AGENDA

Meeting held by Telephone

Public Call-In Number:
(415) 655-0002 US Toll
Access Code: 629 930 823

(A recording of the meeting will be posted on the Board website https://boardoftrustees.uconn.edu/ within seven days of the meeting.)

1. Public Participation*...Dr. Dennis-LaVigne
   *If members of the public wish to address the Committee during the Public Participation portion of the meeting, you must submit a request in writing 30 minutes prior to the start of the meeting (by 12:30 p.m.) to the following email address: BoardCommittees@uconn.edu. Please indicate your name, telephone number, and topic to be discussed. Per the University By-Laws, the Board may limit public comment. As an alternative, you may also submit your comments via email which will be shared with the Board.

2. Acceptance of November 17, 2020 Meeting Minutes...Dr. Dennis-LaVigne
   Attachment 1

3. Legislative Update...Ms. Lombardo
   Attachment 2

4. Connecticut Commitment Update...Mr. Roberts / Mr. Lemon

5. UConn Foundation Update...Mr. Roberts / Ms. Cotton Kelly

6. University Communications Update...Mr. Kendig

7. Other Business

8. Executive Session (as needed)

9. Adjournment
ATTACHMENT 1
DRAFT

MEETING OF THE INSTITUTIONAL ADVANCEMENT COMMITTEE
University of Connecticut
November 17, 2020

TELEPHONE MEETING

MINUTES

Committee Trustees: Dr. Andrea Dennis-LaVigne, Charles Bunnell, Shari Cantor, Jeanine Gouin, Rebecca Lobo and Bryan Pollard

Additional Trustees: Chairman Daniel Toscano

Guests: John Malfettone

Staff: Mo Cotton Kelly, Thomas Katsouleas, Tysen Kendig, Jake Lemon, Joann Lombardo, Rachel Rubin and Lesley Salafia

Vice-Chair Dennis-LaVigne called the meeting to order at 1:00 p.m. via conference call.

An opportunity for public comment or participation was offered, with none heard, the meeting continued.

On a motion by Trustee Pollard, seconded by Trustee Lobo, the meeting minutes dated October 27, 2020 were approved as circulated.

Vice-Chair Dennis-LaVigne presented the 2021 IA Committee meeting dates.

Mr. Lemon presented modified naming recommendations. On a motion by Trustee Pollard, seconded by Trustee Bunnell, both Modification of Naming Recommendation for the Prospero Chair in Ecology and Evolutionary Biology and Modification of Naming Recommendation for the Titania Chair in Ecology and Evolutionary Biology were approved.

Vice-Chair Dennis-LaVigne welcomed Mr. John Malfettone to the Committee, serving as the immediate past chair of the UConn Foundation, and thanked him for joining the Committee.

Mr. Lemon shared the UConn Foundation Directory Information Request document. Ms. Salafia offered specifics of the information request and noted the document was shared with the Committee as an informational piece, and no vote was needed.

Mr. Lemon provided an update on fundraising at the Foundation, the successes and the worries. Ms. Cotton Kelly presented Alumni virtual engagement data showing a variety of virtual programs offered, many in partnership with Schools and Colleges. She also shared ongoing efforts of the Foundation Communications team.

Mr. Kendig shared with the Committee the ongoing COVID response support from University Communications. He also noted the Fall issue of the UConn Magazine has been mailed, and thanked Ms. Cotton Kelly for Alumni’s continued help contributing.
Ms. Lombardo shared an update on election results, noting almost 80% of registered voters turned out for the election. She gave an overview of how the results translated for UConn, on the Federal and State level. She also thanked Mr. Kendig for the help of University Communications pulling together videos to share with Legislators.

Trustee Cantor called a motion to close the meeting, seconded by Trustee Pollard, Vice-Chair Dennis-LaVigne adjourned the meeting at 2:00 p.m.

Respectfully submitted,

Jen Cote
Committee Secretary
PRIORITIES

Appropriations

• **Block Grant** - Maintain stable block grant funding, adjusted for any approved CBI’s, in FY22 & FY23.
• **COVID-19 Related Losses** - Secure funding as needed for COVID related housing, dining and clinical revenue losses.
• **Unfunded Legacy Costs** - Address the unsustainable legacy costs currently charged to the University by the state which impact our students, families, research and clinical competitiveness.

Bonding

• **Next Generation CT** - Maintain current bond authorization levels for *Next Generation CT* capital funding.
• **Deferred Maintenance** - Provide funding for critical deferred maintenance and other projects at UCH.

Non – Budgetary

• **Freedom of Information Act Exemption Requests**
  o **Crumbling Foundations** – Extend the current FOIA exemption for data and information relating to claims of faulty or failing concrete foundations in residential buildings from Executive Branch agencies to the Constituent Units of Higher Education and clarify information relating to claims fall within the exemption.
  o **Native American Cultural Knowledge Records** - Exempt certain Native American records at UConn’s Natural History Museum and other state entities from FOIA. Doing so would ensure that tribal nations have the ability to make decisions regarding the management and use of their artifacts, culture and beliefs in keeping with the federal its Native American Graves Protection and Repatriation Act (NAGPRA) obligations.

