

2025 SENATE EDUCATION

SB 2392

2025 SENATE STANDING COMMITTEE MINUTES

Education Committee
Room JW216, State Capitol

SB 2392
2/11/2025

Relating to the regulation of prohibited discriminatory practices; and to provide for a legislative management report.

9:00 a.m. Chairman Beard called the meeting to order.

Members Present: Chairman Beard; Vice-Chairman Lemm; Senators: Axtman, Boschee, Gerhardt, and Wobbema.

Discussion Topics:

- Remove certain programs and processes
- Higher education submissions and training
- Remove mandatory requirements
- Student impact
- Freedom of speech and curriculum

9:00 a.m. Senator Wobbema, District 24, introduced the bill and submitted testimony #36998.

9:13 a.m. Lisa Johnson, Vice Chancellor for Academic and Student Affairs ND University System testified in opposition and submitted testimony #36969.

9:28 a.m. Carter Gill, Vice President of Governmental Affairs ND Student Association, testified in opposition and submitted testimony #36975 and #36976.

9:34 a.m. Christopher Scott, Director of Policy, Advocacy and Research ND Student Association, testified in opposition and submitted testimony #36987.

9:40 a.m. Michael Geiermann, ND United General Counsel, testified in opposition and submitted testimony #36827.

9:50 a.m. Connor Ferguson, Student Body President UND Student Government, testified in opposition and submitted testimony #36962.

Additional written testimony:

KrisAnn Norby-Jahner, In House Legal Counsel ND School Boards Association, submitted testimony in opposition #36878.

Zarrina Azizova, Senate Chair University of ND, submitted testimony in opposition #36860.

Bret Weber, member National Association of Social Workers, submitted testimony in opposition #36898.

Loretta Aggrey, citizen, submitted testimony in opposition #36929.

Andrew Armacost, President University of ND, submitted testimony in opposition #36958.

10:00 a.m. Chairman Beard closed the hearing.

Susan Helbling, Committee Clerk



Great Public Schools

Great Public Service

February 11, 2025

Chairman Beard and members of the Senate Education Committee. I am Michael Geiermann, and I serve as General Counsel for North Dakota United. I stand here today in opposition to SB 2392. This bill is exceptionally broad as it appears to place limitations on free speech on three separate and distinct entities: Higher Education, K-12 public schools, and a "Government employer" including political subdivisions of the State and various departments, agencies boards and other institutions of the State. The Bill in most instances does not clearly define its intended purpose. Most, if not all, of the terms in the sections entitled "Prohibited Discriminatory Practice" (Page 8, Lines 1-31, Page 9. Lines 1-13) are not defined. Laws passed by the legislature must meet two requirements (1) the law must create minimum guidelines for the reasonable police officer, judge, or jury charged with enforcement of the statute; and (2) the law must provide a reasonable person with adequate and fair warning of the proscribed conduct. Unfortunately, this bill does not and appears to inhibit Free Speech.

This Bill appears to be modeled to a certain extent after the Individual Freedom Act in Florida. This Florida Act has been in litigation since its inception. In Honeyfund.com Inc v. Governor, 94 F.4th 1272, (11th Cir. 2024) the 11th Circuit Court of Appeals affirmed a district court decision granting a preliminary injunction because certain portions of the law were unconstitutionally vague and an unlawful content and view-point based speech restriction. In upholding the preliminary injunction, the Court of Appeals stated:

"The ideas targeted in Florida's Individual Freedom Act are embraced in some communities, and despised in others. But no matter what these ideas are really worth, they define the contours of the Act. By limiting its restrictions to a list of ideas designated as offensive, the Act targets speech based on its content. And by barring only speech that endorses any of those ideas, it penalizes certain viewpoints—the greatest First Amendment sin."

I would urge a do not pass recommendation on SB 2392.

To: Chair Beard and the Education Committee
From: The University Senate of the University of North Dakota
Subject: Opposition to Senate Bill 2392
Date: February 10, 2025

Dear Chair Beard and members of the Education Committee,

I am Zarrina Azizova, an Associate Professor of Higher Education, and I currently serve as the Chair of the University Senate of the University of North Dakota (UND). On behalf of the University Senate, I submit this testimony **in opposition to SB 2392** that relates to the regulation of prohibited discriminatory practices and provides for a legislative management report.

The University of North Dakota has long upheld the principles of equal opportunity in education and employment as mandated by federal and state law, including Title VI, Title VII, Title IX, the Americans with Disabilities Act, the North Dakota Human Rights Act, the University's Policy Statement on Discrimination and Harassment, and our accreditors. If the intent of SB 2392 is to protect against discriminatory practices, multiple non-discrimination laws, University policies, and accreditation requirements already exist and have been successfully guiding NDUS institutions for decades.

However, a close reading of SB 2392 reveals that, rather than reinforcing non-discrimination, it introduces vague and restrictive definitions that would significantly disrupt the University's core mission of teaching, research, and service. The bill's ambiguous language would not only cause confusion and potentially conflict with existing anti-discrimination requirements, but would also severely curtail academic freedom, free speech, and the integrity of higher education. Below, I outline our primary concerns:

1. **Threat to Academic Freedom and Free Speech:** At its core, SB 2392 undermines the fundamental principles of higher education by restricting the ability of faculty to engage in teaching, research, and service that explore issues of race, gender, and systemic inequality. Academic freedom—the right of faculty to determine what and how they teach without political interference—is essential to the pursuit of knowledge and the development of critical thinking skills among students. This bill imposes an ideological litmus test that contradicts the foundational tenets of free expression enshrined in the First Amendment. The prohibition of certain topics and perspectives on campus amounts to government overreach into the classroom, chilling open discussion and restricting intellectual inquiry. Faculty must be free to teach historical and contemporary realities, including issues related to race, gender, and social structures, without fear of reprisal or defunding. In fact, the University Senate has approved the launch of the University of North Dakota's Resources and Programming on Academic Freedom and Free Speech (und.edu/academics/university-senate/index.html). With this initiative, we look forward to an active engagement of faculty in discussions and interpretations of laws, policies, and historic practices that have built and shaped academic independence of higher education, which is the key feature of American Higher Education that proudly distinguishes itself from the world.

