

Good morning Chairman Elkin and members of the Senate Education Committee. For the record, my name is Bob Paulson and I am a State Senator from District 3 in Minot.

SB 2247 is a bill that addresses divisive concepts in higher education.

According to an ABC News article from March of 2022, "Since 2020, legislation on race education has popped up across the country. A total of 35 states so far have signed into law or proposed legislation banning or restricting the teaching of critical race theory, the academic discipline at the center of the debate." That number is likely higher today as many state's legislatures are in session.

In doing research prior to introducing this bill, I read bills and laws from many states concerning this topic, looking for language that I thought would be best for North Dakota. The bill that I felt was most effective was passed into law in Tennessee. If you have the time and inclination, I highly recommend watching the floor debate in the Tennessee Senate when this bill was passed. The clerk alone is highly entertaining, and the debate was substantive.

I would like to talk a little bit about what the bill does not do. This bill does not restrict the right of a professor or a student to discuss these topics in class. I am a strong proponent of our First Amendment right to freedom of speech. Several of the bills and laws that I reviewed from across the country I rejected based upon my view that they had First Amendment concerns. I felt that the Tennessee law was the best possible from a First Amendment perspective.

Referring to the bill, I struggled with whether or not to read through every definition, as there are a lot of them. However, being confident that everyone on the Education Committee would be able to read, I chose to just highlight a few of them.

The divisive concepts include things like:

- a. One race or sex is inherently superior or inferior to another race or sex;

- b. An individual, by virtue of the individual's race or sex, is inherently privileged, racist, sexist, or oppressive, whether consciously or subconsciously
- e. An individual, by virtue of the individual's race or sex, bears responsibility for an action committed in the past by other members of the same race or sex;
- h. This state or the United States is fundamentally or irredeemably racist or sexist;
- m. All Americans are not created equal and are not endowed by their creator with certain unalienable rights, including life, liberty, and the pursuit of happiness;

This is a sampling of the definitions.

The meat of the bill begins on page 2 line 22, where it states:

15 - 10.6 - 02. Divisive concept - Prohibition on discrimination. 1. A student or employee of an institution under the control of the state board of higher education may not be: a. Penalized, discriminated against, or receive adverse treatment due to the individual's refusal to support, believe, endorse, embrace, confess, act upon, or otherwise assent to a divisive concept. b. Required to endorse a specific ideology or political viewpoint to be eligible for hiring, tenure, promotion, or graduation.

It goes on to say that 2. An institution under the control of the state board of higher education may not ask the ideological or political viewpoint of a student, job applicant, job candidate, or candidate for promotion or tenure. And 3. An individual who believes a violation of this section has occurred may pursue all equitable or legal remedies that may be available to the individual in a court of competent jurisdiction.

In the following section, there is a Prohibition on divisive concept training. 1. An institution under the control of the state board of higher education may not: a. Conduct mandatory training of a student or employee if the training includes a divisive concept. b. Use a training program or training materials for a student or employee if the program or material includes a divisive concept. c. Use funds appropriated by the state to incentivize, beyond payment of regular salary or

other regular compensation, a faculty member to incorporate a divisive concept into academic curriculum. 2. If an institution under the control of the state board of higher education employs an individual whose primary duties include diversity, the duties of that employee also must include efforts to strengthen and increase intellectual diversity among students and faculty of the institution at which the individual is employed.

Next there is a requirement for a survey and a report to an interim committee.

Finally, the bill states that This chapter may not be interpreted to prohibit an individual who provides training from responding to a question regarding a divisive concept so long as the response does not endorse or advocate a divisive concept.

Section 2 is an expiration date that has caused some confusion among cosponsors and those interested in the bill. The expiration date only applies to the requirement for the survey and report, which sunsets on July 1, 2028.

I would like to mention that embedded in testimony in favor by Amber Vibeto is a video on this topic that is very enlightening. I read that testimony and watched the video last night in preparation for this hearing, and I highly recommend watching it. It is eye opening!

Chairman Elkin and members of the committee, that is the bill and I would ask for a Do Pass recommendation, and would be happy to stand for any questions.