



General Assembly

February Session, 2016

Raised Bill No. 333

LCO No. 2180



Referred to Committee on HIGHER EDUCATION AND
EMPLOYMENT ADVANCEMENT

Introduced by:
(HED)

**AN ACT CONCERNING THE FOUNDATION OF CONSTITUENT UNITS
AND PUBLIC INSTITUTIONS OF HIGHER EDUCATION.**

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Section 4-37f of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2017*):

3 The executive authority of each state agency for which a foundation
4 is established shall, in accordance with a policy adopted by the board
5 of trustees of the constituent unit for each state agency which is a
6 constituent unit or which is a public institution of higher education
7 under the jurisdiction of the constituent unit, ensure that, or the
8 executive authority of each state agency for which a foundation is
9 established for the principal purpose of coordinated emergency
10 recovery shall ensure that:

11 (1) The foundation shall have a governing board to oversee its
12 operation;

13 (2) If the state agency is a constituent unit, the following persons

14 shall serve as nonvoting members of the governing board of the
15 foundation unless the bylaws of the foundation provide that they be
16 voting members: The executive authority of the constituent unit, or his
17 designee, a student enrolled at an institution under the jurisdiction of
18 the constituent unit, who shall be elected by the students enrolled at
19 the institutions under the jurisdiction of the constituent unit, and a
20 member of the faculty of any such institution, who shall be elected by
21 the faculty of the institutions under the jurisdiction of the constituent
22 unit. Elections pursuant to this subdivision shall be conducted in
23 accordance with procedures for such elections established by the board
24 of trustees of the constituent unit;

25 (3) If the constituent unit is the [Board of Trustees of the
26 Community-Technical Colleges or the Board of Trustees of] regional
27 community-technical colleges or the Connecticut State University
28 System, the purposes of the foundation shall be limited to providing
29 funding for (A) scholarships or other direct student financial aid, and
30 (B) programs, services or activities at one or more of the institutions
31 within its jurisdiction;

32 (4) If the state agency is a public institution of higher education, the
33 following persons shall serve as nonvoting members of the governing
34 board of the foundation unless the bylaws of the foundation provide
35 that they be voting members: The executive authority of the
36 institution, or his designee, a student enrolled at the institution, who
37 shall be elected by the students enrolled in the institution and a
38 member of the faculty of the institution, who shall be elected by the
39 faculty of the institution. Elections pursuant to this subdivision shall be
40 conducted in accordance with procedures for such elections
41 established by the board of trustees of the constituent unit which has
42 jurisdiction over the institution;

43 (5) The governing board of the foundation shall annually file with
44 the state agency an updated list of the members and officers of such
45 board;

46 (6) The salaries, benefits and expenses of officers and employees of
47 the foundation shall be paid solely by the foundation;

48 (7) The foundation shall use generally accepted accounting
49 principles in its financial record-keeping and reporting;

50 (8) A foundation which has in any of its fiscal years receipts and
51 earnings from investments totaling one hundred thousand dollars per
52 year or more, or a foundation established for the principal purpose of
53 coordinated emergency recovery that operated in response to an
54 eligible incident, as defined in section 4-37r, during the fiscal year or
55 with funds that exceeded one hundred thousand dollars in the
56 aggregate, shall have completed on its behalf for such fiscal year a full
57 audit of the books and accounts of the foundation. A foundation which
58 has receipts and earnings from investments totaling less than one
59 hundred thousand dollars in each fiscal year during any three of its
60 consecutive fiscal years beginning October 1, 1986, shall have
61 completed on its behalf for the third fiscal year in any such three-year
62 period a full audit of the books and accounts of the foundation, unless
63 such foundation was established for the principal purpose of
64 coordinated emergency recovery and had completed on its behalf such
65 an audit for any year in any such three-year period. For each fiscal year
66 in which an audit is not required pursuant to this subdivision financial
67 statements shall be provided by the foundation to the executive
68 authority of the state agency. Each audit under this subdivision shall
69 be conducted (A) by an independent certified public accountant or, if
70 requested by the state agency with the consent of the foundation, the
71 Auditors of Public Accounts, and (B) in accordance with generally
72 accepted auditing standards. [The audit report shall include financial
73 statements, a management letter and an audit opinion which address
74 the] The auditor shall submit (i) a report that includes an opinion
75 regarding the financial statements and a management letter, and (ii) a
76 report that includes an opinion on conformance of the operating
77 procedures of the foundation with the provisions of sections 4-37e to 4-
78 37i, inclusive, and [recommend] recommendations for any corrective

79 actions needed to ensure such conformance. Each audit report shall
80 disclose the receipt or use by the foundation of any public funds in
81 violation of said sections or any other provision of the general statutes.
82 The foundation shall provide a copy of each audit report completed
83 pursuant to this subdivision to the executive authority of the state
84 agency and the Attorney General. Each financial statement required
85 under this subdivision shall include, for the fiscal year to which the
86 statement applies, the total receipts and earnings from investments of
87 the foundation and the amount and purpose of each receipt of funds
88 by the state agency from the foundation. As used in this subdivision,
89 "fiscal year" means any twelve-month period adopted by a foundation
90 as its accounting year;