2. **Confusing and Unjustified Definitions:** SB 2392 defines “prohibited discriminatory practice” as a policy, procedure, practice, program, office, initiative, or required training that (among other definitions) is “referred to or named diversity, equity, and inclusion.” This categorization is both unclear and deeply troubling. Diversity, equity, and inclusion are long-held tenants that are enshrined in the US Constitution and reflected in decades of federal and state law. For example, recognizing the need for equitable and inclusive access, since 1973, under NDCC 37-19.1, “Veterans who are North Dakota residents shall be entitled to preference, over all other applicants, in appointment or employment by governmental agencies. UND also provides dedicated student support and success resources to our veterans and active-duty service members, which meet our definition of DEI. The bill offers no rationale for why these concepts—central to ensuring fairness in education and employment—should suddenly be deemed unacceptable. This vague prohibition leaves the University uncertain about how to comply without violating existing legal, licensing, and accreditation requirements.
3. **Coursework Disruptions through Curricular Restrictions:** By banning coursework, research, and training that engage with diverse, equitable, and inclusive principles, SB 2392 places an unreasonable burden on faculty and institutions. Many required and elective courses—ranging from history, sociology, and psychology to law, health sciences, and business—incorporate discussions on identity, inclusion, and equity. These topics are integral to understanding the complexities of our society and preparing students for careers in diverse workplaces. The broad language of the bill makes it virtually impossible to comply without engaging in extreme censorship, removing critical academic content, and jeopardizing licensure and accreditation requirements. Moreover, any and all curricular changes require a full scale of faculty governance and review to be approved and implemented in accordance with our accreditation and licensing requirements, as well as other academic and professional standards. Our review processes and procedures are long-standing and robust. Additionally, faculty hiring, tenure decisions, and research funding could be compromised if institutions are prohibited from considering work that engages in a full range of topics.
4. **Students’ Learning Loss and Timely Degree Progression:** SB 2392 would diminish the quality of education our University provides, delay students’ time to degree due to the curricular disruptions, jeopardizing their licensing credentials, and leave our graduates unprepared to navigate and lead in an increasingly diverse world. Employers across industries emphasize the importance of cultural competency and inclusive leadership. If our University is barred from equipping students with these essential skills, we risk graduating students who are unable to meet the employment needs of North Dakota, especially in high demand occupations, including but not limited to health care and education.
5. **Cost Prohibitive and Unfunded Mandate:** UND teaches 4000 sections each fall/spring semester plus another 2500 during summer. These numbers include independent study, internships, and research courses. This sheer number of courses generates an incredible volume of syllabi pages (with approximately 15 pages per a syllabus), which would then need to be reviewed for compliance, uploaded to a newly designed web portal, maintained/modified every semester, and reported every other year. In addition, under this bill, UND would be required to train all employees annually for course audits. These requirements are cost prohibitive, and this mandate is unfunded. It is simply not possible

to do the reporting/auditing work asked within our appropriated budget without doing irreparable harm to our educational mission as established in the ND Constitution.

6. **Reputation of the North Dakota's Higher Education and Academic Research:**

Finally, the bill's punitive measures, including the threat of withholding state funding, put North Dakota's higher education system at risk of faculty flight, declining student enrollment and reputational damage. Top-tier scholars and prospective students will seek opportunities in states where academic freedom is protected, ultimately weakening our universities and workforce regionally, nationally, and globally.

Consequently, SB 2392 undermines the principles of free inquiry, restricts faculty expertise, limits students' success in their pursuits of higher education, and increases the administrative costs of teaching and course offerings. We urge a **DO NOT PASS** recommendation on SB 2393 to preserve the integrity of higher education in North Dakota and uphold the core democratic values of free speech and academic independence.

Respectfully Submitted,

Zarrina Azizova, Ph.D.

2024-2025 Chair, University Senate of the University of North Dakota



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SB 2392

Testimony of KrisAnn Norby-Jahner
Senate Education
February 11, 2025

Chair Beard and members of the Senate Education Committee, for the record my name is KrisAnn Norby-Jahner. I am in-house legal counsel for the North Dakota School Boards Association. The NDSBA represents all 168 North Dakota public school districts and their boards. I am submitting this testimony in opposition to SB 2392.

SB 2392 seeks to add a new chapter to title 15 of the ND Century Code that appears to be modeled after other state laws (which have been swiftly challenged as unconstitutional), including Florida's Individual Freedom Act. The proffered intended purpose of these types of proposed laws is to protect individual freedoms and prevent discrimination in the workplace and in public schools. However, individual freedoms are already protected under the U.S. and State Constitutions. Likewise, discrimination based on protected class statuses is already prohibited in both workplaces and in public schools under a number of of state and federal laws, including (but not limited to):

- **North Dakota Human Rights Act**, [N.D.C.C. ch. 14-02.4](#), prohibiting discrimination based on race, color, religion, sex, national origin, age, the presence of any mental or physical disability, status with regard to marriage or public assistance, or participation in lawful activity off the employer's premises during nonworking hours which is not in direct conflict with the essential business-related interests of the employer.
- **Title VI of the Civil Rights Act of 1964**, [42 U.S.C. 2000d, et. seq](#), prohibiting discrimination based on race, color, or national origin in programs that receive federal funding.
- **Title VII of the Civil Rights Act of 1964**, [42 U.S.C. §§ 2000e-2000e17](#), prohibiting employment discrimination based on race, color, religion, sex, and national origin.
- **Title IX of the Education Amendments of 1972**, [20 U.S.C. § 1681, et. seq.](#), prohibiting sex discrimination in education programs that receive federal funding.
- **Age Discrimination in Employment Act of 1967**, [29 U.S.C. §§ 621-634](#), prohibiting employment discrimination against individuals based on age (40 years or older).

- **Americans with Disabilities Act (ADA)**, [42 U.S.C. § 12101, et. seq.](#), prohibiting discrimination against individuals with disabilities in both employment and schools.

