

Testimony of
Pennsylvania's State-Related Universities—Lincoln University, University of Pittsburgh,
The Pennsylvania State University, and Temple University

Before the Senate State Government Committee

October 21, 2013

The state-related universities (Lincoln University, University of Pittsburgh (“Pitt”), The Pennsylvania State University (“Penn State”) and Temple University), would like to thank the Senate State Government Committee for this opportunity to provide input on proposed changes to Pennsylvania’s Right-to-Know Law (“RTK”).

There are a multitude of bills that have been introduced in the General Assembly that would amend the RTK Law. These bills deal with a number of different subjects and aspects of the RTK Law. Senate Bill 444, which is now before this Committee, would make numerous changes to various subjects within the RTK Law. With respect to Pennsylvania’s state-related universities, SB 444 would bring the campus police departments within the full purview of the RTK Law by including those police departments in the definition of “local agency.” The state-related universities support the approach taken in SB 444 regarding the state-related universities, and the inclusion of our police departments in the RTK Law.

When the General Assembly enacted the Right-to-Know law, it carefully considered the nature of the state-related universities and recognized that a different approach was required. In fact, the General Assembly established four different protocols for how the public could access documents. The definition of a public record and its availability to the public are different for state and local agencies, for the legislature, for the judiciary, and for the state-related universities. These four approaches were developed after careful review of the nature of those four types of institutions and their unique operating environments. The RTK Law balances the public’s interest with those practical considerations which place some limits on access to documents

while still making all of these institutions fully accountable for the taxpayer resources invested in them.

SB 444 recognizes the unique status of the state-related universities in the Commonwealth's system of higher education by maintaining a separate chapter of the RTK Law – Chapter 15 – that specifies the disclosure requirements applicable to the state-related universities. This separate treatment is appropriate because: the state-related universities are not state agencies or even analogous to state agencies; the state-related universities are accountable fully for the state funds they receive through the extensive and voluminous information disclosed and submitted to the Commonwealth pursuant to the requirements of the state-relateds' annual appropriation bills, the existing RTK Law, the School Code, and a number of other existing federal and state reporting requirements; and inclusion of the state-related universities as state agencies under RTK would be contrary to the fundamental legislative design of the state-related institutions and create significant negative impacts and unintended consequences.

The State-Related Universities are not State Agencies

At the outset, each of the state-related universities believes that the Commonwealth and its citizens have the absolute right to be informed as to how every dollar of Commonwealth funds is accounted for, and that the existing extensive reporting requirements imposed on them meets and, in many instances, exceeds that accountability standard. In our view, trying to fit the state-relateds into the category of state agencies is not only contrary to the carefully designed legislative status of these institutions but also is unnecessary in light of the comprehensive transparency that already exists regarding the expenditure of Commonwealth funds.

It simply is not appropriate, under both legal and practical considerations, to attempt to define the state-related universities as state agencies. Each of the state-relateds have been designated as a state-related university pursuant to statutes enacted by the General Assembly specific to each institution. In making these universities state-related, there is absolutely no indication the General Assembly intended they be treated as or akin to state agencies.

The authorizing statutes for each of the state-related universities provide that the entire control of the operations of these universities resides with the board of trustees of each institution. For example, the authorizing statutes of the state-related universities state: “The entire management, control and conduct of the instructional, administrative, and financial affairs of the university is hereby vested in the board of trustees. The board may exercise all the powers and franchises of the university and make by-laws for their own government, as well as for the university.” See 24 P.S. § 2510-405; 24 P.S. § 2510-205; 24 P.S. § 2510-5. Moreover, each of the authorizing legislative acts carefully provides that a majority of the governing boards of these entities are elected or appointed by their own processes, and are not appointed by the Governor or other Commonwealth official – again distinguishing the state-related universities from state agencies. Equally as significant, the authorizing statutes also make it clear that, unlike state agencies, the state-related universities’ obligations are separate and distinct from the Commonwealth and these universities have no authority to pledge the credit or taxing power of the Commonwealth.

Thus, a fundamental premise of the legislative compacts that established the state-related institutions is that the General Assembly intended that the state-related universities would retain independent governance authority and would not be under the complete control of the Commonwealth, which is the hallmark of a state agency. Conversely, the institutions in the State System of Higher Education (“PASSHE”) are under the complete control of the Commonwealth, and thus have been included as state or Commonwealth agencies under the RTK Law.

