

Legislative History for Connecticut Act

HB 6614	PA 229	1989
House 1432, 4616-4627, 5812-5823, 9656-9660		(25) ³⁰
Senate 524, 2421-2434		(15)
Education 116, 125-137, 174-197, 249-250		(40)

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Total - ~~80~~⁸⁵ p.

Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate
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House of Representatives

Wednesday, March 15, 1989

PUBLIC SAFETY. HB6239 (COMM) AN ACT INCREASING THE FEES FOR PERMITS TO SELL AND CARRY PISTOLS AND REVOLVERS.

The bill was then referred to the Committee on Finance, Revenue and Bonding.

EDUCATION. Substitute for HB6614 (COMM) AN ACT CONCERNING RECORDS OF THE PERFORMANCE AND EVALUATION OF FACULTY MEMBERS OF THE CONSTITUENT UNITS OF THE STATE SYSTEM OF HIGHER EDUCATION.

The bill was then referred to the Committee on Government Administration and Elections.

EDUCATION. HB6772 (COMM) AN ACT CONCERNING AUTHORIZATION OF BONDS OF THE STATE FOR RIVERFRONT DEVELOPMENT AT THE OLIVER ELLSWORTH HOMESTEAD IN WINDSOR.

The bill was then referred to the Committee on Finance, Revenue and Bonding.

ENVIRONMENT. Substitute for HB6998 (RAISED) AN ACT CONCERNING DOG LICENSING AND THE SEIZURE OF DOGS WHOSE OWNERS FAIL TO COMPLY WITH QUARANTINE AND RESTRAINING ORDERS.

The bill was then referred to the Committee on Finance, Revenue and Bonding.

ENVIRONMENT. Substitute for HB7136 (RAISED) AN ACT ESTABLISHING A PROGRAM FOR THE PROTECTION OF ENDANGERED AND THREATENED SPECIES.

The bill was then referred to the Committee on Government Administration and Elections.

PROGRAM REVIEW AND INVESTIGATIONS. Substitute for HB7143 (RAISED) AN ACT IMPLEMENTING THE LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE'S RECOMMENDATIONS ON THE USE OF CONSULTANTS BY STATE AGENCIES.

The bill was then referred to the Committee on Government Administration and Elections.

PROGRAM REVIEW AND INVESTIGATIONS. Substitute for HB7201 (RAISED) AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE CRIMINAL JUSTICE INVESTIGATION RELATED TO THE DIVISION OF CRIMINAL JUSTICE.

The bill was then referred to the Committee on Judiciary.

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taking a roll call vote. Members to the Chamber please.

DEPUTY SPEAKER POLINSKY:

Have all members voted and is your vote properly recorded? Have all members voted? If all members have voted, the machine will be locked and the Clerk will take a tally.

The Clerk will read the tally.

CLERK:

SB1010, as amended by Senate "A", in concurrence with the Senate.

Total Number Voting	147
Necessary for Passage	74
Those voting Yea	146
Those voting Nay	1
Those absent and not Voting	4

DEPUTY SPEAKER POLINSKY:

The bill as amended is passed in concurrence with the Senate.

CLERK:

Calendar 421, Page 8, Substitute for HB6614. AN
 ACT CONCERNING RECORDS OF THE PERFORMANCE AND
 EVALUATION OF FACULTY MEMBERS OF THE CONSTITUENT UNITS
 OF THE STATE SYSTEM OF HIGHER EDUCATION AND MEETINGS OF
 MUNICIPAL ETHICS COMMISSION.

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Favorable Report of the Committee on GOVERNMENT
ADMINISTRATION AND ELECTIONS.

REP. GODFREY: (110th)

Mr. Speaker.

SPEAKER BALDUCCI:

Representative Godfrey of the 110th.

REP. GODFREY: (110th)

Thank you, Mr. Speaker. I move acceptance of the
Joint Committee's Favorable Report and passage of the
bill.

SPEAKER BALDUCCI:

The question is on passage. Will you remark?

REP. GODFREY: (110th)

Yes, Mr. Speaker. This bill does two things.
First, it clarifies that the performance evaluation of
teachers and professional staff in our state
universities and colleges are a part of their personnel
file which is not subject to public disclosure, and
two, it extends to Municipal Ethics Commissions the
ability to conduct probably cause investigations
confidentially in the same manner that the State Ethics
Commissions may currently do.

Regarding the first point, from the very beginning,
personnel records to protect the people whose records
they are against invasions of privacy have been exempt

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from disclosure under the Freedom of Information Act and indeed in 1977 the FOIC, the commission itself, determined that evaluations of faculty members at UConn by students were extent from disclosure and that particular point I'll come back to.

In 1984 the General Assembly adopted Public Act 84-276, which is codified in the General Statutes as Section 10-151(c), which clarified that records of teacher performances and evaluations for local or regional school systems are not subject to public disclosure. It was not a new law, but it was a clarification, and indeed, our Supreme Court, just last month recognized this clarification in Board of Education of the Town of Somers versus the Freedom of Information Commission.

However, in 1988 the Freedom of Information Commission had reversed itself in a complaint brought by UConn's daily campus to obtain student evaluations only that were in the personnel records of teachers. In this finding the FOIC did find that the results of these evaluations do constitute one component of the process for determining tenure, promotion, reappointment and other merit-based decisions and were, therefore, part of a personnel file. They also, however, ignored the fact that student organizations

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can and often do in other places, perform their own evaluations designed to share information not only on teachers, but on the courses that they teach. In effect, there is no need to have the part of that information that's in the personnel file and obtained through the university. Student bodies are able to gather and collect this information themselves.

In fact, in testimony on the bill before us today several students testified that they had no interest in the rest of the personnel file and indeed the other information should remain confidential, according to their opinion.

So this bill then clarifies that the current exemption in the Freedom of Information Act for personnel records includes performance evaluations. The second part of the bill extends to Municipal Ethic Commissions the confidentiality provisions for the probable cause investigation. When the General Assembly created the State Ethics Commission in 1977 the commission was given some broad investigative powers, including subpoena power and the use of the State Police services. It sits, in effect, as a quasi-judicial body and makes determinations on complaints and listens to respondents who answer them. The decision to extend the kind of rights due in

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judicial proceedings was also made because of the quasi-judicial nature of this body.

It includes the need to find a probable cause on the complaint before proceeding with the full hearing and the decision making process. The probably cause investigation was kept confidential. This protects a respondent or potential respondent from meritless or frivolous claims and trial by press release. When the General Assembly extended to municipalities the power to create local Ethics Commissions, it did not include this important exemption, however, and this bill serves to rectify that situation.

I urge adoption of the bill.

SPEAKER BALDUCCI:

The question is on adoption. Will you remark further? Will you remark further on passage of this bill.

REP. JAEKLE: (122nd)

Mr. Speaker.

SPEAKER BALDUCCI:

Representative Jaekle.

REP. JAEKLE: (122nd)

Mr. Speaker, frankly, I seem to support Section 1 of the file copy, but Section 2 which deals with, well, I'll call them local Ethics Commissions, I gather that

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when they are conducting a -- you don't use the term probable cause hearing, but I don't even mean to be over technical, maybe a possible cause hearing. The term is whether they are determining whether there is sufficient evidence to warrant an inquiry into certain allegations of unethical conduct, they're going to be exempt from Chapter 3 of the General Statutes rather than specific Freedom of Information provisions.

I've been scanning the various provisions of Chapter 3 of the General Statutes and would like to ask a couple of questions, Mr. Speaker, through you, to the proponent.

The exemption from compliance with Chapter 3 of the General Statutes, would that mean in the local ethic commissions' determination about sufficient evidence to proceed further, they subpoena certain -- maybe from law enforcement agencies, certain documents that fall into Section 1-20(c) of the statutes that are called uncorroborated allegations of criminal activity. Under Chapter 3 of the statutes those uncorroborated allegations, if they remain so, must be destroyed. This exemption from Chapter 3 of the statutes, would that mean that the local Ethics Commission would not have to destroy these uncorroborated allegations of criminal activities after their preliminary

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investigation, through you, Mr. Speaker?

SPEAKER BALDUCCI:

Representative Godfrey.

REP. GODFREY: (110th)

I'm sorry. I didn't hear the last part of that, Representative Jaekle, through you, Mr. Speaker.

SPEAKER BALDUCCI:

Representative Jaekle.

REP. JAEKLE: (122nd)

Thank you, Mr. Speaker. Again, if these uncorroborated allegations of criminal conduct are obtained by the local Ethics Commission would they be able to be disclosed and not required to be destroyed, which is what a provision of Chapter 3 of the General Statutes requires?

SPEAKER BALDUCCI:

Representative Godfrey.

REP. GODFREY: (110th)

I'm not sure. I'm sorry. I do not know, sir.

SPEAKER BALDUCCI:

Representative Jaekle.

REP. JAEKLE: (122nd)

Well, I'll test a little further. Chapter 3 of the General Statutes contains some requirements that you send notices of meetings to members of a board or a

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commission. Would this Chapter 3 exemption on local Ethics Commission thus not be required to send notices of their meeting to determine probably cause or possible cause to proceed with the formal investigation so that maybe they'd only send some notices of meetings to some members of the Ethics Commission since the law in Chapter 3 would not require full notice.

SPEAKER BALDUCCI:

Representative Godfrey.

REP. GODFREY: (110th)

Through you, Mr. Speaker, it is certainly not our intention to exempt public agencies from informing its own members of its own meetings. Mostly, in my experience, having served on the local Common Council and having to deal with the local end of ordinances that would set up processes for local Ethics Commission, that's hardly the intention. There would still, obviously, be the need for all members to know when their meetings are being held and indeed at the beginning of the year, the list of their regular meetings are published and there is certainly no intention to exempt them from notifying their own members or indeed anyone that they're meeting.

This is the type of thing that the intention would

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be to allow them to conduct these preliminary investigations, if you will, in Executive Session.

SPEAKER BALDUCCI:

Representative Jaekle.

REP. JAEKLE: (122nd)

Through you, Mr. Speaker, the definition of Executive Session, I believe, is contained in Chapter 3 and Chapter 3 would not be applicable to these initial investigative meetings, isn't that correct, through you, Mr. Speaker?

SPEAKER BALDUCCI:

Representative Godfrey.

REP. GODFREY: (110th)

Through you, Mr. Speaker, again, that would not be our intention. Perhaps an overly strict reading of the language may seem to imply that, but that certainly isn't our intention in bringing this bill out.

SPEAKER BALDUCCI:

Representative Jaekle, you still have the floor.

REP. JAEKLE: (122nd)

Through you, Mr. Speaker, Chapter 3 requires minutes to be kept at certain meetings of public bodies, including local Ethics Commissions. Since the preliminary investigation would not be subject to Chapter 3, would not indeed would be exempt from the

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provisions of Chapter 3 under the file copy, would this mean that no minutes would have to be taken at the initial investigation stage?

SPEAKER BALDUCCI:

Representative Godfrey.

REP. GODFREY: (110th)

Through you, Mr. Speaker, again, to protect the confidentiality of the proceedings, those parts that would say disclose a complaint that is brought and found it to be meritless I would say should not be disclosed, but the fact that they met, the fact that they considered a particular matter would, of course, have to be part of the minutes.

SPEAKER BALDUCCI:

Representative Jaekle.

REP. JAEKLE: (122nd)

Thank you, Mr. Speaker. I appreciate the intention of the bill. My concern was that the exemption from certain Freedom of Information was too broad by the exemption from all of Chapter 3, which I believe still contains some valuable protections for the process of conducting even these very, what would be confidential proceedings and would suggest that the exemption from FOI be more specific in Section 2 of the bill before we're asked to vote on this.

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REP. FRANKEL: (121st)

Mr. Speaker.

SPEAKER BALDUCCI:

Representative Frankel.

REP. FRANKEL: (121st)

Mr. Speaker, the question that Representative Jaekle raises is a very valid one, the notion of a blanket exemption from FOI in connection with Municipal Ethics Commissions.

I should point out that right or wrong, and perhaps it's wrong, we provide the same blanket exemption to the State Ethics Commissions. Indeed the municipal section that is being referred to wherein the exemption is endeavored to be attached, would in effect, be identical to what is done at the state level, that is, provide a total exemption from Chapter 3 and Representative Jaekle is quite right. A strict interpretation could result in our State Ethics Commission not having to file minutes, not having to adhere to our rules on Executive Sessions, not having to do all those things in Chapter 3.

