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Any comments concerning the contents in *The University of Akron Chronicle*
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February 17, 2005 – Special Faculty Senate Meeting

The special meeting of the Faculty Senate was held Thursday, February 17, 2005, in Room 201 of the Buckingham Center for Continuing Education (BCCE). The meeting was called to order at 3:12 p.m. by Senate Chair Rudy Fenwick.

Thirty-two of the sixty-two Faculty Senators were in attendance for this meeting. Senators Johanyak, John, Kreidler, Kushner Benson, Linc, Londraville, Pelz, Shanklin, Slowiak, and Wilkinson were absent with notice. Senators Braun, Cheung, Garn-Nunn, Hixson, Kelly, Krovi, Kushner, Lowther, Maringer, Matney, Pfouts, Pirock, Qammar, Riley, Soucek, Stachowiak, Vijayaraman, Witt, and Yoder were absent without notice. Thirty-one senators were needed for a quorum.

I. Approval of the Agenda – The Chair thanked everyone for their indulgence while waiting for a quorum to arrive, “and by the Chair’s count, we have thirty-two (32) Senators. Thank you for coming out this afternoon for this special meeting, for what many people feel is a very important issue.”

He asked for approval of the day’s Agenda. The motion was made by Senator Erickson and seconded by Senator Yousey. With no further discussion, the motion approving the agenda passed.

II. Remarks of the Chair – The Chair again thanked everyone for attending the special meeting. “It’s very cold out there and I’m sure that most of us have other things that are more immediately pressing, except when you think about this, it strikes at the heart of what we do, at the heart of our discipline. Whether you are in favor of Senate Bill 24 or not, its proponents see it as extending academic freedom; its opponents say that it severely constrains and undermines academic freedom. Academic freedom, once again, seems to be the one thing that we’re most concerned about, one of the things vital to this discipline.”

The Chair provided background and context for the bill. Senate Bill 24 (**Appendix A**) is modeled on similar bills in other states. One was passed in Georgia last year and another was defeated in California last year. “I believe at this time there is a bill also in the State Legislature in Indiana that is very similar.”

Proponents argue that it protects and extends academic freedom; opponents argue that it undermines academic freedom and it has the potential for inviting legislators and academic leaders directly in classroom instruction. “As you know, Youngstown State University’s Academic Senate passed a similar resolution to what we are going to be debating today.” In fact, the resolution we offer is modeled on the Youngstown State resolution, with appropriate changes for the University of Akron rules.

Ground rules were explained for this debate: the Chair expected a full, open debate, a complete debate. “Individuals on all sides of this issue should feel free and unimpeded to express their position. All positions should—again—be respected by other senators in this debate.” It was expected that the debate should be about the issues involved, either the issues raised by the Bill itself, whether the Bill is needed,

whether the Bill addresses the problems that it sees, whether it does more harm than good, whether it does all harm and no good, or issues of the resolution. It needs to be ascertained whether our resolution adequately expressed the sentiments of this body. “We should not engage in self-censorship by doing nothing; we need to take a stand, whatever that might be.”

Chair Fenwick introduced Senator Konet who gave the Executive Committee report, in the form of the Resolution (see **Appendix B**).

III. Reports

a. Executive Committee

Senator Konet read the text of the *Resolution in Opposition to Senate Bill 24, The University of Akron Faculty Senate*:

WHEREAS, Senate Bill 24, also sometimes described as an “academic bill of rights,” has been introduced into the 126th session of the Ohio General Assembly; and

WHEREAS, Senate Bill 24, if adopted into law, could impose serious and unnecessary restrictions on the methods of teaching, research, and grading used by college and university faculty; and

WHEREAS, Senate Bill 24 contains language so vague as to invite frivolous and unwarranted challenges to practically every aspect of university life; and

WHEREAS, Senate Bill 24 imposes a chilling redefinition of academic freedom by insisting that instructors not introduce controversial matter into the classroom on a “persistent” basis; and

WHEREAS, Senate Bill 24 is superfluous because the student rights that it purports to guarantee are already protected by the University of Akron Administrative Code, Rule 3359-42-01, Students Rights and Responsibilities; by the Ohio and United States Constitutions; and by the United States Supreme Court decision in *Keyishin v. Board of Regents* (1967); and

WHEREAS, there is a long accepted ethical standard for academic freedom, promulgated in 1940 and 1970 statements by the national, professional association, the American Association of University Professors, and which this body endorses and recommends to all concerned;

NOW, THEREFORE, BE IT RESOLVED, that the Faculty Senate of The University of Akron opposes Senate Bill 24 both in spirit and in substance;

AND BE IT FURTHER RESOLVED, that a copy of this Resolution shall be provided to the Ohio Faculty Council, to the Faculty Senate or similar body of every institution of higher education within Ohio and to the appropriate Ohio legislators.

The Chair stated that since the motion came from the Executive Committee, it did not need a second. He then asked for discussion or comments. Senator Steiner offered an amendment to this resolution. The amendment, written and submitted by Dr. William Lyons, was distributed as a handout (**see Appendix C**). The Senator proposed that the following two clauses replace the third and fourth ‘WHEREAS’ clauses in the resolution being discussed:

WHEREAS, Senate Bill 24 contains language so vague that it is likely to invite the official encouragement and support of student disrespect for the instructor’s role as their mentor and the facilitator of serious scholarly inquiry in the classroom, a role that by definition requires professors to regularly, even persistently, introduce students to dissenting views and controversial issues; and

WHEREAS, portions of Senate Bill 24 recognize the importance of academic freedom, other portions include language that could be interpreted as providing administrators or legislators the power to determine for instructors how to examine controversial scholarly debates relevant to their fields of expertise, which contradicts earlier portions of the bill seeking to protect academic freedom by providing “a learning environment in which the students have access to a broad range of serious scholarly opinion” through the “fostering of a plurality of serious scholarly methodologies and perspectives”; and