• **Ensuring Success of the UConn Foundation** – Work with the General Assembly to address issues created by current law (4-37f(10)) which requires University support to the UConn Foundation to decrease as the endowment increases. Doing so would allow the UConn Foundation to maintain and exceed present fundraising levels while avoiding staff reductions.

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**BLOCK GRANT**

*Maintain stable block grant funding, adjusted for any approved CBI’s, in FY22 & FY23.*

<table>
<thead>
<tr>
<th>UConn - Storrs &amp; Regionals</th>
<th>PA19-117 FY21</th>
<th>Allotment FY21</th>
<th>Biennium Request FY22</th>
<th>Biennium Request FY23*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operating Expenses</td>
<td>$208,979,109</td>
<td>$206,489,318</td>
<td>$210,273,856</td>
<td>$220,081,837</td>
</tr>
<tr>
<td>Workers Compensation Claims</td>
<td>2,271,228</td>
<td>2,271,228</td>
<td>2,271,228</td>
<td>2,661,769</td>
</tr>
<tr>
<td>TOTAL APPROPRIATION</td>
<td>$211,250,337</td>
<td>$208,760,546</td>
<td>$212,545,084</td>
<td>$222,743,606</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>UConn Health</th>
<th>PA19-117 FY21</th>
<th>Allotment FY21</th>
<th>Biennium Request FY22</th>
<th>Biennium Request FY23*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operating Expenses</td>
<td>$116,556,690</td>
<td>$116,556,690</td>
<td>$117,354,285</td>
<td>$122,497,751</td>
</tr>
<tr>
<td>Workers Compensation Claims</td>
<td>2,917,484</td>
<td>2,917,484</td>
<td>3,005,009</td>
<td>3,095,159</td>
</tr>
<tr>
<td>AHEC</td>
<td>375,832</td>
<td>375,832</td>
<td>375,832</td>
<td>375,832</td>
</tr>
<tr>
<td>Bioscience</td>
<td>16,000,000</td>
<td>15,923,000</td>
<td>16,000,000</td>
<td>16,000,000</td>
</tr>
<tr>
<td>TOTAL APPROPRIATION</td>
<td>$135,850,006</td>
<td>$135,773,006</td>
<td>$136,735,126</td>
<td>$141,968,742</td>
</tr>
</tbody>
</table>

|                       | Unfunded Legacy Costs | 62,762,683 | 64,959,377 |

| Total Requested Appropriation | $199,497,809 | $206,928,119 |

*FY23 Biennium Requests for both UConn and UCH include funding for the 27th payroll and workers compensation. UConn’s request also includes funding for operations and maintenance of new buildings.

One hundred percent of the state’s appropriations to UConn and UCH are used to pay employee salaries; it covers approximately 47% of UConn and 40% of UCH employees. In FY21, the fringe reimbursement is estimated to be $189M for UConn and $144M for UCH. Currently, state appropriations fund about 28% of UConn’s and 23% of UCH’s total budgets. The remainder comes from tuition, clinical and federal research grant revenue, housing and dining etc. (non-state funds).

**FY22 & FY23 Forecast** – UConn – Storrs & Regionals is currently projecting a deficit in both FY22 and FY23.

<table>
<thead>
<tr>
<th>Projected Deficits as of 1/20/21 ($M)</th>
<th>FY22</th>
<th>FY23</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Revenues</td>
<td>$ 1,536.3</td>
<td>$ 1,548.5</td>
</tr>
<tr>
<td>Total Expenditures</td>
<td>$ 1,554.6</td>
<td>$ 1,604.3</td>
</tr>
<tr>
<td>Net Gain/(Loss)</td>
<td>$(18.3)</td>
<td>$(55.8)</td>
</tr>
</tbody>
</table>

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COVID-19 RELATED LOSSES

Secure funding as needed for COVID related housing, dining and clinical revenue losses.

Below is a summary of UConn and UConn Health’s requests for state support to cover FY20 (actual) & FY21 (projected) shortfalls. These shortfalls are attributable to the COVID-19 related expenditures and revenue losses, as well as the state’s unfunded legacy costs (healthcare and pension liabilities) charged to the University.