They have been, apparently, doing that successfully, but it is certainly a risk. So it would seem to me that an amendment should be prepared to clarify the problem that Representative Jaekle raised,

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but I think it should be applicable to both the state and the municipal, if indeed it is appropriate to require that the Ethics Commissions at the municipal level be limited to surgical sections, elimination of surgical sections of FOI, should indeed should the state and so rather than parallel both sections, I think we need a sweeping amendment to address both the municipal as well the state sections, and with that, Mr. Speaker, I would move that this item be passed temporarily to get such an amendment.

SPEAKER BALDUCCI:

The question is on passing temporarily. Is there objection? Seeing none, it's so ordered.

CLERK:

Calendar 312, Page 3, Substitute for SB769. AN ACT CONCERNING THE INCORPORATION OF CONNECTICUT LIFE AND CASUALTY INSURANCE COMPANY.

Favorable Report of the Committee on JUDICIARY.

REP. BIAFORE: (125th)

Mr. Speaker.

SPEAKER BALDUCCI:

Representative Biafore of the 125th.

REP. BIAFORE: (125th)

Again, this was passed temporarily and I move for acceptance of the Joint Committee's Favorable Report

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voted, the machine will be locked and the Clerk will take a tally.

The Clerk will announce the tally.

CLERK:

SB823, as amended by Senate "A" and House "B".

Total Number Voting	148
Necessary for Passage	75
Those voting Yea	148
Those voting Nay	0
Those absent and not Voting	3

DEPUTY SPEAKER POLINSKY:

The bill as amended is passed.

The Clerk please return to the Call of the Calendar.

CLERK:

Page 5, Calendar 421, Substitute for HB6614. AN ACT CONCERNING RECORDS OF THE PERFORMANCE AND EVALUATION OF FACULTY MEMBERS OF THE CONSTITUENT UNITS OF THE STATE SYSTEM OF HIGHER EDUCATION AND MEETINGS OF MUNICIPAL ETHICS COMMISSIONS.

Favorable Report of the Committee on GOVERNMENT ADMINISTRATION AND ELECTIONS.

DEPUTY SPEAKER POLINSKY:

Representative Godfrey of the 110th District.

REP. GODFREY: (110th)

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Thank you, Madam Speaker. Madam Speaker, I move acceptance of the Joint Committee's Favorable Report and passage of the bill.

DEPUTY SPEAKER POLINSKY:

The motion is on adoption. Please proceed, sir.

REP. GODFREY: (110th)

Thank you, Madam Speaker. As I had started to explain last week, this particular bill does two things. Number one, it clarifies that the performance evaluation of teachers and professional staff in our state universities and colleges are a part of their personnel file that is not subject to public disclosure, and secondly, extends to Municipal Ethics Commissions the ability to conduct probable cause investigations confidentially in the same manner as the State Ethics Commission currently may.

A problem had arose in some of the language regarding that second section and that it was overly broad and in order to rectify that, Madam Speaker, I'd request that the Clerk call LCO7103 and I ask leave of the Chamber to summarize.

DEPUTY SPEAKER POLINSKY:

Will the Clerk please call LCO7103 which shall be designated House Amendment Schedule "A".

CLERK:

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LC07103, designated House Amendment Schedule "A",
offered by Representative Kiner, 59th District, et al.
DEPUTY SPEAKER POLINSKY:

Is there objection to summarization? Seeing no
objection, please proceed, Representative Godfrey.

REP. GODFREY: (110th)

Thank you, Madam Speaker. The new language in this
amendment that will narrow the language that's in the
file copy refers specifically to the sections of the
statutes that already cover the State Ethics
Commissions' probable cause investigations and in fact
keeps confidential complaints, the preliminary
investigations and the preliminary meetings up to the
time after a probable cause finding is made or not made
and would also cover meetings of the Municipal Ethics
Commissions as Executive Sessions during those
particular proceedings with the exception that, of
course, if a respondent so desires that these be
opened, it will be so and I move adoption of the
amendment.

DEPUTY SPEAKER POLINSKY:

The question is on adoption of House "A". Will you
remark further? Representative Godfrey.

REP. GODFREY: (110th)

Madam Speaker, I think my explanation pretty much

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clarifies exactly what's going on here and it's a matter of ensuring that the same protection to respondents is given on the municipal level as it is given on the state level and I urge adoption.

DEPUTY SPEAKER POLINSKY:

Will you remark further on House Amendment "A"? Will you remark further? If not, let us try your minds. All those in favor of House Amendment Schedule "A" please indicate by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER POLINSKY:

Those opposed nay.

REPRESENTATIVES:

No.

DEPUTY SPEAKER POLINSKY:

The ayes clearly have it.

The amendment is adopted and ruled technical.

House Amendment Schedule "A".

Strike out section 2 and insert the following in lieu thereof:

"Sec. 2. Section 7-148h of the general statutes is repealed and the following is substituted in lieu thereof:

Any town, city or borough may, by charter provision or ordinance, establish a board, commission, council, committee or other agency to investigate allegations of unethical conduct, corrupting influence or illegal activities levied

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against any municipal official, officer or employee. THE PROVISIONS OF SUBSECTIONS (a) TO (e), INCLUSIVE OF SECTION 1-82a SHALL APPLY TO ALLEGATIONS BEFORE ANY SUCH AGENCY OF SUCH CONDUCT, INFLUENCE OR ACTIVITIES, TO AN INVESTIGATION OF SUCH ALLEGATIONS CONDUCTED PRIOR TO A PROBABLE CAUSE FINDING, AND TO A FINDING OF PROBABLE CAUSE OR NO PROBABLE CAUSE. A MEETING OF ANY SUCH AGENCY HELD FOR THE PURPOSE OF DETERMINING WHETHER THERE IS SUFFICIENT EVIDENCE TO WARRANT AN INQUIRY INTO SUCH ALLEGATIONS SHALL BE DEEMED TO BE AN EXECUTIVE SESSION FOR THE PURPOSES OF SECTIONS 1-18a, 1-21, 1-21g AND 1-21i. Any such board, commission, council, committee or other agency established pursuant to this section may issue subpoenas or subpoenas duces tecum, enforceable upon application to the superior court, to compel the attendance of persons at hearings and the production of books, documents, records and papers."

DEPUTY SPEAKER POLINSKY:

Will you remark further on the bill as amended?

Representative Godfrey.

REP. GODFREY: (110th)

Thank you, Madam Speaker. I urge adoption of the bill as explained, but at this time I'd like to yield from the gentleman from the 35th, Representative Holbrook for purposes of an amendment.

DEPUTY SPEAKER POLINSKY:

Representative Holbrook, do you accept the yield?

REP. HOLBROOK: (35th)

Thank you, yes, I will, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Please proceed, sir.

REP. HOLBROOK: (35th)

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The Clerk has an amendment, LCO6024. I would ask the he call and read.

DEPUTY SPEAKER POLINSKY:

The Clerk please call LCO6024, which shall be designated House Amendment Schedule "B". Please call and read.

CLERK:

LCO6024, designated House "B", offered by Representative Holbrook, 35th District.

After line 36, insert the following:

"Sec. 3. Notwithstanding any other provision of the general statutes for the 1988 - 1989 school year, a local or regional board of education may hold graduation exercises on the one hundred seventy-ninth day of actual school sessions for such school year, provided any such board of education shall provide at least one hundred eighty days of actual school sessions for grades kindergarten to twelve, inclusive."

Delete lines 37 and 38 in their entirety and insert the following in lieu thereof:

"Sec. 4. This act shall take effect from its passage, except that sections 1 and 2 shall take effect July 1, 1989."

DEPUTY SPEAKER POLINSKY:

The motion is on adoption. Would you remark?

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REP. HOLBROOK: (35th)

Madam Speaker, I move its adoption.

DEPUTY SPEAKER POLINSKY:

Representative Holbrook, please proceed.

REP. HOLBROOK: (35th)

I move its adoption.

DEPUTY SPEAKER POLINSKY:

The motion is on adoption. Will you remark further on House Amendment Schedule "B"? Will you remark further? If not, all those in favor please signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER POLINSKY:

Opposed nay.

The ayes clearly have it and the amendment is adopted and ruled technical.

Will you remark further on the bill as amended by House Amendment "A" and "B"? Will you remark further? If not --.

REP. SCHMIDLE: (106th)

Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Representative Schmidle.

REP. SCHMIDLE: (106th)

Thank you, Madam Speaker. Reluctantly, I rise to oppose this particular bill, certainly Section 1. What this bill. What Section 1 of this bill does, it prevents students from gaining access to evaluations that the students themselves have provided for the faculty.

Now I know that we have an exception to local public school teachers and a lot of people tend to agree with that. When you send a child to a local public school you don't have any option. You have nowhere else to send that particular child if you're going to be in the school system and there may be some rationale for preventing the evaluations of public school teachers from being public, but I don't see that this is the same situation and I don't see the necessity of doing this for university teachers.

In fact, when you go to look for a college for your students, and understand in today's market colleges are very expensive, you want to know what kind of a faculty they have in that school. If you're a graduate level student, you want to be able to check out the faculty's performance and I think that this really does exactly the opposite of what we should be doing in our society and what we should be knowing.

If, for example, in a particular instance, you're

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not pleased with the performance of a faculty, you always have the option of going to another school or another university. That is not so with the public school children and I don't think that we can say that this is similar or exactly like the exception for public school children.

I think that this particular bill, certainly Section 1, is contrary to public -- to the good of the public and should be defeated. Thank you, Madam Chairman.

DEPUTY SPEAKER POLINSKY:

Will you remark further on the bill as amended?
Will you remark further?

REP. GODFREY: (110th)

Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Representative Godfrey.

REP. GODFREY: (110th)

I have to rise to disagree with my distinguished colleague from Newton. From the very beginning, evaluations, performance evaluations have been exempt as personnel file material from the Freedom of Information disclosures and indeed the Freedom of Information Commission in 1977 ruled precisely that way.

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Interestingly enough, this issue has only re-arisen this year because of this request for particular information provided by students. Of course, there is an alternative method of providing or obtaining that information of student evaluation and it is by having the students do them themselves and if someone who, when I was an undergraduate, was the editor of a Student Evaluation Program and put this together and published it, and sold it, in fact, made a couple of bucks for student government in the process, the information which, in effect, is on student satisfaction with particular teachers was made available, but did not have to go through and be paid for by the university itself.

So it's not a question of hiding particular information that would otherwise be available to students or to potential students, but it simply says the university isn't going to be the facility by which this is performed. Thank you, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Will you remark further on the bill as amended?
Representative Flaherty.

REP. FLAHERTY: (68th)

Thank you, Madam Speaker. Madam Speaker, I rise to just echo the sentiments that Representative Godfrey

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said because I had the similar experience where I went to school. The student government ran an evaluation which was attached along with the school-run evaluation, in fact, some of the questions were the very same and in that way when the evaluations were done, the part that was run by the school itself and became part of the personnel file was kept confidential, but we were able to obtain the answers to our questionnaire. It's something I suggested to some members of the University of Connecticut Student Association when they were here in the Education public hearing and as I have some information I'll be sending to them, so there are ways that the students can get this information and I urge support of the bill.

Thank you.

DEPUTY SPEAKER POLINSKY:

Will you remark further on the bill as amended?
Will you remark further on the bill? If not, will all members please take their seats. Will staff and guests come to the well of the House. The machine will be opened.

CLERK:

The House of Representatives is voting by roll call. All members to the Chamber please. The House is voting by roll call. All members to the Chamber.

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DEPUTY SPEAKER POLINSKY:

Have all members voted and is your vote properly recorded? Have all members voted? If all members have voted, the machine will be locked and the Clerk will take a tally.

The Clerk will read the tally.

CLERK:

HB6614, as amended by House Amendment Schedules "A" and "B".

Total Number Voting	148
Necessary for Passage	75
Those voting Yea	136
Those voting Nay	12
Those absent and not Voting	3

DEPUTY SPEAKER POLINSKY:

The bill as amended is passed.

The Clerk please return to the Call of the Calendar.

CLERK:

Page 7, Calendar No. 479, Substitute for HB7136.

AN ACT ESTABLISHING A PROGRAM FOR THE PROTECTION OF ENDANGERED AND THREATENED SPECIES.

Favorable Report of the Committee on JUDICIARY.

REP. MUSHINSKY: (85th)

Madam Speaker.

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Friday, May 26, 1989

The motion is to pass temporarily. Is there objection? Seeing no objection, the bill is passed temporarily.

