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NDSU Faculty Senate Open Letter on the ND Senate Bill 2030 Amendment

The North Dakota State Legislature recently adopted an amendment to Senate Bill 2030 which sets a dangerous precedent for legislative overreach into academic research across the North Dakota University System (NDUS). Although we appreciate the legislature's efforts to increase appropriations for higher education institutions, via this open letter, the NDSU Faculty Senate wishes to express its stern disapproval of this legislative action.

On February 18th, Senate Bill 2030 was introduced on the floor of the ND Senate with a do pass recommendation from committee. SB 2030 provides funding to the State Board of Higher Education (SBHE) for the higher education challenge matching grant program. In essence, the bill provides state funds to SBHE institutions to match funds raised that generally support student scholarships. As written, the bill was revised to increase the funding amount as a reflection of statewide enthusiasm for the program's success. During the floor session, two amendments were brought from the floor. The first amendment added University of Jamestown and University of Mary as eligible recipients of the funding. The second amendment introduced language in the ND Century Code limiting funding eligibility.

The latter amendment poses serious concerns for many reasons because of its political overreach, direct infringement on academic freedom, and unintended consequences. Furthermore, it contravenes with two core values embraced and shared by North Dakota citizens and their elected representatives in the state legislature, namely individual liberty and freedom of speech, both of which are protected under the First Amendment of the U.S. Constitution.

Political Overreach and Academic Freedom

Academic freedom refers to the ability of teachers, students, and educational institutions to pursue knowledge without unreasonable political or government interference. Institutional academic freedom safeguards the university as a whole from government or other external encroachment. Included within this concept is protecting the right of universities and colleges to engage in all aspects of intellectual activity and the faculty's autonomy in deciding what research to conduct and publish. Academic freedom falls under the First Amendment. For there to be any governmental regulation, the government must provide evidence that it has a compelling government interest in regulating the matter using the most narrowly tailored or least restrictive means to achieve its compelling interest in order to be constitutional.

A research university like NDSU should not be subjected to limitations on its areas of research out of concerns that it may offend the political views of particular members of the state legislature. This represents an infringement on academic freedom, arguably the

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cardinal principle of any academic pursuits and the most deterministic for the long-term success of any institution of higher education. Political pressure is not, nor can it be the basis on which academic decisions are made. Conditioning financial appropriations on the content and funding sources of scholarly research fundamentally violates institutional academic freedom and constitutes a breach of faculty's individual liberties and freedom of speech protected under the U.S. Constitution's First Amendment.

This amendment sets a dangerous precedent by enabling the state legislature to exert control over the research and teaching agendas of SBHE institutions through funding restrictions. If unchallenged, this power has future implications for other areas of research and could cause irreparable injury to the ways in which institutional research contributes to our state. For instance, if powerful companies did not like certain research, could they lobby the legislature to punish a university to prevent the research? Would the legislature limit research on other areas select legislators perceived to be controversial or incompatible with their personal political priorities, such as climate change, renewable energy, artificial intelligence or human genomics research?

Unintended Consequences

This amendment may be directly targeted at NDSU under the misconception that the NDSU grant involves abortion services, when in reality the NDSU grant is solely related to providing education about evidence-based standards to prevent unwanted pregnancy. However, the amendment may have significant unintended consequences for other higher education institutions and organizations across North Dakota.

For example, the amendment may make any university within the SBHE system with a nursing or medical school ineligible to receive the funding. Abortion is part of all healthcare curricula and, according to accrediting bodies, it must be presented in ways that allow the option of both abortion and childbirth.

In sum, on behalf of the campus faculty it represents, the NDSU Faculty Senate acknowledges and welcomes the prerogative of the state legislature to allocate funding for higher education institutions in our state, particularly in the present dual crisis spurred on by an ongoing pandemic and budgetary exigency. However, the Faculty Senate firmly opposes the legislative overreach into academic research via the SB 2030 amendment and urges state legislators to reverse this decision so patently intended to stifle academic freedom.

Respectfully,



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