Chair Fenwick asked for a second to this proposed amendment. Senator Lillie seconded it. The Chair then asked if there was any discussion on the amendment to replace the present third and fourth ‘WHEREAS’ clauses. Senator Gerlach stated that he supported the proposed amendment, “partly on the grounds that the [current] second ‘WHEREAS’ seems to me to be in itself vague: ‘could impose serious and unnecessary restrictions...’—but such as what? I think it’s too vague and could very well be replaced. Likewise, the next ‘WHEREAS’ dealing with ‘inviting frivolous and unwarranted challenges.’ So vague again; what particular examples do we have? I think that the language of those two ‘WHEREAS’ clauses could decently and properly be replaced by the amendment you have before you.”

Senator Lillie requested clarification. “It’s my understanding, and please correct me if I’m wrong, but that the amendment is not to replace the second and third ‘WHEREAS,’ but the third and fourth ‘WHEREAS.’ Is that correct?” Chair Fenwick confirmed that Senator Lillie was correct.

Senator Lillie drew everyone’s attention to the amendment being addressed. “It is my understanding of the amendment itself that the intent—when I seconded it—was to replace the third and fourth ‘WHEREAS’ not the second and third.”

Senator Gerlach asked permission to speak again, indicating that this was his mistake. “All the more reasons I still support that the last ‘WHEREAS’ be replaced. The statement ‘introducing controversial matter into the classroom on a persistent basis,’ is not an accurate reflection of what the bill actually says. It says, introduce controversial matter that has *no relation* to their subject of study and serves no legitimate

pedagogical purpose.’ That full explanation needed to be made if you’re going to talk about persistently doing this. Since it didn’t I’m glad to see an opportunity to strike out that language and replace it with the amendment itself.”

The Chair invited discussion. Senator Rich expressed his support for the proposed amendment saying that he was actually going to make the point that Senator Gerlach just made, that it was a misleading characterization of that provision and that we needed to be careful not to be guilty of the same sort of thing that we’re criticizing here.

The Chair again asked for further discussion of the amendment. Hearing none, he asked those in favor of the amendment to replace existing ‘WHEREAS’ clauses three and four with those amended by Senator Steiner to say ‘aye.’ The amendment passed unanimously.

Senator Stratton commented that he had sent out email to his colleagues to get feedback on the resolution and one of the comments was that there seemed to be a very negative and defensive posture in this particular resolution. In response to this concern, he proposed another amendment with two additional ‘WHEREAS’ clauses after the first one (**Appendix D**):

WHEREAS, the Faculty of the University of Akron has long respected research and scholarship in all disciplines, and

WHEREAS, study and discussion of historic and accepted theories balanced by discussion of critique and evolving viewpoints, helps advance both the education of students and general advancement of knowledge that is essential to the economic well being of the State of Ohio, and

The Chair asked if there was a second to the motion; it was seconded by Senator Erickson. The Chair then asked for clarification about the wording. “Is the word ‘critique’ meant to be ‘critique,’ ‘critiquing’ or ‘critical’? After some discussion about vocabulary and intent, the second ‘WHEREAS’ clause was modified to read:

WHEREAS, study and discussion of historic and accepted theories balanced by critique and discussion of evolving viewpoints, helps advance both the education of students and general advancement of knowledge that is essential to the economic well being of the State of Ohio, and

Chair Fenwick asked for further discussion. Senator Stratton pointed out that the change of wording changed the meaning as he understood it. “The ‘critique’ is also of accepted and historical theories not just of new points of view. Whereas, your wording would tend to lean toward the critique of the evolving viewpoints. I think that’s a change that I would not support.”

Chair Fenwick explained that his wording was intended to be a critique of existing theories and discussion of new theories. Senator Clark proposed amending the clause in a slightly different way, to read: ‘Whereas, study, discussion and critique of accepted historic and accepted theories that are balanced by evolving viewpoints,’ removing the word ‘critique’ at the other juncture.”

Senator Lenavitt expressed concern that all of the “whereases” in the world were not going to get anything done. He wondered if it was possible to just say, ‘no’ as opposed to ‘whereas, whereas, whereas.’ He suggested simplifying it to “we don’t agree with this and that’s not what education is about.” He continued that, “we’re not writing legislation—we’re just feeding more information and data to a group and asserting that several thousand people on the campuses around the State do have some power in the vote ultimately.”

Senator Drummond stated that he had reviewed the Code of Student Rights and Responsibilities before attending the day’s meeting and the things intended in here [Senate Bill 24] are already protected in the code. “We can just say, ‘we don’t want this’—because it’s already being done, as far as protecting rights of students to not be beaten academically. The second ‘WHEREAS’ says, ‘unnecessary restrictions on teaching, research and grading,’ I don’t know if there was any problem in grading. If we complain about it, are we already biased? To be honest, the simpler the better; like the engineers say, “keep it simple.” If it’s already being done, it’s already being done.”

Senator Covrig expressed his feeling that we are servants of the State of Ohio and because of that we don’t go out of our way to antagonize; we want to show ourselves gracious before we say, ‘no.’ “You always agree before you disagree; we’re part of a community and we recognize that and I think it clarifies that. It’s long-winded, though, unfortunately.”

Senator Chlebek then stated that she felt exact language was critical so as not to appear as obstructionist to this statement that somehow clarifies and even extends the academic freedom of students. Otherwise we would be seen as enemies of students.