Overall, the proposed SB 2392 is confusing, difficult to navigate, and unnecessary. SB 2392 uses the term “personal identity characteristic” to mean an “individual’s race, color, ethnicity, sex, sexual orientation, national origin, religions, or gender identity.” However, all of these “personal identity characteristics” are already properly classified under state and federal employment and education laws as “protected classes,” meaning that any individual who falls into one of those classes cannot be discriminated against on the basis of that class. Yet, this new proposed law adds confusion to the equation by indicating that “no policy, procedure, practice program, office, initiative, or required training” can assert that one of these characteristics is “inherently superior or inferior to another personal identity characteristic,” nor can an assertion be made that “an individual, by virtue of the individual’s personal identity characteristics, is inherently privileged, oppressed, racist, sexist, oppressive, or a victim, whether consciously or unconsciously.” This language is convoluted, confusing, and in direct contrast and contradiction to current protections provided under state and federal laws based on protected class statuses.

Under SB 2392, it appears that a school could not provide historical-based instruction about important events in the world, including slavery, the Holocaust, or even the fall of the Roman Empire. Nor could a school provide proper training and professional development that educates employees and students about the context, background, reasoning, and philosophy of our state and federal laws that provide protections and prohibit discrimination based on protected class statuses. In one breath under SB 2392, a school must uphold Title VI, Title VII, and Title IX, but yet in another breath a school cannot provide robust, example-based training and instruction on preventing and addressing discrimination in its schools. SB 2392 is contradictory.

The language of SB 2392 also provides a content-based regulation of speech that is in violation of the First Amendment of the U.S. Constitution. Other state laws, similar to SB 2392, have been swiftly challenged and upheld as unconstitutional on these grounds. For example, employers and diversity, equity, and inclusion consultants quickly brought legal action based on First Amendment violations in Florida’s Individual Freedom Act (a law that banned mandatory workplace trainings that endorsed certain viewpoints). In 2024, the federal appellate court out of the 11th Circuit held that Florida’s law imposed content-based regulations of speech that are protected by the First Amendment when it mandated the types of speech and trainings that could be/ could not be conducted. When the government targets not just a subject matter, but “particular views taken by speakers” on that subject matter, then such restrictions are “an egregious form of content discrimination” in violation of the First Amendment. [Honeyfund.com Inc. v. Governor, 94 F. 4th 1272 \(11th Cir. 2024\)](#). Overall, the court found that laws that discriminate between lawful and unlawful conduct based on the content of the

messages expressed are content-based restrictions in violation of the Constitution. This is exactly what SB 2392 does. This bill places content-based restrictions on the types of speech and conduct that may or may not be allowed in schools.

Based on the foregoing reasons, NDSBA asks this Committee to issue a **do not pass** recommendation on SB 2392. Thank you for your time.

TESTIMONY on SB 2392
House Human Services Committee
February 10, 2025

Chairman Beard and members of the Senate Education Committee,

The following opinions are my own and do not represent the view or opinions of my employer.

I am submitting this testimony as a licensed social worker, as a social work educator who helps train North Dakota's behavioral and mental health workforce, and as a member of the North Dakota Chapter of the National Association of Social Workers (NASW-ND), and in opposition to Senate Bill 2392.

I urge you to proceed with a DO NOT PASS vote on SB 2392 for the following reasons:

SB 2392 is written in a manner meant to confuse and muddle issues around non-discrimination with language that intentionally disguises and conceals its true intentions.

It is not the goal of social work educators to indoctrinate according to any partisan ideologies, but instead to present a broad spectrum of viewpoints and perspectives. SB2392 will create unnecessary and harmful challenges for social work education in North Dakota, and the related efforts to address the state's workforce development needs. Specifically, SB2392 poses potential risks to accreditation and the eligibility of our social work graduates to be licensed, both in North Dakota and other states across the US. Additionally, these problems create challenges relating to student recruitment and enrollment.

For North Dakota's higher education system to produce social work graduates who can be licensed here and elsewhere, our programs must meet the accreditation standards of the Council on Social Work Education (CSWE). The requirements of SB 2392, as currently written, stand in direct opposition to those standards. As such, our state risks losing a program that, during last Fall Semester's commencement exercises, saw its largest number of graduate students among all other programs. Additionally, that December 2024 cohort of MSW graduates included more Native American graduates than any program, and many of those newly minted social workers will be serving the State's Tribal Communities.

Currently, North Dakota offers the only social work graduate program that serves campus and online students between Minneapolis and Washington State. We draw students from across our prairie region. SB 2392 endangers our state's ability to train and hire social workers to serve our mental and behavioral health needs. This is in direct opposition to recommendations found in the North Dakota legislature's commissioned and approved Schulte Report (2014), and as noted in that report, such actions further risk the state's receipt of federal funds under the Olmstead Act, and puts us at risk for a federal lawsuit.

Social work educators engage with the ND State Department of Health and Human Services, local hospitals and schools, and a variety of public service agencies to provide the workforce to meet local and State needs. If passed in its current form, SB 2392 puts all of that at risk.

With respect and appreciation, *Bret A Weber*

Bret A. Weber, PhD, MSW

Loretta Aggrey

2/10/2025

To: North Dakota Legislative Committee

Subject: Testimony in Opposition to SB 2392 – Regulation of Prohibited Discriminatory Practices

My name is Loretta Aggrey, and I am a concerned citizen currently residing in Horace, North Dakota. I am writing to express my strong opposition to the Senate Bill 2392 because this bill fails to support true equity. If enacted, this bill will not only fail to address existing concerns but will, in fact, contribute to inequitable outcomes and further disparities in communities that have historically faced barriers to opportunity.

Background & Concerns

As a beneficiary of Diversity, Equity, and Inclusion (DEI) initiatives and scholarships in North Dakota, I have witnessed how these programs provide pathways for individuals from underrepresented backgrounds to excel in employment, leadership, and education. These practices are not established with the intention of providing unfair advantages. Rather, these initiatives are to help create some equity for individuals that would normally never have a chance at getting the same opportunity as their peers. SB 2392 threatens to undo all this progress and eliminate programs that have truly made equity a reality for me and many others.

I am a first-generation college graduate and a person of color. I know what it is like to enter a room and feel like I do not belong. I have to work harder and prove myself time and again because people like me do not always get the same opportunities. However, DEI practices have played a huge role in my journey and minimize barriers that so many like me face. DEI does not perpetuate discrimination but rather promotes accessibility. Without these programs, the challenges of being a first-generation college graduate would have been even greater. If SB 2392 had been enacted four years ago, I fear many doors of opportunities would have been shut for me—or countless others like me. This bill sends a message that efforts to create fairness are no longer welcome in North Dakota because it is, in itself, contradictory to its purpose. It will only create the illusion of a level playing field.

