

***Regulatory Relief and Unfunded Mandates***  
**A Report of the New Jersey Presidents' Council, February 2010**

Following up on a conversation among representatives of the New Jersey Presidents' Council and incoming Governor Chris Christie, the Council has collected the following list of unfunded mandates and areas of over-regulation across all sectors of higher education in New Jersey. The list below is not intended to be comprehensive, but rather seeks to highlight the most critical areas of concern for the state's higher education community. Some items listed below apply only to a subset of the state's public institutions of higher education, as not all institutions are subject to the same legal provisions on every issue.

**STATE BUDGET AND APPROPRIATIONS**

1. Eliminate caps on tuition and fees in the annual State budget. New Jersey's public colleges and universities have been especially hard hit by recent cuts in State support. These reductions have been made more difficult by successive years of legislatively imposed tuition and fee caps. These caps are too often political responses rather than a reasonable recognition of the pressures on the colleges to provide needed services to increasing numbers of students at a time of diminishing state support. Tuition and fee levels should be set by the boards of the colleges and universities, which are better positioned to weigh the balance between access, affordability and the needs of students for programs and services. For example, institutions that have raised tuition have also allocated funds for need-based aid to ensure that access is not compromised.
2. Provide State funding for mandated tuition-waiver programs. New Jersey requires its public colleges and universities to waive tuition to many constituencies, including the unemployed, senior citizens, members of the National Guard, children or surviving spouses of certain public-safety workers, children under DYFS care, and New Jersey Student Tuition Assistance Reward Scholarship (NJ STARS) II recipients who do not qualify for need-based aid. Unlike many states, New Jersey does not reimburse the institutions for the cost of these programs. The growing number of students in these programs translates into real unfunded costs to the campuses—costs that tuition-paying students in effect must subsidize. For example, in FY 2009, the combined cost of the unemployed and National Guard tuition waiver programs was \$2.4 million at Rutgers, and the cost of NJ STARS II was over \$1.6 million at Rowan.
3. Revise requirements for submitting institutional budgets. The 12 senior public colleges and universities must submit to the State Treasurer and to the Commission on Higher Education annual operating budget requests in a format that is burdensome and time consuming (N.J.S.A. 18A:3B-6 (k)). Despite this effort, the Executive and Legislative branches do not consider these budget requests when drafting and deliberating appropriations to the institutions. The governor and legislature should reconsider, streamline, and reconfigure the budget process to provide meaningful interchange between the institutions and policymakers regarding annual appropriations.

4. Revise requirement for submitting capital budgets. The 12 senior public colleges and universities have not received capital funding for over a decade, and yet they are required to submit a burdensome annual capital report and request to the New Jersey Commission on Capital Budgeting and Planning (N.J.S.A. 52:95-2). The Capital Commission should be required to announce in advance the amount of funding it has to provide and its priorities for funding, and it should promulgate guidelines for capital budget requests that are purposeful and not burdensome. Institutions that choose to submit a capital request should be entitled to a hearing on that request.

## **PERSONNEL**

### **Health Insurance**

1. Require local government employees to contribute to the cost of their health insurance at the same rate as their counterparts in State government. This change would benefit the county colleges.
2. Control escalating health-care costs by (a) revising the State Health Benefit Plans to make them more affordable; and (b) opening up competition by permitting management to substitute health or dental carriers if the primary coverage limits are substantially equal to the existing coverage. Currently, management must negotiate a change in the health insurance carrier if the union asserts that *any* coverage element or claims processing procedure is not the same or better than the existing plan.

### **Pensions and Benefits**

1. Eliminate employer pension contributions for part-time employees—including adjunct faculty—and define part-time employees to mean less than 25 hours per week. These employees currently must self-fund the cost of health benefits and should self-fund their pensions. Many may already be covered by pension plans through another employer.
2. Limit public employees at all levels of government to no more than 15 paid sick days per year, and limit payment at retirement for unused sick leave to no more than 50% of the unused sick leave up to a maximum of \$15,000. These limits mirror recent statutory changes for State employees. We further support enactment of A-1613, which would lower the maximum sick leave payout at retirement to \$10,000 for all public employees.
3. Eliminate terminal paid leave for all public employees by prohibiting use of six or more days of accumulated sick leave in the 12 months prior to retirement without verifying medical necessity. Enactment of S-77/A-1612 would achieve this goal.