Senator Lillie interjected that he sympathized with what had been said. “I wish we could just say, ‘no.’ Part of what we are trying to defend here is this: ‘teachers are entitled to freedom in the classroom in discussing their subject, but they should be careful not to introduce into their teaching controversial matter that has no relation to their subject.’ That’s the Academic Freedom Statement from the American Association of University Professors from 1940. Does that sound familiar? Do we really want to be on record in this body as saying to the Ohio Senate, ‘no we don’t like your bill at all’ when it includes language that comes from some of the documents that we really believe are at the foundation of academic freedom? I’m not sure we want to do that. I’d like to; part of me wants to, but I think it’s important for us to recognize that this is an insidious bill. That’s what it boils down to and much of it is not objectionable. I think Bill Lyons in his column in the newspaper put it very well. Much of it is not objectionable; it’s stuff that we want to say and believe is right. What I find objectionable—my personal point of view—is not so much the language but the so-called enforcement mechanism. ‘Each Board of Trustee shall develop a policy which WILL tell you what you can say in the classroom and what you can’t say.’ That’s where the problem is for me.”

The Senator continued, “I know a lot of people are opposed to David Horowitz’s Academic Bill of Rights, but I actually took the trouble to read it. If you look at it on its surface, it’s not objectionable in and of itself, standing alone. It is this interpretation, it is this kind of political influence, it is people using it as a political club that becomes a problem. So, I would support us making sure that this resolution says enough so that we don’t get ourselves caught in a trap of being ‘those arrogant college professors who don’t even know what their policies say.’”

Senator Hebert commented that we tend to be a bit long-winded and he did not want to get into each ‘WHEREAS,’ but when you’re doing something like this it is extremely important to provide justification for *why* you are objecting. “If you just say, ‘no,’ then you’re labeled as obstructionist. If you give the reasons why you’re objecting and it makes some sense and has some logic to it, then you are on much better ground.”

Senator Steiner asked for the status of what was being discussed. He thought it was the amendment that Dr. Stratton proposed. “I understand this is germane to the issues, but feel that we are sort of drifting away a little bit and request that we get back to that and be clear that we’re going with the original wording? You’ve not accepted any changes to that?” Senator Lillie questioned if it was an amendment to the amendment.

Chair Fenwick then commented that he had a grammatical critique here. ‘Critique’ itself is a noun and ‘evolving’ is an adjective. “I’m not an English professor. Any further discussion to rephrase the amendment by ‘critique and discussion of evolving viewpoints’?” Senator Konet reminded everyone about the discussion currently on the table. “Senator Stratton had indicated that it changed the meaning of the original intent. Were we still debating the original intent?” Chair Fenwick replied with, “No, we’re debating whether to change the wording.” Senator Lillie countered with, “We’re debating whether to amend. Senator Stratton’s view is that it changed the original intent.”

WHEREAS, study and discussion of historic and accepted theories balanced by critique and discussion of evolving viewpoints, helps advance both the education of students and general advancement of knowledge that is essential to the economic well being of the State of Ohio, and

Senator Norfolk called the question. Chair Fenwick reminded everyone that a two-thirds vote was needed to call the question; it also needed a second. “Or we can just ask if there’s any more discussion on the amendment to the amendment.” Senator Steiner seconded the call the question. Chair Fenwick confirmed that the call had been seconded. “There is no discussion on the call for the question, so a two-thirds vote is needed.” All those in favor of calling the question were asked to raise their hands.” (The final hand count: 19 in favor; 7 opposed.)

The Chair announced that it was a clear majority and the question was called. “So we will now vote on the amendment to the amendment.” He asked if anyone wanted to have the amendment read. (*No one indicated that they did.*) He instructed all those in favor of amending the amendment to please say, ‘aye.’ The amendment to the amendment passed. The Chair asked if there was any more discussion on Senator Stratton’s amendment. (*None was indicated.*) All those in favor of the insertion of the two ‘WHEREAS’ clauses into the resolution were instructed to indicate that by saying ‘aye.’ The body responded unani- mously to do this. “It passes, so we will include those two ‘WHEREAS’ clauses. Now back to the main motion.”

Senator Gerlach proceeded to suggest a motion that would simplify the resolution. “A number of these ‘WHEREAS’ clauses that you have added and that I voted for are unnecessary. I think we could start out with the first ‘WHEREAS’ that introduces the subject and strike out all the others until you get to the

‘WHEREAS’ clause which says that “Senate Bill 24 is superfluous because...” That’s all we really need to say to express our opposition and questions about the bill. Just say that it is superfluous—we’ve already covered our bases—and forget it. Maybe we ought to remind the legislators of the old saying that, ‘when legislatures are in session, our liberties are in danger.’ But I would might need to introduce another ‘WHEREAS’ clause for that.”

The Chair confirmed that the Senator was motioning an amendment. Senator Gerlach stated that, yes, he wanted to strike out all of the ‘WHEREAS’ clauses, then resume with ‘WHEREAS Senate Bill 24 is superfluous because...’ Chair Fenwick questioned if everyone was clear on the amendment to strike out 1-A and 1-B, 3 and 4 as well. Hearing no questions, he asked for a second. “Is there a second to the amendment that Senator Gerlach has offered?” Senator Drummond seconded it; the Chair then opened it for discussion.

Senator Rich said that “as much as I like conciseness, I think as it is written it is rather long-winded and that is unfortunate, I’m afraid that just saying this is already covered is not quite enough because the obvious response to that is: what’s the harm of adding this to the law? There are responses to that, but there are, in fact, some other problems with this. I agree that this is a cleverly-constructed bill, but I don’t think it’s true—apart that it has an enforcement mechanism—it’s just fine. That’s not quite true. What troubles me about it, actually, is that it doesn’t attempt to require a balance of viewpoints in individual reading lists if given. That is often present, but we individually make decisions about how to construct reading lists. I, for example, am sort of fond of teaching against the text, so I often include an imbalance of viewpoints that favors viewpoints opposed to my own. I think we all need to make those kinds of judgments on the basis of our professional expertise and pedagogical theories. There are a few other things in here that are similarly problematic even though it is clever enough to put us in a position to seeming to argue against things that nobody should argue against. For these reasons I can’t agree to eliminating all of the ‘WHEREAS’ clauses except for the one that would be left by this amendment, though I would be receptive to something that would pare it down.”