<table>
<thead>
<tr>
<th>State Request</th>
<th>UConn Health</th>
<th>UConn Storrs &amp; Regionals</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY20 COVID Revenue Losses/Deficiency</td>
<td>18,893,656</td>
<td>-</td>
</tr>
<tr>
<td>FY21 Unfunded Legacy Cost</td>
<td>53,800,000</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td><strong>72,693,656</strong></td>
<td><strong>-</strong></td>
</tr>
</tbody>
</table>

- **UConn Health** - The legislature approved $33.2M in funding to UConn Health in FY20 to address a portion of the state’s unfunded legacy costs charged to it. In FY21, the state’s unfunded legacy costs are expected to reach $53.8M toward that cost. Per OPM guidance, UConn Health is assuming $33.2M is funded to cover a portion of the unfunded legacy costs (consistent with Gov. proposed FY21 budget adjustment). No unfunded legacy cost relief has been approved by the legislature. The total $53.8M is requested in FY21.

- **UConn** - The State’s unfunded legacy costs charged by the state to UConn are expected to be $34.5M in FY21. UConn is not requesting unfunded legacy cost relief in FY21. See mitigation efforts on page 3 for more details.

**Storrs & Regional Campuses:**

In FY20, when the pandemic struck, we had to refund $33M in housing and dining revenue after sending our residential students home. In FY21, the state required that our social distancing policy be reduced to around 40% of our residential and classroom capacity. Though we have faced extra expenditures for additional cleaning, testing, tracing, and medical care, these expenditures are relatively small compared to the loss of housing and dining revenues. To the extent that we follow state guidance and maintain a high standard of safety through deep social distancing on our campuses, we will lose substantial amounts of housing and dining revenue that cannot be sustained for more than a year.

For FY21 our projected deficit was $76M. This was mitigated with $48M in institutional cuts and after a significant $20M infusion of CARES Act funding, the remaining deficit was $8M. The additional federal funding via the CRRSA will close that remaining gap to $0 for FY21 and leave available funds for FY22 (see chart below).
The institutional cuts implemented included:

- Senior managers: 13 furlough days
- Management: 7 furlough days
- Eliminated 5 academic programs
- Eliminated 4 NCAA sports
- Hiring Freeze
- Spending Freeze
- Suspended extension services to adult learners
- Suspended clinical outreach programs in dentistry
- Halted planned expansion of the Masters in Social Work

The remaining federal funding from the additional relief package will be applied to help cover the FY22 deficit, which is caused primarily by the unfunded legacy costs.

<table>
<thead>
<tr>
<th>Estimated Additional Federal Relief:</th>
<th>($M)</th>
</tr>
</thead>
<tbody>
<tr>
<td>December Federal Relief Package (CRRSA)</td>
<td>$32.0</td>
</tr>
<tr>
<td>Assigned to Student Financial Aid</td>
<td>-$10.8</td>
</tr>
<tr>
<td><strong>Balance Available for Operating Budget</strong></td>
<td><strong>$21.2</strong></td>
</tr>
<tr>
<td>Applied to FY21 Deficit due to COVID</td>
<td>-$8.0</td>
</tr>
<tr>
<td><strong>Balance Available to Apply to FY22 Deficit</strong></td>
<td><strong>$13.2</strong></td>
</tr>
</tbody>
</table>

**UConn Health:**

It is important to emphasize that UConn Health is confident in its preparedness for COVID-19 resurgence, and we are proud of our response – from serving on the front lines to treat COVID-positive patients with quality, cutting-edge care, to our students providing almost 5,000 community “touches” including telephonic monitoring of symptoms and basic needs gaps, to our researchers collaborating across campuses to create innovation solutions such as intubation hoods and custom-fit masks. In February 2020, prior to COVID-19, UConn Health was projected to end the fiscal year ahead of budget and would not have required nor requested a state deficiency appropriation. However, in March, like all the other health systems in the state, the loss of revenues from the cancellation of elective surgeries and procedures affected our bottom line – to the tune of almost $1M in losses per day at the height of our emergency response.
We are proud to report that our clinical ramp-up has so far exceeded our original expectations and our clinical revenues are improving. However, due to the COVID clinical revenue losses the institution ended FY20 with a $18.9M shortfall.

<table>
<thead>
<tr>
<th>FY 21 Year End Forecast [in Millions]</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unfunded Legacy Costs</td>
</tr>
<tr>
<td>COVID-19 Related Losses</td>
</tr>
<tr>
<td>Deficit</td>
</tr>
</tbody>
</table>

Mitigation plans:
- Capital deferral: 4.9
- Financial Improvement Plan (FIP): 45.0
- Furlough - management: 1.2
- Federal Funds: 10.0

Total Mitigation: 61.1

**FY 21 Deficiency** (53.8)

*Unfunded Legacy Cost Support* (53.8)

**FY 20 Deficiency** (18.9)

*COVID Losses* (18.9)

**State Request** (72.7)

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* The legislature approved $33.2 million in funding to UConn Health in FY20 to address a portion of the state’s unfunded legacy costs charged to UConn Health. In FY21, the state’s unfunded legacy costs are expected to reach $53.8 million. The Governor’s proposed FY21 budget included $33.2 million; an additional $20.6 million is needed to cover this state liability.
UNFUNDED LEGACY COSTS

Address the unsustainable legacy costs currently charged to UConn and UCH by the state which impact our students, families, research and clinical competitiveness.