### Collective Bargaining, Grievances, and Arbitration

1. Amend the Public Employment Relations Act to provide that compensation rates in effect upon expiration of the bargaining unit contract shall not be increased, nor salary increments implemented, in the absence of a successor bargaining unit agreement. Given current funding challenges, a public employer may not be able to automatically implement salary increments (including longevity, promotional, and educational credit increments) beyond the expiration of the current contract, as required by current law. Continuance of these salary increases should not be automatic but rather negotiated. This amendment would motivate timely contract settlements.
2. Mandate that fact-finder decisions for employees of public school districts and public institutions of higher education address (a) the impact of reductions in state and county funding, (b) the impact of the settlement on tuition rates, and (c) the benefit standards provided for State employees.
3. Designate the state colleges and universities as the employer of record of their employees for the purpose of collective bargaining (N.J.S.A. 18A:64-21.1). This proposed change would make the collective-bargaining laws for public higher education in New Jersey consistent. The other senior public institutions—Rutgers University, the New Jersey Institute of Technology, and the University of Medicine and Dentistry—all conduct their own negotiations. Each county college conducts its own negotiations as well.
  - a. Amend the powers and duties of the state college boards of trustees to include language that as a “public employer” under to the New Jersey Employer-Employee Relations Act, boards of trustees shall have the power to conduct all negotiations with represented employees at the college/university (N.J.S.A. 18A:64-6).
  - b. Authorize the state colleges and universities to function as a “public employer” under the New Jersey Public Employer-Employee Relations Act to conduct all labor negotiations with the institutions’ bargaining-unit employees, and authorize the state colleges and universities to act as the “chief spokesperson” with respect to all matters under negotiation (N.J.S.A. 18A:64-21.1) .
4. Authorize the state colleges and universities to establish a probationary period for faculty consistent with the needs of the institution and national practice. This can be accomplished by amending the provisions of the State and County College Tenure Act (N.J.S.A. 18A:60-8 through 18A:60-15) regarding tenure and career development, and expanding the authority of the institutions’ boards of trustees (N.J.S.A. 18A:64-6) to cover these matters under appropriate personnel policies.

### Civil Service Reform

Remove classified employees of the state colleges and universities from Civil Service status and include them within each institution’s personnel system (N.J.S.A. 18A:64-6(h) and (i)). The powers and duties of the state college boards of trustees should be amended to delete references

to Civil Service so that upon recommendation by the president, the board has the power to appoint, remove, promote and transfer all employees as shall be required to carry out the purposes of the college/university and assign their duties, determine their salaries and prescribe qualifications for all positions in accordance with policies adopted by the board of trustees. Moreover, the statutory authority of the state colleges' and universities' boards of trustees to determine policies for the organization, administration and development of the college/university should be amended to include "personnel" (N.J.S.A. 18A:64-6.c).

Between 25% and 45% of the employees at each state college and university are in Civil Service status, and each institution's board of trustees is required to assign duties, determine salaries, and prescribe qualifications for positions "in accordance with the provisions of Title 11, Civil Service, of the revised Statutes" (N.J.S.A. 18:64-6.i.), even though the State is not the employer of record for these employees and does not pay the salaries of these employees. Moreover, these employees work in an environment that is wholly different than the usual State agency, and one that is little understood by State personnel regulators.

#### Sick Leave Injury

Eliminate the Sick Leave Injury (SLI) program, established under the Civil Service Laws. Between FY 2000 and FY 2005, the state colleges' and universities' Sick Leave Injury payments increased 146%, from \$500,000 to \$1.3 million. In 2003, the State Auditor recommended eliminating New Jersey's Sick Leave Injury program and making more efficient use of the workers' compensation system. We agree with this recommendation.

#### Workers' Compensation

Authorize the state colleges and universities to obtain the services and insurance coverage required to manage their own workers' compensation program. Currently, the State's Bureau of Risk Management administers the state colleges and universities workers' compensation claims, and the Attorney General represents the institutions before the Workers' Compensation Court. The Bureau of Risk Management bills the institutions quarterly for money paid by the state on behalf of the institutions for administering their workers' compensation claims, with little or no input from the institutions. Over the past five years, the state colleges' and universities' workers' compensation payments have increased over 100%.