Similarly, the provisions of the Pennsylvania Constitution confirm that the state-relateds are not state agencies. Article III, Section 30 of Pennsylvania’s Constitution provides: “No appropriation shall be made to any charitable or educational institution **not under the absolute control of the Commonwealth**, other than normal schools established by law for the professional training of teachers for the public schools of the State, except by a vote of two-thirds of all the members elected to each House.” (Emphasis added.)

Pursuant to this constitutional provision, each of the state-related universities receives an annual “non-preferred appropriation” requiring a two-thirds majority vote by the House and Senate because, unlike the PASSHE universities, the state-relateds clearly are not under the absolute

control of the Commonwealth. PASSHE and state agencies are under the complete control of the Commonwealth, and thus their inclusion in the RTK Law under the category of a state or Commonwealth agency is appropriate.

The individual annual appropriation acts for the state-related universities also provide strong evidence that these universities cannot be considered or treated as state agencies. Every year, the annual appropriation bills for the state-related universities provide that: “The University ... shall apply the moneys appropriated by this act only for such purposes as are permitted in this act.” See e.g. Act 11A of 2013, Section 4 (a). In addition, the Auditor General is directed to review all expenditures made from Commonwealth appropriated funds, and has the “right...to audit and disallow expenditures made for purposes not permitted by [the non-preferred appropriation bill].” This language makes it clear that the state-related universities are considered to be separate and distinct from the Commonwealth and that the Commonwealth does not and will not assume the general obligations of the University.

Another clear indication that the state-related universities are not, and should not be treated as, state agencies is that sovereign immunity protection afforded the state and its agencies is not applicable to the state-related universities. Doughty v. City of Philadelphia, 596 A.2d 1187, 141 Pa. Commw. 659 (1991). As the court in Doughty stated when discussing the Pennsylvania Supreme Court’s decision in Mooney v. Board of Trustees of Temple University, 292 A.2d 424, 448 Pa. 424 (1972), “the Supreme Court exhaustively examined the Temple Act, section-by-section, searching for any intent to transform Temple into a state agency and found none.” Doughty, 596 A.2d 1187 (emphasis added).¹

The RTK Law achieves its objectives through a structure that treats different entities individually. The act imposes different and distinct RTK obligations on state or Commonwealth agencies, on local agencies, on the General Assembly and on the judiciary. The existing RTK

¹ We acknowledge that there are several instances where state-related universities have certain benefits and obligations of public status, but believe that these do not result in them having the essential characteristics of a state agency for RTK purposes. An example is the tax exempt status of the state-related’s real property when being used as part of their public educational mission. Such treatment is commonly afforded nonprofit entities that serve the public good.

Law has taken the same approach with the state-related universities by setting forth additional disclosure obligations for these universities under Chapter 15 of the RTK Law. Thus, the existing RTK Law appropriately acknowledges that the state-related universities are not state agencies, and are not under the control of the Commonwealth, and thus merit separate consideration under the RTK Law.

The General Assembly has identified the appropriate balancing of the nature of these universities and the need for accountability and disclosure of how Commonwealth funds are spent. The General Assembly took the correct approach five years ago when it thoughtfully maintained separate approaches to fulfilling the objectives of the law. If it is perceived that there is the need for additional information related to the use of Commonwealth funds beyond the extensive disclosures currently mandated, such additional disclosure items should be added to Chapter 15 of the RTK Law.

The State-Related Universities are Currently Subject to Extensive Disclosure Requirements that Provide Full Accountability for Commonwealth Funding

Not only are the state-related universities subject to disclosure requirements under the existing Chapter 15 of the RTK Law (IRS Form 990 financial information, including compensation of all officers and directors, and the salaries of the 25 highest paid employees who are not officers or directors, see Section 1503 of RTK), but these universities have for many years been subject to extensive and voluminous reporting requirements imposed by a number of different Pennsylvania statutes.

The annual appropriation bills of the state-related universities require financial disclosures that make these universities fully accountable for the state funds they receive. For example, the state-related universities are required to “apply the monies appropriated by the act only for such purposes as are permitted in this act and shall at all times maintain proper records showing the application of such monies”, and are required annually to submit “a statement setting forth the amounts and purposes of all expenditures made from monies appropriated” by the

Commonwealth.² See e.g. Act 11 of 2013, Section 4 (a). The universities' annual appropriation bills also provide for an audit by the Auditor General. With respect to Commonwealth funds, the Auditor General is granted the authority to disallow and recover expenditures made by these universities for purposes that are not permitted. See e.g. Act 11A of 2013, Section 4 (b).