Other Related Concerns

Senate Bill 2392 lacks clear guidelines on how the bill will be enforced and implemented.

Businesses are looking for diverse, talented workforces. If we send a message that inclusion doesn't matter, companies may think twice about investing in North Dakota.

Conclusion

I love North Dakota, and I want more than anything for people from all walks of life to have a chance to succeed, just as I did. So, in light of these concerns, I respectfully urge you to vote against SB 2392 and instead consider solutions that will foster equity in North Dakota. Thank you for your time and consideration. I am happy to provide further information or answer any questions you may have.

Sincerely,

Loretta Aggrey

lorettaaggrey230@gmail.com

(701) 219-8439



Testimony for 69th Legislative Assembly – Senate Education Committee

February 11, 2025

Andy Armacost, President, UND

andrew.armacost@UND.edu | 701.777.2121

Bill: SB2392

Dear Chairman Beard and Members of the Senate Education Committee,

My name is Andy Armacost, and I serve as the President of the University of North Dakota. Please accept my testimony in opposition to Senate Bill 2392 along with my suggestions for changes to this proposed legislation, should it move forward.

This bill mandates training on academic freedom and freedom of speech, two bedrock principles for college campuses. Yet, there are no provisions in the bill to actually protect academic freedom or freedom of speech.

Recall that in the 68th Legislative Assembly, the authors of Senate Bill 2447 included such provisions, which are now codified into law. For Senate Bill 2392, please consider including similar provisions to establish and protect these rights.

The State of Utah recently adopted nearly identical language as what this bill describes. I include below the section from the Utah Code Section 53B-1-118, and I encourage you to adopt similar language in this bill. This will be consistent with the expectations of the leading advocates for freedom of speech and academic freedom, groups such as the Foundation for Individual Rights in Education, or FIRE, and the American Association of University Professors.

In closing, I am concerned about the message this bill sends to current and prospective students and employees about our state's commitment to academic freedom. Exposure to multiple viewpoints is a fundamental component of a university's function and is essential to examining one's views of the world.

Thank you.

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Utah Code Section 53B-1-118

(10) This section does not apply to:

- (a) requirements necessary for athletic and accreditation compliance;
- (b) academic research;
- (c) academic course teaching in the classroom;
- (d) a grant that would otherwise require:

- (i) a department, office, division, or other unit of an institution to engage in a prohibited discriminatory practice if the grant has been reviewed and approved by the institution's board of trustees; or
 - (ii) an institution to engage in a prohibited discriminatory practice if the grant has been reviewed and approved by the board;
- (e) requirements necessary for an institution to establish or maintain eligibility for any federal program; or
- (f) private scholarships administered by an institution.



Connor Ferguson | Student Body President
connor.ferguson@und.edu | 612.454.8288

Senate Bill 2392
Senate Education Committee
February 11, 2025

Chairman Elkin and Members of the Senate Education Committee,

My name is Connor Ferguson, and I serve as the Student Body President at the University of North Dakota (UND). The University of North Dakota currently educates over 14,000 students throughout the state and country. UND's Student Government has representatives from all nine academic colleges and is a group that is elected by students to represent their voices at the campus, local, and state level. I am here this morning to represent those voices and testify in opposition to SB 2392, relating to prohibited discriminatory practices. I want to ensure that the student perspective is considered and share the negative implications that this bill may have for higher education students in North Dakota.

At this time, when a student attends college in North Dakota, they are protected in their free speech rights and can listen to the perspectives of others, engage in critical dialogue around difficult concepts, and disagree with each other. For many students, college is the first time in which they are exposed to new ideas and create the foundation for the development of their worldview and beliefs. At UND, having critical conversations and expressing disagreement is not only accepted, but encouraged. By limiting what concepts are taught and the offices that can exist, it creates barriers toward free thinking by limiting the topics students are introduced to. When a student can learn differing viewpoints, worldviews, and engage in meaningful dialogue, they then can ask questions and engage in learning and discovery. Additionally, these open dialogues prepare students for the workforce in which they will encounter countless individuals who do not always agree with their viewpoints. If students are not equipped with the ability to have respectful conversations, challenge their current viewpoints, and take time to listen to others, the state is educating individuals who are unable to engage in original thinking.

As written, SB 2392 puts a serious burden on the University and our faculty to determine whether their language and course content are deemed “acceptable”. This restriction on speech is a violation of the first amendment and inhibits the free exchange of dialogue that is so important to the college experience. Because of this, we jeopardize academic freedom and the ability for our expert faculty to make decisions on the important educational topics for our students. The ability of faculty to freely determine their curriculum is essential to developing critical thinking skills in students. By requiring the submission of syllabi for public review, an undue burden is placed on the University System. Making all our syllabi public is a massive undertaking, and the lack of a fiscal note means that the labor and infrastructure cost will fall back on the University and the students.

Another effect of SB 2392 is its impact on the support services offices that UND offers for the benefit of its students. One support service that would be impacted with the passage of this bill is UND’s Pride Center which is a center for LGBTQIA2S+ life at UND that connects our campus community with student success opportunities and support resources. This center is open to all students and focuses on creating a welcoming and accepting community for all on UND’s campus. Recently, the Pride Center received testimonials, and the narratives tell a powerful story about the effect of the center. One first year student wrote, *“In my short time here at UND so far, the pride center has become something of a second home. It's a very wonderful place to hang out, socialize and do homework in a kind and welcoming space. This place has had an absolutely massive impact on me in a very short amount of time. The vast majority of those who are now my closest friends I have met at the pride center or at least it became a wonderful place for us to get to know each other. Outside of a robust social life, the pride center has given me so many academic and life opportunities, so much so, that my first ever job is working here at the pride center. The study table and academic challenges every semester offer great incentives to do well in class. The community is also very supportive and great at convincing you to go to class, even when you don't really want to. The pride center has become one of the most important aspects of my life here in Grand Forks. It is the best place to find a welcoming, loving, and supportive community.”* This student was able to find personal and academic success because of the Pride Center’s work, and they’re not the only one.

