

Dear Chairman Elkin and Members of the Senate Education Committee:

I am an Associate Professor of English at North Dakota State University, and I am submitting this written testimony in opposition to Senate Bill 2247. I am writing on my own behalf and *not* on behalf of NDSU.

Based on my knowledge as a state employee and faculty member, I believe that this bill's prohibition may be in contradiction with federal law requirements for equal opportunity and ethics trainings; it is unnecessary as other university ethics trainings that may include "divisive concepts" are voluntary; it stipulates that "diversity" somehow does not include "intellectual diversity," which goes against the accepted understanding of what "diversity" means; and finally, the requirement of a biennial climate survey would be a financial burden to already understaffed and overextended offices of institutional research and analysis. Conducting biennial climate surveys will require a significant increase in funding from the state.

I believe that the prohibition against mandatory divisive concept training (15 - 10.6 - 03, Section 1.a and 1.b) is potentially in violation of federal law. All new and current employees are required to comply with Equal Opportunity/Title IX training based on Title IX of the Education Amendments of 1972. This training includes the "divisive concept" of sex.

This prohibition may also be in tension with ethics trainings required for researchers who receive grants through national organizations, such as the National Institute of Health (NIH). Responsible Conduct of Research (RCR) trainings deal with "civility issues in research environments" and may include "divisive concepts."

Trainings in community respect and gender equity are *not* required for employees at NDSU, so prohibiting them seems unnecessary as they are already voluntary.

Further, although in the current form the prohibition on divisive concepts is limited to trainings and not applicable to research or teaching (15 - 10.6 - 03, Section 1.c), this would still have a chilling effect on the curriculum. Colleges and universities are meant to be places where freedom of thought and expression is encouraged, not limited by external agents or agencies. When such external pressures are applied to the curriculum, the university risks losing its accreditation by bodies such as the Higher Learning Commission (HLC). Under Criterion 2, Integrity: Ethical and Responsible Conduct, the HLC requires that a university be "committed to academic freedom" and that its "governing board preserve its independence from undue influence on the part of donors, elected officials, ownership interests, or other external parties."

Section 1.c prohibits a faculty member from using "funds appropriated by the state [to] incorporate a divisive concept into academic curriculum." This sounds like an attempt by "external parties" to interfere with academic freedom, and therefore puts the university at risk of losing accreditation.

I find other problems, too. Specifically, under Section 2 of 15 - 10.6 - 03, this bill requires that an employee "whose primary duties include diversity" also include among their duties "efforts to

strengthen and increase intellectual diversity.” It is unclear why “intellectual” diversity is not already covered by the broader concept of “diversity.” This seems redundant.

Finally, the requirement of a biennial climate survey (15 - 10.6 - 04) is financially taxing and given the current budget situation at NDSU, which is already understaffed, this would be impossible without a significant increase in funding from the state. I suspect the same applies to other universities facing similar staffing and budgetary conditions.

For example, NDSU’s latest climate survey from 2021 can be found on the university website; the report is 146 pages long, it took a whole year to compile, and because there are so many data, it has yet to be presented to the full university community. The office which put this report together has only a handful of employees. If the legislature mandates that such climate surveys be designed, conducted, analyzed, and prepared every other year in a way that is comprehensible to others, such as “to an interim committee designated by the legislative management,” much more funding should be allocated to hire more staff. With the current staffing issues, this is simply impossible to undertake.

Besides, such surveys typically have no more than 20% response rates, so they are hardly indicative of the overall climate on campus and therefore would not accurately measure “the respondents’ comfort level in speaking freely on campus, regardless of political affiliation or ideology,” as per section 1.

Finally, House Bill 1503, “relating to free speech policies of institutions under the control of the state board of higher education,” already protects the right of faculty and students to speak freely on campus and to express diverse viewpoints, making the current bill redundant.