



Ohio Conference of the American Association of University Professors

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Testimony of Stephen Mockabee, PhD
Ohio Conference of the American Association of University Professors
Before the Senate Workforce and Higher Education Committee
Senator Jerry Cirino, Chair
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Chair Cirino, Vice Chair Rulli, Ranking Member Ingram, and Members of the Workforce and Higher Education Committee:

My name is Steve Mockabee, and I am an Associate Professor in the School of Public and International Affairs at the University of Cincinnati. Today I am speaking on behalf of the Ohio Conference AAUP, which represents more than 6,000 college and university faculty at both public and private institutions of higher education across the state, to provide interested party testimony on Senate Bill 117.

The AAUP has consistently advocated for additional investment in higher education, including in recent testimony before this committee about the state budget. However, we are here today as an interested party because of concerns about the language in SB 117 regarding the governance structures and procedures for the two institutes the bill seeks to create.

We have chosen to agree to disagree with the sponsors of the bill over the need for new institutes to create and facilitate “intellectual diversity” at our public colleges and universities. Ohio’s institutions of higher education are already open marketplaces of ideas where free inquiry is ongoing. We remain deeply concerned that attempts by the General Assembly to override the autonomy of our colleges and universities will have many unintended consequences that damage, not enhance, the climate of free inquiry on our campuses and the quality of education that is offered to our students. That said, in our testimony today we seek to provide constructive feedback on SB 117.

The bill states that each of the two new institutes would be governed by a seven-member academic council and a director. The council is to be appointed by the Board of Trustees “with the advice and consent of the senate” but what that means in practice is not clear. Does “senate” refer to the Ohio Senate or to an institutional senate, such as a faculty senate? If it is the Ohio Senate, this lends itself to politicization of these positions and involves unnecessary micro-management. Appointments by the Board of Trustees would seem sufficient. If it is an institutional senate, there may be more than one “senate” on a campus – for example, one at the college level and one at the university-wide level, but the bill is not clear about which body has authority to provide “advice and consent.” The bill also does not explain what is meant by “advice and consent.” Does this mean that the intended senate can reject the appointment of a director, as the U.S. Senate can reject a court nominee? Or does it merely mean that a faculty

senate can give some non-binding input about the hiring decision? Or does it mean something else? This should be clarified.

In addition, there is a puzzling stipulation that not more than one employee of the university can be on the academic council of the institute. And there is no guarantee that any faculty will be on the council at all. Why exclude input from university employees who would be in the best position to offer advice about the functioning of an academic unit on their campus? We recommend that seats on the academic council be set aside for university faculty, since they are the ones with the academic expertise necessary for developing and delivering curriculum and for conducting research.

For both institutes, a director is to be appointed by the President with approval of the Board of Trustees and is to report directly to the Provost and President. Under the bill's current language, a national search by the academic council is mandated for the director of the institute at Ohio State, but for the institute at the University of Toledo it would be possible for a director to be appointed with no search process and no opportunity for input from faculty, staff, or students on campus. This is concerning in view of the bill's sparse language about the hiring of faculty into the new academic units. There are mandates to hire tenure-track faculty, but it is not clear when or how these positions are to be filled. For the proposed Chase Center at OSU the bill states: "The director shall hire all faculty and staff of the center and shall oversee the development of the center's curriculum" (lines 90-92). For the proposed Toledo Institute of American Constitutional Thought and Leadership, the bill states: "The director shall hire and appoint all faculty and staff of the institute and shall supervise all of the institute's activities" (lines 177-179). Such broad mandates could grant extraordinary power to the directors.

Because of the need to understand highly specialized research from academic disciplines, it is imperative that faculty with relevant expertise be included as part of search committees for open faculty positions. The joint statement on academic governance formulated by the AAUP, the American Council on Education, and the Association of Governing Boards of Universities and Colleges, states: "scholars in a particular field or activity have the chief competence for judging the work of their colleagues."¹ The standard approach at universities in Ohio and throughout the country is that a faculty search committee uses their expertise to evaluate applications, conducts interviews with top candidates, and then makes a recommendation to the appropriate administrator (often a college dean) who then authorizes an offer to be made. The language in SB 117 allocating all hiring power to one individual, the institute director, lacks the usual checks and balances.

Having the checks and balances provided by shared governance is always a good idea, but is particularly important when large amounts of public money are being invested. It is worth noting that the bill's \$5,000,000 annual appropriation to Ohio State could pay the full in-state tuition costs for 400 students each year of the biennium. At a time when college affordability is a significant concern for Ohio families, we owe it to Ohioans to be sure that funds allocated by the legislature are being spent in ways that maximize their positive impact. Following the best practices of shared governance will help to ensure not only the wise use of public funds, but also the delivery of high-quality teaching and research to our students.

¹ <https://www.aaup.org/report/statement-government-colleges-and-universities>

Finally, we wish to point out some overlap between SB 117 and other recent legislation that may be problematic. This bill appears to establish that certain viewpoints must be represented within the institute in order to achieve "intellectual diversity." However, to accomplish that, the bill may conflict with a component of another piece of pending legislation advanced by this committee, Substitute Senate Bill 83. On pages 27-28 of Sub. SB 83, the following language appears:

"Prohibit political and ideological litmus tests in all hiring, promotion, and admissions decisions, including diversity statements and any other requirement that applicants describe their commitment to a specified concept, specified ideology, or any other ideology, principle, concept, or formulation that requires commitment to any controversial belief or policy; (9) Affirm and declare that no hiring, promotion, or admissions process or decision shall encourage, discourage, require, or forbid students, faculty, or administrators to endorse, assent to, or publicly express a given ideology or political stance; (10) Affirm and declare that the institution will not use a diversity statement or any other assessment of an applicant's political or ideological views in any hiring, promotions, or admissions process or decision..."

If an institute is mandated to pursue "intellectual diversity" in its hiring, but is forbidden from using ideology in hiring decisions, this presents a quandary.

In summary, we believe that this bill as currently written goes against important and necessary long-held standards in higher education and needs numerous clarifications and modifications before being passed. With the appropriations attached, there may be an expectation to fold this bill into the state operating budget, but we would urge there to be further careful consideration of this legislation before passage.

Thank you for the opportunity to offer testimony. I am happy to answer questions.