The State and its colleges would equally benefit by allowing the state colleges to maintain their own worker's compensation program. The colleges would benefit from substantial savings from more efficient operations and greater scrutiny over claims, and the State would no longer need to administer the institutions' claims, and it could devote more resources to agencies with greater risk profiles. New Jersey's county colleges have administered their own workers' compensation program for over 20 years. Other states have successfully implemented such programs for their public colleges, and these programs have successfully controlled costs and met workers' needs.

## **LABOR LAWS AND REGULATIONS**

### **Prevailing Wage**

1. Amend N.J.S.A. 34:11-56.26(4) to clarify that the prevailing-wage threshold in this statute applies to all public institutions of higher education, including county colleges. Without this clarification, the Department of Labor and Workforce Development takes the position that community colleges are governed by the lower \$2,000 prevailing-wage threshold applicable to school districts.
2. Prevent the expansion of prevailing wage to more services.

### **Boiler, Pressure-Vessel, and Refrigeration-Plant Regulations**

1. Amend the Department of Labor and Workforce Development rule that requires a licensed boiler operator to inspect all low-pressure boilers over 100 HP every two hours (N.J.A.C. 12:90-3.10(d)). This rule is extremely burdensome and unrealistic in larger universities, which may have 50 or more of these small boilers. These boilers are all equipped with numerous safety devices, such as low water cutoffs and over-pressure relief valves. Checking them every two hours has no appreciable effect on their safe operation. Checking the operation of these boilers on a less frequent basis (such as once daily) sufficiently ensures their safe operation.
2. Amend compliance deadlines for new rules to register and inspect pressure vessels (*i.e.*, high temperature hot-water systems such as boilers and heat exchangers) (N.J.A.C. 12:90). This regulation requires registration and yearly inspection of pressure vessels. While inspecting this equipment annually will ensure public safety, the required registration process is cumbersome and expensive. Initial registration will require collecting data for each pressure vessel, possible engineering services to obtain this data, and in some instances hazardous-waste abatement (*e.g.*, asbestos removal). At Rutgers University alone, the estimated cost to register this equipment is \$4 million and must be completed by 2011. It is recommended that the Department of Labor and Workforce Development reconsider deadlines for compliance. This would allow colleges and universities to spread the implementation costs over a more reasonable timeframe.
3. Amend compliance with rules to maintain refrigeration plants. Any facility that houses a refrigeration plant with a 24-ton or greater cooling capacity and does not operate in accordance with recent standards adopted by the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) must have an adequate number of licensed engineers on site who can directly maintain the equipment. If this is not feasible, the Department of Labor and Workforce Development, under N.J.A.C. 12:90-3.10(b), allows the licensed engineer to be stationed in a nearby control room. To comply with these

regulations, colleges and universities must retrofit many refrigeration plants, at a cost of millions of dollars. Much of this equipment has been operating without incident for 25 years. Colleges and universities need relief from compliance with this regulation.

### Public Employees Occupational Safety & Health (PEOSH) Program's Hazard Communication

Amend the PEOSH Hazard Communication Standard (N.J.A.C. 12.100-7). To protect worker safety, public employers must follow the Department of Health and Senior Services' New Jersey Worker and Community Right to Know Act (RTK Act), and the U.S. Department of Labor's Occupational Safety and Health Administration's (OSHA) Hazardous Communication Act (HazCom). The Public Employees Occupational Safety and Health (PEOSH) Program merged these two requirements into PEOSH Hazard Communication Standard (N.J.A.C. 12.100-7).

While the regulations of these acts are somewhat similar, the RTK Act has labeling requirements that differ from that of HazCom, especially since OSHA is changing its classification of chemical hazards and revising its labeling provisions to conform to the United Nations' Globally Harmonized System of Classification and Labeling of Chemicals. Based on this proposed labeling classification, the need to include the additional labeling requirements of the NJ PEOSH HCS will provide no additional benefits.

### State Mandated Reports for Projects

Reduce the requirement to accept and maintain State-mandated forms such as project manning reports and certified payrolls that a contractor sends to the State. Colleges and universities incur costs to administer and maintain these forms as well as to respond to any OPRA requests and DOL reviews. The State needs to lessen the burden placed on institutions for this requirement, and hold the contractors responsible for administration and maintenance.

