

House Education Committee

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Chair Heinert and members of the House Education Committee. My name is Mark Hagerott, and I serve as the Chancellor of the North Dakota University System (NDUS). I am here today on behalf of the State Board of Higher Education (SBHE) & NDUS in opposition to SB2343, which relates to board communications and release of closed, exempt, confidential, or other related records.

The SBHE voted on 2/23/2023 to **oppose SB2343**, which eliminates the statutory authority of all public entities or governing bodies to control access to closed, exempt, confidential, or other records arising from an executive session. **SB2343** also encroaches on the SBHE's authority to establish governance policies surrounding board communications.

SBHE Chairman Casey Ryan and SBHE Member Nick Hacker explained the Board's objections to Sections 2 & 3 of bill regarding release of closed, exempt, and confidential records from an executive session. I whole-heartedly agree with their position and respectfully request Sections 2 & 3 not be approved. My testimony focuses on the changes proposed in Section 1.

Section 1 directs the SBHE to establish policies to ensure transparent communication between board members and provide equal access to all current and historic information. Having observed the three dozen members of SBHE in action for eight years, under the leadership of multiple different chairs, I can assure you the SBHE already prioritizes communication with all board members while ensuring compliance with the State's open meetings and open records laws. To that end, new board members also participate in a thorough onboarding process to include orientation on all issues pertinent to board operations.

Additionally, the board has multiple committees to strengthen communication. The current committees include Academic & Student Affairs, Audit, Budget & Finance, and Research & Governance. Agenda items/reports and action items are made available to all SBHE members & the

public. Committee chairs report out at each SBHE meeting, and committee actions are either confirmed, denied, or modified by vote of the full board.

The NDUS office staff responds expediently to board member questions and information requests, within limits of available staffing & resources. The board member who initiated this bill submitted nine requests for information in less than a two-month period with the first eight requests fulfilled. These requests consumed more than a half-week of staff work of the lone institutional researcher in the System Office. Fulfilling the ninth request would have consumed considerable time. So at the direction of the chair of the SBHE, the system office was directed to devote time and effort to the board's budget request for the Governor's office and legislative preparation.

System Office staff continue to work closely with this board member and the other 10 members to ensure they are provided adequate information to make board decisions. The SBHE and System Office also continually look to improve policies & procedures. If the legislature passes Section 1 of the bill, the board will work diligently to implement the changes and will gladly provide a progress report to the Interim Higher Education Committee.

In conclusion, I stand opposed to SB2343, especially sections 2 & 3 which eliminate the statutory authority of all public entities or governing bodies to control access to closed, exempt, confidential, or other records arising from an executive session. I respectfully request a Do Not Pass on the bill or the removal of sections 2 & 3.