



March 22<sup>nd</sup>, 2021

Chair Schaible and Members of the Committee,

My name is Gracie Lian, and I am the current President of the North Dakota Student Association (NDSA). The NDSA is an organization that is directly funded through a small student fee paid by all students attending North Dakota University System (NDUS) institutions, and our organization is tasked with representing and advocating for students across all eleven of North Dakota's public institutions.

This testimony is **submitted in opposition of HB 1503 as written** on the behalf of the NDSA. At our most recent General Assembly meeting, on February 20<sup>th</sup>, the NDSA delegation voted overwhelmingly to oppose the current wording of the bill with "NDSA-20-2021: A Resolution in Opposition to HB 1503 as Written."

Our organization and our power to advocate on the behalf of our peers depends entirely on the ability of students to speak freely. Therefore, the free speech of students is one of our top priorities and our decision to oppose this bill was not made without heavy consideration. We voted to oppose HB 1503 as it currently stands because if implemented, it would be more likely to harm students than it would be to protect their free speech. The specific sections we have identified are 4(a-c), 5(e), and 5(h).

First, Section 4 would dangerously limit the definition of student-on-student harassment and limit a university's ability to take any preventative action in harassment cases. Section 4(a) states that a university may not discipline or sanction a student for harassment activity unless "(1) The speech or expression is unwelcome, targets the victim on a basis protected under federal, state, or local law, and is so severe, pervasive, and objectively offensive that a student effectively is denied equal access to educational opportunities or benefits provided by the institution; or (2) The speech or expression explicitly or implicitly conditions a student's participation in an education program or activity or bases an educational decision on the student's submission to unwelcome sexual advances or requests for sexual favors." If left as written, students would not be able to find recourse through their institution of higher education for harassment until that harassment had already limited their access to education. The job of our universities should be to prevent such barriers to education before they happen. This bill would make that mitigation of debilitating harassment impossible until after the harassment has already occurred.

Second, Section 5(e) would allow a university to charge student organizations a security fee based on empirical and objective criteria for an event or speaker they have brought to campus in preparation of protests or confrontations. This is an allowance already exists in State Board of Higher Education (SBHE) policy. However, the NDUS has proposed removing this section to forbid universities from charging such a fee as it could limit opportunities for students to bring events or speakers to a campus at no fault of the organization's own. The NDSA supports this change. If section 5(e) were to be implemented, it would be detrimental to students and the financial stability of their organizations on campus.

Finally, Section 5(h) adheres to a federal ruling implemented by a President Trump's administration. This section stipulates that an institution may not discriminate against a student organization with respect to a benefit available to any other student organization, such as the allocation of student fees or university funding, based on any discriminatory membership requirements of that organization such as requiring that members adhere to the organization's religious beliefs. While the NDSA supports complying with federal rulings, it does not support such federal rulings related to higher education being cemented into state law. A future presidential administration could reverse such a ruling during a time when the North Dakota legislature is not in session, and thus the NDUS would be unable to comply with federal guidelines until the next biennial session. The NDUS and



SBHE are currently updating their policies to reflect this ruling and the NDSA believes these bodies should be the ones to do so as they can quickly react to any changes in federal rulings.

Beyond the formerly listed sections, the NDSA does not have any further concerns with the content of HB 1503 as it is currently written. While the NDSA is thankful to the legislature and its intent to protect student free speech, we would like to urge the legislature to consider supporting an alternative option to HB 1503 that would still protect student free speech. The NDUS has proposed amendments to SBHE Policy 503.1: Student Free Speech and Expression in lieu of passing this bill that would respect the original intent of HB 1503 while removing and changing the sections over which students have voiced concern.

The NDSA has a history of working well with the NDUS and SBHE on student free speech policies. Our organization was thoroughly consulted throughout the process of implementing the legislature's required changes to SBHE Policy 503.1 after the 2019-2021 legislative session. Throughout that process the student voice was respected and taken into consideration. The NDSA would like the opportunity to continue serving as such an important voice at the table during discussions about our free speech on campuses. Working with the NDUS and SBHE, where we have voting student representatives on councils and in governing bodies, provides us with the ability to contribute immediate feedback and input.

On the behalf of the 40,000+ students of higher education in North Dakota, **we respectfully urge a do not pass vote on HB 1503 while it contains the aforementioned sections of concern.** Furthermore, **we respectfully ask the committee to consider the SBHE Policy amendments as an alternative to HB 1503** as we all work to protect the free speech of our higher education students. I am available to answer any questions that you may have. Thank you.

Sincerely,

Gracie Lian

President

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