.

#### 1 Institute:

- The New Jersey Institute of Technology (N.J.S.A. 18A:64E-12 et seq.): All members of the Board of Trustees are appointed by the Governor. The Governor and the Mayor of Newark sit, *ex-officio*, on the Board. NJIT is a well-regarded Institute of Technology with a goal to become a recognized research institution. However, the state has not made the level of investment that would enable it to approach the size or stature of major technology institutions in other states such as Georgia Tech or Virginia Tech. NJIT relies heavily on foreign students for its enrollment, especially in its graduate programs.

There are 19 public community (county) colleges that operate autonomously, each reporting to its own independent 11-member Board of Trustees (2 members appointed by the Governor, 8 by the county Freeholders, and one position held by the Executive County Superintendent). (See N.J.S.A. 18A:64A-1 et seq.) The budgets of the colleges are set by the Board of School Estimates, which is comprised of 2 trustees and 3 Freeholders, and the county directly funds between 20-25% of the budget. The community colleges have a very close operating relationship with their home counties.

NJ also has 14 private institutions with “a public mission.” These include one internationally ranked institution; 6 regional institutions; and 7 faith-based institutions. All of the private institutions are relatively small, as is generally true of privates, the largest being Seton Hall University with about 9,500 students.

Several for-profit proprietary institutions also provide educational programs in the state.

#### **Status and Issues**

NJ ranks 50<sup>th</sup> in the nation in the number of public baccalaureate seats it provides per high school graduates. As a consequence, NJ educates significantly fewer students in four-year public institutions than do states of comparable size: for example, about 46,000 fewer than North Carolina, about 52,000 fewer than Virginia, about 72,000 fewer than Indiana, about 77,000 fewer than Georgia, and about 155,000 fewer than Michigan.

NJ’s net out-migration of college students is the highest in the nation, so high, in fact, that NJ constitutes a third of all net out-migration in the nation. NJ loses about 30,000 students a year and imports only about 3,600 students. New York State, by comparison, with a population more than twice that of NJ, loses about 27,000 students, but it also imports more than 27,000.

The development of NJ’s institutions in regard to academic programs, research activities, and partnerships with the business community has lagged behind the nation in large measure because of a retrograde culture in the state that assumes that the state’s institutions should, by and large, stay very much as they were half a century ago. Attempts at building on excellence and growing quality, sophistication, size, scope, and national and international reputation are greeted with suspicion and branded as “mission creep” or unnecessary to serving NJ students. Competitor states

have taken the opposite tack, nurturing such initiatives and building their higher education infrastructure to serve the economic and societal needs of the state.

These circumstances have hobbled NJ, interfering with the development of a first-rate home-grown workforce, stifling synergistic opportunities for the creation of new knowledge and applied research, dampening the institutions' ability to attract external funding to the state, sending billions of education dollars to competitor states, and seriously prejudicing the state's ability to provide accessible, affordable, high quality higher education opportunities to its citizens. Much of the harm can be traced back to four primary causes: (1) the abandonment by the state of support for the facilities of its public campuses; (2) the total lack of any rational basis for operating appropriations; (3) the vagaries of financial aid policies; and (4) an environment of over-regulation and the dysfunctionality of government processes with which the institutions must engage. Each of these four areas is discussed briefly below:

(1) **Facilities:** New Jersey is distinguished from just about every other state in the nation by its failure to provide capital support to its higher education institutions. Prior to twenty years ago, the state's capital support was, even in the best of times, minimal and inadequate. Over the last twenty years, capital support has been virtually eliminated in its entirety. As a consequence, in order to provide adequate space for instruction, up-to-date equipment and technology, to respond to the changing needs of evolving disciplines and programs, to accommodate the intensive needs of complex research activities, to provide adequate core campus infrastructure, and to invest in the repair and maintenance necessary to the continued use of campus facilities, the state's institutions have had to borrow the funds necessary to meet at least some portion of their capital needs, making NJ institutions among the most leveraged in the country.