<table>
<thead>
<tr>
<th>Fund Type</th>
<th>FY21</th>
<th>FY22</th>
<th>FY23</th>
</tr>
</thead>
<tbody>
<tr>
<td>UConn - Storrs &amp; Regionals</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tuition/Fees/Other*</td>
<td>$27.4</td>
<td>$29.3</td>
<td>$31.3</td>
</tr>
<tr>
<td>Research</td>
<td>$7.1</td>
<td>$7.5</td>
<td>$7.7</td>
</tr>
<tr>
<td>Non-State Funds/Liability</td>
<td>$34.5</td>
<td>$36.7</td>
<td>$38.9</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Fund Type</th>
<th>FY21</th>
<th>FY22</th>
<th>FY23</th>
</tr>
</thead>
<tbody>
<tr>
<td>UConn Health</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Clinical</td>
<td>$29.8</td>
<td>$32.9</td>
<td>$34.0</td>
</tr>
<tr>
<td>SOM/SODM Academic Units**</td>
<td>$15.9</td>
<td>$16.6</td>
<td>$17.2</td>
</tr>
<tr>
<td>Research Fund</td>
<td>$8.1</td>
<td>$9.2</td>
<td>$9.5</td>
</tr>
<tr>
<td>Non-State Funds/Liability</td>
<td>$53.8</td>
<td>$58.7</td>
<td>$60.7</td>
</tr>
<tr>
<td>Combined UConn/UCH</td>
<td>$88.3</td>
<td>$95.4</td>
<td>$99.7</td>
</tr>
</tbody>
</table>

*Other includes outside educational revenue, indirect cost return from grants, etc.

** The legislature approved $33.2M in funding to UConn Health in FY20 to address a portion of the state’s unfunded legacy costs charged to it. In FY21, the state’s unfunded legacy costs are expected to reach $53.8M toward that cost. Per OPM guidance, UConn Health is assuming $33.2M is funded to cover a portion of the unfunded legacy costs (consistent with Gov. proposed FY21 budget adjustment). No unfunded legacy cost relief has been approved by the legislature. The total $53.8M is requested in FY21.

Note: The unfunded legacy costs are UConn’s best estimate at this time. Amounts could materially change when the actual rates are published by the Comptroller.

While the state covers 100% of the salary and fringe costs for most other state agencies’ employees, UConn, CSU and the Community Colleges have to fully fund the salaries and fringe costs for the majority of their employees through tuition and fees, clinical and federal research grant revenue (non-state funds). Primarily due to the state’s legacy unfunded pension and healthcare liabilities, these costs have been increasing at alarming and unsustainable rates. It is estimated that UConn and UConn Health will have to pay a combined total of $88.3M in FY21, $95.4M in FY22, and $99.7M in FY23 to cover these legacy costs.
High fringe benefit costs impact UConn and UConn Health’s budgets, students and their families, and competitiveness. The largest portion of the state’s retirement rate is attributable to the state’s unfunded liabilities, which are passed on to higher education institutions.

- **Budget Impact** - UConn and UConn Health must pay ~$88M of their non-state funds to cover the state’s unfunded liabilities in FY21. We estimate this cost will rise to almost $100M by FY23. Without these costs, UConn and UConn Health would not have deficit budgets.

- **Students and Their Families** - In addition to impacting our budgets, the state’s unfunded legacy costs cause an undue burden, especially on our students and their families. We have to fund some of these costs with tuition and fee dollars. $27M is **not** going to their education, but to a prior unfunded retiree liability. This translates into $850 per student.

- **Research Competitiveness** - UConn and UConn Health research fringe rate is an outlier, ~20% higher than peers. This results in less research grant dollars, innovation, commercialization and federal dollars to the state’s economy.

- **Clinical Competitiveness** - The current state fringe rates for UCH’s clinical operations are ~40% higher than other hospitals and providers across the state, resulting in over $112M in more costs for UConn Health to provide clinical care. This gap in costs due to the unfunded liability costs results in a budget deficiency that UConn Health cannot cover on its own. For UConn Health, we are grateful that in recognition of the unfunded state liabilities passed onto us, a portion of these costs were covered in the adopted statewide budget for FY20 only, in the amount of $33.2M.

**SUMMARY**

With strong state support, UConn rose to become a top 25 public research university – out of 132 major public research universities nationwide. Continued reductions in state support will have negative impacts on UConn students and the state’s economy:

- Students pay more tuition and fees to offset declining state support.
- Class sizes increase while offerings decrease, lowering educational quality and increasing times to graduation.
- Student services such as academic advisors, mental health counseling, and other support services become jeopardized.
- The ability to recruit and retain the best faculty declines, negatively impacting educational quality and UConn’s competitiveness to attract research grants, industry partnerships and continue cutting edge innovation.