CLERK: [REDACTED]

Page 9, Calendar 421, Substitute for HB6614, AN ACT CONCERNING RECORDS OF THE PERFORMANCE AND EVALUATION OF FACULTY MEMBERS OF THE CONSTITUENT UNITS OF THE STATE SYSTEM OF HIGHER EDUCATION AND MEETINGS OF MUNICIPAL ETHICS COMMISSIONS AND THE HOLDING OF GRADUATION EXERCISES PRIOR TO END OF 1988-89 SCHOOL YEAR, as amended by House "A" and "B" and Senate "A". Favorable Report of the Committee on GAE.

REP. GODFREY: (110th)

Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Representative Godfrey of the 110th.

REP. GODFREY: (110th)

Thank you, Madam Speaker. I move acceptance of the Joint Committee's Favorable Report and passage of the bill in concurrence with the Senate.

DEPUTY SPEAKER POLINSKY:

Motion is on acceptance and passage in concurrence with the Senate. Will you remark, Sir?

REP. GODFREY: (110th)

Yes, Madam Speaker. The Clerk has an amendment,

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LC06795 previously designated Senate Amendment Schedule "A". Would the Clerk please call the amendment and I be allowed to summarize.

DEPUTY SPEAKER POLINSKY:

Will the Clerk call LC06795 which is designated Senate "A".

CLERK:

LC06795 previously designated Senate "A" offered by Senator Atkin et al.

DEPUTY SPEAKER POLINSKY:

Representative Godfrey has asked for permission to summarize. Is there objection? Hearing no objection, please proceed, Representative Godfrey.

REP. GODFREY: (110th)

Thank you, Madam Speaker, this amendment clarifies that the respondent in a complaint filed before a municipal ethics commission has the right anywhere along the way, including during a meeting, to have the meeting or the file made open to the public. I move adoption.

DEPUTY SPEAKER POLINSKY:

Motion is on adoption of Senate "A". Will you remark further? Representative Godfrey.

REP. GODFREY: (110th)

Thank you, Madam Speaker. This is a clarifying

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amendment. The bill in its final form provides that municipal ethics commissions would have, use the same procedures as the State ethics commissions in accepting a complaint during a preliminary investigation and finding a probable cause. During that time, the proceedings may be confidential. The only time where they may not be confidential would be at the request of the respondent, and this clarifies that that includes any meetings held, the respondent would have the opportunity to have it open.

And I urge that this Chamber adopt this amendment.

DEPUTY SPEAKER POLINSKY:

Thank you, Sir. Will you remark further on Senate "A"? Will you remark further on Senate "A"? If not, let us try your minds. All those in favor, please indicate by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER POLINSKY:

Those opposed, nay. Senate "A" is adopted and ruled technical.

Will you remark further on the bill as amended?
Will you remark further on the bill as amended?
Representative Schmidle of the 106th.

REP. SCHMIDLE: (106th)

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Thank you, Madam Speaker. Once again I rise to vote against this bill. I think the first section of the bill was the thing we debated to such length the last time, and since the first section isn't changed, I still will be voting against the bill as really a violations of the rights of people to know what goes on in their universities where they're educating their children at great expense.

Thank you, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Will you remark further on the bill as amended?

REP. HOLBROOK: (35th)

Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Representative Holbrook.

REP. HOLBROOK: (35th)

Yes. I'm in favor of this bill and I hope everybody in the Chamber will support it. Thank you.

DEPUTY SPEAKER POLINSKY:

Will you remark further on this bill as amended? Will you remark further? If not, Representative Chase of the 120th.

Wrong bill. Will you remark further on this bill as amended? If not, will all members please take their seats. Staff and guests to the well of the House. The

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machine will be opened.

CLERK:

The House of Representatives is voting by roll.

Members to the Chamber. Members to the Chamber please as the House is voting by roll call.

DEPUTY SPEAKER POLINSKY:

Have all members voted and is your vote properly recorded? Have all members voted? Have all members voted? If so, the machine will be locked and the Clerk will take a tally.

The Clerk will announce the tally.

CLERK:

HB6614 as amended by House Amendments "A" and "B" and Senate "A" in concurrence with the Senate.

Total number voting	147
Necessary for passage	74
Those voting yea	134
Those voting nay	13
Those absent and not voting	4

DEPUTY SPEAKER POLINSKY:

The bill as amended is passed.

Are there any points of personal privilege or announcements? Are there any -- Representative Casey of the 118th.

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GEN. ASSEMBLY
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THURSDAY
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abs

A) DISAGREEING ACTION - to be tabled for the
calendar and printing

Labor and Public Employees

Substitute HB5688 An Act Concerning Meal Periods.

HOUSE PASSED WITH HOUSE A, B, C, & D 2/22

SENATE PASSED WITH HOUSE, A, B, C, D, AND SENATE B

3/8

HOUSE REJECTED SENATE B

PASSED WITH HOUSE A, B, C, 7 D

R/S/T 3/15

B) HOUSE BILLS FAVORABLY REPORTED WITH A CHANGE OF
REFERENCE - to be referred to committee indicated

Public Safety

HB6239 An Act Increasing the Fees for Permits to
Sell and Carry Pistols and Revolvers.

REFERRED TO: FINANCE, REVENUE AND BONDING

Education

Substitute HB6614 An Act Concerning Records of the
Performance and Evaluation of Faculty Members of the
Constituent Units of the State System of Higher
Education.

REFERRED TO: GOVERNMENT ADMINISTRATION AND

ELECTIONS

Education

HB6772 An Act Concerning Authorization of Bonds of

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Immediate roll call has been ordered in the Senate.
Will all Senators please return to the Chamber.
Immediate roll call has been ordered in the Senate.
Will all Senators please return to the Chamber.

THE CHAIR:

Question before the Chamber is a motion to adopt Calendar 399, Substitute HB7253, File 411 and 623. The machine is open. Please record your vote. Has everyone voted? The machine is closed. Clerk please tally the vote.

The result of the vote:

36 Yea

0 Nay

The bill is adopted.

THE CLERK:

Calendar Page 6, Calendar 441, File 503 and 703, Substitute HB6614, AN ACT CONCERNING RECORDS OF THE PERFORMANCE AND EVALUATION OF FACULTY MEMBERS OF THE CONSTITUENT UNITS OF THE STATE SYSTEM OF HIGHER EDUCATION AND MEETINGS OF MUNICIPAL ETHICS COMMISSIONS AND THE HOLDING OF GRADUATION EXERCISES PRIOR TO THE END OF 1988-89 SCHOOL YEAR. As amended by House Amendment Schedules "A" and "B". Favorable Report of the Committee on GOVERNMENT ADMINISTRATION AND ELECTIONS. Clerk is in possession of three

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amendments.

THE CHAIR:

Senator Kevin Sullivan.

SENATOR SULLIVAN:

Thank you, Mr. President. I move acceptance and passage of the Joint Committee's Favorable Report in concurrence with the House.

THE CHAIR:

Clerk please call the first amendment.

THE CLERK:

LC06795, designated Senate Amendment Schedule "A"
offered by Senator Sullivan of the 5th District et al.

THE CHAIR:

Senator Sullivan.

SENATOR SULLIVAN:

Mr. President, I would yield to Senator Maloney.

THE CHAIR:

Senator Maloney.

SENATOR MALONEY:

Thank you, Mr. President. Yes, I would move passage of the amendment and seek leave to summarize.

THE CHAIR:

Without objection, you may proceed.

SENATOR MALONEY:

Thank you, Mr. President. What the amendment does

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is clarify the language of the bill in regard to municipal ethic commissions to make it clear that in municipal ethic commission proceedings, an individual subject to the proceedings may require the proceedings to be conducted in public. That is an option that is under the Freedom of Information Act and an option exists for the State Ethics Commission. It is, in my opinion, an appropriate option for municipal commissions and I would urge passage of the amendment.

THE CHAIR:

Further remarks? Senator Kevin Sullivan. Further remarks on the amendment? All those in favor of the amendment signify by saying Aye.

SENATORS:

Aye.

THE CHAIR:

Opposed? The amendment is adopted. Call the next amendment, please.

THE CLERK:

LC07747 designated Senate Amendment Schedule "B" offered by Senator Robertson of the 34th District.

THE CHAIR:

Senator Robertson.

SENATOR ROBERTSON:

Thank you, Mr. President. Mr. President, would you

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please authorize the Clerk to withdraw that amendment?

THE CHAIR:

The amendment is withdrawn.

THE CLERK:

LCO7748 designated Senate Amendment Schedule "C"
offered by Senator Robertson of the 34th District.

THE CHAIR:

Senator Robertson.

SENATOR ROBERTSON:

Thank you very much, Mr. President. Mr. President,
I would move adoption of the amendment, sir, and with
your permission seek leave of the Chamber to summarize.

THE CHAIR:

You may proceed.

SENATOR ROBERTSON:

Mr. President, the main portion of this bill, or at
least what started out as the main portion of the bill,
basically states that any record maintained or kept on
file by a board of trustees of a constituent unit of
the State System of Higher Education which is a record
of performance and evaluation of a faculty or
professional staff member of such constituent units
shall not be deemed to be public record and shall not
be subject to the FOI disclosure.

You know, in investigating this the argument for

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that part of the bill or the justification advanced by the bill's supporters is that public access to faculty evaluations might invade their rights of privacy and this bill is necessary to strike a balance between the publics' right to know and the faculty' members right to privacy.

Not being one who likes to take things out of the jurisdiction of FOI and certainly not believing that an evaluation of a faculty member should not necessarily be withheld from FOI regulations and should not be allowed to be public information, this amendment very simply states that if a disclosure would constitute an invasion of privacy under the United States Constitution, the Constitution of the State of Connecticut or any provision of any General Statutes that defines a right or privacy or would be actionable in the invasion of privacy under the common law of the State, that is the major change and I would certainly urge ones adoption.

THE CHAIR:

Further remarks on the amendment? Senator Kevin Sullivan.

SENATOR SULLIVAN:

Thank you, Mr. President. I would rise to strongly oppose the adoption of this amendment. Not, Mr.

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President, because I disagree with the idea that Senator Robertson has expressed, that we all, wherever it makes sense and wherever it strikes the proper balance and serves the purposes of the FOI statute would prefer the type of openness that he spoke of, but because this is precisely a case where the protection of the personnel evaluation process, and that is what this is all about.

It is not about governmental decision making. It is about a personnel evaluation process. Requires the protection that this bill proposes. It's hard to talk about the amendment without talking a little about the substance of the bill. I would ask the indulgence of the Circle to do so. Not only does Senator Robertson's amendment go to the heart of what is trying to be protected in this bill, and that is why in the face of allowing a meaningful and important evaluation process to go forward in higher education, it's also fully inconsistent with what the State of Connecticut by statute, not by FOIC, by statute...it's already decided a long time ago with individuals who are in every respect the equivalence of higher education faculty and that is that we have exactly this provision now for teachers and professionals in our public, elementary and secondary schools.

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This bill suggests the State of Connecticut should not, does not need and cannot afford a double standard on this issue, but a single standard, the pursuers should value and the merit of that evaluation process.

There are other problems with the amendment in and of itself. While on the face of it it purports to represent some sort of meaningful standard, I invite any member of the Circle, as an individual who might be the person responsible for the evaluation of a faculty member in one of our public institutions, or an individual faced with the request for the disclosure of the personnel records of that individual with respect to their performance. To decide in their own mind, what meets the test of privacy under the U.S. Constitution without being a constitutional lawyer, well versed in all the case law in the United States, the Constitution of the State of Connecticut without similarly being well versed, or an invasion of privacy under the common law of the State, which invites a dissertation on what the common law of the State of Connecticut may or may not be with respect to privacy.

It offers no standard whatsoever in the amendment, but vagueness and vagueness which invites more conflict and confusion than we presently have.

Finally, as to the last portion which talks about

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seeking consent, perhaps the Senator could clarify and what I am sure will be his rebuttal, the language about seeking consent. It does not say what happens if one seeks consent. Is it necessary to the disclosure? Or is it merely a nicety that we go through in hopes of making that faculty member feel better?

I urge you to reject this because there are faculty in higher education and the quality of our higher education system deserve the same fairness, the same treatment, the same personnel process that we have provided for elementary and secondary school teachers and professionals.

THE CHAIR:

Further remarks? Senator Robertson.

SENATOR ROBERTSON:

Thank you, Mr. President. The second time, sir. There is a difference between elementary and secondary school teachers and constituent units of higher education professors. Certainly those professors and faculty members and professional staff members of constituent units of higher education are state employees and certainly I at least in my mind believe that the teachers in my towns are employees of those towns and not of the state.