All of the programs that existed to bridge some small portion of the capital funding gap, such as the Higher Education Capital Improvement Fund, the Higher Education Equipment Leasing Fund, the Higher Education Facilities Trust Fund, and the Higher Education Technology Infrastructure Fund have all disappeared. The only exception is in relation to the community colleges. Although modest in amount, the state, through the Chapter 12 program, has provided fairly consistent capital support for the community colleges. Since the community colleges cannot take on debt, Chapter 12 is essentially the only way they can build. The state is currently supporting the debt service on \$265 million dollars in bonds with the counties matching the effort. The program is capped by law at \$265 million, and new funds become available when principal is paid down. While there was no additional Chapter 12 spending in fiscal year 2009, the state did authorize sufficient debt service to allow bonding to go to the \$265 million limit for fiscal year 2010.

The extent to which New Jersey stands alone in the nation in regard to the abandonment of even minimally adequate higher education capital facilities support can be seen clearly with a few examples. In nearby Maryland, with a population of 5.6 million, the state provides annual capital support for its public colleges and universities in an amount that totaled to \$1.9 billion over the past ten years for its four-year public universities and \$274 million over the past four years for its community colleges, as well as even providing about \$6 million a year for the private institutions. In Georgia, with a population of 9.5 million, the state provides annual capital support for its public institutions every year in an amount that over the past three years totaled to \$868.3 million. In Michigan, with a population of 10 million and some very severe economic challenges over the last decade, the state nevertheless continued to provide annual capital support for its public four-year

institutions that totaled over the last nine years to \$651 million. These numbers and practices are replicated all over the country and compare to New Jersey's investment of virtually zero.

The states have made these investments because increased access to higher education has been viewed, correctly, as closely tied to a state's economic prosperity. In the twenty year period between 1987 and 2007, enrollment in higher education in the United States increased 44% from 12.7 million to 18.2 million: 13.5 million in public institutions and 4.7 million in private institutions. This growth has required, and been supported by, annual investments across the nation. New Jersey, as a stand-alone exception, will not be able to sustain a competitive higher education infrastructure without a new commitment to planned, regular investment in higher education capital facilities. (The New Jersey Presidents' Council has developed a draft Capital Facilities Plan which can serve as a good starting point toward articulating a solution to this problem.)

(2) Operating Appropriations: The higher education community has long argued correctly that state operating support is too low and that too much of the cost of a higher education has been shifted to students and their families as a user tax, giving NJ among the highest public tuitions in the country. There is yet a worse systemic problem, however, in regard to state operating support for its colleges, and that is the complete lack of any rational policy guiding such appropriations. For decades now, state appropriations have been blind across-the-board actions, raising every institution by X%, or cutting every institution by X%, without any regard whatsoever to the quality of the institution, size of or change in enrollment, number of graduates, retention or graduation rates, scope of the undergraduate and graduate programs, diversity of the student population, and without any sense of what a college education should cost to provide or any policy as to who should bear that cost. As a result, current appropriations are grossly inequitable, with per-full-time-equivalent student (FTE) appropriations ranging with no justifiable reason from one institution to another from a high of \$7,700 per FTE student down to a low of \$3,000 per FTE student.

Rational appropriations mechanisms are not rocket science. A determination could be made to base appropriations on national comparative data related to costs and on whatever factors best fit the state's priorities for investment, whether those factors are enrollments, measures of quality, differing costs of undergraduate and graduate programs, student success factors, state program priorities, or any desired combination of indicators, but there has been no political will to make these decisions in past administrations. There are no institutions of higher education in New Jersey that are over-funded. All are under-funded, some grossly under-funded, so more funding for operating support would be a positive thing, especially given NJ's bottom-of-the-nation ranking in funding changes for higher education over the last several years. However, continued blind allocating out of funds without rationale or intent is frankly irresponsible, especially in a period of constrained resources.