Senator Lenavitt raised the question of “who is the ‘audience’ for this resolution?” From his perspective, the ‘audience’ consists of the representatives of the State for the academic Senate. Therefore, legislation is not being written or negotiated, nor is it in conflict management. “What we are doing is writing information to go to representatives at the State level. The warrant of the argument is the claim that the Boards of Trustees, who are political appointments, and that the Legislature carry a fiduciary responsibility for academia and they don’t, because the faculty do. We can pare this down and get rid of the passive and qualifying language that we would never allow our students to put into one of their own essays. I would rather make a statement of where we are as we would ask our students to do in an academically challenging environment. The first ‘WHEREAS’ states the preferred formalism and the last ‘WHEREAS’ states the formalism of the warrant of the argument: are the Legislature and the appointed Boards of Trustees going to be responsible for academia. I agree with what we’re saying, I would just like to pare down the language.”

Senator Siebert raised the question about one of the provision of the Bill itself. “In point (A) on page two (2), it says, “In the humanities, social sciences, and the arts, the fostering of a plurality of serious scholarly methodologies, etc.” I’ve been out of the country for ten days at a conference and don’t know

what's been going on in the press related to this, but why are they not including the natural sciences? Why are they singling out all of the humanities, social sciences, and the arts? I don't know whether this is relevant to the discussion, but I'm curious about the intent of the Legislature."

Senator Witt responded, "well, I can't speak to the intent of the Legislature, but the *Columbus Dispatch* had some quotes from one of the sponsors of the Bill where he referred to the faculty as, "eighty percent Socialists, Democrats and card-carrying Communists." I don't think that the Bill accurately reflects the intentions of the sponsors of the Bill. The intention of the Bill has nothing to do with what it says. If they single out the social sciences it is because that's where the perception is of most of the left-wing sentiments that go against their political concerns."

Senator Lillie reminded senators that the reason why it's phrased that way is because in Horowitz's original writing, that's how he wrote it. "There's a little clause in the Academic Freedom Statement that I read earlier—also from the same document—that want to ask if it sounds familiar. This is the clause on the statement I read—'...careful about introducing controversial matter that has no relation to the subject...'—and this is from 1970, 'the intent of this statement is not to discourage what is controversial; controversy is at the heart of the academic freedom that the entire statement is designed to foster.' This passage serves to underscore the need for teachers to avoid *persistently* intruding material which has no relation to their subject. So part of the reason that 'persistently' is in there is because it comes from this document and from similar documents. I guess I'm saying this because I want to support the notion of, even though it is wordy, keeping some of this stuff in, because I think it does give us some of the explanation that might be necessary from time to time or at least it lets people, who perhaps are not as familiar with some of these things as the rest of us are, know that we do have some kind of a rationale for it, even if it is a little wordy. I'm not opposed to somebody coming up with something that is more concise and just as substantive, but at this point, barring that, I would not support Senator Gerlach's motion."

Senator Norfolk then posed the question, "given Senator Lillie's comment as someone who is coming out of the AAUP and Horowitz's work, does anybody know who actually wrote this bill?" Senator Witt responded that we knew who sponsored the bill. Senator Norfolk felt that knowing who *wrote* the bill was more germane, however. There did not appear to be a clear answer to this question. Chair Fenwick commented that this bill is very similar to the one that passed in Georgia a few months ago.

Senator Brooks rose to speak against the motion. "We have been talking here about the purpose of doing this and who we are convincing and who are we not convincing. I think we need to think very seriously about this. We must realize that no matter how we phrase it—short or long—it probably is not going to be well thought of or taken very seriously in the Legislature. If we're thinking that what we do today is going to change legislators' minds, I think we need to think again about this." He shared his sense of what we were trying to accomplish. "We are trying to make a statement of what the Faculty Senate at the University of Akron believes when looking at this legislation. To me, that cannot be done in just a couple of words. As we have talked about here today, our concerns are nuanced. They are not clearly 'A' or 'B.' I don't like all the wordiness like anybody else, but in essence that is what parliamentary procedures forces us to do when making resolutions, speaking to the 'WHEREAS'es plus I also think we need to be very clear about the two 'WHEREAS' clauses that we amended that point out the difficulties of the logic of the legislation. These are very important to express our viewpoints of what we do not like about it."

Senator Huff also spoke against the amendment. “If I understand this correctly, the resolution comes from Youngstown and, I think, one of the earliest memos or emails that I saw on this was from Tom Shipka who, I believe, is still Chair of the Ohio Faculty Council.” The Chair confirmed that Mr. Shipka was Chair last year.

Senator Huff went on to say, “I’m guessing that he has contacts in Columbus or with the Ohio Faculty Council or the Board of Regents, that he may have been alerted to this, and was concerned and took the initiative. Youngstown crafted a document—it’s not perfect, but they got something in writing, discussed it, voted on it and passed it. They passed it on to us and there’s one way of thinking about this: that it would be good if all of the schools in the State could pass an identical document so that it could be used to try to persuade legislators that we have unanimous agreement about our response to this. But that’s not going to happen, so hopefully what we’ve been doing is making some improvements on the resolution. One of the places that it’s going to go is to other institutions that have not spoken on this issue. So, I think the idea that we maybe improved it, clarified a little of the language, then we pass it on, hopefully other schools will be inspired to go ahead and discuss the issue and maybe offer an opinion before this comes up for a vote. But we also should consider that if this is dismissed this year, it may come up for a vote again next year or the year after that. It’s probably going to be good that we already have some of these ideas sorted out and offered them to other schools.”