I see no reason why an evaluation of a university

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professor or a university....or a professional staff member of one of the colleges or universities of the state should automatically be exempt and withheld from public record.

What this amendment does is it protects those faculty and staff members with the protection that you and I and every other citizen in this State have, that is the protection to the right of privacy, the Constitution of the United States, the Constitution of the State of Connecticut and precedents established by common law of the State of Connecticut.

I personally do not believe that things such as evaluation should be hidden from public record. I personally believe if there is an evaluated process within the university system or within the college system of the State that I as a potential student, or I as a potential parent should have withheld from me. If there is someone who is known by students, by faculty members, by administrative staff members that they are not competent or not quite as competent to teach a certain course, why should I be deprived of that knowledge?

It's my money that is being used to pay that person's salary as a State taxpayer. It potentially would be my money as a tuition payer going to that

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school, why should that be deprived from me, or at least access from myself, I don't understand.

You look at the other side, yes, maybe if I were a faculty member or a staff member and there was some serious negatives as to my professional ability, maybe I would like to see that kept from public record, maybe I would like to have the local newspaper not have access to that 95% of my students felt I was deficient in my ability to teach the technical subject that I was hired and was being paid for by taxpayers dollars to teach.

I don't think we have the right to deprive the citizens of Connecticut that knowledge, and I would urge all of us, on a non-partisan vote, to agree.
Thank you.

THE CHAIR:

Senator Kevin Sullivan.

SENATOR SULLIVAN:

Yes, Mr. President, when the vote is taken, I request it be taken by roll call.

THE CHAIR:

Thank you. Clerk please make...further remarks on the amendment? Clerk please make an announcement for immediate roll call.

THE CLERK:

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Immediate roll call has been ordered in the Senate.
Will all Senators please return to the Chamber.
Immediate roll call has been ordered in the Senate.
Will all Senators please return to the Chamber.

THE CHAIR:

Question before the Chamber is a motion to adopt
Senate Amendment Schedule "C", LC07748. The machine is
open. Please record your vote. Has everyone voted?
The machine is closed. Clerk please tally the vote.

The result of the vote:

12 Yea

24 Nay

The amendment is defeated.

Further amendments?

THE CLERK:

No further amendments, Mr. President.

THE CHAIR:

Senator Kevin Sullivan.

SENATOR SULLIVAN:

Thank you, Mr. President. I believe that the logic
of this proposal and the reasons for this proposal have
been well explored in the debate on the amendment that
has been offered. I would only say, as was said some
years ago in adopting the statute that deals with our
elementary and secondary school teachers, that this

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bill does not break new ground, it really keeps us on the ground that we have been on for some time and indeed what was even the practice of the FOI Commission until recent years.

I assume there will be objection, so I would ask for a roll call on this.

THE CHAIR:

Senator Robertson, I think, was up before. Do you want to yield to Senator Freedman? Senator Freedman.

SENATOR FREEDMAN:

Through you, Mr. President, a question to Senator Sullivan.

THE CHAIR:

You may proceed.

SENATOR FREEDMAN:

I notice that House "B" is early graduation allowance this year. Would you have the details behind that and does that pertain to every high school in the State or to a particular school district?

THE CHAIR:

Senator...which amendment are you referring to?

SENATOR FREEDMAN:

House "B".

THE CHAIR:

House "B". Senator Kevin Sullivan.

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SENATOR SULLIVAN:

It refers...through you, Mr. President, in response to the question, it does indeed refer to a particular school district, the particular school district or town, I do not recall at this time, but the circumstance is that because of construction problems, particularly having to do with asbestos removal in that facility, it became impossible for them to follow the normal pattern and this is similar to a hardship exemption which was granted for only one school district in the past.

SENATOR FREEDMAN:

Thank you, Mr. President.

THE CHAIR:

Further remarks? Senator Robertson.

SENATOR ROBERTSON:

Thank you, Mr. President. Mr. President, when I rise and there will be roll call vote, I am getting more and more concerned of the Cunningham Syndrome, but I cannot support this bill. Any bill that hides from public record the performance of public employees from the people who are paying their salaries, I think is wrong and I will have to oppose it.

THE CHAIR:

Further remarks? Clerk please make an announcement

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for immediate roll call.

THE CLERK:

Immediate roll call has been ordered in the Senate.

Will all Senators please return to the Chamber.

Immediate roll call has been ordered in the Senate.

Will all Senators please return to the Chamber.

THE CHAIR:

Question before the Chamber is a motion to adopt Calendar 441, Substitute HB6614, File 503 and 703, as amended. The machine is open. Please record your vote. Has everyone voted? The machine is closed. Clerk please tally the vote.

The result of the vote:

31 Yea

5 Nay

The bill is adopted.

THE CLERK:

Calendar 468, on Page 8, Calendar...correction, Calendar 468, File 583 and 715, Substitute HB7580, AN ACT CONCERNING DUTIES AND RESPONSIBILITIES OF THE MUNICIPAL FINANCE ADVISORY COMMISSION, THE AUTHORIZATION OF GRANTS FROM THE LOCAL CAPITAL IMPROVEMENT FUND, AND THE ESTABLISHMENT OF LAND ACQUISITION FUNDS BY MUNICIPALITIES. As amended by House Amendment Schedules "A", "B", "C" and "D".

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STANDING
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attempt to make that facility available again, be it from the city or anyone elses use. But, the plans for that building would need yet to be developed.

REP. WARD: Thank you.

SEN. SULLIVAN: Representative Hoye.

REP. HOYE: Yes, could you tell me who own the building at present. Does the city of New Haven own it?

STEVEN VISTRITI: I should know. I don't remember. I don't know who owns the building.

REP. HOYE: In relation to where the South Central Community College presently is, where is the New Haven Technical College?

STEVEN VISTRITI: New Haven Technical College lies in North Haven. I have not ever seen that facility, not yet. It lies a number of miles away.

SEN. SULLIVAN: In answer to Representative Hoye's first question, could you drop us a line in the next couple of days advising us of the present ownership of the building and the property it sits on?

STEVEN VISTRITI: I certainly can.

SEN. SULLIVAN: Thank you. Other questions. Thank you Steve.

STEVEN VISTRITI: Thank you.

: Mr. McKirdy asked me to indicate to the Committee that the community colleges support the committee bill HB6614, AN ACT CONCERNING RECORDS OF THE PERFORMANCE AND EVALUATION OF FACULTY MEMBERS OF THE CONSTITUENT UNITS OF THE STATE SYSTEM OF HIGHER EDUCATION. In order to foster the candid and complete assessment of individual performance and maintain a written record of it, including suggestions for improvement, which may form part of the basis for future evaluations, we feel it is important that these records be confidential.

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DAVID NEWTON: Senator Sullivan, Representative Cohen, other members of the Education Committee, my name is David Newton, I am the Vice President for Personnel for Connecticut State University. I speak in favor of bill HB6614. My personal position I negotiate on behalf of my Board with the faculty of the University and perform a role of evaluation of all employees. I believe my understanding of the balance between the public's need to know and the right of an employee to have some degree of privacy as an employee in the State of Connecticut is a reasonable one.

At the University we follow a peer review system where members of the faculty who have the necessary qualifications, evaluate other members of the faculty and these written judgments of professional competence they're after are referred up the administrative chain. Upon these performance evaluations and recommendations, the career of the employee is ultimately determined including the giving of tenure if it's warranted, promotions, and in some cases, judgment upon disciplinary procedures. It's terribly important in this regard that the employee have their evaluation judged by those who are qualified by background and experience.

To know the meanings of the terms used, the gradations of the judgments made and the importance of the judgments reached. I don't think there is a valid public purpose to releasing this kind of material to the public a large. I think no public policy would be served thereby. I'd also point out to the Committee that the General Assembly has faced this issue before for the primary and secondary teachers and CGS10-151C has found it reasonable to shield those records from public release. There is one aspect of the bill also that I think deserves the further comment. That is, we believe in public higher education and that our students do have a right to reach judgments and we believe that it is a part of their educational development will be well-served when they set about making evaluations of the faculty with whom they interact.

We have no objection to that. We feel that if students want to evaluate faculty, create their own instruments, collect their own data, collate it, distribute it, publish it and whatever else they might wish, that's good for them and although it's sometimes going to be embarrassing for the members of our faculty, I think it does serve an educational purpose, if not a valid public information purpose. What I feel this particular bill protects is the right for the University's official evaluation system which may include samplings of student data as well as data taken from colleagues and other sources to be shielded from the public view. In the absence of that, we face a prospect of having evaluations so dilute and so qualified in content that they will be useless to the process and useless to us who participate in the administration of the state university system.

For these reasons I ask that you support this bill and work with your colleagues in order to pass it. Thank you.

SEN. SULLIVAN: Representative Nystrom.

REP. NYSTROM: Thank you Mr. Chairman, Representative Nystrom. Forgive me but I think I heard you say that you feel that passage of this bill would provide that qualified individuals would be carrying out the evaluation, is that correct?

DAVID NEWTON: I may have said that in part. What I meant, let me clarify it if there's a question in your mind. The evaluation that's made by one's colleague is likely to be an evaluation that heavily depends upon the subject area. For example, my specialty is agricultural research, which is the study of honey bees and my evaluation might include the judgment of the United States Department of Agriculture Scientist on the competence and quality of my publications in that field. The colleagues in my department who also would be biologists might be evaluating me and my feeling would be that the Dean of the school is in the proper position to evaluate the content of this sort of material and that no valid public purpose would be served by publishing it in the paper.

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In fact, that might have a chilling affect on the honesty of those who did the evaluation in the first place.

REP. NYSTROM: I'm sorry, I guess I don't see how that passage of this bill encourages what you're describing just now. (inaudible) how would one know who did the evaluation?

DAVID NEWTON: Well, as I understand this bill, it would shield it from public release, such information.

REP. NYSTROM: That's correct, but then how. Well, thank you.

SEN. SULLIVAN: Any questions? Mitchell Pearlman.

MITCHELL PEARLMAN: Good morning. My name is Mitchell Pearlman and I'm the Executive Director and General Counsel of the Connecticut Freedom of Information Commission. I'm here to speak in opposition to HB6614. This bill, if enacted, would provide that any record maintained by a constituent unit of the state system of higher education, which also constitutes a record of the performance or evaluation of a faculty member would be exempt from the Freedom of Information Act. Let me give you a little bit of background. This is the latest in a series of attempts to keep from the public information about the performance or evaluation of public teachers.

Several years ago, a bill was passed that provided for the confidentiality of these records only with respect to public school teachers, local public school teachers below the rank of superintendent. There have been additional attempts to apply this to other public employees including superintendents and also to members of the higher educational, faculty members of the higher educational system. This also comes after an attempt to do precisely the same thing last year. During the pendency of a case, before the Freedom of Information Commission where several student organizations at the University of Connecticut sought to get access to the evaluations that students provided to faculty members.

That case is presently pending before the courts, the commission having ruled that there is no invasion of privacy with respect to evaluations or performance. That is the law everywhere in the United States no matter how embarrassing it might be and would require special legislation to make a special category of privacy. It seems to me that at a time when the quality of education is being looked at ever more carefully, particularly because of evaluations that are being done not only on the state level but on the national and international level and that showing that American education is not meeting the challenges of greater competition.

It seems to me at a time like this, what we need is more public accountability as opposed to less. If our system is working so well, why are we doing relatively so poorly in it. I'm sure as you have already heard in the comments about this bill and you're going to hear some more, primarily from the people who would be subject to this accountability or who are part of the system. Fortunately today I think you'll be hearing from a few of the students at UConn. who would benefit from this information.

Finally, as we heard from the speaker before and as Representative Nystrom I believe it was, was starting to question, it seems to me you should not be taken in by the argument that we hear all the time with respect to these things. The public just is not competent to evaluate us. We, being professional educators, are the only ones who are competent to evaluate us. My suggestion and my personal feeling is that that just has no place in a representative democracy. Thank you for your attention.

SEN. SULLIVAN: Mr. Pearlman, can you tell me in your estimation what the function, the primary function of an evaluation is?

MITCHELL PEARLMAN: I think it depends upon who you're talking to.

SEN. SULLIVAN: A teacher or faculty member.

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MITCHELL PEARLMAN: In answer to your question, I think it depends on whom you're talking to. Certainly it's a tool that can be used to determine whether or not somebody is a professor or a teacher can be, is competent in the subject matter. It can be used as a tool to determine whether a person has particularly acceptable pedagogic techniques. It could also be used by the public to ascertain whether those people whom salaries they're paying, are meeting the needs and the expectations that they would like as citizens in our society. So I think it serves several functions. I would hesitate to say which is primary, because I think they're all important.

