

Dear Government and Veterans Affairs Committee:

I am writing to express opposition to the proposed HB 1446 which implements new models of evaluation of and expectations for tenure-line faculty at NDUS institutions. I believe this bill would have an overall negative ability to attract and retain faculty to our campuses and would create an overall chill on our campus cultures.

Having read a number of the stories published in trade and popular venues on this topic (see this [Forbes](#) article and this [InsideHigherEd](#) article), I know that the sponsors and supporters of this bill have heard and rejected many of the rational arguments that have been marshaled against the bill. For example, representative Lefor and bill supporter and Dickinson State University president Steve Easton seem enamored of the free market principle that “It makes tenured professors accountable, just like anyone else,” he said. “You take the private sector—you’re accountable to a boss.” The bill’s proposal that enacts “firing powers of “the president of each [emphasis added] institution of higher education under the control of the State Board of Higher Education,” an approach modeled on capitalist economic system that includes the new expectation that “Under the bill, presidents would be able to conduct these faculty reviews at any time.”

However, the bill overlooks another key principles of the free market, which is competition. What the sponsors of this bill fail to recognize is that higher education is a national market, and college faculty have opportunities to seek positions throughout the US. Faculty members (perceived as “productive” or not) consider a variety of factors as they make decisions about whether to accept a position at a college or university. I encourage the bill sponsor to consider the decision process of a prospective candidate for a position at Dickinson State, Williston, Mayfield, or NDSU (which is currently unaddressed by the bill even though Lefor expresses in the Inside Higher Ed column a strong desire to include all the campuses). This hypothetical candidate—a potential professor of English, Biology, Engineering, Chemistry, Hospitality, Economics, Business—take your pick—considers an offer for a position in ND, where they will labor under the constant potential threat that the university president may decide to spontaneously engage in an ‘unappealable’ review that will lead to their hiring.

By contrast, over the border, the positions in Chemistry, Biology, etc., at Minnesota schools come with the promise of employment protections, including a clear and transparent mechanism for faculty review and appeals processes. These are made apparent to the candidate who knows that they will be able to pursue their research, teaching, and service interests without the potential threat of spontaneous, unappealable termination. Likewise, if their performance evaluation is negative, they’ll be provided with an avenue to contest that judgment and to correct any perceived or actual deficiencies before they are unceremoniously fired.

In other words, this policy which seems to be a solution in search of a problem, chases away potential faculty before they even apply or accept a position. Oftentimes, the threat of an action has the same consequence as the action itself. As the bill authors invoke the ethos of “the private sector,” it would benefit them to think about how faculty hiring and recruitment are also a free market—and this bill will make ND (which already struggles with faculty recruitment and retention) an even less desirable location in what is already a highly competitive market for faculty talent. This legislation brings the state so far out of line with what other, peer institutions and states are doing that the effect on recruitment and retention will be felt not just at Dickinson State but throughout the ND University System.

I encourage the members of the ND House Government and Veterans Affairs Committee to categorically reject this ill-conceived bill.

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