The University of North Dakota prides itself on being able to offer support services to a variety of groups within our campus community. We offer student disability resources, veteran and military affairs, different living and learning communities in UND housing, and so much more. This is done with the understanding that all of these groups are important and giving students the opportunity to find support for their identity is essential to making them feel welcomed. We all come from different backgrounds and that's what makes us so important. The ability to offer tailored assistance for different identity groups integral to UND's mission, and making sure that students are exposed to different backgrounds and worldviews helps to expand their horizons and prepare them for the workforce. By passing a bill which is designed to inhibit these identity-based spaces, we harm the students that identify with these groups, we take the opportunity to meaningfully engage with these groups from other students, and we revoke support services from people who may or may not be part of these groups. At UND, all students are welcome to access every support service offered to them. Our offices never turn a student in need away.

In closing, I want to take some time to share my personal experiences in the North Dakota University System. Over the years, I have had the opportunity to see and meet with members of different Pride Centers and Community & Belonging Centers. In all these spaces, I have seen a strong and welcoming community which actively invites other students regardless of their background. These centers do great work and strive to ensure that everyone who comes through their doors is helped. As students, we want to live and work in a state where our individual freedoms are not only protected but also respected. Furthermore, I have heard numerous faculty members express their concerns about the passing of this bill and their desire to move and teach elsewhere if it is passed. In order to recruit and retain students to be a part of North Dakota's workforce, economy, and livelihood, this bill should not be passed. Chairman Elkin and members of the Senate Education Committee, I respectfully request a DO NOT PASS recommendation on SB 2392. Thank you for your time, and I am available to answer any questions.

Respectfully submitted,

Connor Ferguson

**SB 2392**

Senate Education Committee

February 11, 2025

Lisa A. Johnson, North Dakota University System
 701-340-5054 | lisa.a.a.johnson@ndus.edu

Chair Beard and Members of the Senate Education Committee -

My name is Lisa Johnson, and I serve as the Vice Chancellor for Academic and Student Affairs with the North Dakota University System (NDUS). I am writing in opposition to SB2392.

One of the goals of higher education is to help students develop the skills necessary to consider a wide range of viewpoints when constructing their own position on matters. Understanding diverse viewpoints is critical for developing sound arguments and articulating one's views. Contrary to the perception of some, NDUS college faculty don't tell students "what" to think, but rather provide them with opportunities to grapple with the many perspectives of complex and difficult topics.

SB2392 would impinge on the ability to discuss complex and, at times, controversial topics, that would violate current laws and policies including [NDCC Chapter 15-10.4](#) (Campus Free Speech policy), [NDCC Chapter 15-10.7](#) (Specified Topics) and [SBHE Policy 401.1](#) (Academic Freedom) each of which affirms the importance of free speech and the consideration of diverse ideas in governing the state's colleges and universities. As written, SB2392 provides no mention of academic freedom as it relates to faculty or free speech protections for students. Members of this Committee are encouraged to contact a representative from the Foundation for Individual Rights and Expression, an organization that the ND legislature has worked with extensively in the past for guidance on its free speech bills.

SB2392 lacks any data to indicate the prevalence, if any, of the "prohibited discriminatory practices" in existing policies, procedures, programs, offices, initiatives, or required training are taking place at any of the eleven public institutions under the control of the State Board of Higher Education (SBHE). When asked about the rationale for the proposed bill, sponsors either admit this is not happening in ND and its simply precautionary legislation or they relay a vague, unverifiable second-hand account of a student grievance. If a student or individual had concerns about prohibited discriminatory practices that would force them to comply with a certain ideology or viewpoint, each institution and the NDUS both offer appeal processes that allow individuals to pursue appropriate remedies.

The NDUS submits the following for further clarification from the bill sponsor(s):

Page 1, Line 20-23: Uncertain as to what this means.

Page 2, Line 17: Potentially affects 790 international/multicultural students receiving \$3.4 million in scholarships in Academic Year 2022-2023.

Page 2, Line 20: Numerous offices across the system serve specific student populations that include the terms “diversity”, “equity” or “inclusion” to describe the supports to their respective population. e.g. military veteran re-entry and support programs, Native American/Multi Cultural Centers, and the ASTEP program for college attending students with intellectual disabilities. Among the supports for these various groups are early registration for veterans, student scholarships, and office space on the campus. Are these to be considered among the prohibited discriminatory practices?

Page 3, Lines 3-6: The inclusion of this statement could significantly affect classroom assignments. SB2392 contains no reference to the protection of academic freedom for faculty. Further, institutions cannot be instructed to infringe on the rights of freedom of speech protected by the First Amendment of the United States Constitution. For reference, see language in [NDCC Chapter 15-10.7](#) (Specified Topics).

Page 4, Lines 7-8: See statement directly above.

Page 4, Lines 20-22: This would require reporting on classroom assignments to the legislature and posting those assignments online which would have a chilling effect on academic freedom and would be very difficult to manage.

Page 4, Lines 29-31 & Page 5, Lines 1-4: This exception provides a carve out for faculty applying for employment, tenure, or promotion but not the most important aspect of their employment--classroom teaching.

Page 5, Lines 5-15: Staffing this directive is a concern—unless it is permissible for campuses to conduct their own biennial review.

Page 5, Lines 16-17: To whose satisfaction is a violation to be resolved—the SBHE, the student, a parent, an anonymous member of the public, or an external advocacy group?

Page 5, Lines 18-19: Are current SBHE processes to report violations sufficient or must a new process be developed?

Page 5, Lines 23-24: What kind of training? By whom? How long? Do staff who are not in a classroom need training on academic freedom? The answers to these questions will determine whether a fiscal note is needed.

Page 6, Lines 5-12: Same concerns as cited on Page 5, Lines 5-15.

Page 6, Lines 15-19: As written, this would prohibit the institution or the president of an institution from speaking about incidents of antisemitism, racism, or sexism.

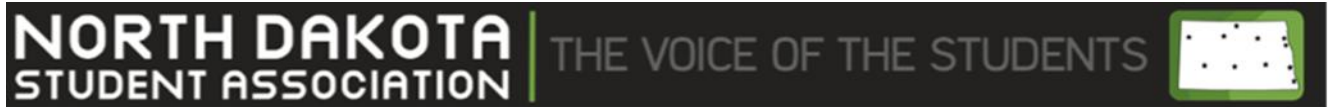
Page 7, Lines 1-3: Does the requirement to publicly post all course/training syllabi apply to academic courses, required employee training, or both? Some of the contracts with private training organizations prevent publication of their proprietary training materials.

