

Testimony submitted to  
The House State Government Committee  
On SB 411, PN 1335  
On behalf of  
Lincoln University, Penn State University,  
Temple University and the University of Pittsburgh  
March 22, 2016

Dear Chairman Metcalfe and Chairman Cohen, and members of the House State Government Committee:

Thank you for this opportunity to provide written testimony in support of the changes to Chapter 15 of the Open Records Law, found in SB411, PN 1335. Senate Bill 411 addresses a number of different sections of the Open Records Law, including the Law's application to the state related universities set forth in Chapter 15. These proposed changes to Chapter 15 relating to the state related universities are also found in HB 1094, PN 1410 prime sponsored by Rep. Kerry Benninghoff.

The changes to the Open Records Law that pertain to state related universities in both SB 411 and HB 1094 substantially expand the amount of financial and operational information available to the public, and facilitate its access to that information. The newly required disclosures, along with existing extensive financial data, business operations data, and academic data disclosure requirements provide a comprehensive and detailed view of how these universities utilize public funds to the benefit of the students of the commonwealth. Its accessibility on public websites further promotes ease of use of the data by lawmakers and the public alike.

In addition to the changes outlined in Chapter 15, Section 102 of SB411 redefines "Local Agency" to include campus police departments of state-related universities. We believe this to be an appropriate change, as our police departments have all the powers and responsibilities of municipal police departments.

The following chart provides a section by section review of Chapter 15 as it is proposed to be amended.

Section by Section Analysis of Chapter 15 of SB 411

Section 1503(a)(1) - All information required by IRS Form 990	A nearly 70 page report required to be filed annually to the IRS by non-profit organizations that includes a wealth of information on the universities and their related entities
Section 1503(a)(2) - Salaries of all officers and directors of the state-related institution	Self-explanatory
Section 1503(a)(3) - Highest salaries in salary ranges	For PSU, Pitt, and Temple, a listing of the highest 200 salaries; including the exact salaries of the 25 highest paid employees. For the next highest 175 employees, executives and administrators' exact salaries would be listed, but faculty members would be listed in a salary range.
Section 1503(a)(4) - Report shall not include information relating to individual donors	Self-explanatory
Section 1503(a)(5) - Disclosure of revenue and expenditure budgets of the university's academic and administrative support units for the current fiscal year	Detailed budget information down to the program level for the current fiscal year. This gets to exactly what the university plans to spend state dollars on and what the taxpayers receive for that expenditure
Section 1503(a)(6) - Actual revenue and expenditures for the prior year	Detailed budget information down to the program level for the prior fiscal year. This gets to exactly what the university spent state dollars on and what the taxpayers received for that expenditure
Section 1503(a)(7) - Revenue and expenditure budgets for specific line item appropriation projects or programs	Detailed budget information for any specific projects paid for with taxpayer money
Section 1503(a)(8) - Disclosure of revenue and expenditure budgets for auxiliary enterprises	Detailed budget information for enterprises not paid for out of the university's general fund. Examples of auxiliary enterprises include Housing and Food Service and Athletics.