The Public School Code also mandates that the state-related universities annually report and disclose comprehensive financial data, academic-related data, and faculty and staff workload and salary data. The financial information required under the School Code is very broad, and includes revenue and expenditures budgets for the current year, and revenue and expenditures for the prior year. 24 P.S. § 20-2004-D (a). Also required is a disclosure of all purchases of goods or services of \$1,000 or more. 24 P.S. § 20-2004-D (b). The full scope of the School Code reporting and disclosure requirements is far too extensive to set forth or describe in full here, and thus these statutory reporting requirements are attached hereto as Exhibit A.

While the School Code, annual appropriation bill requirements, and existing Chapter 15 of the RTK Law provide extensive information on finances and the use of the state appropriation, academic programs and requirements, and staff and faculty workloads and salaries, there are a number of other state reporting requirements that provide robust information on the activities, programs, operations and uses of Commonwealth funds at the state-related universities. These additional disclosures (set forth in Exhibit B) include: Annual Program and Operating Budget submitted to the Pennsylvania Department of Education ("PDE"), which also includes extensive information on how the state appropriation is spent; Annual Budget Presentation to the Senate and House; Campus crime statistics pursuant to the PA Uniform Crime Reporting Act; Annual Survey of Education Programs to PDE; Four-Year Graduation Rate of PA-Resident Freshman Survey to PDE; and Certification of Compliance with English Fluency in Higher Education Act to PDE. The School Code also mandates submission of extensive information on transfer of students and credits, and all articulation agreements. 24 P.S. §§ 2-2002-C et seq.

² The required statement must be submitted to the General Assembly, the Secretary of Education and the Auditor General. See e.g. Act 11 of 2013, Section 4 (a).

Above and beyond these Commonwealth mandated disclosures, these universities also have extensive Federal reporting requirements, and these Federally-mandated disclosures are freely available to the Commonwealth and its citizens. Major Federal disclosures are required by the U.S. Department of Education as part of the Integrated Postsecondary Education Data System (“IPEDS”). Separate IPEDS reports are submitted on the Institutional Characteristics; Degree Completions; Human Resources; Enrollment; Student Financial Aid; Finances; and Graduation Reports. There also are a number of other Federal reporting obligations, including Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics.

The above discussion, while not a complete recitation of all mandated reporting requirements of the state-related universities, makes it clear that these universities disclose extensive and complete data and information detailing how Commonwealth funds are spent, and in fact go above and beyond that standard through disclosures such as the crime statistics and the extensive IPEDs requirements.

Public access regarding the expenditure of Commonwealth funds by the state-related universities is also made transparent by other existing mechanisms. The meetings of the governing bodies of the universities at which official actions and policies are approved are open to the public in accordance with the Sunshine Act (open meetings law), and the minutes of those meetings are publicly available. In addition, the state-related universities voluntarily have made much of the information provided to the General Assembly and executive agencies available to the public at all times on the universities’ websites.

As can be seen from this comprehensive array of reporting and disclosure obligations and practices, Commonwealth officials and citizens have substantial opportunities to apprise themselves how every dollar of Commonwealth funds are spent by the state-related universities.

Inclusion of State-Related Universities as State Agencies Carries Negative and Unintended Consequences

Not only is inclusion of the state-related universities as state agencies under the RTK Law unnecessary in light of the existing transparency and accountability for Commonwealth funds

pursuant to the disclosures discussed above, but such inclusion also would impose substantial additional costs, administrative workload as well as other negative and unintended consequences. These unwarranted costs would necessitate diversion of scarce funds³ from the universities' educational programs and activities. But that is just the beginning. Other negative and unintended consequences include:

- The Universities' opportunities to enter into sponsorship contracts with outside entities that do not permit the terms of their agreements to become public due to competitive concerns (examples include partnerships with corporations like Nike, Pepsi, and others).
- Each year Pitt, Penn State and Temple spin out start-up companies and license technologies to existing companies. The details of the deals surrounding licensing fees, royalty structure, and equity stake vary with each technology. If the details of these deals were publicly available, the ability to negotiate the best terms would be compromised. This would make Pennsylvania's public research universities, and as a result the Commonwealth, less attractive for such partnerships, and would hurt Pennsylvania's economic development goals.
- Making individual salary information public would increase administrative costs, pose a constant detriment to employee morale, severely inhibit the use of merit as a basis for the salary structure and reward system, limit management flexibility, and make the state-related universities more vulnerable to having their most distinguished and highly-regarded faculty members lured away by competing universities across the country. National competition for the top faculty members is fierce and having access to exact salary figures (and other terms of employment) makes it much easier for competing universities to make successful hiring offers to faculty at Pennsylvania's state-related research universities.
- Negative impacts to research will result. Confidentiality is vital at the early stages of research, and premature disclosure can sabotage the ability to develop, patent and commercialize new technologies, procedures, and inventions. Confidentiality is vital in the research area for other reasons, as well. For example, there have been frequent attempts by animal rights activists to learn confidential information regarding the locations and use of animals in biomedical research, and to learn personal information about researchers (such as where they live, and their spouses and children's identities) that is used to harass researcher's and their families. Similarly, certain research involves biological and chemical agents which are strictly controlled and regulated. Applying an open records law to the state-related research universities inappropriately creates access

³ The state-related universities, following the massive cut in operating funds in FY 2012, are operating with a state appropriation at the approximate level of their 1995 funding.

to information that should never be public. Indeed, several federal and state laws pertaining to safeguarding and securing personal information (Gramm Leach Bliley Act, HIPAA, PA Data Breach Notification Act, and Federal Information Security Management Act) reflect the trend that broad categories of information need to be secured, not disclosed.

- The state-related research universities also conduct research under grants and contracts from private industry. In fact, Penn State ranks second in the nation in grants and contracts from industry...about \$100 million per year. It is well recognized that contracts with industry can be challenging. Making details of contracts publicly available will threaten our competitive position with universities outside of Pennsylvania, as well as with private universities within Pennsylvania with whom we compete. Even though these private universities in Pennsylvania receive state funds directly through Institutional Assistance Grants, and indirectly through PHEAA grants to their students, those universities are not subject to any part of the RTK Law.
- A further erosion in privacy rights of individuals whose personal/confidential information is part of documents falling within the scope of Right-to-Know Act requests.
- Leverage in negotiating contracts with vendors will be lost. The state-related universities have been able to maximize resources by negotiating favorable contract terms with vendors and service providers. The state-related universities currently disclose (pursuant to the School Code, as discussed above) a list of all vendors and service providers where the contract amount exceeds \$1,000. However, disclosure of the contract terms will inevitably make it more difficult to negotiate favorable agreement, which has been critical in light of Commonwealth funding cuts.
- Invasion of reasonable privacy expectations of faculty and staff will result. Expansion of open records laws runs contra to current societal views that private information should be safeguarded. Officers and the most highly compensated employees of an organization should reasonably anticipate that their salaries will be public. However, the vast majority of faculty and staff are, based on historical treatment, entitled to confidentiality with regard to their salary. While the state-related universities publicly disclose the mean and median salaries of faculty and staff in all of their various schools and units, we only disclose the personally-identifiable salaries of our officers, directors and the twenty-five highest paid employees. The individual salaries of all other faculty and staff have never been disclosed.
- Labor-management relations will be adversely impacted. Opening the door to tangential (and possibly harassing) records requests in the midst of contract negotiations, to be determined not by the state labor board, which is familiar with the delicate balancing of rights needed in such situations but rather by a less informed open records agency, will

increase the likelihood of increasing tensions and distracting the parties from resolving their differences.

- Unlike state agencies and the PASSHE institutions, two of the state-related universities have academic medical centers that operate in a very competitive business and regulatory environment that is especially sensitive to privacy issues (at Pitt, the UPMC Health System is a separate entity). Subjecting these activities to the RTK Law in the same fashion as state agencies will create added costs and risks adversely affecting their ability to efficiently provide their services to the public.
- The universities would be limited in their opportunities to invest endowment funds in certain attractive funds, which will not permit their specific investment strategies and holdings to be publicly disclosed.
- Interference with internal investigations and student discipline would result. Confidentiality is also critical in the student disciplinary process which currently provides for confidential meetings with students who file or are charged with violations of the student code of conduct. Open records requirements would make it more difficult to secure witness testimony and would have a chilling effect on the student judicial and employee grievance processes. It also could discourage targets of sexual assault and other crimes from coming forward because of the enhanced risk that confidentiality cannot be maintained.