Page 7, Lines 4-5: Need further clarification regarding this training requirement. A potential fiscal note depends on the response regarding the depth of training, by whom, and for which employees.

Page 7, Line 6: Campuses routinely provide training from a single viewpoint on an array of topics like binge drinking, substance misuse, sexual consent, human trafficking, and exploitation prevention. As written, scheduling speakers with opposing viewpoints would be counterproductive.

Page 7, Lines 9-23: Concerns previously cited regarding staffing the monitoring/reporting, SBHE delegation of responsibilities, and use of existing procedures.

As written, SB2392 largely replicates SB2247 (Specified Topics) from the 2023 legislative session, most of which already exists in NDCC 15-10.7. The NDUS urges a **Do Not Pass** on SB2392.

**SB 2392**

February 11, 2025

Carter Gill, North Dakota Student Association

(701) 388-7589 | carter.gill@ndus.edu

Chair Beard and Members of the Committee: My name is Carter Gill and I am Vice President of Governmental Affairs for the North Dakota Student Association. I am here today in opposition of SB 2392.

The North Dakota Student Association (NDSA) is 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 North Dakota University System (NDUS) institutions, meeting monthly to engage students in discussions about North Dakota higher education policy. Since 1969, our mission has been to empower students, create collaboration between the student bodies of the North Dakota public universities, and to provide a student perspective on higher education policy.

On February 8th, the NDSA passed [NDSA-24-2425](#): A Resolution in Opposition to SB 2392 - Regulation of Prohibited Discriminatory Practices, and, for the sake of brevity of my testimony, my opposition to this bill will be focused on the administrative and academic effects of this bill. Section 1.5 defines a “prohibited training” as a “mandatory instructional program, including an in-person or online seminar, discussion group, workshop, and related materials which an institution requires the institution’s employees, prospective employees, students, or prospective students to attend and which promotes discriminatory practices.” The language used in this section, although not explicitly stating it, uses language that would apply to courses. It is the position of the NDSA that higher education governance should remain with the State Board of Higher Education (SBHE) as the legislature’s current function is to delegate the responsibility of managing the affairs and operation of the NDUS to the SBHE. The legislature’s primary role

should continue as the appointment of new members and the authorization of funding for each biennium.

The responsibility of managing what can be taught in classrooms or training for students, faculty, and staff is the responsibility of the SBHE and the individual NDUS institutions. Should this bill be passed as written, it would severely limit faculty's ability to teach courses required for graduation and it would be an unprecedented legislative overreach.

When preparing NDUS students to enter the workforce, discussing personal characteristics and the challenges that individuals may face is foundational to careers such as education, business, law, medicine, etc. All of these careers would be affected by this bill and the SBHE and NDUS institutions would have to make significant changes to curriculum to accommodate these changes. The NDSA is concerned that these changes would be at the expense of both NDUS institutions and the state.

For example, empirical evidence shows that medical providers may have biases against patients based on their personal characteristics outlined in this bill that could result in lower quality care and outcomes.¹ Similarly, there is evidence in education that implicit bias is a contributing factor to negative academic results for students based on personal characteristics.² NDUS institutions provide programs in both these fields to prepare students to recognize and address these issues – not to instill guilt in students, but to bring awareness that biases may exist, even subconsciously, so graduates can better serve their communities.

The legislative overreach continues with the bill's demands for events promoted by NDUS institutions such as mandatory faculty trainings on political neutrality, academic freedom and freedom of speech, as well as the public listing of course titles and syllabi. The inclusion of courses, while not explicitly addressed earlier in this bill, supports the NDSA's concern of legislative overreach in restricting academic freedom.

¹ Hall, et al. "Implicit Racial/Ethnic Bias Among Health Care Professionals and Its Influence on Health Care Outcomes: A Systematic Review". December 2015. <https://pmc.ncbi.nlm.nih.gov/articles/PMC4638275/>.

² Hu & Hancock. "State of the Science: Implicit Bias in Education 2018-2020". May 2024. <https://kirwaninstitute.osu.edu/research/state-science-implicit-bias-education-2018-2020>.

Considering all sections of the bill, the NDSA is concerned about contradiction. SB 2392 calls for training on academic freedom whilst simultaneously restricting the academic freedom of faculty.

When discussing the restrictions laid out by this bill, your focus as the Education Committee should be on providing quality instruction for NDUS students. What other professions, aside from state legislators themselves, face this level of scrutiny? Is regulating and restricting teachers' ability to perform in their role an effective way to attract educators into North Dakota and retain the future educators trained at NDUS institutions? One of the NDSA's priorities is to advocate for providing a high-quality education for NDUS students. Continuing to interfere on higher education policy in contempt of the SBHE will only lower the quality of education. Regardless, none of the concerns addressed by SB 2392 are taking place in the manner the bill describes which only reflects the nature of a divisive and polarized political landscape. If such issues were to arise, existing policies are already in place to handle them appropriately.

On behalf of the North Dakota Student Association, I urge the Education Committee to give a DO NOT PASS recommendation on SB 2392.



NDSA-24-2425

A Resolution in Opposition of SB 2392: Regulation of Prohibited Discriminatory Practices

WHEREAS, the North Dakota Student Association (NDSA) represents the voice of North Dakota's 45,000 public college and university students; and,

WHEREAS, the purpose of NDSA is to represent all students enrolled in the North Dakota University System (NDUS) and advocate on issues of higher education in support of access, affordability, quality, and the student experience; and,

WHEREAS, during the 69th Legislative Session, legislators have proposed SB 2392, a bill that would create sweeping, negative changes to institutions under control of the State Board of Higher Education (SBHE); and,

WHEREAS, SB 2392 creates a new term in the ND Century Code "prohibited discriminatory practice" that uses politically charged, vague terminology to target institutions' departments and campus culture; and,

WHEREAS, SB 2392 defines a "prohibited training" as a discriminatory practice that means "a mandatory instructional program, including an in-person or online seminar, discussion group, workshop, and related materials which an institution requires the institution's employees, prospective employees, students, or prospective students to attend"; and,