Section 1503(a)(9) - Disclosure of most recent audited financial statement	Requires the university to file a report of expenditures. The Auditor General will review this report and may audit and disallow certain expenditures
Section 1503(a)(10) - Disclosure of employees by type, academic rank, median and mean salaries of employees in each type, non-salary compensation of employees, retirement policies, tuition remission program details, travel expenses of each academic or administrative unit	Specific information on the salaries of university employees by type, grade, and classification. Also includes a litany of information on benefits provided to employees. This paragraph also requires a listing of travel expenses for every unit of the university
Section 1503(b) - University must respond to information requests by Dept. of Education or Appropriations Committees	Self-explanatory
Section 1503(c) - University's financial statements must be in accordance with generally accepted accounting principles, in accordance with Commonwealth Budget Instructions, and in accordance with PA and US government financial reporting policies	Self-explanatory
Section 1503(d)(1) - Submission of a report on numbers of faculty members, students, student credit hours, and courses offered	A tremendous amount of information regarding faculty output; how many courses and sections are taught, the number of credit hours offered, and the salaries paid for instructional functions
Section 1503(d)(2) - Submission of a report on number of credits for degrees and number of degrees awarded	Information on how degrees are awarded, and how many degrees have been awarded for the previous five years
Section 1503(e) - Disclosure of minutes of each board meeting in print and on-line, and maintained for 20 years	Self-explanatory
Section 1503(f) - Disclosure of University's integrated postsecondary education data systems report in print an on-line	Self-explanatory
Section 1504 - All information in Section 1503 shall be posted in an on-line database, and in print, and to Dept. of Education, the Joint State Government Commission, and to the General Assembly and to the State regional library resource centers.	This will provide greatly enhanced public access to the abundance of financial information disclosed by the universities every year

Section 1505 - Report of contracts in excess of \$5,000 for the purchase of all goods and third-party services	This report must be filed with Governor, General Assembly, and State Library, and posted on-line, and includes date of execution, amount of contract, beginning and end of contract, vendor info, and subject matter. This section does include a protection of privilege.
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In 1863, when renaming the Farmer’s High School the Agricultural College of Pennsylvania and designating it as the state’s land grant institution – then again in the mid 1960’s when creating the Commonwealth System of Higher Education and for the first time giving Temple University, the University of Pittsburgh and Lincoln University their public mission – the General Assembly was careful not to make these heretofore private institutions into public agencies.

The term of art “state related university” has come to signify institutions that are both instrumentalities of that Commonwealth, but not the Commonwealth itself. They have a public mission given to them by the state, and the funding that accompanies that mission, but are legally organized as nonprofit corporations regulated by Pennsylvania’s Non-Profit Corporation laws. As an integral part of the state’s higher education program, state related universities receive over \$500 million in state funding to provide substantial tuition discounts to over 100,000 Pennsylvania resident students, yet the appropriations for these schools must be enacted with separate appropriation bills that require a two thirds vote of both chambers of the General Assembly because they are not state agencies and are not under the absolute control of the Commonwealth.

The character of the state related universities is the product of careful consideration over many years by generations of legislators and governors. We last saw the evidence of that careful consideration when the General Assembly last updated the Right to Know law, and established four different approaches to public access and accountability for State and Local agencies, for the Legislature, for the Judiciary, and

for the State Related Universities. What is considered a public record and how the public may access those records are different for each of those four categories.

These four approaches were developed after careful review of the nature of those four types of institutions and their unique operating environments. The Right to Know law balances the public's interest and those practical considerations, making all of these institutions fully accountable for the taxpayer resources invested in them, while defining the boundaries of appropriate access.

While there are a number of areas where the Right to Know Law can be refined and clarified, as in SB411, the Legislature got it right when it thoughtfully maintained separate approaches to fulfilling the objectives of the law by utilizing the four different approaches to this important public accountability law. State related universities that require a two thirds vote to earn their appropriations and whose operations are overseen by independent boards of trustees (albeit with substantial Commonwealth representation) are, by definition, not state agencies. State related universities that have clearly defined limitations on how they use that appropriation so that it does not constitute an obligation of the Commonwealth are not state agencies. And state related universities that do not enjoy the legal protection of sovereign immunity afforded to all state and local agencies are clearly not state agencies.

Given that these circumstances are the result of the careful consideration of many successive legislative sessions, administrations and constitutional conventions, it is most appropriate that state related universities remain in Chapter 15 of the Right to Know law, and that we work together to fine-tune the law, as we have done in SB 411 and HB 1094, to enhance public access to the extensive information disclosed by the state related universities detailing how Commonwealth dollars are spent and how state related universities continue to fulfill their public mission on behalf of the Commonwealth.

We look forward to further discussions with members and staff of the State Government Committee as you consider this important legislation.

Thank you.

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Penn State University

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