Only with your help can we get past these extraordinary hurdles and return the state’s flagship public university to a path of excellence that develops innovation from cutting-edge research, transforms the lives of Connecticut students, and furnishes a talent pipeline for the state’s workforce.
UConn Health is the state’s only public academic medical center and is a vibrant, high-performing public asset for the state and with just 16% of its budget coming from the state is:

- **Providing affordable, top-rated education.** UConn Health ensures access to top-quality health care services for CT citizens by training the state’s future doctors, dentists, and scientists. Class sizes have grown 30% in the Schools of Medicine and Dental Medicine, with the classes of 2023 being the largest in history. The School of Medicine is in the top 10 medical schools in the nation for diversity of its student body as ranked by US News and World Report.

- **Prioritizing research, innovation and supporting small start-ups.** The state through Bioscience Connecticut made strategic investments in UConn Health and the region to generate long-term, sustainable economic growth based on bioscience research, innovation, entrepreneurship and commercialization. As a result, UConn Health research awards are growing and its technology incubation space for small biotech start-up companies is at capacity.

- **A cutting-edge clinical enterprise** that is gaining national recognition for providing care with new approaches and technologies that other hospitals/facilities are not able to provide in the state or region. This is what academic medical centers do.

- **Generating $2.2B** in statewide economic impact.

- **Providing strong fiscal stewardship.** With extensive cost reductions, revenue enhancements and strategic growth initiatives, UConn Health has not requested deficit funding from the state in over 10 years prior to the COVID-19 pandemic. Prior to the onset of COVID, we had unprecedented clinical revenue growth - nearly 60% increases in clinical revenues in 6 years, which accounts for half of the institution’s budget.

- **Delivering a crucial public mission.** As the state’s only public academic medical center, part of UConn Health’s responsibility and mission is to leverage our workforce, research, and clinical knowledge to be a key resource to the state when needed – the importance of which is evidenced during the ongoing COVID-19 pandemic. Some examples of the essential role UConn Health played in providing state assistance include: utilizing our electronic medical record system to facilitate statewide testing, mobilizing students for statewide contact tracing, standing up surge bed capacity at the state’s request, and partnering with DOC to provide them with support for their care of COVID-19 positive inmates.
BONDING

Allow the planned and approved capital projects to move forward with no deferrals or cuts to the UCONN 2000 Capital Program. Provide funding for critical deferred maintenance and other projects at UCH.

### UConn

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>UCONN 2000 Statute (NextGenCT) ($M)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2022</td>
<td>190.5</td>
</tr>
<tr>
<td>2023</td>
<td>125.1</td>
</tr>
<tr>
<td>2024</td>
<td>84.7</td>
</tr>
<tr>
<td>2025</td>
<td>56.0</td>
</tr>
<tr>
<td>2026</td>
<td>14.0</td>
</tr>
<tr>
<td>2027</td>
<td>9.0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$479.3</strong></td>
</tr>
</tbody>
</table>

### UConn Health

<table>
<thead>
<tr>
<th>Capital Budget Request ($M)</th>
<th>FY22</th>
<th>FY23</th>
</tr>
</thead>
<tbody>
<tr>
<td>Campus Renovations</td>
<td>7.0</td>
<td>7.0</td>
</tr>
<tr>
<td>Clinical Equipment</td>
<td>3.0</td>
<td>3.0</td>
</tr>
<tr>
<td>Deferred Maintenance</td>
<td>27.1</td>
<td>8.0</td>
</tr>
<tr>
<td>Information Technology</td>
<td>10.0</td>
<td>3.0</td>
</tr>
<tr>
<td>Revenue Growth Investment</td>
<td>10.0</td>
<td>2.0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$57.1</strong></td>
<td><strong>$23.0</strong></td>
</tr>
</tbody>
</table>

**UConn Storrs:**

The state funded NextGenCT initiative is well underway and continuing the significant transformation of modernizing, rehabilitating, and expanding the physical plant of the University. It is imperative to recognize that this long-term capital program phases project funds over multiple years. FY22 and FY23 funding will support years 8 and 9 of the 13-year program. Numerous projects are currently in construction with required funding to be allotted in these future years. The most important projects in progress are focused on supporting the primary goals of the NextGenCT initiative and include the major renovations to the Gant Science Complex, to accommodate current and future University needs in response to growing student enrollment in STEM programs; the new STEM Research Center Science 1 Building, a keystone effort to fulfill the mandates of the initiative to provide critical new research facilities for existing and new STEM faculty; and vital infrastructure improvements necessary to support these two extensive projects. To avoid additional costs associated with delaying or shutting down projects in construction, it is critical that planned levels of capital funding remain intact to support these interdependent projects and to assist in the State’s economic recovery from the COVID crisis through creation and/or preservation of thousands of construction jobs.