From my perspective, that's not to say that's the only perspective, public accountability is as important as the others.

SEN. SULLIVAN: How does the public accountability effectuate itself in the employer/employee process when the evaluation is conducted between an employer and an employee.

MITCHELL PEARLMAN: Well, it's there but it's somewhat indirect. Remember, if looking at this bill which deals with the faculty members at higher education system, we're not talking about young students whose families and students are sort of captive to their own physical location. You're talking about young adults and adults who are opting to go to various schools and opting to take various courses and opting to take various professors. I think it has a great deal to do with that. So while the employer/employee relationship is certainly important and I'm not suggesting that these aren't important tools for that respect. If you were to look at many of the fine institutions in the United States, you'll find there are published student evaluations and performance ratings of particular faculty members to be used as a guide by perspective students in taking those courses with those professors.

SEN. SULLIVAN: I guess two more questions. One you just raised in my mind. You keep emphasizing

student evaluations of faculty. Would we satisfy you if that was the scope of legislation on disclosure.

MITCHELL PEARLMAN: No, you wouldn't. Because I still think the public accountability in other aspects are equally as important. I think to some extent this bill is generated by that particular case and a case that's pending before the court and I wanted to bring that to your attention. But I would suggest as in all public employment issues. We're not talking about the private lives of employees, we're talking about their performance. Whether they're doing their jobs which tax payers are paying their own good money and have their own legitimate expectations. That is something that is legitimately in the public's sphere, or ought to be.

SEN. SULLIVAN: So, in a sense you're distinction between student and other evaluation is not a distinction at all. It's all evaluations. You also made a distinction a couple minutes ago, originally sort of criticizing the exemption under the law now for school teachers, elementary and secondary school teachers. You then seemed a couple of minutes ago to make a distinction between higher education and elementary and secondary education. Is that a significant distinction for you or do you still generally feel that all evaluations, including elementary and secondary school teachers, ought to be the subject of some form of public review?

MITCHELL PEARLMAN: These are distinctions. My position is, and my feeling is that it ought to be across the board. But certainly other distinction can be drawn between evaluations that are produced by students, evaluations by families of students, evaluations that are produced by administrators, evaluations that are produced by peers and just plain old performance that anybody can observe. These are all distinctions and you can cut that any way that you like. Your earlier question to me suggested whether I would be happy with just having student evaluations made public. Those are distinctions sir, but I think that if your question

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is, do I think that those distinctions should override the public policy in favor of accountability, my answer is definitely no.

SEN. SULLIVAN: Any questions? Representative Pelto.

REP. PELTO: Thank you. If I could just follow up with a couple of questions. The first is that, maybe I misunderstood. You had said that the law everywhere in the United States was opposed to disclosure or was in favor of disclosure. Are you saying that 10-151C is the only statute in the country that protects evaluation records?

MITCHELL PEARLMAN: No, I... Perhaps I didn't make myself clear. The law of privacy as it is developed in the United States, other than through special legislation such as 151-c, I think it is, provides that this would not constitute an invasion of privacy, because it has to do with the performance of public employees in their job as public employees. While these may prove to be embarrassing, they do not override the public policy in favor of disclosure.

The kinds of exceptions like 9-...what is it? 10-151c would be the kind of law that would supercede it. And, it requires a specific legislative enactment to do it. My feeling...

REP. PELTO: Statutes that many states have passed?

MITCHELL PEARLMAN: That some states have. I wouldn't say many.

REP. PELTO: Has your Commission taken steps to put in legislation to repeal 10-151c?

MITCHELL PEARLMAN: No, sir.

REP. PELTO: Okay. Let me just follow up one other question that Senator Sullivan had brought up, and that is the distinction then between the protections now enjoyed by elementary school teachers and those at the higher education level, and why again you would not apparently take steps to remove 151-c, but would oppose its inclusion into the second category of teachers.

MITCHELL PEARLMAN: My answer, part of your question is why we haven't taken steps to remove it. It is because from a resource point of view, we determined that it would not succeed, as opposed to other issues that we would rather have a possibility of succeeding. The Commission was against it at the time of its passage. The Legislature passed it. The Legislature has since only kept it to teachers.

The other distinction, of course, between that is the level of student. And, part of the arguments that were heard in support of passage of the bill which became 10-151c had to do with, well, you are going to have wholesale riots if people could choose which teachers were bad or good. And, if there were two English teachers, everyone would want the one that had the higher rating, and that would cause chaos.

Well, I am suggesting that those kinds of arguments and sort of the captive environment that you have in the public school system, where people have to go, essentially, to the schools that are in their neighborhoods does not apply to the public higher educational system, where there are choices. You are also dealing with a different level of person, in the sense that the consumer, if you will, as a young adult or adult.

REP. PELTO: So that, because higher education may have a choice, then they should be able to conduct surveys, have the surveys done, and be able to measure which teachers are good and which teachers are not so good?

MITCHELL PEARLMAN: It seems to me that that would be a furtherance of the idea of having choices, if that is what you want.

REP. PELTO: Perhaps you could look, in the meantime, and if you find anything, provide us with the information. I think that you will find that at every major university in the country that conducts those kinds of student evaluations, they are run by an independent student organization and published as a book. They then go to the student coop and buy, and that they are not within the confines of

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the structure itself, nor are they attached to the student evaluation, nor are they attached to the personnel evaluation records, but instead are an independent source of information.

MITCHELL PEARLMAN: You may be right, but I sort of think that that is an irrelevant consideration. It is not who has the records. It is what the records contain. And, in both cases, they are evaluations by students of faculty members that they can take, that they have had. And, that is the important factor. And, whether disclosure of that would constitute an invasion of the privacy of the professor or wouldn't, under whatever law, whether it is case law - in which I am telling you that it is not true - or a particular statute.

And, certainly the way that this bill is drafted now, it would cover that situation, because it talks any record which is a record of performance and evaluation.

REP. PELTO: That is connected to a personnel record.

MITCHELL PEARLMAN: Correct.

REP. PELTO: Thank you.

SEN. SULLIVAN: Representative Cohen.

REP. COHEN: Mitchell, let me ask you a couple of things. Do I understand correctly that it is your interpretation that absent of this bill right now in Connecticut, all those evaluations are proper subject for public disclosure?

MITCHELL PEARLMAN: Generally, yes. There may be things in a particular evaluation the disclosure of which would constitute an invasion of privacy. Let's say, for example, an evaluation said that a teacher performed, a professor performed poorly. His wife has cancer, and he is under a great deal of stress. That information, it would seem to me, would constitute an invasion of privacy.

Now, this is my opinion based upon the status of Connecticut law, over the last 14 years that we

have had our Freedom of Information Act and other case laws. The issue is presently before the courts.

REP. COHEN: As I understand part of what you said, you talked about the quality of education being looked at nationally and in the state, and that given where we rank and all kinds of indicators that we can read about in the press, that we need more openness. Is that what you said?

MITCHELL PEARLMAN: More accountability, yes.

REP. COHEN: If, if the opposite were true, if we found out that we ranked second in the world and were doing fabulous, would your opinion be the opposite? That therefore we don't need more accountability?

MITCHELL PEARLMAN: Well, certainly the better we do, the weaker is the argument for it, in practice. In theory, though, one can be stagnant. There are ways of improving. So, if you are second or first, that doesn't mean that the Japanese or the South Koreans aren't going to pass you in teaching sciences and languages. So, I think...

For example, in 1987 there was a federal court case in Texas. It is called the Kline Independent School District vs. Maddox. This is a Federal Court of Appeals case, in which the issue happened to be whether the public had access to disclosure of teacher transcripts. And, the court said there, "Recently there has been grave concern in Texas about the quality of public education, notwithstanding the state's regulations. Many teachers who had been certified and were teaching in Texas classrooms could not pass a basic test of minimal competency. In light of this apparent lack of competency prevalent in the state, the public must have full and complete information concerning the teachers who serve the public in educating their children."

So, whether it is Texas or Connecticut, whether it is the United States or England or France or Germany or South Korea or Japan, I think these issues are very important. And, if we... I have to give something up, and I am not suggesting that

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you don't have to give something up, a legitimate value, that these values are just the more important in today's world.

REP. COHEN: Let me ask you something else. Let me give you a hypothetical and see if you think there is any danger in this. You are my professor, about to reach whatever you have to do to be considered for tenure. And, I am a tough cookie in your class. I say flip things. I make suggestions that I am going to write bad stuff on my student evaluation, and I have got four friends like me. We are all taking your course.

Would,... Maybe not you personally, but others in your same situation, having students like me in your class be inclined to think, you know, "Well, maybe I had better mark the papers a little better or give an easier test," because what I write could in some way affect your tenure, especially what I write could be used in a public forum?

MITCHELL PEARLMAN: I would be concerned if a popularity contest were the sole basis for tenure. But, I suspect that it is not. I suspect that it is a fairly insignificant but a, certainly an issue that might well be considered by a faculty evaluation committee, whether the students generally perceive the teacher to be fair and effective. If it is the entire qualification, I suspect that would not be a good system.

REP. COHEN: But, you don't know? Or, there are no statistics that show...

MITCHELL PEARLMAN: Well, I will tell you something...

REP. COHEN: ...how things are rated or weighted or...

MITCHELL PEARLMAN: You are trying to make me an expert in an area that I don't know. But, if I were, if I found out that a faculty evaluation system was based upon the popularity of the students, I would want to say something to the people who were making that decision to make those things the criteria.

REP. COHEN: Okay. Let me ask you one other thing. Do you and other agency heads like you in Connecticut have evaluations?

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MITCHELL PEARLMAN: Yes.

REP. COHEN: Who does them?

MITCHELL PEARLMAN: In my case, the Chairman of my Commission.

REP. COHEN: Can I read it?

MITCHELL PEARLMAN: Sure can.

REP. COHEN: Can I read other people's like...? How do I get it?

MITCHELL PEARLMAN: Just ask me. I will be glad to get it.

REP. COHEN: When I ask you, is it because you want me to read it or because anybody could get anybody's?

MITCHELL PEARLMAN: Well, no. Not anybody can get into... It depends on what kind of information is in there. Generally speaking, the performance evaluations of public employees are open to the public. That is to say that the records themselves are. There may be information in those evaluations that are confidential and can be masked.

REP. COHEN: No, no. I understand what you are saying about, you know, as your example of cancer. But, if a citizen called up the Department of Income Maintenance and said: I would like to see the written evaluation of the Commissioner, would the proper response under Connecticut's FOI be: fine. We will have it Xeroxed within 24 or 48 hours, and you have to pay 10 cents a page? I mean, is that what they would say?

MITCHELL PEARLMAN: That is what they should say, and then after looking in it, if they find something that they believe would constitute an invasion of privacy... Now, there are also procedural steps. I don't mean to suggest that it is quite that simple, but there are procedural steps about notifying public employees now that there is a request for that information, if disclosure of any

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of that information would, under law, constitute an invasion of property. You give those employees the right to object, which would bar disclosure.

So, there is a procedural mechanism now in place that hadn't been there. But, ultimately, if the question were resolved that there is just... The performance of public employees, in their performance, just dealing with their performance, that information is generally disclosable under the Freedom of Information Act? The answer is yes. That is the Commission's position. That has been the position of the courts in Connecticut for the last 14 years.

REP. COHEN: Thank you.

SEN. SULLIVAN: Other questions?

MITCHELL PEARLMAN: Thank you.

SEN. SULLIVAN: Thank you. Representative Godfrey. Senator Maloney?

REP. GODFREY: Thank you, Mr. Chairman. I am Bob Godfrey, Representative of the 110th District in Danbury, and with me is Senator Jim Maloney from the 24th, which includes Danbury, Bethel and New Fairfield. I am here to speak in favor of Committee SB330, which has been merged with HB6770, regarding bonding authorization for the Scott-Fanton Museum and Historical Society in Danbury.

Lucy Bolland, the Executive Director of the Museum, and several members of the Museum's Board of Trustees are here to fill the Committee in on some of the details regarding this particular bond request. What I would just like to do is to fill the Committee in on some of the particular pieces of property, the two buildings for which the capital improvements are being sought.