WHEREAS, aspects of what this bill considers as prohibited training are integral aspects of classes, including general education courses or required courses for majors; and,

WHEREAS, in the enforcement of this bill, SB 2392, in contempt of the SBHE, would severely limit faculty's ability to teach courses for students to graduate; and,

WHEREAS, the SBHE is composed of members appointed by the governor, along with one student recommended by the NDSA, whose responsibility is to create higher education policy, this bill would be unprecedented legislative overreach if passed into law; and,

WHEREAS, SB 2392 creates a definition of a "prohibited submission" in Section 1.1.4, which regards a policy, program, or initiative that promotes differential treatment based on an individual's personal identity characteristics; and,

WHEREAS, when preparing NDUS students for the workforce, discussing these personal characteristics and the challenges that people with certain characteristics may face is foundational to careers such as education, business, law, medicine, etc. and all of which are in regard to prohibited submissions; and,

WHEREAS, under SB 2392, the SBHE and NDUS institutions would have to make significant changes to curriculum to accommodate these changes, likely at the expense of the institution and the state; and,

WHEREAS, SB 2392 states that "institutions shall train annually the institution's faculty and staff on academic freedom and freedom of speech in accordance with state and federal law" which contradicts its own merit in that the teaching or presentation of the concepts defined



as “prohibited discriminatory practices” are practices of free speech and academic freedom; and,

WHEREAS, this bill restricts the academic freedom of faculty by creating these contradicting regulations for NDUS institutions; and,

WHEREAS, these required trainings and other actions this bill deems as prohibited and discriminatory do not take place on NDUS campuses in the way described by SB 2392 and, rather, reflect the nature of a divisive and polarized political landscape; and,

WHEREAS, if these are happening on NDUS campuses, there is already a system for processing reports and a review process for such claims; and,

WHEREAS, the bill also prohibits institutions from considering an individual’s personal identity characteristics in determining the receipt of state financial and other state financial aid, including a scholarship or tuition waiver; and,

WHEREAS, under this definition, SB 2392 would prohibit the administration of Diversity Waivers that many students rely on to lower their cost of attendance at a NDUS institutions; and,

WHEREAS, these waivers are a reduction of the cost of tuition that is available for a wide range of students and does not use state funds to offer these to students; and,

WHEREAS, the removal of these waivers would negatively impact these students, and goes against the NDSA’s legislative priority of increasing the affordability of the NDUS through supporting scholarships and grants comparable to others in the region and to workforce needs; and,

WHEREAS, this would make North Dakota uncompetitive in attracting students to attend institutions in the state, those students opting to attend college out of state where these grants and scholarships are given to them; and,

WHEREAS, SB 2392 also states that an institution may not establish an office, division, employment position or other unit of an institution established to implement, develop, plan or promote campus policies, procedures, practices, programs, or initiatives regarding prohibited discriminatory practices; and,

WHEREAS, under this broad definition, institutions could be prohibited from having Diversity, Equity and Inclusion offices and offices of similar functions; and,

WHEREAS, the removal of these offices would impact students that greatly benefit from these spaces, and could potentially make these students feel unwelcome to the campus community, and negatively contribute to the mental health problems that many students face, decrease institutional retention rates, and push students away from attending institutions of Higher Education in North Dakota; so,

THEREFORE, BE IT RESOLVED, the North Dakota Student Association opposes SB 2392; and,

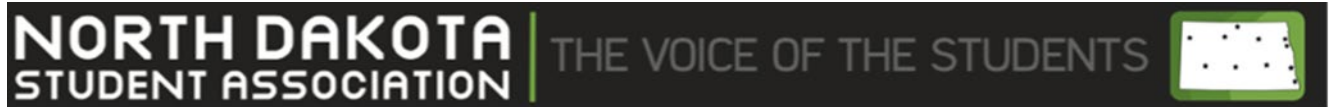
THEREFORE, BE IT FURTHER RESOLVED, that the North Dakota Legislature continues to let the State Board of Higher Education conduct business and policy in the best interests of students and NDUS institutions; and;



THEREFORE, BE IT FURTHER RESOLVED, the North Dakota Student Association opposes the elimination of waivers and grants related to Diversity, Equity and Inclusion, and;

THEREFORE, BE IT FURTHEST RESOLVED, the North Dakota Student Association opposes any closures of any DEI, Pride, or related centers.

*Approved by the North Dakota Student Association General Assembly
Saturday, February 8th, 2025*



SB 2392

February 11th, 2025

Christopher Scott, North Dakota Student Association

701-340-3380 | Christopher.m.scott@ndus.edu

Chair Beard and members of the committee:

My name is Christopher Scott, and I am the current Policy, Advocacy and Research Director for the North Dakota Student Association. I am here to express the NDSA's opposition to SB 2392.

The North Dakota Student Association (NDSA) is a student organization established in 1969 that is dedicated to ensuring that students have a voice in policy that affects Higher Education. The NDSA consists of delegates from each of the 11 public institutions that meet monthly to engage students in Higher Education policy in North Dakota. Our mission is to empower students, foster collaboration between students across campuses in the North Dakota University System, and to advocate on issues of higher education in support of access, affordability, quality, and the student experience.

My testimony will be focused on the student impact of this bill, particularly on diversity waivers, and the impact of removing diversity related centers that are eliminated at an institution of Higher Education. During the February 2025 NDSA General Assembly, the NDSA passed resolution NDSA-24-2425: A Resolution in Opposition to SB 2392: Regulation of Prohibited Discriminatory Practices. In addition to the academic impacts that SB 2392 would create, SB 2392 would also potentially discontinue the diversity waiver at institutions of Higher Education in North Dakota, and close diversity and pride centers across the students, impacting all students that these waivers, and centers provide for.

Typically, a diversity waiver is provided by the institution to an individual who comes from a disadvantaged background. This background could stem from a different ethnic background or living circumstances that may put them at a financial disadvantage when it comes to paying for higher education in North Dakota. The students that benefit from these waivers vary significantly. Some are single parents, first generation students, or low income. Others may be veterans or those with disabilities. There are approximately 700 students from across the University System that benefit from these waivers. The point of the waivers is to create an even playing field for all students to afford college.