**UConn Health:**

The state funded Bioscience Connecticut initiative has transformed the UConn Health campus. FY18 marked the final year of any State bond funds approved or available for UConn Health, including any deferred maintenance needs. The campus now includes 24 buildings comprising 3.6 million gross square feet with a current replacement value of $1.6 billion. It is imperative that UConn Health keep up with maintenance of these buildings and this campus to be responsible stewards of these state assets and to ensure (for liability, compliance and other purposes) that all facilities are current with code and accessibility requirements.
An independent third-party consultant hired to do a Facilities Condition Assessment of the buildings on campus has estimated that the total 10 year non-recurring and recurring (deferred maintenance) costs to maintain UConn Health buildings/facilities is $321.5M. While UConn Health requested state bond funds after FY18 for critical deferred maintenance needs, no authorizations were approved. The capital dollars requested here ($57.1M in FY22 and $23.0M in FY23) represent the bare bones amounts needed to address the projects identified by the consultant as “critical.” Like other state agencies and branches that have responsibility to own and maintain state facilities, UConn Health also requires some level of capital deferred maintenance funding to ensure facilities are safe, efficient and that they retain their value.

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State’s Legacy Unfunded Liability Background

The state’s unfunded pension and healthcare liability refers to the amount owed by the state of Connecticut as a whole to pay for state retiree pensions and health care costs for retirees who are part of the State Employees Retirement System (SERS). Because the state of Connecticut did not contribute enough funds over the past several decades to pay for pension and health care benefits promised to retirees, the state has large unfunded liability associated with the costs of providing these benefits. In recent years, the state has been trying to “make up” for the decades of missed contributions by charging a premium on the state employee fringe benefit rate that state agencies must pay to the state.

The state unfunded pension and health care liabilities are separate from the “normal costs” that the state contributes each year to fund the future pension and health care costs promised to existing state employees.

The unfunded retiree liabilities have been accruing at the state for decades. In FY13, the state charges associated with the state’s unfunded liabilities began increasing significantly.

The unfunded liabilities are the costs associated with the promised pension and health care to all state retirees in the SERS, not just UConn Health employees.

All state agencies and institutions that are not fully funded by the state General Fund must pay a portion of these state unfunded liabilities with its operating dollars. Specifically, this includes all of higher education (including UConn, UConn Health, and the Board of Regents, which includes the State University System and the Community Colleges), and other entities such as the Connecticut Airport Authority.

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Non – Budgetary – Freedom of Information Act Exemption Requests:

**Crumbling Foundations** – Extend the current FOIA exemption for data and information relating to claims of faulty or failing concrete foundations in residential buildings from just Executive Branch agencies to the Constituent Units of Higher Education and clarify information relating to claims fall within the exemption.

**REQUEST**

Under Connecticut’s Freedom of Information Act, documentation provided to, obtained by, and/or prepared by an executive branch agency relating to claims of faulty or failing concrete foundations in residential buildings are exempt from disclosure under the Connecticut Freedom of Information Act (“FOIA”). See Conn. Gen. Stat. 1-210(b)(28) (hereinafter, the “Exemption”). This proposal seeks to: (1) extend the Exemption to constituent units of higher education; and (2) clarify that information relating to both claims and potential claims fall within the Exemption. Crumbling concrete foundations are a significant problem in the North Central and Northeastern part of Connecticut.

The crumbling concrete problem affects houses built between 1983 and 2015 with concrete made with aggregate containing the mineral pyrrhotite, which is estimated to be in more than 30,000 houses. For subdivisions built by the same builder who used the same concrete supplier, once one house in the subdivision is known to be impacted, then other houses in the subdivision which may or may not be showing any signs of distress in the concrete are considered to have suspect foundations.

During a sale of a property, any known problems such as a crumbling concrete foundation would need to be disclosed, but damage in the concrete may be occurring internally and a visual inspection may not yet detect the damage inside the concrete. Therefore, FOIA requests could potentially come from lenders, insurers and potential home buyers for any houses affected in the immediate area to help establish the likelihood of a future foundation problem.