The Senator went on to add as an aside, “the Chancellor of the Board of Regents—when I was representative to the Ohio Faculty Council—used to refer to a portion of the Legislature as the ‘Caveman Coalition,’ who was determined to turn the clock back in this State as far and as fast as they possibly could. Without naming any names or pointing any fingers, there is a portion of the Ohio Legislature that’s not going to be the least bit impressed by anything that we say or do. But I’ve got to believe that there are still legislators there who will listen and we’ve got to present them with a good, persuasive argument.”

In response to Senator Huff’s comments, Senator Norfolk felt that there is a danger in passing a document that is very similar or identical throughout the State cause it could reinforce the idea—to people proposing the bill—that we are all flaming liberals. “There is a danger in doing things that way.”

Chair Fenwick asked if there was any other discussion on the motion. Hearing none, all of those in favor of Senator Gerlach’s motion to delete all ‘WHEREAS’ clauses between one (1) and five (5), until the paragraph that begins with ‘superfluous’ were instructed to say, ‘aye.’ (*Some of the body responded with ‘aye.’ All those opposed, said ‘nay.’*) The majority of the body responded with ‘nay.’ The amendment was defeated so we were back to the main motion.

The Chair asked for any further discussion on the main motion. Senator Rich offered what he hoped would be a completely uncontroversial amendment to correct the spelling of ‘Keyishian.’ There should be an ‘a’ before the ‘n’ in the name ‘Keyishian.’ Also, in the last ‘WHEREAS’ clause, he did not see a reason for the ‘and’ in front of the ‘which’ in that final clause. He thought it should be ‘which this body endorses.’ Finally he proposed a more substantive motion; he moved to delete both ‘in spirit and in substance’ in the first ‘resolved’ clause. The motion was seconded by Senator Covrig.

Senator Rich went on to say, “when you we’re opposed to this ‘in spirit’ you are attributing motive to the proponent. While I personally have some views about their motives, I don’t think it’s wise to impugn

the motives of the proponent of the legislation. I think we should say why we are opposed to it, what we think the flaws are. There is a danger that when you say ‘we are opposed to it in spirit’ you could be taken as saying we are opposed to academic freedom. I would just get rid of that phrase completely.”

The Chair asked if there was any further discussion of the amendment of the first ‘resolved’ clause. Hearing none, the motion was voted upon and passed unanimously. The discussion returned to the main motion.

Senator Norfolk raised a question. “It’s obvious as Senator Brooks said that we understand the potential problems that give rise to resolutions like this. There are valid reasons to discuss such things. But the State is in terrible shape; the country is in not much better shape, why is this the most important thing that our State Senate can deal with? Can’t we say that succinctly and, hopefully, *humorously* in such a way that it gets public view and say, ‘is this quite the thing that you want to be remembered for doing?’”

Senator Lillie expressed appreciation for what Senator Norfolk was saying, but reminded everyone that “these folks are very serious. “It’s not a joke, it’s not the subject of a joke, it’s not the subject of something that’s funny. These folks believe it—these are good people, they don’t kick their dogs, they don’t beat their kids—they really believe this. They really believe this is going to be helpful. I think that one of the things we need to do is to be serious and respectful, which I think other Senators have said here, when we are expressing why we’re opposed to it. If we don’t respect their right to say what they think, why should they listen to us? I think, in one sense, we are modeling the kind of way that we think these things ought to be addressed. I admit that I’ve got this feeling that I’d like to just say—as you’ve said—“don’t you guys have anything better to do?” But I’m not sure how we could do that without really coming across as sort of fulfilling a stereotype, and I really don’t want us to do that. I don’t want to give these folks, who honestly believe that this is the right stuff and that they’re doing the right thing—that it’s on behalf of the students, that it’s going to be for the students, and that it will help the University and the State—I don’t want to give them any kind of opportunity whatsoever to say, “oh well, it’s just those arrogant faculty members talking; forget about them.” My feeling would be: we’ve got a pretty serious, straightforward explanation here—it’s a little long-winded. We’ve got: we think academic freedom is important, we think it covers all points of view, we should not be seen in any way whatsoever to be at all disrespectful of somebody else’s point of view if we are really serious about academic freedom.”

Senator Hebert questioned if there was any motion on the floor. Chair Fenwick responded that the main motion was still on the floor. Senator Hebert noted that the resolution that we received from Youngstown had an adjective before the word ‘opposes.’ He wondered if we might also want to put an adjective in front of ‘opposes’ since just to oppose it seemed kind of lukewarm. He felt we ought to put some “punch” there by using the word ‘vigorously’ or something else appropriate. Senator Gerlach responded by saying, “it seems to me that having stricken out the words ‘both in spirit and substance,’ we are left with a rather bland statement about, ‘we oppose the bill.’ So what? Rather than emphasize anything on opposition, let us have the words—and I move that we have the words—“and urges the Ohio General Assembly to reject it.” That’s what you want to say. So we oppose it and they’ll say, ‘so what?’ Well, we ask them—urge them—to reject the Bill.” Senator Covrig seconded this motion.

Chair Fenwick asked for further discussion on the amendment. Senator Norfolk suggested adding the word ‘adamantly.’ The Chair indicated that ‘adamantly’ could not be added at this point. “The amendment that has been made and seconded includes a new phrase in the first “resolved” clause: “and urges the Ohio Assembly to reject it.” Senator Lillie requested a point of order, “is it the ‘Ohio General Assembly’?” This was confirmed.