(3) Financial Aid: NJ is what is called nationally a high tuition/high financial aid state. Instead of adequately funding the operating costs of its public institutions, the state has let tuitions rise to fund those costs and then has invested large sums in financial aid to assist students in paying those high tuitions. NJ has also made a significant investment in supporting the higher tuitions of its private institutions. As a consequence, the way the state makes its financial aid investment is a matter of great importance. There are three financial aid programs particularly worth noting: TAG, EOF, and NJ STARS.

In FY 2009, the state spent approximately \$255 million in TAG awards to full-time students. 80% of the students who receive TAG awards attend public institutions, but they share only 66.7% of the total TAG dollars. 20% of the students who receive TAG awards attend private institutions, and they share 33.3% of the total TAG dollars. The average award to a community college student is about \$1,500; the average award to a student in a four-year public institution is about \$5,000; and the average award to a student in a private college is about \$6,700. The TAG program in NJ is designed to subsidize institutions with higher tuitions, unlike other states where state tuition grants are more frequently capped at public college tuition rates. Overall, the TAG program has been essential to keeping the state's high tuition institutions affordable to students. However, the state does not fully fund its own TAG formulas, and institutions are, but should not be, put in the position of having to make up the differential between funding and actual costs from their operating budgets.

The EOF (Educational Opportunity Fund) is a strong NJ program that has provided support for students from challenged socio-economic backgrounds who have demonstrated the potential to benefit from higher education even though their educational preparation has been less than adequate. The program provides financial aid and special advising and tutorial services and has had a good success record in increasing the numbers of college graduates among students of color. It is a program worthy of continuing support. EOF funding and enrollment has held relatively steady over the past five years, with fall enrollment growing from 12,258 in fall '05 to 12,645 in fall '08 and annual appropriations of approximately \$27 million.

The NJ STARS and NJ STARS II programs were the brainchild of Sen. Wayne Bryant and are strongly supported by the community colleges, but not well received by the four-year institutions. The stated objective of the programs was to encourage the state's highest achieving students to stay in NJ for their college education. That is a laudable objective, but the program could be better structured to achieve that end and get better value from the state's considerable investment in the programs, which in FY 2010 are budgeted at \$17.8 million. NJ STARS and NJ STARS II should be amended into a single, less costly program that provides a flat grant of approximately \$4,000 to \$5,000 a year, for up to a maximum of four years, to students in the top 2% to 5% of each high school's graduating class. Students should be able to use that grant toward tuition at any accredited 2-year or 4-year, public or private college in the state. If the goal is to retain the best students in NJ, the current eligibility of the top 15% of the high school graduating class is too broad (and too expensive), and the requirement that the student must first attend a community college is not appropriate for many top students.

(4) Government regulation: Despite the autonomy legislation adopted during Governor Whitman's administration, NJ's colleges and universities continue to be subject to unnecessary and unproductive regulation in areas of institutional administration that are more properly the province of their boards of trustees. The most serious of these areas include academic program approvals, imposition of tuition and fee caps, personnel policies, and construction and procurement policies. In the area of academic program approvals, obsolete regulations that have little relevance to the current higher education environment in the state and in the nation impede the appropriate development of institutions to serve the state's higher education needs. In regard to tuition caps, these legislatively imposed caps at a time of diminishing state support tend to be political responses rather than considered weighing of the competing demands of access, affordability, and the quality of programs and services. The setting of tuition and fees is the proper responsibility of boards of trustees and should remain in that domain. In the area of personnel, approximately 40%

of the state college and universities' employees are covered by the state's civil service regulations, even though they also are members of various statewide collective bargaining units and even though the institutions of higher education, and not the state, are the employer of record for all of their employees. Civil service regulations should not apply to college and university employees. Further, the only area where the Governor of NJ is the employer of record for state college and university employees is for the purposes of collective bargaining. The Governor should delegate that responsibility to the institutions.

