



## In Support of Free Speech on Campus

### *Testimony supporting SB 1151*

by Thomas K. Lindsay, Ph.D.

Dear Members of the Committee:

I speak today in favor of SB 1151. This bill safeguards the First Amendment rights of students at our public universities by banning restrictive campus speech codes and “Free Speech Zones,” by discouraging speaker dis-invitations, by preventing universities from pressuring students into taking particular political positions, and by ensuring that visiting speakers and others will be protected from the corrosive practice of speaker shout-downs.

This last item may be the most timely and important feature of the bill. By establishing a system of disciplinary sanctions for speaker shout-downs, informing students of those penalties, and creating a system of annual oversight to ensure that disciplinary sanctions are fully and fairly enforced, this bill can put a stop to the sad spectacle of speaker shout-downs sweeping over the country right now.

Regarding the provision that creates a cause of action for violations of free speech rights, keep in mind that compensatory damages are limited to \$1,000. Suits under this provision should be rare, since administrators will almost certainly act quickly to protect the First Amendment on campus once this bill is passed. Keep in mind that Missouri in 2015, Arizona in 2016, and Colorado earlier this month allowed similar lawsuits. I’m told that the Goldwater Institute in Arizona, which backed that state’s 2016 bill, knows of no lawsuit brought under the statute in the year it’s been on the books. The cause of action provision is necessary in case of those rare crises that sometimes occur. Under ordinary circumstances, however, the mere existence of that provision should be sufficient to deter violations and protect the First Amendment.

It’s very important that the principle of institutional neutrality be affirmed by this bill. Universities that engage in political protest, for example, by divesting their endowments of holdings in oil and gas companies, or companies based in the state of Israel, are creating a kind of official political line. This puts unfair pressure on both students and faculty to follow that line. That said, I would recommend a slight modification of the bill’s provision on institutional neutrality, substituting language from the Goldwater Institute’s model campus free speech bill. That language merely calls on the university to “strive” for institutional neutrality. This change will discourage lawsuits and will leave the question of where to draw the line on issues of neutrality up to the judgment of the Regents as conveyed by their annual report.

Thank you. I am happy to answer any questions you might have. ★

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