The Ryder House is of historic significance and educational significance in the sense that it is one of the few buildings in the city of Danbury that survived the burning of Danbury by the British during the Revolutionary War. And, for that reason

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MORRIS NIRENSTEIN: I say, I don't know that there are any. There may very well be. But, irrespective of that, it seems that, it seems to me that if a position is created whereby any individual in this state is given an opportunity to serve the state, either in the Legislature, on an agency, an Ad Hoc Committee, but nevertheless is appointed to provide some kind of service for the state, as these four individuals are, that the state has an interest in permitting them to perform their function, without being thwarted by an individual group, whether it is a local Board of Education, whether it is a Superintendent, as was indicated in one case, as in the case of principals, as in the case I am aware of.

So, in other words, what I am suggesting is that, although I don't know that there is other legislation regarding this, if there isn't, then in this particular case, since there is a need, that there should be a law to solve the problem.

REP. MINTZ: Okay. Well, I don't know if you can provide the information authority. Maybe our staff can, to see whether there is any other statutes in this regard. Thank you.

MORRIS NIRENSTEIN: Thank you.

REP. COHEN: Thank you, Mo, and I am sorry again.

MORRIS NIRENSTEIN: No problem.

REP. COHEN: As previously indicated, the next item on our agenda, HB6612, has no one signed up to speak. So, we will now move to HB6614, AN ACT CONCERNING RECORDS OF THE PERFORMANCE AND EVALUATION OF FACULTY MEMBERS OF THE CONSTITUENT UNITS IF THE STATE SYSTEM OF HIGHER EDUCATION. Paul Wenger and then Steve Thorton.

PAUL WENGER: Thank you, Representative Cohen. Members of the Committee, my name is Paul Wenger. I am a Professor at the Communication Department at Central Connecticut State University. But, today I represent the 2,000 part-time and full-time

faculty, librarians and counselors on the four campuses of Connecticut University in asking you to support HB6614.

You have the statement of my testimony, and there will be several persons to speak on this issue. So, I think that I will simply say that evaluation is a complex process, has many facets. And, that student information is an important part of that. But, when it is officially collected, then it needs to become part of the confidential proceedings, and part of those confidential proceedings, it is in the interests of the institutions and the individuals that it not be released.

I would be happy to answer any questions.

REP. COHEN: Thank you, Paul. Steve Thorton, and then Karla Fox.

STEVE THORTON: Thanks. Good morning, Representative Cohen, Members of the Committee. My name is Steve Thorton. I am Staff Organizer for the Congress of Connecticut Community Colleges, the four C's. We represent a thousand teaching faculty and professional staff at the 12 community colleges around the state. I am here to speak in favor of HB6614.

As others who speak in favor of this bill will say, HB6614 is similar to and actually completes the work of a 1984 legislative initiative, which was known as HB5779. That bill preserved the confidentiality of evaluations of public school teachers. At the time, the Education Committee recommended and the Legislature approved, by an overwhelming margin, what is now 10-151c of the General Statutes. That was mentioned this morning.

The bill had wide-spread support from faculty members, teachers unions, superintendents of schools and Boards of Education. The bill before you today, I think, deserves the same consideration, a careful consideration, I believe, and basically for the same reasons. Simply put, evaluations were never meant to be public records, but management tools for measuring and improving the performance of professionals. Such evaluations

are useful tools, only in so far as they are based on the mutual trust between the teacher and the evaluator.

An evaluation is often a cooperative exercise, where the professional can engage in a frank discussion with his or her supervisor about personal style, class dynamics, teaching methods. The end result of such an exercise is self-improvement, which is the real benefit to students and the system as a whole. In addition, evaluations of performance are often key elements, the critical elements, in my opinion, of a professional's personnel file. Personnel files are exempt from the Public Records Statute of the State of Connecticut, where public exposure to such records would be an invasion of privacy. I know of no examples, in either the public or the private sector, where personnel files are open to that kind of public scrutiny.

Are professionals then in higher education afraid of what an evaluation might say about their performance? The answer is no. In the community college system, for example, every professional is required to engage in evaluations on a periodic basis. Management also has the option to evaluate a professional's performance more frequently than the standard schedule. And, most importantly, professionals can ask for peer evaluations themselves, for the sole purpose of self-improvement. This type of interaction takes place both informally and formally throughout higher education.

I would also like to point out that through CCCC, our faculty and staff are working with the administration to even further sharpen the evaluation process and make it more relevant to the professional's job. Quality education is the goal of faculty and management, and the comprehensive system that we have of evaluations, probations, standard appointments and tenure are designed to produce the very best system that we can offer the 36,000 students that we serve each year.

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Finally, I would like to ask this Committee to make sure that HB5614 covers all the professionals in public higher education that I think it should

cover: counselors, librarians and other professionals are included in our bargaining unit and in other bargaining units in the state. They perform educational services and in many cases, teaching functions, and we believe they should be afforded the same guarantees against intrusion into the evaluation process that their colleagues have. I would suggest that the Committee add the words "professional staff" wherever the term "faculty" appears, in order to make sure that they are covered. The term is accepted usage, both in our collective bargaining agreement and in legislative practice.

One last word: I would just put in a plug for, but of course not speak to SB203, which is the....

REP. COHEN: But of course, we wouldn't want to hear that out of turn.

STEVE THORTON: Right.

REP. COHEN: And, I know you wouldn't want to violate the rules.

STEVE THORTON: Right. Thanks for your consideration.

REP. COHEN: Let me ask you something, Steve.

STEVE THORTON: Yes.

REP. COHEN: Do the community colleges have student evaluations?

STEVE THORTON: No, there are not a regular system of student evaluations, so it doesn't have a great deal of effect on us as a unit.

REP. COHEN: Thank you. Other questions? Thank you very much.

STEVE THORTON: Thanks.

REP. COHEN: Karla Fox? Then, Matt Kirk.

KARLA FOX: Hello. My name is Karla Fox, and I am President of the University of Connecticut Chapter of the American Association of University Professors, and I am here to speak in support of

Proposed HB6614, which would guarantee the confidentiality of basically any records having to do with faculty performance and evaluation.

The issue here, obviously that has excited the most comment and controversy, is public dissemination of the results of teacher evaluations by students. Now, one thing that I wanted to say right at the beginning is that this bill is not about allowing students to evaluate faculty performance. The students have always had within their grasp, within their ability, to evaluate faculty performance by conducting their own evaluation process. The Faculty Standards Committee of the University Senate, of which I am a member, has conducted a survey, which has shown that within the institutions where results of student evaluations of teachers are public, the students are the ones who did the evaluation.

And, I want to state on the record right now that the AAUP at UCONN has absolutely no objection to students conducting their own evaluation of teachers. What we object to is the public disclosure of the results of the official university ratings. And, what I would like to do is to take just a couple of minutes to explain how the system works at UCONN and why we are concerned about the FOIC decision which would allow public disclosure of the contents...(gap while tape is being turned over)

...teacher evaluation. At the present time, and for a number of years, students have evaluated teacher effectiveness, I am sorry, student satisfaction, not teacher effectiveness by in class evaluations which are given during regular class assignments. And, the results of the ratings are given to the faculty members and are available to the administration for interpretation. The results of these surveys have been used primarily for two purposes: to assist in making promotion, tenure and reappointment decision, and to assist in making recommendations for salary increases.

As a result of some of the activities that I have carried out at UCONN, I have been an Acting Department Head and the Acting Associate Dean of the School of Business Administration, and I have

had an opportunity to use the results of these teacher evaluations in carrying out these duties. And, what actually happens is that the faculty members who are making promotion and tenure decisions and the University administration uses the results of the teacher ratings as one component in evaluating teacher effectiveness.

However, other components that are evaluated by the faculty and by the administration are: the nature and types of courses that are being taught, the number of times the faculty member has taught the course, and other personal factors that may have a bearing on how well the faculty member may perform in any particular situation. For example, if the faculty member had been having some family problems, perhaps sickness in his family, or the faculty member him or herself being ill.

Now, what the Faculty Standards Committee found, and what experience seems to bear out is that the student evaluations measure student satisfaction with teachers, and not necessarily teaching effectiveness. So, if the students like the faculty members, the faculty members tend to get a high rating. And, that consideration is separate from how much the students actually weren't.

As I said before, the main criteria and use of the teacher evaluations presently is as one component in an overall evaluation of teaching. If the results of these ratings were available, the fear is - and there has been an indication that they would be used without any interpretation, merely publish some number that is supposed to represent how well a teacher carries out his duties. And, we feel, the AAUP, that this would have a severe deleterious affect in the long term on teaching.

Some possible deleterious results would be: there could be great inflation, and some demanding material might be omitted by the faculty member on the theory that it might not be that interesting to the students, and they might get a lesser rating. Now, I know that you can sit here and listen to me, and think sort of askance that, whether this would actually happen. But, I have seen cases. I know of one case personally where a faculty member who was coming up for tenure was told that his teacher

ratings were too low, and he needed to bring them up. He actually began serving donuts in his class, was very, very forthcoming with what type of material might be on the test, and had a party for all his students at the end of the term. And, his teacher ratings went up significantly, and he felt that was to his benefit. But, whether it was actually to the benefit of the educational process, I don't think that it was.

I have to tell you that there are certain elements of the faculty that are more vulnerable to adverse affect from public release of the ratings than others, particularly untenured faculty members and faculty members who are not full professors may very well, and in some cases obviously have felt under pressure to change the way they teach the courses, in ways that aren't necessarily educationally sound or prudent, but are perceived by them to be in their own best interests.

I want to reiterate in closing that there are other mechanisms available to allow the students to evaluate faculty members. I was taking a look at my own ratings that I just got a couple of weeks ago, and I have to say, based on them, this would be of no help to me, if I was a student, in deciding whether to teach my course, excuse me, to take my course. It doesn't tell what the course is about, whether there is tests or papers. There is no real information that would be of use to the students, in my opinion, except that most people seem to like me pretty well, and you can get that through the grapevine without spreading my numbers all over the Daily Campus.

In closing, I would like to say one thing, and that is that I feel that faculty members do have a reasonable expectation of privacy. There are components in their employment personnel files that have a private information, in regards to personal things going on in the faculty member's life. And, I feel very strongly that public dissemination of this type of information would have an infringement on the rights of privacy. It would certainly create a chilling affect on the ability of faculty members to carry out their teaching duties effectively, and when there are alternative, less

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burdensome mechanisms available, I feel that the faculty members are entitled to and do, in fact, need the protection that HB6614 would give them.

Thank you.

SEN. SULLIVAN: Thank you. You didn't happen to bring us any donuts? (laughter) Representative Meyer.

REP. MEYER: In southwestern Connecticut where I live, University of Connecticut isn't big news. And, I don't really know what came about that made... and who asked for the faculty records to be made public. Could you just fill me in a little bit?

KARLA FOX: Yes, I will be happy to, to the best of my knowledge. I am a lawyer, so I always have to add disclaimers before I say anything.

REP. MEYER: Put a few qualifications in there. (laughter)

KARLA FOX: Basically, what happened was the University has conducted some sort of teacher evaluation, student survey since approximately 1946. In 1977, after the state Freedom of Information Act was passed, the student newspaper, the Connecticut Daily Campus made a request that the results of the teacher evaluations by students be made public. And, the FOIC ruled at that time that due to the way the act was written at that time, the results of the ratings were confidential, because they were part of the personnel file.

Approximately two years ago, there was a change in the statute, having to do with personnel records, which set up a mechanism whereby if a request was made, personnel files could be released. And, the agency, the state agency, in this case, the University State Agency, would have to make a determination as to whether the request for the information would constitute an invasion of privacy. After the enactment of this amendment approximately two years ago, the Connecticut Daily Campus student paper did make another request to the FOIC for release of the teacher evaluations.

The University... They made a request to the University. The University concluded that there would be, in their opinion, there could be an invasion of privacy by the release of the information. And, therefore, the University left it to the FOIC to rule on whether teacher evaluations should be made public.

There was, were hearings that started about this time last year. Finally, in August of this year, the Commission ruled that, due to the amendment of the statute, the results of the evaluations were subject to public disclosure. The Commission, however, did rule that there would be no retroactive affect, because the faculty members in the past had been promised confidentiality.

So, what we are talking about now is the results of these ratings that we all just got a couple of weeks ago and prospectively. And, the question now is: should the results of these evaluations be disseminated in a public forum? The Daily Campus had indicated last year - and I don't know what their position is now, but I know that some people from there will be speaking, so I am sure they will tell you. They had indicated at one point that they might have a situation where there was a list of faculty names and then a number beside them. The way our evaluations are done, the number.... The first report done on the evaluation is number one, overall teaching. There is a scale from one to five, with one being poor, five being outstanding.