Chair Fenwick asked for discussion of the amendment. Senator Covrig supported the amendment but cautioned against adding too many adjectives. “It’s like the parent that says, “No, really, no. No, really, no.” If you really mean, ‘no,’ then just say ‘no.’ I think this conveys what we want them to do: we want an action out of it. It’s a good sequence—we oppose and this is what we expect. Adding words means you’re weak basically, in my experience; just say what you want.” Hearing no further discussion, the Chair asked that all in favor of adding the phrase, “and urges the Ohio General Assembly to reject it,” please say ‘aye.’ (*The body responded unanimously to accept it.*) The motion carried and discussion went back to the main motion.

Senator Drummond asked if the original Senate paragraph was still in the resolution. The Chair confirmed that it was. Senator Drummond expressed concern about the phrase, ‘restrictions on methods of teaching, research and grading.’ “The bill states that the ‘students shall be graded solely on the basis of reasoned answers and appropriate knowledge of the subject of the disciplines they study and shall not be discriminated against on the basis of political, ideological or religious beliefs.’” The Senator was concerned that the bill would impose restrictions on grading, and “I move that we strike ‘grading’ from paragraph two (2).” Senator Hebert seconded the motion and the Chair opened the discussion.

Senator Norfolk provided an example of what he thought this phrase was addressing. “A student who is particularly religious in a particular perspective who wishes to be a doctor has to take a course in Evolution Theory, as they do in many pre-med schools, who then writes as their answers, “this is all wrong; I know so because my religion tell me” is, by the wording of this Bill, potentially supposed to get an ‘A.’ They can’t be discriminated against; they are not returning the knowledge they’ve been given, so I believe—I suspect—that some of that is in that bill for *that* reason.”

Senator Schantz rose to speak against the amendment. “Many of us *do* assess students on things other than purely their appropriate knowledge and discipline. For example, some students may be assessed on a participation component or some students may be assessed on attendance or other factors other than simply appropriate knowledge of subject.”

Hearing no further discussion, the Chair asked all those in favor of the amendment to strike ‘grading’ from the second ‘WHEREAS’ clause, to say ‘aye.’ (*No one voted in favor of this.*) The motion was unanimously opposed. The motion failed and discussion returned to the main motion.

Senator Gerlach challenged the second ‘WHEREAS’ clause, ‘if adopted into law, would impose serious and unnecessary restrictions, etc.’ “I think this is a very vague bit of supposition—‘could impose,’ ‘might impose’—what are we imagining here? Are we not being paranoid about this? Such as what—is the question I ask. I don’t think it’s specific enough. I think since we have made other alterations which, in essence, strengthened the language, which I felt I could support, this is still a defective clause and I would

like to move to delete that one.” Senator Steiner seconded it and the Chair asked for further discussion. Hearing none, the Chair asked all those in favor of the amendment to strike the second ‘WHEREAS’ clause to raise their hand. (*In favor*: 10) Those opposed then raised their hand. (*Opposed*: 19) The amendment failed 19 to 10. Discussion returned to the main motion.

Senator Covrig motioned to change ‘superfluous’ to ‘unnecessary.’ “I’m simple, so I guess I like the word ‘unnecessary’ instead of the word ‘superfluous,’ which kind of sounds like a nice “college” word, but ‘unnecessary’ would make it simpler.” Senator Gerlach seconded the motion because, “every motion deserves a vote, up or down.”

Chair Fenwick opened the floor for discussion of the motion. Hearing none, he instructed those in favor of ‘unnecessary’ rather than ‘superfluous’ to please say ‘aye.’ (*Some of the body responded in favor and others responded with ‘nay.’*) The outcome was unclear so a hand vote was taken. The final hand count: *In favor*, 8; *opposed*, 15. The motion failed, returning to the main motion.

Senator Rich reminded senators that President Proenza, in his email message, suggested that we confer with John LaGuardia about the prospects of the bill in the Legislature. He wondered whether anyone had done so. The Senator expressed his support of the resolution, but had concerns that, “if this is not achieving a high profile in the legislature already, if its prospects of success are not very high, the resolution might actually help to elevate the attention level that it gets and have the opposite effect of the one that was desired.” If someone had spoken with John LaGuardia about the issue, what had he said?

Senator Lillie interjected another question. “It seems that I’m hearing two different things. One is that it doesn’t matter what we do, they aren’t going to listen anyhow. Now I’m hearing that it might bring it to the front of their plate. Which is it?”

The Chair responded to the question posed about speaking to John LaGuardia. “The word from LaGuardia’s office is that it’s been in committee since January 26. It is not out of committee yet, so we don’t know.” Presently, we have no knowledge from other contacts in Columbus about the outcome.

Senator Siebert questioned if anyone knew the Governor’s view and would he veto it? Chair Fenwick responded that he had not heard. Senator Covrig then stated, “this is a wonderful democracy and this is an act of democracy on our part—to participate and feed the other servants of the State—the legislators—with their own perspective. We don’t want to put up billboards, but I think this will be the appropriate conveyance of the democratic spirit in this wonderful State of Ohio.”

Senator Hebert called the question. Chair Fenwick confirmed that the question had been called and required a two-thirds vote. All in favor of calling the question were to raise their hand. (*Final count: In favor*, 29, *with one opposed*.)

Senator Lillie asked for a point of order. “Isn’t it two-thirds of those voting, but not two-thirds of the body?” Chair Fenwick confirmed that this was correct and continued the vote. The motion to call the

question carried. Returning to the main motion, the Chair asked that all those in favor of the resolution in opposition to Senate Bill 24, to please say ‘aye.’ (*The majority of the body responded in favor.*) There was one dissenting vote and one abstention.