In the area of construction and procurement policies, the institutions of higher education are forced to bear higher costs for construction and procurement because of obsolete, inflexible, and inappropriate laws and regulations that make it impossible for them to manage these areas in ways that would better assure the quality, cost-effectiveness, and timeliness of projects. Recently imposed State Comptroller review of contracts adds to staff time and delays time-sensitive projects. In addition, like so many other entities in the state, both public and private, NJ's colleges and universities are particularly challenged by the very slow and often conflicted responses of a number of state agencies, and most especially the Department of Community Affairs, in providing the myriad of reviews and inspections required by law and regulation.

### **Related State Agencies**

The Commission on Higher Education (CHE): The CHE should be eliminated, and a coordinating agency with a small, well-qualified professional staff and no board should succeed it in order to attend to a very focused agenda of mandatory state functions related to higher education. The coordinating agency should report directly to the Office of the Governor, assigned as a practical matter for oversight to whichever official the Governor deems appropriate, for example, the Lieutenant Governor. The CHE was established when the Department of Higher Education was abolished, and its usefulness as a transitional body has run its course. The CHE consists of a staff of 15 state employees, down from 20 in FY 2002, and has an operating budget of \$800,000 in FY 2010, down from \$1.2 million in FY 2002. The CHE administers \$5.8 million in various grant programs, the largest being College Bound at \$3.6 million. In FY 2002, the CHE administered \$39 million in grants. The CHE is administered by an Executive Director, and governed by a Board of Commissioners, consisting primarily of lay members of the public appointed by the Governor. The Executive Director of the CHE used to be appointed by, and report to, the CHE. However, Governor Corzine determined that he would make that position a gubernatorial appointment, putting in place a political appointee, who also served as an advisor to the Governor. That position is now being covered by an Acting Executive Director. New legislation (S-1609/A-3245) is currently before Governor Corzine for signature. That legislation creates a cabinet position of Secretary of Higher Education and provides that the person who holds that role will be the Executive Director of the CHE. It also contains additional responsibilities and requirements for the CHE and the institutions.

The CHE has been granted by successive legislatures a long list of policy and ministerial tasks which it has very limited capacity to carry out. Certainly, most of the important policy areas have never been addressed by the CHE, which has largely limited its work to fulfilling its ministerial tasks and writing reports which are read by few and rarely used. Almost all of what the CHE does could and should devolve back, as appropriate, to the boards of trustees of the institutions, the State Treasurer, HESAA, or the New Jersey Presidents' Council. Very little done by the CHE actually contributes to the development or improvement of the state's higher education infrastructure,

much of what it does would not be missed if it stopped being done, and, most important, much of what most urgently needs to be done is never addressed by the CHE.

The Higher Education Student Assistance Authority (HESAA): HESSA is not duplicative of any other agency and is responsible for the administration of approximately \$1.2 billion in financial aid to NJ students, including state, federal, scholarship, loan, and college savings programs. It has oversight responsibility for: the Tuition Aid Grant Program; the Coordinated Garden State Scholarship program; the NJ Student Tuition Assistance Reward Scholarship (NJ STARS and NJ STARS II); the NJ World Trade Center Scholarship Program; the Survivor Tuition Benefits program; the Dana Christmas Scholarship for Heroism program; the Law Enforcement Officer memorial Scholarship; the Veterinary Education Program; the NJBEST Scholarship; the NJCLASS Loan Program; the Federal Family Education Loan Program (FFELP); the Social Services Student Loan Redemption Program; the Teaching Fellows Program; and the Primary Care Physician and Dentist Loan Redemption Program.