## ENVIRONMENTAL REGULATIONS

1. Improve communication between institutions of higher education and regulators such as the Department of Environmental Protection. More open dialogue would lead to better collaboration, creativity, and flexibility to solve problems more quickly with better and efficient solutions.
2. Revise deadlines for compliance with nitrogen oxide (NO<sub>x</sub>) emissions requirements (N.J.A.C. 7:27-10.5). New DEP rules require a 50% reduction of NO<sub>x</sub> levels for large

boilers over two years. The new rule significantly affects institutions with old heating plants, where required retrofitting will cost millions of dollars. While we do not question the goal of reducing NOx emissions, the high cost of compliance in this period of extreme fiscal stress presents real challenges. It is recommended that the deadlines for compliance be reconsidered to spread the cost over a more reasonable period.

3. Revise recycling rules to allow colleges and universities to recycle computer parts. All consumer electronics, like computers, are defined as Class D recyclable material (N.J.A.C. 7:26A-1.3). Most colleges and universities, because they are defined as “large quantity handlers of universal waste” under DEP rules (N.J.A.C. 7:26A-1.3), must obtain special approval to recycle consumer electronics (N.J.A.C. 7:26A-2.1, Class D Recycling Center permit).

The cost of obtaining the proper permit to recycle computers is significant. The application fee is \$5,233, the annual renewal fee is \$7,106, and the annual compliance monitoring fee is \$12,175. DEP can facilitate the recycling of computer parts—which can be hazardous to the environment—by exempting institutions of higher education from the requirement to obtain Class D recycling center permits. Colleges and universities could then sell the component parts to recyclers, instead of paying to waste haulers to remove obsolete computers.

4. Revise the permitting rules for boilers and emergency generators. DEP requires permits for acquiring and installing boilers and emergency generators (N.J.A.C. 7:27-8.8). These requirements cause project delays and added costs to campuses in addition to the costs of permitting. Given that the emergency generators are regularly tested annually, and both boilers and emergency generators are manufactured to ASHRAE and EPA Standards, these mandated requirements should be eliminated to save both time and expense. The permitting thresholds in N.J.A.C. 7:27-8 and N.J.A.C. 7:27-22 for combustion equipment (*i.e.*, 1 MMBtu/hr) are too low when compared to other states and requires DEP approvals for equipment that result in very little environmental impact. A more reasonable permitting threshold would be 10 MMBtu/hr for boilers and 500 KW for emergency generators.
5. Revise Stormwater Management requirements (N.J.A.C. 7:8). DEP enacted new stormwater regulations in 2004 that, in part, require projects to reduce the amount of stormwater runoff and to increase the quality of water. These regulations establish a three-tier project permitting process that has evolved to address: 1) stormwater regulations; 2) soil erosion and sediment control standards (SESC – SCD); and 3) request for authorization (RFA) for projects over one acre. The approval and permit-authorization process is costly and time consuming. Reviews by the SCD and DEP are often redundant. Streamlining this permitting process would help campuses save valuable resources and time on projects.

6. Allow universities to apply for grants to repair historic facilities. Historic buildings are common at New Jersey's older colleges and universities. Rutgers, for instance, maintains 54 buildings statewide that are on the Historic Register, maintained by DEP. The New Jersey Historic Trust (NJHT), in the Department of Community Affairs, requires these buildings to be protected. The NJHT, however, will not allow universities to apply for grants to fund repairs of their historic facilities. The Federal Antiquities Act of 1966 establishes standards of preservation for registered public buildings, which are administered by the New Jersey State Preservation Office (NJSPO) in DEP. As a result, public universities must comply with a higher standard of preservation than private entities. A costly and lengthy permitting approval process, including the need to submit Environmental Impact Statements for any desired projects involving the university's historic buildings, is required. Hazardous waste removal is often involved when the project requires mandated fire-code retrofits, and when facilities cannot be maintained because of lack of funds. Without proper funding to address the special maintenance needs of these buildings, public colleges and universities often can only complete emergency work to keep the facilities stable and functioning. The State of New Jersey, through NJHT, needs to allocate ample resources to campuses to address the on-going needs of these structures and simplify the approval process for projects.
  
7. Move cautiously when adopting regulations that are more stringent than federal regulations. Many times New Jersey facilities are at a disadvantage with respect to other states because New Jersey regulations are more stringent and require more time to permit.
  