(See Appendix E for final, approved resolution in opposition to Senate Bill 24.)

Chair Fenwick asked if there was any further business, good of the order or a motion to adjourn. Senator Erickson motioned to adjourn; Senator Hajjafar seconded it.

The meeting adjourned at 4:20 p.m.

Transcript prepared by Linda Bussey

APPENDICES TO MINUTES

FACULTY SENATE
SPECIAL MEETING
FOR
FEBRUARY 17, 2005

APPENDIX A

Text of Proposed Senate Bill 24

The text of this bill was obtained from the 126th Ohio General Assembly website:

[http://www.legislature.state.oh.us/bills.cfm?ID=126 SB 24](http://www.legislature.state.oh.us/bills.cfm?ID=126_SB_24)

As Introduced

126th General Assembly Regular Session 2005-2006

S. B. No. 24

Senators Mumper, Jordan, Cates, Wachtmann

A BILL

To enact sections 3345.80 and 3345.81 of the Revised Code to establish the academic bill of rights for higher education.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3345.80 and 3345.81 of the Revised Code be enacted to read as follows:

Sec. 3345.80. The board of trustees of each state institution of higher education, as defined in section 3345.011 of the Revised Code, and the board of trustees or other governing authority of each private institution of higher education that holds a certificate of authorization issued under section 1713.02 of the Revised Code shall adopt a policy recognizing that the students, faculty, and instructors of the institution have the following rights:

(A) The institution shall provide its students with a learning environment in which the students have access to a broad range of serious scholarly opinion pertaining to the subjects they study. In the humanities, the social sciences, and the arts, the fostering of a plurality of serious scholarly methodologies and perspectives shall be a significant institutional purpose. In addition, curricula and reading lists in the humanities and social studies shall respect all human knowledge in these areas and provide students with dissenting sources and viewpoints.

(B) Students shall be graded solely on the basis of their reasoned answers and appropriate knowledge of the subjects and disciplines they study and shall not be discriminated against on the basis of their political, ideological, or religious beliefs. Faculty and instructors shall not use their courses or their positions for the purpose of political, ideological, religious, or antireligious indoctrination.

(C) Faculty and instructors shall not infringe the academic freedom and quality of education of their students by persistently introducing controversial matter into the classroom or coursework that has no relation to their subject of study and that serves no legitimate pedagogical purpose.

(B) Students shall be graded solely on the basis of their reasoned answers and appropriate knowledge of the subjects and disciplines they study and shall not be discriminated against on the basis of their political, ideological, or religious beliefs. Faculty and instructors shall not use their courses or their positions for the purpose of political, ideological, religious, or antireligious indoctrination.

(C) Faculty and instructors shall not infringe the academic freedom and quality of education of their students by persistently introducing controversial matter into the classroom or coursework that has no relation to their subject of study and that serves no legitimate pedagogical purpose.

(D) University administrators, student government organizations, and institutional policies, rules, or procedures shall not infringe the freedom of speech, freedom of expression, freedom of assembly, and freedom of conscience of students and student organizations.

(E) The institution shall distribute student fee funds on a viewpoint-neutral basis and shall maintain a posture of neutrality with respect to substantive political and religious disagreements, differences, and opinions. The selection of speakers, allocation of funds for speakers' programs, and other student activities shall observe the principles of academic freedom and promote the presentation of a diversity of opinions on intellectual matters. Except as provided by law, the institution shall not permit the obstruction of invited campus speakers, the destruction of campus literature, or other efforts to obstruct a civil exchange of ideas.

(F) Faculty and instructors shall be free to pursue and discuss their own findings and perspectives in presenting their views, but they shall make their students aware of serious scholarly viewpoints other than their own through classroom discussion or dissemination of written materials, and they shall encourage intellectual honesty, civil debate, and the critical analysis of ideas in the pursuit of knowledge and truth.

(G) Faculty and instructors shall be hired, fired, promoted, and granted tenure on the basis of their competence and appropriate knowledge in their field of expertise and shall not be hired, fired, promoted, granted tenure, or denied promotion or tenure on the basis of their political, ideological, or religious beliefs.

(H) Faculty and instructors shall not be excluded from tenure, search, and hiring committees on the basis of their political, ideological, or religious beliefs.

(I) The institution and its professional societies shall maintain a posture of organizational neutrality with respect to the substantive disagreements that divide researchers on questions within, or outside, their fields of inquiry recognizing that:

(1) Knowledge advances when individual scholars are left free to reach their own conclusions about which methods, facts, and theories have been validated by research;

(2) Academic institutions and professional societies formed to advance knowledge within an area of research, maintain the integrity of the research process, and organize the professional lives of related researchers serve as indispensable venues within which scholars circulate research findings and debate their interpretations.

Sec. 3345.81. The board of trustees of each state institution of higher education, as defined in section 3345.011 of the Revised Code, and the board of trustees or other governing authority of each private institution of higher education that holds a certificate of authorization issued under section 1713.02 of the Revised Code, shall adopt a grievance procedure by which a student, faculty member, or instructor may seek redress for an alleged violation of any of the rights specified by the institution's policy adopted under section 3345.80 of the Revised Code. Each board of trustees or other governing authority shall provide students, faculty, and instructors with notice of the rights and grievance procedure by publication in the institution's course catalog, student handbook, and web site.