These are just some of the major impacts of treating the state-related universities as state agencies for purposes of open records legislation. The public is entitled to know how the university makes use of the funds appropriated by the Commonwealth. That information is currently provided by the state-related universities to the Commonwealth and the public. Inclusion in the mandated broad disclosure requirements of a state agency would have very unnecessary and detrimental results for the state-related universities. It is in the best interest of these Pennsylvania institutions and the Commonwealth to exclude state-related research universities from the broad mandate of the open records law that is applied to state agencies. Any additional disclosure that the General Assembly feels is necessary regarding the expenditure of Commonwealth funds by the state-related universities should be addressed through amendments to Chapter 15 of the RTK Law.

Respectfully submitted:

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EXHIBIT A

Full Text of Selected Statutory Reporting Requirements

***Public School Code** (24 P.S. sections 20-2001 et seq.) - also referred to as Snyder Report and Financial Disclosure Report

§ 20-2002-D. Reporting guidelines - In any year a State-related institution receives a nonpreferred appropriation, a report shall be submitted in electronic format to the department and the Joint State Government Commission and shall include data for all programs. The report, to be submitted prior to September 1, shall cover the 12-month period beginning with the summer term of the preceding year and shall include:

(1) The following counts and distributions for each term during the period:

(i) The definitions and numbers of faculty members employed full time, of faculty members employed part time, of full-time students enrolled in graduate courses, of full-time students enrolled in undergraduate courses, of part-time students enrolled in graduate courses and of part-time students enrolled in undergraduate courses.

(ii) The total numbers of undergraduate student credit hours, divided into lower division and upper division course levels, and of graduate student credit hours, divided into three course levels: master's, first professional and doctoral.

(iii) The number of different courses scheduled by level of instruction and the number of sections of individual instruction scheduled by level of instruction, each further subdivided by two-digit Classification of Instructional Program (CIP) categories of instructional programs of higher education as defined by the National Center for Education Statistics, United States Department of Education.

(iv) The number of terms scheduled and the dates thereof.

(2) For the summer term and the following academic year in total and for each two-digit CIP program category, a classification of faculty members or other professional employees by title, including: professor, associate professor, assistant professor, instructor, lecturer, research associate, librarian and academic administrator; faculty members or other professional employees under each title to be subdivided by type of assignment: teaching and nonteaching; and each such set of faculty members or other professional employees to be further subdivided

by type of employment: full-time or part-time; and the following aggregates for each such subdivided classification:

(i) The number of faculty and other professional employees and their full-time equivalence in instructional and noninstructional functions.

(ii) The sum of credits assigned to undergraduate classroom courses and the sum of credits assigned to graduate classroom courses taught, divided into lower division, upper division, master's, first professional and doctoral course levels.

(iii) The sum of credits assigned to undergraduate individual instruction courses and the sum of credits assigned to graduate individual instruction courses taught, divided into lower division, upper division, master's, first professional and doctoral course levels.

(iv) The sum of undergraduate classroom student credit hours and the sum of graduate classroom student credit hours generated, divided into lower division, upper division, master's, first professional and doctoral course levels.

(v) The sum of undergraduate individual instruction student credit hours and the sum of graduate individual instruction student credit hours generated, divided into lower division, upper division, master's, first professional and doctoral course levels.

(vi) The total salary paid for instructional functions and for noninstructional functions and the amount of this salary paid for each of these functions from university funds, Federal funds and other funds.

(3) For each term of the period covered for each faculty member employed full time identified by two-digit CIP program category and title, the report shall contain an analysis of the average hours per week spent in university-related activities, stating specifically hours spent in undergraduate classroom contact and graduate classroom contact, hours spent in preparation, hours spent in research and hours spent in public service.

§ 20-2003-D. Additional report requirements - In addition to the requirements in section 2002-D relative to any appropriation, the report covering the 12-month period shall include for all programs of the university:

(1) Minimum number of credits required for a baccalaureate degree and for a master's degree.

(2) Number of bachelor's degrees, master's degrees, first professional degrees and doctoral degrees awarded for the previous five years and those estimates for that year.