8. Consider revising air-pollution nonattainment permitting procedures in N.J.A.C 7:27-18 to correspond to the federal permitting procedures in 40 CFR 51 Appendix S, which the majority of the states incorporate by reference. DEP should incorporate this rule by reference also. The current DEP non-attainment program results in overly burdensome requirements that can lead to additional expensive control technologies, unpredictable permitting outcomes due to non-uniform implementation from DEP, and lengthy permitting reviews.
  
9. Revise Title V Operating permits process to control air pollution. Such permits are often laden with excessive monitoring, recordkeeping and reporting requirements. One such requirement is to perform stack testing every five years. N.J.A.C. 7:27-22.18 requires that facilities conduct monitoring to determine compliance with permit limits. The regulations, however, do not specify how to conduct compliance determination. A more reasonable stack testing schedule would be every 10 years. Alternatively, the annual combustion adjustment required in N.J.A.C. 7:27-19.16. could be used in lieu of conducting stack testing for NOx and CO emissions.

10. Allow temporary emergency equipment such as emergency generators or boilers to be used without first having to obtain a Title V Operating permit approval. Current permit approvals can take weeks or months, which is unreasonable and dangerous during a true emergency. This could be accomplished by some notification system to DEP, possible online, which informs the department when the equipment would be brought onsite and when removed.

### **DEPARTMENT OF COMMUNITY AFFAIRS REGULATIONS**

1. Revise testing and inspection of fire safety equipment. The State has mandated increased testing and inspection of fire safety equipment for construction projects over the past 10 years, imposing increasing costs on colleges and universities. Testing, which used to be required monthly, is now required weekly. Newer equipment can often be tested automatically, and it can run system diagnostics. Given the safer nature of this equipment, the State should increase the time interval of manual testing for older systems, thereby reducing the financial burden on institutions without compromising safety.
2. Revise the process for public records requests to prevent abuse. Requests for open public records are regularly submitted to public institutions of higher education by the public, labor unions, the media, and government officials. The institutions usually must produce the records within three days, using valuable resources. Many times, the same requests are submitted multiple times in different formats. The State should prohibit multiple requests for the same reason by the same entity.
3. Review and improve Division of Codes and Standards' plan review and field inspections. The waiting time for approval under these processes can take up to six months, and delivery of service is erratic and unpredictable. As a result, projects are significantly delayed, creating excessive additional costs for the campuses and the inability to plan when a project will be completed for use by students and faculty. In order to provide an urgently needed fix to this critical situation, DCA should be: (a) required by statute, regulation or executive order, as appropriate, to accomplish plan reviews and process documents, including outbound transmittals to the originating applicant, within 20 business days of receipt, and to provide field inspections within 72 hours of a request for such inspection; (b) authorized and required to outsource these responsibilities to non-governmental private firms that possess the requisite DCA licenses to perform such work within those specified timeframes if DCA cannot, with any costs caused by DCA's failure to meet the timeframes recoverable by the institution from DCA; and (c) required to improve the Division of Codes and Standards' plan review and field inspections procedures. When the DCA approves a plan and then a DCA field inspector reviewing a site built in accordance with that plan concludes that a non-code compliant issue exists, DCA should be responsible for resolving the difference so that the institution need not delay construction or incur additional costs.

4. Exempt public and private institutions of higher education from Commission on Affordable Housing (COAH) obligations for their respective townships.

### **CONSTRUCTION**

1. Exempt independent colleges and universities from local board approvals. Public institutions are exempt from these approvals as long as they respect local zoning regulations. Private institutions need similar relief. The need for such approvals discourages construction, drags out the process, drives up costs, and delays construction jobs that are sorely needed in the current economic climate.
2. Eliminate public works reporting requirements. Treasury's Division of Contract Compliance and Equal Employment Opportunity in Public Contracts requires contractors to complete Form AA 20 to track the number of minority workers employed in public contracts. The State should eliminate this requirement. Contractors must submit the form to the institutions and the State, but the information is not used.
3. Amend the following construction provisions of the State Colleges Contract Law (N.J.S.A. 18A:64-52 *et seq.*):
  - a. Allow institutions to contract for faster and less costly design/build construction, preferably as a public bid exemption category. In addition, request the ability to do guaranteed maximum price and construction management at risk contracts for complex, schedule driven projects.
  - b. Eliminate the current requirement for multiple bids to five prime contract types. Institutions should be allowed to accept and to award an unlimited number of multiple bids for construction projects when it is determined to be in the institution's best financial interest.
4. Transfer title of real property on which the state colleges and universities are located from the State to the institutions. Depending largely on the date of each institution's founding, a portion of the state colleges' and universities' real property that is designated for the established purpose of the institution of higher education is held in the name of the State of New Jersey. The State takes no responsibility and provides no support for investments in or maintenance of these lands. The institutions themselves make all such investments and bear all such costs. When, however, an institution undertakes a project involving such property, it faces intrusion from state regulations and decision-making. All such property, which is properly and without equivocation intended for the purposes of the institution, should be transferred to the respective institutions' boards of trustees so that institutions can enter lease and other agreements to advance the capital and facilities needs of the institutions without undue delays, complications, and intrusions from the State.

