

**SB 2247**January 22<sup>nd</sup>, 2023

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Chair Elkin and Members of the Committee: My name is Adelyn Emter, and I am the Chief of Staff for the North Dakota Student Association (NDSA). I am writing on behalf of the NDSA in opposition of SB 2247.

The North Dakota Student Association is a student organization established in 1969 dedicated to ensuring that students have a voice at the table in policy that affects Higher Education. We consist of delegates from each of the 11 public institutions meeting monthly to engage students in ND Higher Education policy. Our mission is to empower students, create collaboration between the student bodies of the North Dakota public universities, and to give a student perspective on higher education policy.

SB 2247 would severely harm higher education in North Dakota. The restrictions in this bill diminish higher education students' ability to engage in productive discussion, critical thinking, respectful disagreements, the ability to learn, and the choice to pursue higher education free from academic mandates and ideological echo chambers. On January 21<sup>st</sup>, the NDSA General Assembly voted to approve [NDSA-17-2223](#), relating to divisive concepts in higher education. In representing the students of the North Dakota University System, the NDSA General Assembly firmly opposes SB 2247.

Section 15-10.6-01 of SB 2247 lists what can be considered a "divisive concept," containing vaguely written definitions and logical fallacies that misrepresent founding tenets of theories and philosophies that are fundamental to a plethora of fields in higher education. Further, this proposed legislation violates First Amendment academic freedom. By restricting classroom discussions and students' individual right to the freedom of expression, this bill would be an egregious violation of the First Amendment and an abhorrent mechanism of governmental overreach. Additionally, section 15-10.6-02 prohibits discrimination or penalization of any student or employee under the control of the SBHE based on their beliefs. It is both unnecessary and redundant to add this portion of SB 2247 into N.D.C.C., as it describes protections already afforded to such persons by the First Amendment and due process.

Section 15-10.6-03 prohibits "divisive concept training," which would impede students in the classroom, the workplace, and during their college experience. There are countless examples of the detrimental effects this bill would cause. Education majors would be unable to complete mandatory diversity practicums, resident assistants would be unable to participate in necessary

diversity awareness discussions, and freshman students unable to attend beneficial diversity orientation sessions. Additionally, this clause would severely handicap the social science departments in North Dakota universities, rendering them unable to conduct countless diversity focused courses, restricting topics of student research with faculty advisors, and effectively extinguishing or unrecognizably altering degrees in areas such as Women and Gender Studies, Sociology, Philosophy, and many more.

Beyond the immediate impact to individual liberties, the vague language risks a chilling effect amongst academia and could further damage retention and the recruitment of educators in ND. Many faculty members would be rendered unable to teach content without the fear that students may view the information as a divisive topic, forcing these instructors to choose between providing students with a comprehensive education and maintaining their position as a state employee. Passing SB 2247 would also have a significant negative impact on both student and faculty retention. If the North Dakota University System institutions hope to maintain a status as reputable establishments for higher education, they must be able to meet a national standard of academic excellence, an expectation that cannot be achieved without critical thought and progressive discussion. The restrictions implemented through SB 2247 would critically disadvantage North Dakota students by failing to provide them with necessary skills and education in diverse concepts that are vital to their success in the American workforce.

If crucial content required for a litany of careers becomes prohibited, many professors in the field would flee North Dakota state institutions to instruct at institutions where they can instruct without vague and unnecessary restrictions. Further, there is a social science general education requirement at most NDUS institutions. If instructors begin to emigrate out of the state, this bill has the potential to cause the collapse of the entire Higher Education system because institutions would be left without faculty to teach these required courses. With students unable fulfill their graduation requirements, the NDUS would be rendered unable to prepare students for the workforce and provide them with a reputable degree. SB 2247 would shatter the NDUS's ability to retain students and faculty, effectively compelling them to move to states where their academic freedoms are safe from government overreach.

In addition to an exodus of faculty, many students would be compelled to transfer, and prospective students would be more likely to enroll at out of state institutions where they are guaranteed academic freedom and comprehensive courses. The devastating effects of this legislation would also include a significant loss of incoming funds to the NDUS due to an expected decrease in student enrollment. The Agribusiness and Applied Economics Report No. 817-S from 2021 reported on the Economic Contribution of the North Dakota University System. According to this report, with the current amount the NDUS currently contributes back to the state, any decrease in the capital value of higher education in the state will relinquish any economic benefit the universities currently provide.

Section 15-10.6-05 clarifies that individuals providing training may respond to discussion of divisive concepts as long as they do not endorse or advocate any of them, both breaches the First Amendment rights the rest of the bill claims to defend and also assumes unprofessionalism and inappropriate bias within its own state employees. The NDSA supports the academic autonomy of faculty and professional capability of staff who teach and work within the NDUS, and trusts they possess the qualifications necessary to properly facilitate academic and professional discussions, as shown by their hiring. Further, the NDSA believes students should be free to pursue academic and professional opportunities that they deem fit to increase their understanding and knowledge. This legislation would inflict devastating economic and social impact on higher education in the state of North Dakota; therefore, the North Dakota Student Association firmly opposes SB 2247.