**JUSTIFICATION**

The Connecticut Congressional delegation secured $750,000 in FY20 and $2 million in FY21 for the University of Connecticut to study to our state’s crumbling foundation issue in conjunction with the National Institute of Standards and Technology. The first phase of this study will be conducting testing on homeowner’s foundations as part of a research project titled, *The Development of a Risk Assessment Framework for Pyrrhotite-Induced Concrete Deterioration*. The intended outcome of the study is to determine the presence and concentration of pyrrhotite in concrete foundations and develop a risk scale for houses that contain pyrrhotite. Apart from the research project, UConn will be conducting testing and analysis for homeowners who are concerned about the presence or possible presence of pyrrhotite in their concrete foundations. In all cases, UConn is requesting this exemption for data pertaining to the pyrrhotite testing results for each specific house, as well as information identifying the homeowner and the street address.
In addition, there are other sources of data, including engineering reports from engineering inspections of foundations, core testing results for pyrrhotite, and petrographic analysis, which would be relevant to UConn’s work in connection with the above. This data has been collected by third parties and resides in multiple locations, and due to confidentiality concerns, it is not accessible to UConn’s researchers. This data has been collected for at least four years by many different agencies. It would take years for UConn to collect all of this data independently and the data is needed for UConn to help create and enhance a Risk Assessment Framework. This Framework is a critical component of both the NIST project and the State of Connecticut’s ability to plan and budget for foundation replacements going forward. Unfortunately, third parties have been unable and/or unwilling to share such data with UConn due to concerns regarding maintaining confidentiality due to FOIA. Similarly, UConn believes homeowners may be unwilling to request testing services from UConn and any other state university if they believe that their information will be subject to disclosure under FOIA.

Obtaining this exemption will allow UConn, and other state universities, to access a much greater pool of data that already exists, and will provide homeowners with confidence that they can seek assistance from such universities confidentially on this critical issue.

EXEMPTION NECESSARY FOR DEVELOPING A CRUMBLING FOUNDATION RISK ASSESSMENT MODEL

In order to develop the most accurate risk assessment model, UConn needs to incorporate as much data into the model as available. The model can then be used to estimate the total cost for foundation replacements needed to resolve the crumbling concrete issue. Currently, there are estimates ranging from under one billion dollars to several billion dollars and there is not currently enough data and understanding of the prevalence of this problem to say which of these estimates is closer to being correct.

By extending the existing FOIA exemption to UConn, the data pool for constructing UConn’s risk assessment model will become much greater as entities such as the CT Department of Housing/CT Department of Consumer Protect, Capital Region Council of Governments and other private practice engineers conducting foundation inspections, will be more likely to share information that they have collected and/or developed confidentiality. These entities have a wide variety of data that has been collected from visual inspections, petrographic analysis, core testing for pyrrhotite and site conditions around the foundation. All of this data is important for the building of the most accurate model and already exists. Currently, we do not have access to it.

Current estimates exist that more than 30,000 houses may have foundations containing pyrrhotite in them. Not all of the foundations will need to be replaced, but without a comprehensive Risk Assessment process, there are no reliable estimates as to how many of these foundations will ultimately fail.

This proposal would also benefit Connecticut homeowners who are concerned about the status of their foundation and want to seek testing and analysis from UConn on a confidential basis.
CONSEQUENCES OF NO ACTION

If this FOIA exemption is not secured, possible ramifications include:

- UConn’s important research to develop a risk assessment model may take longer and the much needed model may not be as accurate.

- Negative affect on a homeowners’ financial standing, possibly place their house underwater with regard to their mortgage.

- Lenders and insurers could use information about other houses in the neighborhood to make lending and insurance premium decisions if the information collected as part of this project is subject to FOIA requests

PROPOSED LANGUAGE

Amend Conn. Gen. Stat. 1-210(b)(28) as follows:

Any [documentation] information provided to or obtained by an executive branch agency or any constituent unit of higher education, including documentation provided or obtained prior to May 25, 2016, relating to claims, or potential claims, of faulty or failing concrete foundations in residential buildings [by the owners of such residential buildings], and documents prepared by an executive branch agency or any constituent unit of higher education relating to such [documentation] information, for seven years after the date of receipt [of the documentation] or seven years after May 25, 2016, whichever is later.
Native American Cultural Knowledge Records – Exempt certain Native American records at UConn’s Natural History Museum and other state entities from FOIA. Doing so would ensure that tribal nations have the ability to make decisions regarding the management and use of their artifacts culture and beliefs in keeping with the federal its Native American Graves Protection and Repatriation Act (NAGPRA) obligations.

Legislative Request

The Connecticut Native American Heritage Advisory Council (includes all CT Tribes recognized by the state) and the University of Connecticut request an exemption under Connecticut’s Freedom of Information Act (FOIA) for Native American traditional cultural knowledge records provided to UConn, or any other state institution with Native American Graves Protection and Repatriation Act (NAGPRA) obligations. As background, a cultural knowledge record is evidence provided by a tribal nation to a museum or other entity to prove that ancestral remains or artifacts are affiliated with a particular tribe.

NAGPRA (5 U.S.C. §§ 3001–3013 and 43 C.F.R. pt. 10) was enacted into Federal law in 1990 and requires the repatriation – or giving back -- of Native American artifacts to sovereign tribal nations. By enacting NAGPRA, Congress recognized that human remains of any ancestry "must at all times be treated with dignity and respect." Congress also acknowledged that human remains and other cultural items removed from Federal or tribal lands belong to lineal descendants, Indian Tribes, and Native Hawaiian organizations.