5. Require the Educational Facilities Authority (EFA) to turn over to the institutions the deed to bond-financed properties once the debt has been retired. When the colleges and universities finance capital debt through EFA, the deed for the property concerned is transferred to EFA as part of the bond transaction. When the institution retires all outstanding debt on that property, the EFA should be required to turn over the deed to the board of trustees of the institution.
6. Strengthen the sovereignty of the State of New Jersey, as it resides in the state's public institutions of higher education, to assure that these institutions are unencumbered by county and/or municipality authority in matters related to developing and operating the state entity. These matters include zoning, road and sewer connections, traffic signalization, user fees, and tax exemption for public-private partnerships when real property belonging to the institution is developed. Legislation progressing through both Houses (S-920/A-1897, A-2059) would exempt public-private partnership projects from property tax.

### **PROCUREMENT**

1. Moderate the authority of the State Comptroller to audit public colleges and universities (N.J.S.A. 52:15C-7) and review their contracts (N.J.S.A. 52:15C-10). Public institutions of higher education must provide notice to the State Comptroller no later than 20 business days after awarding a contract worth more than \$2 million but less than \$10 million, and must inform the State Comptroller in writing within 30 days of commencing a procurement process worth \$10 million or more. These reviews have cost many additional hours of staff time, have threatened to delay and increase the cost of time-sensitive projects, and in some instances undermine or contradict other long-established state legal authority.

The State Comptroller's auditing and monitoring authority should be limited to the expenditure of State funds. When state funds are involved, the State Comptroller's review process should be greatly simplified.

2. Revise the State Business Registration Certificate (BRC) requirements, which are costly, time-consuming, confusing, and unmanageable (N.J.S.A. 52:32-44).
  - a. Require the State to maintain a BRC database to which the colleges can have access to determine the eligibility of vendors. Since the BRC process governs whether a vendor can bid or do business with a state agency or a senior public college, the State should maintain a centralized database. Failure to have access to such a database adds significant delays and costs to the colleges' business processes.
  - b. Increase the dollar threshold for requiring a State Business Registration Certificate from the current level of \$4,515 to at least the public bid threshold (currently, \$30,100 for the state colleges and universities).

- c. Eliminate the BRC requirement for sole source and personal service contracts, *e.g.* performing artists, guest lecturers, and distinguished academicians, who are typical in a college environment, but not typical in State agencies. Such individuals, often from out-of-state or even from foreign countries, are understandably reluctant to comply with reporting requirements regarding political contributions and business registry in New Jersey with which they have no association. The BRC is intended to facilitate tax collection in New Jersey, and sole source/personal service contracts are not subject to use taxes. The BRC should also exempt sole-source suppliers of academic services to programs and libraries, many of which are based out-of-state or out of the country, as well as the many shared programs and services that the colleges have with foreign universities.
3. Maintain, and provide public colleges and universities with online access to, a vendor database identifying those vendors that have completed all mandated State forms.
  4. Revise the following procurement provisions of the State College Contracts Law (N.J.S.A. 18A:64-52 *et seq.*):
    - a. Increase the public bid threshold from \$30,100 to at least \$50,000.
    - b. Expand public bid waiver categories to include banking, financial, and travel services.
    - c. Allow institutions to issue addenda to RFPs/RFQs only to vendors who picked up bid documents, eliminating the currently required 10-day newspaper advertisement period for each addenda issued.
    - d. Change the current bond requirement for bidders from 10% of bid amount to “10% of bid amount up to a maximum of \$20,000,” in order to increase the number of small businesses able to bid on RFPs/RFQs.
    - e. Allow institutions to advertise RFPs/RFQs on a State-maintained statewide Web site and other commercial Web sites rather than only in newspapers, which are the costliest medium and the least efficient in reaching potential bidders
    - f. Extend contract terms from 5 years to 30 years for:
      - (1) the purchase, lease, and maintenance of information technology. Current law restricting the term to 5 years prohibits negotiating pricing for maintenance and support for software systems (ERP systems) that take many years to implement and are expected to remain in place for two or three decades. Extension of the term for this type of contract will enable institutions to negotiate much better pricing (for example, 10% of licensing costs vs. 20-22% of licensing costs).
      - (2) Insurance
      - (3) Banking and financial services
      - (4) Facilities maintenance.