APPENDIX B

Executive Committee Report

(Presented to the Faculty Senate for debate, discussion and approval on February 17, 2005)

**PROPOSED RESOLUTION
IN OPPOSITION TO
SENATE BILL 24
The University of Akron
Faculty Senate**

WHEREAS, Senate Bill 24, also sometimes described as an “academic bill of rights,” has been introduced into the 126th session of the Ohio General Assembly; and

WHEREAS, Senate Bill 24, if adopted into law, could impose serious and unnecessary restrictions on the methods of teaching, research, and grading used by college and university faculty; and

WHEREAS, Senate Bill 24 contains language so vague as to invite frivolous and unwarranted challenges to practically every aspect of university life; and

WHEREAS, Senate Bill 24 imposes a chilling redefinition of academic freedom by insisting that instructors not introduce controversial matter into the classroom on a “persistent” basis; and

WHEREAS, Senate Bill 24 is superfluous because the student rights that it purports to guarantee are already protected by the University of Akron Administrative Code, Rule 3359-42-01, Students Rights and Responsibilities; by the Ohio and United States Constitutions; and by the United States Supreme Court decision in Keyishin v. Board of Regents (1967); and

WHEREAS, there is a long accepted ethical standard for academic freedom, promulgated in 1940 and 1970 statements by the national, professional association, the American Association of University Professors, and which this body endorses and recommends to all concerned;

NOW, THEREFORE, BE IT RESOLVED, that the Faculty Senate of The University of Akron opposes Senate Bill 24, both in spirit and in substance;

AND BE IT FURTHER RESOLVED, that a copy of this Resolution shall be provided to the Ohio Faculty Council, to the Faculty Senate or similar body of every institution of higher education within Ohio and to the appropriate Ohio legislators.

APPENDIX C

**Proposed Friendly Amendment
from Dr. William Lyons
for Special Meeting
February 17, 2005**

As you might already have surmised from my commentary, my approach to this issue centers on combining two points: a recognition that the supporters of this bill have included powerful language about ensuring that dissenting views have a place in our classrooms and that other aspects of the bill contradict this language. In this spirit of respectful dialogue and deliberation, I offer the following suggested revisions to the third and fourth sections of the proposed resolution, because I believe that this language may speak more clearly to issues driving the sponsors of the bill.

Whereas, Senate Bill 24 contains language so vague that it is likely to invite the official encouragement and support of student disrespect for the instructor's role as their mentor and the facilitator of serious scholarly inquiry in the classroom, a role that by definition requires professors to regularly, even persistently, introduce students to dissenting views and controversial issues; and

Whereas, portions of Senate Bill 24 recognize the importance of academic freedom, other portions include language that could be interpreted as providing administrators or legislators the power to determine for instructors how to examine controversial scholarly debates relevant to their fields of expertise, which contradicts earlier portions of the bill seeking to protect academic freedom by providing "a learning environment in which the students have access to a broad range of serious scholarly opinion" through the "fostering of a plurality of serious scholarly methodologies and perspectives"; and

Submitted by Dr. Richard Steiner, Senator

APPENDIX D

**Handout for Special Meeting of the Faculty Senate
Thursday, February 17, 2005**

Comments from Julia Becket, Assoc. Professor Public Administration & Urban Studies, suggest the tone of the current motion is too defensive. Her comments inspire the following friendly amendment ...

Motion:

Insert the following between the first and second “whereas” in the motion.

WHEREAS, the Faculty of the University of Akron has long respected research and scholarship in all disciplines, and

WHEREAS, study and discussion of historic and accepted theories balanced by discussion of critique and evolving viewpoints, helps advance both the education of students and general advancement of knowledge that is essential to the economic well being of the State of Ohio, and

Respectively submitted, Richard Stratton, Senator

APPENDIX E

**FINAL RESOLUTION
IN OPPOSITION TO SENATE BILL 24
The University of Akron
Faculty Senate**

WHEREAS, Senate Bill 24, also sometimes described as an “academic bill of rights,” has been introduced into the 126th session of the Ohio General Assembly; and

WHEREAS, the Faculty of the University of Akron has long respected research and scholarship in all disciplines, and

WHEREAS, study and discussion of historic and accepted theories balanced by critique and discussion of evolving viewpoints, helps advance both the education of students and general advancement of knowledge that is essential to the economic well-being of the State of Ohio, and

WHEREAS, Senate Bill 24, if adopted into law, could impose serious and unnecessary restrictions on the methods of teaching, research, and grading used by college and university faculty; and

WHEREAS, Senate Bill 24 contains language so vague that it is likely to invite the official encouragement and support of student disrespect for the instructor’s role as their mentor and the facilitator of serious scholarly inquiry in the classroom, a role that by definition requires professors to regularly, even persistently, introduce students to dissenting views and controversial issues; and

WHEREAS, portions of Senate Bill 24 recognize the importance of academic freedom, other portions include language that could be interpreted as providing administrators or legislators the power to determine for instructors how to examine controversial scholarly debates relevant to their fields of expertise, which contradicts earlier portions of the bill seeking to protect academic freedom by providing “a learning environment in which the students have access to a broad range of serious scholarly opinion” through the fostering of a plurality of serious scholarly methodologies and perspectives;” and

WHEREAS, portions of Senate Bill 24 is superfluous because the student rights that it purports to guarantee are already protected by the University of Akron Administrative Code, Rule 3359-42-01, Student Rights and Responsibilities; by the Ohio and United States Constitutions; and by the United States Supreme Court decision in *Keyishian v. Board of Regents* (1967); and

WHEREAS, there is a long accepted ethical standard for academic freedom, promulgated in 1940 and 1970 statements by the national, professional association, the American Association of University Professors, which this body endorses and recommends to all concerned;

NOW, THEREFORE, BE IT RESOLVED, that the Faculty Senate of The University of Akron opposes Senate Bill 24 and urges the Ohio General Assembly to reject it;

AND BE IT FURTHER RESOLVED, that a copy of this Resolution shall be provided to the Ohio Faculty Council, to the Faculty Senate or similar body of every institution of higher education within Ohio and to the appropriate Ohio legislators.

We need your assistance....



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Fax: 330/972-4949