So, at one point, the thought was that everybody would be listed, and it would be Fox: 4.4. And, you would just go down, no explanation of what type of course it was, what it meant, whether it was required, if they had ever taught it before, or anything. And, that is what we really object to, is this sort of public disclosure without adequate interpretation, especially when there are other mechanisms available.

And, if I could just say what other mechanisms there are? I was an undergraduate at Duke University a few years back, and we had a book, a book. And, every course was in the book, and it

described what the course was. For example, the course I teach that I just got evaluated on is on the Uniform Commercial Code. So, it says it is on the Uniform Commercial Code. We cover transactions, sales and negotiable instruments. There are three tests of equal weight and a paper or no paper. And, that way, you know what you are getting into. It is completely different from having everybody's name down with one number beside their name.

REP. MEYER: Thank you very much. That was a big help.

KARLA FOX: You are welcome.

REP. MEYER: Thank you.

KARLA FOX: Any other questions?

REP. COHEN: Thank you, Karla.

KARLA FOX: You're welcome.

REP. COHEN: Matt Kirk?

MATTHEW KIRK: Hi, my name is Matthew Kirk. I am the Academic Affairs Chairman for the Undergraduate Student Government at the University of Connecticut, and I am a member of the University Senate as well. I come here today to speak in opposition to HB6614.

We the students of the University of Connecticut do not support this bill, which would ban public disclosure of the faculty evaluations done by the students. As these evaluations survey the opinions of the students, and as we have the right to express and share our opinions, these evaluations should not be made confidential.

Along the same lines, I am frankly offended that certain members of the AAUP and other people that support this bill, say that the students are not intelligent enough to interpret these results, once they are compiled. We give the information, but then they say that we are not intelligent to interpret the results. And, as far as the

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evaluations not telling about the course and what it is about, I believe that is what the course selection book is for.

As the bill states, these evaluations are a record of the performance and evaluation of a faculty member, which is true. But, I believe that the students have a right to know the performance level of their teachers. On August 24, 1988, the Freedom of Information Commission ruled that these evaluations should be made public, and we agree with that decision.

And, as the moratorium which the University Senate placed on these evaluations was overturned in October, I believe that that is a testimony that a majority of the University Senate members believe that these evaluations should be made public. And, therefore, I stand in opposition to this bill.

Thank you.

REP. COHEN: Matt, let me ask you a couple of things. With respect to the University Senate, but was there not then another vote?

MATTHEW KIRK: Well, initially, there was a moratorium placed on it. It was the second week in October, thereabouts, I believe. And, then there was an emergency meeting, a special meeting, I guess is probably the better word, two weeks later, where it was overturned. And, that is where it stands right now. Still, the moratorium has been overturned.

REP. COHEN: Was it close votes? I know it was a close vote the first time.

MATTHEW KIRK: Yes, and it was close the second, too. But, I think it was two votes, maybe larger. I am going to say 24-28, but I am not sure about that. I don't want to say.

REP. COHEN: Let me ask you another thing. What is it that the students are asking for? Is it the student evaluations, or...?

MATTHEW KIRK: Yes, we are just asking for the student

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evaluations. We are not asking for the peer evaluations or the personal record. We are asking for the evaluation that the students fill out.

REP. COHEN: Okay. Let me ask you my last question, which is the same question I asked to the Director of the FOI Commission. I am your teacher, and you and all your buddies are in this class. It is a small class. It is only nine people in it. And, because of something that happens - whatever scenario we can conjure up - or because of what your status is in terms of being accepted to higher education graduate studies, or whatever.... Or, we have personality problems, we have some concerns.

And, so, when I pass out my forms, as I do every semester in the course for the evaluation, I am concerned that because of these situations, I am going to get some not too pleasant comments back from the nine of you. And, they may not even be... You may just write, "I don't understand what the professor is trying to tell me, the lecturer. He never asks us anything; he just talks to us the whole time," or whatever you are going to write. Do you think that professors would get gun shy if they knew that these things were going to get published?

MATTHEW KIRK: I would like to think not, but I guess the scenarios which Professor Fox described, I would like to think that doesn't happen too often. Of the 1,300 faculty at UCONN, I don't think too many of them are passing out donuts to jack up their result scores. I would like to think that the evaluations, they measure their teaching ability. And, I like to think that the faculty may have respect for us, that... And, I know that I have been in this situation where I don't get the grade that I particularly would like, but I have learned a great deal. And, therefore, I am assessing his teaching ability. I am not assessing the grade I got.

And, as for the professors being gun shy to that, I imagine some would. But, I would like to think that that wouldn't happen, and I have respect for the professors that they wouldn't feel that way and be willing to take chances to teach as well as they could.

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REP. COHEN: Are you required to fill out these evaluations as part of the course?

MATTHEW KIRK: No, you are not.

REP. COHEN: So, many my scenario of the nine, maybe only three fill it out?

MATTHEW KIRK: Correct. That is a possibility. You cannot be forced to fill these evaluations out.

REP. COHEN: And, maybe I missed something. Is there some reason why students cannot or do not conduct these evaluations as a student activity somehow, apart from...?

MATTHEW KIRK: Well, they have not been done in the past, and I am not sure exactly why the issue has not come up in the past. But, they haven't been done in the past, although I think that is another issue. They are being looked into at this point. They are being looked at.

REP. COHEN: Thank you. Representative Pelto.

REP. PELTO: Thank you. Let me just check one thing. You had said that from a student perspective, there is not a problem with the personnel record being protected as confidential, except for the student evaluation.

MATTHEW KIRK: Yes. What we are asking for is the evaluations that are done by the students. The evaluation form, as a matter of fact, I found out through my research and some other people that I know... that we could use the University's exact same form ourselves and then, you know, the law wouldn't protect that to us, so I don't see why they should be protected.

REP. PELTO: So, you are not opposed to the Legislature placing for college professors...

MATTHEW KIRK: Not peer evaluations.

REP. PELTO: ...the same protection that elementary teachers have, except for the student evaluation portion?

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MATTHEW KIRK: Right. What I am concerned with, again, is the evaluations that are filled out by the students.

REP. PELTO: I would ask that you could do the same thing as we asked Mitch Pearlman to do, and perhaps report back to us, which is that I believe on the ones that I have seen, the books at Harvard, Princeton, Cornell, the entire California system... All of it is student activity, student government funded activity of an evaluation program. And, you just go and you get the book, and you know... I am going to take a course with Professor Smith, and you look up to see how Professor Smith does.

It is a complete evaluation program conducted by the students, for the students, and therefore, there is no conflict of interest between the FOI laws and the usefulness of student evaluations.

MATTHEW KIRK: Right.

REP. PELTO: So, if you could check other schools as well, and see if you could get any information to us, because I think that that could be critical. If every other school or most other schools are doing it through the student government, I know that the student government is considering doing it even now, that might be a way to resolve this issue.

MATTHEW KIRK: Thank you.

REP. COHEN: Senator Hampton?

SEN. HAMPTON: Who is responsible for getting the evaluations back to the administration?

MATTHEW KIRK: The results of them?

SEN. HAMPTON: Yes.

MATTHEW KIRK: I believe it is the Office of Institutional Relations at UCONN. They perform and evaluate the...

SEN. HAMPTON: The evaluation form is handed out in your class?

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MATTHEW KIRK: Right.

SEN. HAMPTON: Does the professor hand them out?

MATTHEW KIRK: No. He cannot be in the room at the time they are being done.

SEN. HAMPTON: Someone in the room is identified...?

MATTHEW KIRK: Perhaps a graduate student or an instrument of the Office of Institutional Relations will come and pass them out and administer them.

SEN. HAMPTON: And, then they come by and pick them up.

MATTHEW KIRK: Then they pick them up before you leave, and they take them back to their office, process them and they go right into the computer.

SEN. HAMPTON: Does the student sign them?

MATTHEW KIRK: No. They are totally anonymous, completely anonymous.

SEN. HAMPTON: Thank you.

REP. COHEN: Thank you, Matt.

MATTHEW KIRK: Thank you for allowing me to speak.

REP. COHEN: Jim Amspacher, I guess. I am sorry, and Ed Marth next.

HB6614

JIM AMSPACHER: Hi, my name is Jim Amspacher. I represent the Daily Campus at the University of Connecticut. I would like to express my opposition to Committee HB6114, mostly on the same grounds that Matt Kirk represented from USG did. We are not looking for the confidential file or anything in the confidential file. All we want is the results of the data that we provided the University, the students provide at the University.

I would just like to bring up a couple of points. Karla Fox, Professor Fox said that about the professor that gave our donuts in class as a way of jacking up their ratings. And, she points to that as an example of what could happen if they were

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made public. Well, the reason he handed out the donuts, it seems to me, is because... It is because the evaluations are a part of the evaluation process, and not because they would be disclosed.

When he handed out those donuts, they weren't being disclosed. That's not why he handed them about, because he was worried about what students would think. He was handing them out because he wanted his peers and the people who were going to judge whether he was going to get tenure or reappointment or anything would, you know, would want him back.

I would also like to point out that the Daily Campus never intended to print them in any way, except just to show them in the most clear perspective as possible. We were actually misquoted, somebody from our paper was misquoted in another newspaper saying they wanted to do a top five and a bottom five, which would totally defeat the purpose of having the students have the evaluations.

Another point that Karla Fox brought up is that the evaluations are not an evaluation of teacher ability or judgement of teacher ability, but of student satisfaction, which to me seems that the people who could use those best are the students. If you want to know... I mean, you want teacher ability when you are evaluating a teacher for tenure or reappointment. Students want student satisfaction when they want to know what class to take. And, that would be my argument for having the teacher evaluations be allowed to be seen by the students.

And, that is my opposition to the HB6114.

REP. COHEN: Thank you, Jim. Questions? Thank you very much.

JIM AMSPACHER: Thank you.

REP. COHEN: Ed Marth.

ED MARTH: Good morning, Representative Cohen, Members

of the Committee. I am here to speak in favor of HB6614. I will try not to duplicate the comments that have been made earlier.

My perspective on it is somewhat different than Professor Fox's, as she has experience on a regular basis in the classroom, and I deal with the consequences of adverse evaluations of various sorts. The faculty evaluations rest on three main areas of contribution at the University: research, service to the University and the state, and teaching. The research and teaching are, ideally, objective endeavors. They are critical elements of performance, but they are subjectively evaluated.

No one takes issue with the importance of evaluations. What needs to be protected in the fragile environment of the evaluation process. The AAUP is in court, challenging the Freedom of Information Commission ruling that teaching evaluations should be public. They are clearly protected in the K-12 environment, but the existing legislative silence on the issue, causing the FOIC to plunge the sword of a disclosure in the heart of a sensitive and critical process.

If the ruling stands, the prevailing legislative silence exposes another link in the process to the next request. If it is for peer evaluation of teaching, no logic would preclude those evaluations from being disclosed. If it is a Department Head evaluation of teaching, no logic would preclude those evaluations from being disclosed. Why wouldn't evaluations of research be subject to disclosure next? Research is not a private matter. Why not have everyone's opinion disclosed and the promotion, merit and tenure decisions become like the Chinese People's Court, where the neighborhood participants get involved?

Disclosure of teaching evaluations satisfies a certain prurient interest and helps a sort of shopping around for popular courses. If disclosure stands for one purpose, it cannot be precluded for another. If it... Or, it is not unusual to have faculty denied promotions, tenure or merit increases, and all of these evaluations play a part

in that process. In the cases where denials are subjected to review, public comment would be invited through disclosure requests.

Contrary to public impression, it is not unknown for a tenured faculty member to be dismissed or coerced into resigning for performance reasons. Disclosure in such cases where such action is being contemplated or where progressive discipline is being considered prevents the process from being, from being what it should be, and it could politicize the decision-making. I want you to understand that that is another side of this same coin that we are talking about here. When the disclosure is being depicted as something that would be useful for the students to be able to look at the ratings of the faculty, to be able to know what course they should best pick. But, that same process leaves faculty members exposed to any individual requesting teacher evaluations, or anything else as it presently stands, that is now in their file, even when they are subject to what I think everybody in this room might agree to be a confidential and sensitive process of evaluation or...especially in a negative kind of evaluation.

I think Mr. Pearlman's position is one that he should take, as Director of the Freedom of Information Commission. I would expect no other. But, the legislative silence on this matter, I think calls out for some kind of screening from public scrutiny those aspects of evaluation that are critical to individuals' career decisions, and certainly, to repeat Professor Fox's comment: we have absolutely no objection to the students conducting their own evaluations with their own means. And, I am sure the faculty would cooperate in that regard.