§ 20-2004-D. Disclosure - (a) Expenditures.--The university shall disclose the following:(1) Revenue and expenditure budgets of the university's academic and administrative support units for the current fiscal year.(2) The actual revenue and expenditures for the prior year in the same format as the information reported under paragraph (1).(3) For any defined project or program which is the subject of a specific line item appropriation from the General Fund, the university shall disclose the following: (i) Revenue and expenditure budgets of the defined program or project for the current fiscal year.(ii) The actual revenue and expenditures of the defined program or project for the prior year in the same format as the information reported under paragraph (1). (4) The revenue and expenditures of any auxiliary enterprise which is directly funded in whole or in part by tuition or a State appropriation for the current fiscal year.

(b) Prior fiscal year.--The university shall provide the following additional information for the prior fiscal year for each academic or administrative support unit, for each defined project or program and for any auxiliary enterprise: (1) The number of employees by academic rank and by classification the number of administrators, staff, clerical and technical service employees. (2) Median and mean salary by academic rank and by classification the median and mean salaries of administrators, staff, clerical and technical service employees. (3) Nonsalary compensation as a percentage of salary. Nonsalary compensation shall include, but not be limited to, medical benefits, life insurance benefits, pension benefits, leave benefits, employer Social Security payments and workers' compensation benefits. (4) A statement of the university's retirement policies. (5) A policy statement relating to a reduction of tuition for employees' family members. (6) A list of purchase of service contracts which exceed \$1,000 by category of service, including, but not limited to, legal, instructional, management, accounting, architecture, public relations and maintenance. The list shall contain the name and address of the contractor, a statement of the nature of the duties of the contractor and the academic and administrative support unit for which the duties are performed. If a purchase of service contract exceeds 10% of the total aggregate expenditure of the contract category per academic or administrative support unit, then the contracted amount shall also be listed. (7) A list of purchase of goods contracts which exceed \$1,000. The list shall contain the name and address of the contractor and a list of the goods purchased and the academic or administrative support unit for which such goods were contracted. If a purchase of goods contract exceeds 10% of the total aggregate expenditure per academic or administrative support unit, then the contracted amount shall also be listed. (8) A list by academic or administrative support unit in the aggregate of the expenses of travel, subsistence and lodging, whether provided or reimbursed.

(c) Format.--The university shall submit in electronic format a report of the information under subsections (a) and (b) to the department and the Joint State Government Commission. Each such institution shall maintain a copy of the report in the institution's library and shall submit a copy to each of the four State regional library resource centers.

(d) Time frame.--A university's report required to be submitted under this section shall be submitted within 180 days of the close of the university's current fiscal year.

(e) Minutes.--The university shall make a copy of the minutes of each public meeting of the institution's board of trustees, as well as a copy of the institution's integrated postsecondary education data systems report, available for public inspection in the institution's library.

§ 20-2005-D. Comparative analysis and posting by commission - The Joint State Government Commission shall develop a statistical comparison analysis recognizing differences in missions from the reports made under this article. A majority of the members of the commission may request additional documentation, except for salary or identity of individuals, necessary to complete the comparative analysis. The comparison shall be provided to the Education Committee of the Senate and the Appropriations Committee of the Senate and the Education Committee of the House of Representatives and the Appropriations Committee of the House of Representatives and the four State regional libraries. The comparative analysis shall be posted on the Joint State Government Commission's Internet website for a period of no less than five years from the date of submission.

§ 20-2006-D. Posting of reports by department - The reports required under this article shall be posted on the department's Internet website for a period of no less than five years from the date of submission.

***Appropriation bill requirements (see e.g. Act 10A of 2011, HB 1727)**

*Must file, with the Secretary of Education, the General Assembly, the Auditor General of the Commonwealth and the chief administrator of each branch campus, a statement setting forth the amounts and purposes of all expenditures made from moneys appropriated by this act and other university accounts during the past fiscal year, used as a basis for receipt of any appropriation during said fiscal year. Such statement of expenditures and costs shall be reviewed by the Auditor General of the Commonwealth, and he may audit and disallow expenditures made for purposes not permitted by this act and to cause such sums to be recovered and paid by the University to the State Treasurer.

*Must provide full, complete and accurate information as may be required by the Department of Education or the chairman or the minority chairman of the Appropriations Committee of the Senate or the chairman or the minority chairman of the Appropriations Committee of the House of Representatives.

*The University shall present and report its financial statements required under the provisions of this act in accordance with: the generally accepted accounting principles as prescribed by the National Association of College and University Business Officers, the American Institute of Certified Public Accountants, or their successors, or by any other recognized authoritative body;

the "Commonwealth of Pennsylvania Budget Instructions for the State System of Higher Education, State-Related Universities and Non-State-Related Colleges and Universities"; and the financial reporting policies and standards promulgated by the Commonwealth of Pennsylvania and by the Federal Government that apply to the University.