g. Amend the current “lowest responsible bid” requirement for construction contracts to permit an award based on “price and other factors.” Furthermore, amend the current requirement to award goods and services contracts to the “responsible bidder whose bid...will be most advantageous to the State college, price and other factors considered” to define “responsible” and “advantageous.”

Under the current law, state colleges and universities can do little when faced with a “responsible” low bid from a contractor with a bad record of performance or one not truly capable of performing at a high degree of quality. Under the current system, a contractor of marginal quality can low-bid a contract and then issue many requests for change orders, thereby delaying the job and getting additional payments to increase the ultimate job price.

h. Allow institutions to pre-qualify vendors and contractors and to maintain on-call contracts for professional and consulting services, maintenance, renovation and repairs of facilities, information technology and telecommunications infrastructure. This change would permit institutions to respond to emergency situations and to complete routine repairs in a timely way.

i. Clarify the law so institutionally disbursed funds held on behalf of other organizations or entities, *i.e.*, funds not owned by the State or the disbursing institution, are not subject to provisions of the State College Contracts Law. One example of such funds—generally called “agency funds”—is funds held for student organizations.

5. Exempt the senior public colleges and universities from the pay-to-play laws (N.J.S.A. 19:44A-20.13 to 19:44A-20.25). These laws are aimed at contractors who receive business awarded by elected officials to whom they contribute. The trustees and administrators of the senior public colleges are not elected and are not participants in the state’s electoral processes. Nevertheless, currently, any vendor who has made a political contribution of \$300 or more must submit documentation to the institution’s procurement department. The institution must send these documents to the Department of the Treasury. If the Treasury denies the contract, the institution must find an alternate vendor, often delaying the award of a contract by up to a month, adding costs and delays to projects.

If the senior public colleges and universities must comply with the law, then the dollar threshold for requesting Political Contribution Disclosure forms from bidders should be increased from the current \$17,500 threshold to the public bid threshold (currently, \$30,100 for the state colleges and universities). The State should post and regularly update the status of each vendor on a public Web site so individual institutions need not review each vendor’s status and submit forms back and forth to Treasury each time the vendor bids on a project.

6. Review and revise P.L. 2009, c. 335, which codified Governor Corzine’s Executive Order Nos. 34 and 151. The new law requires the senior public colleges and universities to designate a liaison, track the share of contracting dollars paid to minority and women-owned businesses, develop plans and goals, and provide burdensome quarterly reports to the Division of Minority and Women Business Development. The new law also includes the

colleges among the “Reporting Agencies” that are monitored by the Division of Public Contracts Equal Employment Opportunity Compliance in the Department of the Treasury.

The senior public colleges and universities are committed to using minority and women-owned businesses. The requirements under P.L. 2009, c. 335, however, do not contribute to that effort; they simply increase red tape and administrative reporting burdens.

7. Allow public colleges and universities to enter contracts for off-shore services related to information technology, specifically in the areas of programming and software development, application service provider (hosting) services and remote data storage. The State should eliminate these restrictions because the corporations providing the services are often multinational entities such as IBM, Oracle and Google, their facilities are distributed throughout the world, and the desired services are obtained using the World Wide Web. There are great cost savings to be realized from taking advantage of the world-wide network access to such resources.

### **TAX REFORM**

1. Eliminate sales tax on parking fees paid by commuter students to park on campus (N.J.S.A. 54:32B-3(i)). University employees and resident students are exempt from sales tax on parking services. This tax should be eliminated so that commuting students are treated the same as resident students.
2. Eliminate the requirement that colleges and universities pay sales tax on natural gas purchases (N.J.S.A. 54:32B-9(c)(3)).