

Members of the Governance and Veterans Affairs Committee, I submit this document to express my opposition to HR 1446. I am a tenured Professor of Computer Science at Dickinson State University, but I would like to emphasize that I am writing this letter as a private citizen.

My first reason to oppose the bill is frankly based on self-interest. Tenure, in the abstract, represents a multi-year commitment of new faculty to persistently earn high evaluations by several metrics over many years. The promise of tenure helps in recruitment of high-quality faculty, aids in faculty retention, and provides universities with a depth of intuitional knowledge and a cadre of experienced faculty who have proven their ability and dedication. Tenure is awarded based on student evaluations of teaching performance, demonstration of scholarship by the larger outside community, several years of performance evaluations from their chair, and documentation of their commitment to service. The tenure decision is a collective one; at DSU a department committee, the department chair, the dean, a university-wide faculty committee, and the provost all make independent recommendations to the campus president, whose favorable decision must also be adopted by the State Board of Higher Education. While occasionally a professor who has received tenure at one institution can be hired with tenure at a new position, it is much more common that any change of jobs would require the re-application for tenure at the new institution. While there is the stereotype of faculty who cease contributing the instant they have a degree of job security, many (including me) continue to demonstrate a combination of ability and dedication over several additional years (using similar evidence and evaluations as the tenure process) to earn the promotion to Professor, sometimes indicated (full) Professor. While the pay increase from this promotion is nominal, the promotion recognizes a decade or more of ongoing excellence and dedication for which the tenured professor has earned the presumption that they continue to have the good-will of the University in mind, and they are given a level of autonomy, self-direction, and job security that is extraordinarily rare in the private sector. Of course anyone who has invested so much time and effort on the front half of this decades-long understanding will be unenthusiastic about a subsequent reduction in the university's obligations.

My second reason is more philosophical. As a patriotic supporter of the United States of America, I am a firm believer in the values espoused by our Founders including separation of powers, due process, equal administration of the laws, and the general idea that the only way to accomplish something is to build a consensus based on debate, deliberation, and compromise. Part of the reason I applied for an academic job, and particularly one at a state-owned institution, is because that would allow me to recognize and participate in this type of system in my work life not just as part of civic engagement. The bill allows university presidents to pick arbitrary faculty members for an extra-ordinary performance review. If the courses that were assigned to them by their chair do not provide tuition revenue to support their salary (how are tuition waivers accounted for?) then the faculty may be fired. If the faculty is among the those teaching below- "approximately average" class sizes (again, as assigned by the chair), they may be fired. Or if they are part of an overlapping but non-identical group that had a below "approximately average" advising load. Or perhaps university policy says that a particular committee will follow Robert's Rules of Order and yet the faculty member leading the committee allowed for discussion of an agenda item prior to a formal motion. Maybe the faculty member gave a student a failing grade, and by doing so failed to "help students achieve academic success." No matter how ridiculous the finding, the law does not merely allow but actually compels the President to terminate the faculty member absent a specific articulation of why the faculty should remain employed

– an articulation unlikely to be given to the person the President chose for such an exacting review. And all of this is done without any recourse or review for the impacted faculty. Putting aside the distinction between the Ivory Tower and Industry, is there a single state entity anywhere in America with so little protection for the arbitrary dismissal of state employees? This bill would create a bizarre situation where staff hires would have greater job security than allegedly valued professionals.

To explain my third reason, I would like to give additional details about my own history at DSU. I joined the campus in Fall of 2009 and was still new to Dickinson when a major crisis involving international students hit DSU. Among other issues, this caused the HLC to put DSU “on notice” that we were required to make sweeping changes in policy, procedure, and oversight to guarantee the problems from 2011 would not recur. I was a member of Faculty Senate at the time, and became the Faculty Senate representative to the Faculty Policies Council in 2012. This committee was busier during the two years of 2012-2013 than I have seen before or since; the policies (a result of enormous efforts by effectively the entire campus) led the HLC to remove the “on notice” designation – while informally warning us that our assessment efforts needed major revisions prior to the next full review. In 2014, I became a department chair and a member of the assessment committee. Like the earlier policy work, the changes to DSU’s assessment process were transformative and urgently needed. My duties as department chair included ample recruitment and retention efforts – efforts that were complicated with the failure of the old DSU Foundation. In 2017 I became co-chair of the of DSU’s Higher Learning Committees – specifically the one covering “Integrity, Ethical and Responsible Conduct.” Obviously this is one of the areas DSU had previous issues with, and this was the HLC committee most directly impacted by the collapse of the old Foundation. In 2018-2019, long-simmering budget issues became increasingly urgent. As department chair, I did everything I could to manage our resources as effectively as possible including adjusting our course rotations and greatly reducing our use of adjunct professors. Ultimately DSU had to terminate a significant number of non-tenured faculty including two from my department leaving me with the unfortunate duty of making timely adjustments to curriculum and scheduling. Shortly thereafter, the COVID crises required my engagement both as forming department policy and my participation on a committee making re-opening recommendations to the University. Although I am no longer department chair, I have tried to acclimate our new chair to DSU and NDUS to facilitate continuity of operations.

I provide this litany of service activities not to brag of my contributions (I believe my status as tenured professor is sufficient evidence) nor to present DSU as an institution lurching from crisis to crisis (though honestly it does sometimes feel that way) but rather to point out the wide variety of different tasks that were at some point the most urgent activity DSU needed to perform. I do not dispute the vital importance of having a normal budget including by having full classes and active recruiting. But I do dispute that a legislature meeting only once per two years should create a law specifically designating these activities for particular attention. It is quite possible that another unexpected crisis will hit DSU requiring collective action to overcome, and a state law explicitly mentioning recruitment, advising, and course load obligations would no longer accurately reflect DSU’s most urgent needs.

My fourth reason to oppose this bill is because I am not convinced it is compatible with HLC guidelines. I’m sure you are aware that accreditation is vitally important to DSU – our students would be unable to qualify for VA benefits, federal loan guarantees, or Pell Grants without it. To list just a few

criteria possibly impacted by HR 1446 (the complete list is viewable at <https://www.hlcommission.org/Policies/criteria-and-core-components.html>):

Criteria 2a requires the university to establish and follow policies and procedures to ensure fair and ethical behavior on the part of its administration. Does HR 1446 ensure that the administration's actions will be fair?

Criteria 2C requires that the "governing board" (SBHE for our case) is autonomous and independent of undue influence from elected officials or other "external parties." Is a law making sweeping changes to tenure and the appeal rights or faculty consistent with this standard?

Criteria 5A includes the mandate "Shared governance at the institution engages its internal constituencies—including its governing board, administration, faculty, staff and students—through planning, policies and procedures." I was particularly disappointed to hear you oppose shared governance. Implementation of HR 1446 would over-rule a substantial number of DSU and NDUS policies and procedures related to tenure, faculty rights, faculty evaluations, termination of tenured faculty, the rights and duties of the Standing Committee on Faculty Rights, appeal rights for faculty, and likely many others.

DSU's accreditation status with the HLC is absolutely vital. Since the HLC requires that DSU demonstrate commitment to shared governance and faculty involvement in policy formation, any significant changes should be made only after careful consideration of the HLC obligations.

In short, HR 1446 is a terrible bill that I oppose both in principle and in substance. I urge to committee to reject the bill.

Billy Harris
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