REP. COHEN: Ed, are the student evaluations used in decisions for tenure?

ED MARTH: Absolutely. In tenure, not only tenure, but in the evaluation for renewal in those contracts leading up to tenure. A tenure decision wouldn't be started until the 5th year of employment, but as recently as last, ...well, two months ago, I had a faculty member visit me, who was having a non-renewal decision made on her contract,

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primarily because of the teaching evaluations. So, they are used every year, in all kinds of decisions like that, yes.

REP. COHEN: If they are used, then why isn't every student in the course required to fill one out?

ED MARTH: I think you would probably have to look to the Faculty Standards Committee for that. My guess would be that if students didn't voluntarily fill them out, then the results that would come back, from a person who was compelled or felt compelled to fill it out would be even less objective than what you might get on a voluntary basis.

REP. COHEN: Then, when the decisions are made, does it, is there any discrimination or weight given to the fact that in my class, only three students filled it out, and in your class, 111 filled it out?

ED MARTH: Yes, that would be looked at. That is part of the.... There are a lot of actors that get involved in the decision-making process. The Department, the Department head would be privy to that information, and he or she would also know the nature of the course. So that they would look at the nature of the, not just what the raw score is, but what is the percentage of students that participated in the decision-making in that particular evaluation sheet.

REP. COHEN: Is there anything in writing that explains what factors are considered and how they are considered in decisions for retention and for rejection and for tenure?

ED MARTH: The bylaws speak to that, saying that teaching is as important an aspect of someone's work as research, but something more definitive than that only exists on a Departmental level, where some more precise guidance is given. For example, in my contract, it might say that I have a 50% research appointment and 50% teaching. Or someone else may be 60%. Usually, that addresses sources of funds, rather than actual assignment, but it is a very imprecise process, one that could become very easily politicized and often does, unfortunately.

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REP. COHEN: So there is nothing in your contract that explains how an evaluation of your performance, 60-40, 50-50, whatever your contract is, will be conducted with respect, and what factors will be considered, and what weight those factors will be given?

ED MARTH: In your...in a person's letter of appointment, it speaks to what can be expected. Our contracts could not possibly address with any definition what is expected of faculty members, given the diversity of the University and the projects and facilities available to them.

REP. COHEN: Okay. So, what does it say in the letter of appointment that is specific?

ED MARTH: Well, again it would vary.

REP. COHEN: After the "Dear Ed" part. (laughter)

ED MARTH: It would indicate a person would be expected to carry out their teaching responsibilities. It might address what kind of start up funds an individual is being given for buying a computer or laboratory equipment, depending on the nature of their assignment. And, it would probably speak to service, having some serious obligation. It is not really a terribly precise process, which is why the fragile nature of it has got to be protected in the evaluations.

REP. COHEN: Do you ever talk to any of the students who write these evaluations of you? After the fact?

ED MARTH: The students don't write evaluation of me.

REP. COHEN: Or of your teaching.

ED MARTH: Well, I know of no faculty member that has tried to discuss with a student what he or she said or did or wrote, because it is confidential. I am sure there are lots... When a student evaluates, as you heard it described earlier, when a student has filled out the evaluation form, it is done on a confidential basis.

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REP. COHEN: Does that mean unsigned?

ED MARTH: Unsigned, yes.

REP. COHEN: And, you have never received an evaluation from a student that has been signed?

ED MARTH: They are designed to be unsigned.

REP. COHEN: Okay. Thank you. Any other questions?
Senator Hampton.

SEN. HAMPTON: I am sorry, I don't know you. Are you a tenured professor?

ED MARTH: No, I am the Executive Director of the AAUP Chapter at UCONN.

SEN. HAMPTON: And, you are not a professor?

ED MARTH: No. As I said, Senator, I was trying to address myself to the consequences of the evaluation process, rather than - as Professor Fox did - as being a participant in it.

SEN. HAMPTON: As I sat here and listened to you describe the letter of employment, it seemed as if the professor was being left pretty well on his own, to do whatever they wanted to do.

ED MARTH: Well, the assignments are made by the Department Head, and the faculty member does have a certain amount of leeway in proposing a research program. But, it has to meet the approval of the Department Head and the needs of the Department. As far as the teaching assignment goes, the faculty member would have some latitude in how they teach the course, but they must meet the objectives of the course that are laid out and approved by the University Senate.

SEN. HAMPTON: Would you agree with me that evaluation, that the evaluation tool is to improve instruction?

ED MARTH: Absolutely, and that is why we are very much in favor of having them.

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SEN. HAMPTON: I have some difficulty with a decision being made to where a person becomes tenured or not on unsigned statements. It seems to me that that is... You are asking for it. If I am a difficult Professor, I demand tremendous amounts of work. We know that there are a great number of students that look for courses that don't require such heavy work. And, then my tenure is going to depend on someone writing an evaluation that doesn't have to defend it.

I believe that is what you are saying to us.

ED MARTH: That's it. Well, that is part of the process. The student evaluations are an important part of that feedback for the faculty member and for the Department Head in making those decisions. The peers also have some evaluation of persons' classroom performance. But, it is relied on heavily, and frankly, I don't like the idea of anonymous evaluations, but it is an accepted process in the interests of the students. And, the faculty have found it to be in large acceptable, simply because of the privacy that has gone with it. It hasn't been a garment to be laundered in public after the results come in.

SEN. HAMPTON: The Department Head is the first step in securing tenure?

ED MARTH: Correct.

SEN. HAMPTON: Their recommendation?

ED MARTH: Correct.

SEN. HAMPTON: How is that recommendation established? Does the Head ever visit the classroom?

ED MARTH: Most, almost certainly, yes. Almost certainly, yes. A person would go through perhaps five one-year contracts ordinarily. It varies a little bit, though, but not longer than that, where their evaluations and teaching are evaluated twice a year by the students through this process, as well as by peers who choose to come by the classroom and see how they are doing. And, in the course of those annual contract renewals, feedback

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is given to the faculty member both by the students, through this form, and through the various questions that are a part of it, which Professor Fox referred to. And, the person is given guidance and encouragement to improve his or her teaching.

For example, I have been dealing with a person this year, who in his first year of appointment at the University had a teaching average scores that were below the University average, not much, but some. And, it was commented on in his contract renewal that he better pay attention to it. He did, and the last two years have been above University average. I don't believe it has anything... This isn't the donut man we were talking about earlier, but it becomes an important consideration in that contract renewal and ultimately the tenure decision.

And, it was one of the things his Department Head pointed to in making a negative recommendation. In this case, teaching is above average, but the Department Head still found other things to be wanting, and so he still wound up having a problem. But, it was part of that decision making.

SEN. HAMPTON: I would suspect over my lifetime that I have probably taken a couple of hundred courses. I can never recall a Department Head or anyone else, for that matter, being in a classroom, other than the Professor. And, so I... It seems as though we have two instruments of evaluation. One is someone writing an evaluation that doesn't sign their name to it. And, very honestly, as far as I am concerned, that is questionable. And then, a Department Head making recommendations, based upon what he got out of the classroom one, filled out by a student that won't defend it. And I would say won't defend it, simply because they don't sign their name.

Now, you say that the form is designed where they won't sign their name.

ED MARTH: That's right.

SEN. HAMPTON: Maybe that is... (inaudible - both speaking at the same time)...I don't know.

ED MARTH: ... (inaudible - both speaking at the same time)... the concern of the faculty through the University Senate, faculty as well as others, and students themselves, would be that, to guarantee the student some anonymity simply because not everybody would react well to criticisms to their teaching.

It is just sort of a, mostly in the student interest. And, by in large, they are taken to be useful and helpful, and for the most part, objective evaluations. But, it is the kind of thing that somebody has a hard time going against when they don't do well in the teacher evaluations, and it has to be weighted with other aspects of their performance, as well as an evaluation of the nature of the course. A required math course faculty member is almost certainly going to do much worse in evaluations than a faculty member teaching an elective course in the humanities. Just the nature of it.

SEN. HAMPTON: Yes, I would expect so. Thank you.

REP. COHEN: Other questions? Thank you, Ed.

ED MARTH: Thank you.

REP. COHEN: That completes the testimony on HB6614. And, we will now move to SB203, AN ACT CONCERNING AUTHORIZATION OF BONDS OF THE STATE FOR THE PURCHASE OF THE ALBIE BOOTH MEMORIAL BOYS' AND GIRLS' CLUB IN NEW HAVEN FOR SOUTH CENTRAL COMMUNITY COLLEGE. Dr. Antonio Perez.

DR. ANTONIO PEREZ: Thank you for the opportunity to address you this afternoon. I guess we just got past 12:00. South Central Community College strongly supports SB203, which seeks funding for the purchase of the Albie Booth Boys' and Girls' in New Haven.

We are extremely grateful to Senator Daniels' insight in the higher education needs of the greater New Haven area and his sponsorship of this bill. South Central Community College is currently the fastest growing institution of higher education in the State of Connecticut. It has outgrown its

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STATEMENT FAVORING COMMITTEE BILL NO. 6614

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AN ACT CONCERNING RECORDS OF THE PERFORMANCE AND EVALUATION OF
FACULTY MEMBERS OF THE CONSTITUENT UNITS OF THE STATE SYSTEM OF
HIGHER EDUCATION

BY

Dr. David C. Newton, Vice President for Personnel
Connecticut State University

2/6/89

Senator Sullivan, Representative Cohen, other members of the Education Committee. My name is David Newton. I am the Vice President for Personnel for Connecticut State University. I speak in favor of 6614. In my personnel position I negotiate on behalf of my Board with the Faculty of the University and perform a role in evaluation of all employees.

I believe my understanding of the necessary balance between provision of full information on the workings of government to the public in our democracy, on the one hand, and protection of the individual state employee from needless public scrutiny, on the other, is an informed one.

In the peer review system we follow in evaluation of faculty, it is important to assure the subject of this review that her or his evaluation results will be considered by those best trained by background and experience to understand the content and purpose of such evaluations. Exposure of such personal and sensitive information to public and press serves no discernible public policy objective. Further the very threat of such exposure has a chilling effect on the evaluation process. Faced with the likelihood of wide spread dissemination of such information, evaluators will be tempted to so qualify their judgments as to render them useless in the process.

Students can evaluate faculty on the basis of criteria and methods devised by them for their own purposes, subsequently publishing their results should that be their desire. While such activity may be embarrassing at times, it should not be confused with the purpose of this bill which gives some protection to official evaluations of individuals whose careers are shaped by the outcome.

Finally, the adoption of bill 6614 would be consistent with action already taken by the General Assembly for the primary secondary sector for similar reasons (see CGS 10-151c). Records of teacher performance and evaluation are not public records.

I hope you will use your influence to pass this bill.



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Connecticut State University
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TESTIMONY FOR EDUCATION COMMITTEE
concerning
PROPOSAL TO PROTECT CONFIDENTIALITY OF FACULTY EVALUATION MATERIALS

HB 6614

My name is Paul Wenger. I am a professor in the Communication Department at Central CT State University. Today I represent more than 2000 instructional and research faculty, librarians and counselors at the four CT State University campuses, which also include Eastern, Southern, and Western, as President of our statewide chapter of the American Association of University Professors. My purpose this morning is to support the proposal before you that is intended to protect the confidentiality of faculty evaluation materials.

This measure grows from a perceived need to conduct the professional evaluation of teaching faculty with some degree of added confidentiality so as to enhance the objective of continued improvement in the instructional process. The key piece of material that has been in dispute is the official collection of information from students concerning their classes.

To my knowledge, no one objects to public commentary by students concerning their classes, including any student sponsored collection and dissemination of data about their perceptions of instructors or courses. But when a university mandates and arranges a sampling of student views and the subsequent storing of compiled data for formal use, public examination raises serious concerns.

This data is misleading without contextual interpretation, and thus public scrutiny can weaken the instructional evaluation process. In addition, public exposure of seemingly official "findings" will subvert the major beneficial goal of helping instructors test new styles and techniques with no fear of uninformed analysis or premature judgment. Professors are accountable for their classroom conduct, scholarship, student evaluation and more but need unbiased assessments from qualified peers about their performance.

As most of you know, the proposal before you comes because our state's Freedom of Information Commission last year reversed an earlier action that protected the University of CT's compilation of student course attitude data. Because the CT State University campuses collect and use student views on courses somewhat differently, the FOI ruling does not impact us directly. But we share the concern of many University of CT colleagues for the preservation of confidential materials for faculty evaluations. Hence, we urge each of you to support this proposal.