Ultimately, NAPGRA’s purpose is to give tribal nations the ability to make decisions regarding the management and use of their items, culture and beliefs. Connecticut has the opportunity, with this proposal, to take a positive step towards ending the colonization and oppression of Native Americans. This exemption aligns with first amendment rights regarding freedom of religion and speaks powerfully to the human rights awakening happening across the globe. This legislation would enable our state to be a leader in the nation and support the right of Native peoples have to self-determination.

UConn’s Native American Collections

By state statute, UConn is home to both the Connecticut State Natural History Museum and the Office of State Archeologist. In keeping with Native American Grave Protection and Repatriation Act (NAGPRA), the University works with tribes that desire to have ancestors or items repatriated.

Currently, the Museum is the largest repository of CT Native American remains and artifacts in the world. It has:

1. Skeletal elements representing a minimum of 93 discrete individuals.

2. Approximately 10,000 artifacts reportable under NAGPRA.

3. Records detailing traditional cultural knowledge shared by tribes with state agencies and institutions for the purpose of satisfying the NAGPRA process.
Additionally, the Office of State Archaeology is responsible for the disposition of inadvertent discoveries of Native American human remains from both state and private land. It is anticipated collections will grow as the inventorying process of university and state collections is ongoing. About 35% of the collection, including human remains, are from out of state. Until repatriation is able to occur, UConn maintains these collections, and in keeping with museum best practices and the spirit of NAGPRA, does not have them on display.

Under NAGPRA, tribes that desire to have ancestors or items repatriated, must first demonstrate cultural affiliation to the ancestor or item. UConn reviews the evidence in support of cultural affiliation, supplied by the tribes and makes a decision as to which tribe(s) are affiliated. Once this step is complete and published in the Federal Register, repatriation may proceed.

**Justification for Requested Legislation**

Currently, there are no protections for the confidentiality of traditional cultural knowledge records. If tribes wish to have their ancestors and sacred items returned, they risk nullifying the sacred value of the items and their religious freedom by providing evidence for affiliation. Moreover, their ancestors, disinterred, displayed and studied without their permission, would be further subjected to these dehumanizing colonial practices, by making their information part of the public record.

Without the requested FOIA exemption, UConn’s or other state institution’s ability to provide confidentiality for Native American traditional cultural knowledge in conjunction with NAGPRA, is jeopardized. Presently, UConn must include a public disclosure statement on all official written communication to tribes with which the University consults for NAGPRA compliance.

So far, UConn has received 3 FOI requests since November 2019. These requests came from 3 different sovereign tribal nations in Oregon and California regarding a NAGPRA case for which they were involved.

**Potential Impact of No FOIA Exemption**

Without the implementation of this proposal, options for meaningful consultation that can maintain confidentiality are limited. Conducting NAGPRA consultations in person puts a financial burden on tribes and institutions. It is not realistic to have no written records documenting decisions relating to determination of cultural affiliation.

Potential scenarios where public disclosure of these records could harm Native peoples beyond what is described above include:

1) Information shared during NAGPRA consultation, including confidential data such as membership statistics, oral histories, and geophysical locations of sacred sites, when made public can compromise security for tribal nations. NAGPRA can be inappropriately utilized to further political agendas seeking to undermine Native legitimacy.
2) Some individuals still hoard remains and information (often illegally) and seek data like that exchanged in NAGPRA consultation to prove their outdated, disproven and colonial theories about Native peoples. Extreme examples of this behavior led to the mass looting and grave robbing in the 1800s and early 1900s where explorers justified westward expansion and removal or extermination of Native peoples.

Number 2 is directly responsible for how the majority of the Native Human remains and sacred items came to UConn.

### Have Other States Adopted Similar Legislation?

California AB-275 Native American cultural preservation, also known as Cal-NAGPRA, is a comprehensive repatriation bill that is currently under consideration with the California legislature and is expected to pass. Included in this bill is a clause for confidentiality – “consultation shall also recognize the tribes’ potential need for confidentiality with respect to tribal traditional knowledge and all information shared during consultation” (Section 5(e), AB-275). Bill text can be found here: [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB275](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB275).

NAGPRA requires compliance for all institutions who receive any federal funding and consultation is only required with federally recognized tribes, AB-275 expands upon these requirements to require compliance for any institution who receives state funding and consultation with non-federally recognized tribes.

Indiana is also working towards a similar exemption in their state’s FOIA.

### Proposed Legislative Language


(NEW) (b)(---). All records related to and required for federal compliance with the Native American Graves Protection and Repatriation Act, including without limitation records provided by sovereign tribal nations (meaning all federally recognized tribes and all tribes with recognition by state governments), in relation to evidence and support of cultural affiliation claims required as part of the repatriation process as defined under NAGPRA 5 U.S.C. §§ 3001–3013 and 43 C.F.R. pt. 10 subpart C and D.