

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 3406

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 27, 2023

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 3406.

This amended bill requires public institutions of higher education to submit an annual fiscal monitoring report; authorizes the Secretary of Higher Education to appoint a State monitor to oversee fiscal and governance operations of certain institutions; requires higher education chief financial officers to complete training; and annually appropriates \$100,000.

Under current law, the president and chief financial officer of a public research university or a State college is required to submit an annual audit prepared by an independent auditor. The amended bill requires that, in addition to the annual audit prepared by an independent auditor, all public institutions of higher education are required to submit an annual fiscal monitoring report to the Office of the Secretary of Higher Education.

The amended bill requires comprehensive audits of public institutions of higher education as determined by a schedule set by the secretary. If the secretary determines that conditions at an institution of higher education may significantly or negatively impact the institution's operations, the secretary may direct a comprehensive audit of the institution's fiscal and governance operations at any time.

This amended bill specifies circumstances in which a State monitor may be appointed to provide direct oversight of an institution's fiscal and governance operations. The secretary has the authority to appoint a State monitor if the fiscal monitoring report or comprehensive audit of the institution includes a finding of financial instability or the institution receives an adverse or disclaimer opinion in its annual audit. A monitor could also be appointed if the institution meets any two of the following criteria: the institution ends the fiscal year with a deficit balance in certain funds; the institution fails to develop and implement a plan to address a deficit balance in certain funds; the institution receives a qualified opinion in its annual audit; the institution receives an adverse, disclaimer, or qualified opinion under a single audit section in its annual audit; the institution fails to implement a plan

from the prior fiscal year; the institution fails to submit the annual audit or the fiscal monitoring report; or the institution fails to comply with the timely training of governing board members.

A State monitor that is appointed pursuant to this bill would be responsible for: the fiscal oversight of the institution; the development and implementation of recommendations for restructuring the institution offered by the governing board of the institution; ensuring the development and implementation of an acceptable plan to address deficiencies at the institution; oversight of all staffing; overriding any actions taken by the president of the institution or by vote of the governing board; attending all meetings of the board; meeting with the board on a quarterly basis; reporting directly to the secretary; and making recommendations to the Legislature.

The amended bill specifies that a State monitor appointed pursuant to the bill is considered a State officer for purposes of the “New Jersey Tort Claims Act.” Additionally, the State monitor is required to issue a fiscal accountability plan to the secretary listing the benchmarks, remedial actions, and capacity and fiscal controls the institution needs to meet and implement to end State monitor oversight. The State monitor is further required to issue progress reports to the institution and the secretary. The State is to assume the costs of the State Monitor and associated staff. The secretary is to develop a transition plan for restoring full institution control.

The amended bill requires the governing board of a public institution of higher education to approve the appointment of a chief financial officer. The amended bill also requires the secretary to establish the duties and responsibilities of a chief financial officer, inclusive of certain requirements laid out in the bill.

Under the amended bill, the secretary, in consultation with the State Comptroller and Attorney General, is to prescribe terms and conditions upon which a chief financial officer may be held accountable for violations of the fiduciary duties of the position.

The amended bill requires a chief financial officer of a public institution of higher education to complete a training program developed by the secretary.

The amended bill provides for an annual appropriation of \$100,000 to the Office of the Secretary of Higher Education for costs related to the development and arrangement of training for chief financial officers of public institutions of higher education.

As amended and reported by the committee, this bill is identical to Assembly Bill No. 4970(2R) as amended and reported by the Assembly Budget Committee on the same date.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- define “financial instability” and “public institution of higher education;”
- require the State monitor to issue a fiscal accountability plan and progress reports to the institution and secretary on the benchmarks and remedial actions that need to be completed by the institution;
- require the secretary to develop a transition plan for restoring full institution control;
- provide that the State monitor is to remain in place until the secretary determines that fiscal accountability at the institution has been restored;
- provide that the State will assume the cost of the State monitor;
- require the governing board of a public institution of higher education to approve the appointment of a chief financial officer;
- require the secretary to establish the duties and responsibilities of a chief financial officer, inclusive of certain requirements laid out in the bill;
- require the secretary to prescribe terms and conditions upon which a chief financial officer may be held accountable for violations of the fiduciary duties of the position;
- require a chief financial officer of a public institution of higher education to complete a training program developed by the secretary;
- provide for an annual appropriation of \$100,000 to the Office of the Secretary of Higher Education for costs related to the development and arrangement of training for chief financial officers of public institutions of higher education;
- require a State monitor to annually report to the Governor and the Legislature;
- revise the effective date of the bill; and
- make other technical and clarifying changes.