With SB 2392, some of these waivers could be removed, placing the students that benefit from these waivers at risk of not being able to pay for the cost of attendance, which could then negatively impact retention rates across the NDUS and decrease the overall affordability of attending college in North Dakota. This goes counter to the NDSA's legislative priority of incentivizing students to attend NDUS institutions by increasing the affordability of the NDUS through supporting scholarships and grants comparable to others in the region and to workforce needs.

The removal of Diversity Waivers and other scholarships and grants impacted by SB 2392 would make North Dakota uncompetitive with other states in attracting both in state and out of state students to attend institutions in the state, those students instead opting to go to states where these waivers, scholarships, and grants are offered to them. If in state students leave the state due to college, there is a good chance that they will not move back to North Dakota after they complete college wherever they go, which then lowers North Dakota's intellectual capital, which is much needed, particular in areas where North Dakota is experiencing severe workforce shortages.

On a personal note, I was a recipient of the Diversity Waiver for 5 years while I attended Minot State University. As a student who had aged out the foster care system, this waiver greatly impacted my education and made it much more affordable to attend Minot State to complete my first degree, and reduced financial strains and stresses that I would have otherwise experienced without the waiver. It saved me approximately 20,000 dollars.

In addition to the potential removal of waivers, scholarships and grants, SB 2392 would also prohibit institutions from having an office, division, employment position or other unit of an

institution to implement, develop, plan or promote campus policies, procedures, practices, programs, or initiatives regarding prohibited discriminatory practices. In other words, SB 2392 would force institutions of Higher Education in North Dakota to close centers that enrich the campus community, such as pride centers and diversity offices.

The removal of these offices would impact students that greatly benefit from these spaces, and could potentially make these feel unwelcome to the state of North Dakota and to the campus community, negatively contribute to the mental health problems that many students face that these centers provide resources and environment to address and mediate, decreasing the retention rate of these students, and would also push students both in state and out of state to attend institutions of higher education outside of North Dakota.

Prior to this testimony, we reached out to some students that benefit from these spaces and some of their comments are included below:

Student 1: "I love this center. As a student, I feel seen and welcomed at this Center more than any other place here on campus. It's been a great place to meet people, get involved in the community and so much more! Not only is it a great place to learn things, meet new people but it also provides a great environment for effective learning. This Center has helped me out so much with my experience and transition here in college. The staff are the best and so welcoming and helpful to all students no matter what. This center is an impactful great place that is very inclusive and accepting."

Student 2: "I love the sense of belonging I get at the Center. I feel safe and seen and heard in this space because there are people that look like me and so they understand me. I also love the staff and all the help they've provided throughout my academic career. I genuinely think I wouldn't have made it through college without this Center."

Student 3: "I love the environment and the people. This Center hosts a lot of events which brings people out of their shells and allows us to meet people who we would otherwise probably never meet. I love the center space and the resources that are available through this place. It is a central place for me to get in touch with more people on campus. This center has helped with some many things that has played a huge role in the improvement of my mental health and academic well-being"

Student 4: “I love the community I feel when I am in there. They really work hard to make the Center feel like a third space. The diversity, ambiance of the room, and kindness of the people there makes it a vital campus organization. My words could not encompass all of what makes the center great, but it has brought unequalled benefit to the student body”

With these details covered, the NDSA opposes the removal of any DEI or related center that caters to the university community, and opposes the removal of any scholarships, grants or waivers that would be impacted if SB 2392 were to pass. The NDSA strongly opposes SB 2392 and would ask for a DO NOT PASS recommendation from the committee.



North Dakota Senate

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



Senator Mike Wobbema

District 24
11829 31st Street SE
Valley City, ND 58072-9709
mwobbema@ndlegis.gov

COMMITTEES:

Education
Workforce Development (Chair)

11 February 2025

Good morning, Chairman Beard and members of the Senate Education Committee. For the record, I am Senator Mike Wobbema from District 24.

SB2392 is intended to remove from taxpayer funding those programs and processes which advocate for discriminatory practices while at the same time hold themselves out as a solution to discriminatory practices. This Bill strives to continue to rebalance the scales. This great country has endured significant struggles to end discriminatory practices in our society. A recent Supreme Court ruling held that Harvard's practice of admission based upon a quota of certain ethnicities was unconstitutional. A discriminatory practice that was based upon a personal attribute that was out of the control of the applicant. Unfortunately, our society has been influenced by some who would advocate for continued discrimination from another angle, under the guise of justice, to create continued practices that are largely out of the control of those on the wrong side of the perceived grievance. We need to continue to strive to end discrimination, in all its forms. At the very least, we must end the use of North Dakota taxpayers' money at all levels to fund these practices.

You are going to hear from those in opposition that this is going to create a lot of work. That it is going to end or impact some programs and processes that are appreciated by some. Ending discrimination on all its forms is hard work. But in the end, we will all be better for it. It has been a long, hard road for this great nation. We need to take our part in North Dakota to be part of the solution, and I think that SB2392 takes us a step closer.

Mr. Chairman, Senate Education Committee, this concludes my testimony, and I will stand for any questions.

Respectfully,

Senator Mike Wobbema

2025 SENATE STANDING COMMITTEE MINUTES

Education Committee
Room JW216, State Capitol

SB 2392
2/19/2025

Relating to the regulation of prohibited discriminatory practices; and to provide for a legislative management report.
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10:39 a.m. Chairman Beard called the meeting to order.

Members Present: Chairman Beard; Vice-Chairman Lemm; Senators: Axtman, Boschee, Gerhardt, and Wobbema.

Discussion Topics:

- Committee Action

10:42 a.m. Senator Wobbema moved Do Not Pass.

10:42 a.m. Senator Axtman seconded the motion.

Senators	Vote
Senator Todd Beard	Y
Senator Randy D. Lemm	Y
Senator Michelle Axtman	Y
Senator Josh Boschee	Y
Senator Justin Gerhardt	Y
Senator Mike Wobbema	Y

Motion Passed 6-0-0

Senator Wobbema will carry the bill.

10:45 a.m. Chairman Beard adjourned the hearing.

Susan Helbling, Committee Clerk

REPORT OF STANDING COMMITTEE
SB 2392 ([25.1277.02000](#))

Education Committee (Sen. Beard, Chairman) recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT OR EXCUSED AND NOT VOTING). SB 2392 was placed on the Eleventh order on the calendar. This bill does not affect workforce development.