***Right-to-Know Law (65 P.S. Sections 65 et seq.)**

CHAPTER 15. STATE-RELATED INSTITUTIONS

Section 1502. Reporting. - No later than May 30 of each year, a State-related institution shall file with the Governor's Office, the General Assembly, the Auditor General and the State Library the information set forth in section 1503.

Section 1503. Contents of report - The report required under section 1502 shall include the following: (1) Except as provided in paragraph (4), all information required by Form 990 or an equivalent form, of the United States Department of the Treasury, Internal Revenue Service, entitled the Return of Organization Exempt From Income Tax, regardless of whether the State-related institution is required to file the form by the Federal Government.

(2) The salaries of all officers and directors of the State-related institution.

(3) The highest 25 salaries paid to employees of the institution that are not included under paragraph (2).

(4) The report shall not include information relating to individual donors.

Section 1504. Copies and posting. A State-related institution shall maintain, for at least seven years, a copy of the report in the institution's library and shall provide free access to the report on the institution's Internet website.

***Reporting to PDE:**

- 1) Annual Survey of Educational Programs
- 2) Four-Year Graduation Rate of PA-Resident Freshmen Survey
- 3) Residence of Students Enrollment Survey
- 4) Engineering Schools - Equipment Grant Program - Enrollment Survey (on request)
- 5) Signed documentation to the effect that the University is in compliance with the "English Fluency in Higher Education Act (aka "the ELF")
- 6) Annual submission of Program and Operating Budgets
- 7) Annual Appropriation Request

EXHIBIT B

ANNUAL REPORTING REQUIREMENTS AND INFORMATION DISCLOSURES OF PENNSYLVANIA'S STATE-RELATED UNIVERSITIES

Commonwealth:

***Public School Code** (24 P.S. §§20-2001 et seq.) - also referred to as Financial Disclosure Report and Snyder Report. Submitted to General Assembly and Joint State Government Commission.

***Appropriation bill requirements** (see e.g. Act 10A of 2011, HB 1727)

***Annual audit of Commonwealth Appropriation for State-Related Universities** (see for example: Act 10A of 2011; University of Pittsburgh-Commonwealth Act, 24 P.S. §2510-210 et seq.)

***University's Annual Audited Financial Statement**

***Right-to-Know Law** (65 P.S. §§65 et seq.)

***Annual Budget Presentation to General Assembly**

***Pennsylvania Uniform Crime Reporting Act, 18 P.S. §§ 20.301 et seq., formerly known as the Pennsylvania College and University Security Information Act** (24 P.S. §§2502-1 et seq.)

Reporting to PDE:

***Annual Survey of Educational Programs.**

***Four-Year Graduation Rate of PA-Resident Freshmen Survey.**

***Engineering Schools - Equipment Grant Program - Enrollment Survey (on request).**

***Signed documentation to the effect that the University is in compliance with the English Fluency in Higher Education Act (aka "the ELF").**

***Annual submission of Program Budget, Operating and Capital Budgets.**

***Annual Appropriation Request.**

***Acceptance of transfer credits and disclosure and web posting of all articulation agreements. 24 P.S. §§ 20-2001-C et seq.**

Federal (Reported to U.S. Department of Education)

***Integrated Postsecondary Education Data System (“IPEDS “) - Institutional Characteristics:** University profile, e.g., size, tuition and other costs, admissions requirements, etc.

***IPEDS – Completions** - Fiscal year enumeration of degrees conferred, and certificates awarded, by discipline.

***IPEDS – Human Resources:** Medicine vs. non-Medicine employee counts for the fall term by instruction, research, public service categories; aggregate data on faculty salaries and benefits; employee counts by occupational classification, race, sex, and salary range.

***IPEDS – Fall Enrollment:** Fall enrollment, by age, fiscal year, and state-of-origin.

***IPEDS – Student Financial Aid:** Selected financial aid data: recipient counts and respective dollar amounts.

***IPEDS – Finance:** Modified transcription of financial data reported via the University's financial statement.

***IPEDS – Graduation Rates:** Four-, five-, and six-year graduation rates for all, and student-athlete, freshmen.

***Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics (“Clery Act”).**