HESAA is an instrumentality of the state, in but not of the Department of State, governed by an 18-member board, 7 members of which are appointed by the Governor, and administered by an Executive Director, appointed by the Governor. There are currently a number of vacancies and holdovers on the board, which is a concern that needs to be remedied. The management of HESAA has been generally deemed to be efficient, and HESAA has maintained good relationships with the higher education community. HESAA has a total of 179 positions in FY 2010, which is a significant reduction from prior years. However, only 16 of those positions are state-funded. HESAA's total operating budget is \$28.8 million of which only 3% is funded by the state and 97% funded by other revenues.

Currently, HESAA is the state's guarantor for the FFELP, under which lenders provide loan capital to students and families and the state guaranty agency insures the loan on behalf of the U.S. Department of Education. Borrowers are charged fees for both origination and default insurance. As a non-profit entity, HESAA uses its revenue to pay origination fees and, for TAG recipients, the default fee on behalf of borrowers whose loans are originated through HESAA. The most significant issue facing HESAA is President Obama's proposal to eliminate FFELP in favor of the Federal Direct Lending Program, which, when it occurs, will diminish revenues to HESAA. The Authority will then need to seek new revenue-generating activities, marketing its products both within and out of the state.

### **Proposed New Jersey Council on Education for the 21<sup>st</sup> Century**

In order to create a focal point for serious deliberations about pre K – 20 education and the connections between education and the state's economy, the Governor should convene a New Jersey Council on Education for the 21<sup>st</sup> Century. This Council, as specifically charged by the Governor, would consider issues related to the creation of a fabric of integrated expectations for the education of NJ students from early childhood through advanced education. Members of the Council, who should be appointed by the Governor, should be drawn from the most accomplished leadership in pre K – 12 education, higher education, the business community, and government. The Council should focus its work on identifying concrete initiatives: (1) to raise educational standards and achievement for all New Jerseyans; (2) to integrate the several parts and levels of



the state's educational system; (3) to realize the potential of the resources of the state's business enterprises to enhance educational opportunities and quality; and (4) to realize the potential of the state's educational institutions to create an attractive and rewarding environment for the growth of business.

### **SUMMARY OF RECOMMENDATIONS**

1. The new administration should act immediately, in collaboration with the higher education community and the legislature, to prepare a realistic, long-term plan to support the capital facilities development of the state's higher education institutions.
2. In anticipation of future investment in higher education, which is a policy priority of the new administration, the new administration should take the initiative to develop a rational funding structure for future operating support, aligned with state priorities and based on clear policy objectives.
3. Careful attention should be given to the purposes and costs of NJ's very considerable investments in financial assistance to college students, and all financial aid programs should be regularly reviewed to assure that they are based on clear policy objectives. The state's financial aid policies should not be permitted to transfer unfunded mandates to the institutions.
4. All personnel policies applicable to college and university employees should be fully under the jurisdiction of the institutional boards of trustees, who are the employers of record for these employees.
5. Laws and regulations that impede the cost-effectiveness and timeliness of the construction and procurement activities of the institutions of higher education should be revised. Because of the existing demands on staff at the Department of Community Affairs and in order to move construction projects forward, by Executive Order immediately, the DCA should be directed to select private on-site inspection and plan review agencies to carry out DCA responsibilities.
6. Eliminate the Commission on Higher Education and create a small, coordinating agency, reporting to the Office of the Governor, to attend to a narrow and well-defined agenda of mandatory state functions related to higher education. The long list of legislative mandates that have been added over the years to the CHE should be delegated as appropriate to the institutional boards of trustees, to the Office of the State Treasurer, to the Higher Education Student Assistance Authority, and to the New Jersey Presidents' Council.
7. The Governor should convene a NJ Council on Education for the 21<sup>st</sup> Century to create a fabric of integrated expectations for the education of NJ students from early childhood through advanced education and to realize the potential of the resources of the state's business enterprises to enhance educational opportunities and the potential of educational institutions to create an attractive environment for the growth of business.
8. See also the recommendations related to higher education in the report of the Economic Development Subcommittee.