91 (9) If the state agency is a constituent unit or public institution of
92 higher education, the foundation shall annually provide the following,
93 in accordance with the provisions of section 11-4a, to the joint standing
94 committee of the General Assembly having cognizance of matters
95 relating to higher education, the speaker of the House of
96 Representatives, the president pro tempore of the Senate, the majority
97 leader of the House of Representatives, the majority leader of the
98 Senate, the minority leader of the House of Representatives and the
99 minority leader of the Senate: (A) A list of the current members and
100 officers of the governing board of the foundation; (B) a copy of the
101 most recent annual report of the foundation; (C) a copy of the most
102 recent audited financial statements, management letter and audit
103 opinion of the foundation that are required under subdivision (8) of
104 this section; (D) a copy of the written agreement between the state
105 agency and the foundation that is required under subdivision (10) of
106 this section; (E) a copy of the written policy required under section 4-
107 37j; (F) a copy of any conflicts of interest policy of the foundation; (G) a
108 copy of the foundation's most recently filed Internal Revenue Service
109 form 990, including all parts and schedules that are required to be
110 made available for public inspection under the Internal Revenue Code
111 of 1986, or any subsequent corresponding internal revenue code of the

112 United States, as amended from time to time; (H) a copy of the bylaws
113 of the foundation; (I) a report of the total number and average size of
114 disbursements made to each public institution of higher education for
115 (i) undergraduate and graduate scholarships, fellowships and awards,
116 (ii) program and research support, (iii) equipment, and (iv) facilities
117 construction, improvements and related expenses, and (J) a list of all
118 deanships, professorships, chairs, schools, institutes, centers or
119 facilities of the state agency that were named in recognition of
120 foundation donors upon the approval of the board of trustees of the
121 state agency during the preceding fiscal year. The information
122 delivered under this subdivision shall constitute a public record and
123 shall be disclosed in accordance with the Freedom of Information Act,
124 as defined in section 1-200;

125 [(9)] (10) There shall be a written agreement between the state
126 agency and the foundation [which] that (A) addresses any use by the
127 foundation of the agency's facilities and resources including, but not
128 limited to, office space, storage space, office furniture and equipment,
129 utilities, photocopying services, computer systems and the
130 maintenance by the state agency of the books and records of the
131 foundation, provided any such books and records maintained by the
132 state agency shall not be deemed to be public records and shall not be
133 subject to disclosure pursuant to the provisions of section 1-210, (B)
134 provides that the state agency shall have no liability for the
135 obligations, acts or omissions of the foundation, (C) requires the
136 foundation to reimburse the state agency for expenses the agency
137 incurs as a result of foundation operations, if the agency would not
138 have otherwise incurred such expenses, (D) in the case of foundations
139 established for a constituent unit of the state system of higher
140 education or for a public institution of higher education, requires the
141 foundation to establish and adhere to an investment policy and a
142 spending policy that are consistent with sections 45a-535 to 45a-535i,
143 inclusive, [and] (E) on and after July 1, 2017, if the state agency is a
144 constituent unit or a public institution of higher education, provides

145 that (i) the total cash compensation to be paid in a fiscal year by the
146 state agency to the foundation shall decrease from the amount paid in
147 the preceding fiscal year or the amount paid in the fiscal year ending
148 June 30, 2016, whichever is greater, by (I) one million dollars when the
149 market value of the foundation's endowment fund as of January first
150 of the preceding fiscal year is equal to or greater than five hundred
151 million dollars but less than seven hundred million dollars, (II) one
152 million five hundred thousand dollars when the market value of such
153 fund as of January first of the preceding fiscal year is equal to or
154 greater than seven hundred million dollars but less than nine hundred
155 million dollars, or (III) three million dollars when the market value of
156 such fund as of January first of the preceding fiscal year is equal to or
157 greater than nine hundred million dollars but less than one billion two
158 hundred fifty million dollars, (ii) no cash compensation shall be paid
159 by the state agency to the foundation when the amount in such
160 foundation's endowment fund as of January first of the preceding
161 fiscal year is equal to or greater than one billion two hundred fifty
162 million dollars, and (iii) if the market value of the foundation's
163 endowment fund as of January first of the preceding fiscal year
164 decreases below any of the thresholds stated in subclause (I), (II) or
165 (III) of clause (i) of this subparagraph, then the amount of the cash
166 payment to the foundation shall be increased to equal the same
167 amount that was paid to the foundation prior to exceeding the
168 threshold in subclause (I), (II) or (III) of clause (i) of this subparagraph,
169 until the July first following a January first on which the market value
170 of the foundation's endowment fund again exceeds such threshold, (F)
171 on and after July 1, 2017, requires the foundation to use reasonable
172 efforts to raise gifts and commitments each fiscal year for student
173 support, including, but not limited to, scholarships, assistantships,
174 fellowships, awards and prizes, that equal not less than fifteen per cent
175 of the total amount of all gifts and commitments raised by the
176 foundation in the same fiscal year, and (G) provides that if the
177 foundation ceases to exist or ceases to be a foundation, as defined in
178 section 4-37e, (i) the foundation shall be prohibited from using the

179 name of the state agency, (ii) the records of the foundation, or copies of
180 such records, shall be made available to and may be retained by the
181 state agency, provided any such records or copies which are retained
182 by the state agency shall not be deemed to be public records and shall
183 not be subject to disclosure pursuant to the provisions of section 1-210,
184 and (iii) there are procedures for the disposition of the financial and
185 other assets of the foundation. If the state agency is a constituent unit,
186 the board of trustees of the constituent unit shall approve such
187 agreement. If the state agency is a public institution of higher
188 education, the board of trustees of the constituent unit which has
189 jurisdiction over the institution shall approve such agreement; and

190 [(10)] (11) If the foundation is established for the principal purpose
191 of coordinated emergency recovery, the Department of Emergency
192 Services and Public Protection shall be deemed the state agency for
193 purposes of this section, and the deputy commissioner of said
194 department with jurisdiction over the Division of Emergency
195 Management and Homeland Security shall be deemed the executive
196 authority for purposes of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2017</i>	4-37f

Statement of Purpose:

To increase the transparency of and accountability for the activities of the foundation of The University of Connecticut.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]