

Dear Chairman Schauer and members of the Government and Veterans Affairs Committee,

We write to you on behalf of the Council of College Faculty (CCF), which represents faculty from all 11 North Dakota University System (NDUS) campuses.

We have serious concerns about HB 1446 and encourage your committee to not pass this bill.

This legislation is unnecessary and based on misconceptions about the post-tenure review of faculty. Current SBHE [Policy 605.1](#) outlines the purpose of tenure and requires each campus to establish procedures for the *continued* evaluation of faculty after receiving tenure. Tenure is not an entitlement and does not confer unconditional employment.

While HB 1446 is written as a pilot program, the bill's authors have made it clear in public statements that they would like to see the bill's provisions expanded to all NDUS campuses.

By mandating each faculty member meet a certain level of tuition generation and teach/advise a certain number of students, this legislation would undermine important small programs and classes, such as graduate programs and labs, that are vital to meeting the workforce development needs of our state. This mandate may also result in the loss of accreditation and closure of key programs (e.g., nursing and healthcare; aviation; and others).

Some campuses have experienced significant faculty turnover in recent years, and this legislation, which has already resulted in negative national press, would undermine our efforts to recruit and retain the most competitive faculty.

These, and other concerns, are elaborated on in the following resolution, which was discussed and approved by the Council of College Faculty (CCF) on January 31, 2023.

This is a bill that would have long-term negative impacts on our university system. We urge your committee to not pass HB 1446.

We would be happy to answer any questions you might have about current post-tenure review processes and the potential impact of this legislation.

Sincerely,

The Council of College Faculties Executive Committee

Derek VanderMolen (Williston State College) - CCF President

Daphne Pedersen (University of North Dakota) - CCF Vice President and AAC representative

Jessica Santini (Lake Region State College) – CCF Secretary and Blackboard Governance rep

Rachelle Hunt (Valley City State University) – Parliamentarian and SAC representative

Lisa Montplaisir (North Dakota State University) – Faculty Representative to the SBHE

Andy Bertsch (Minot State University) - Immediate past CCF President

Jeff Hart (North Dakota State College of Science) – Immediate past SAC Rep and CCF Parliamentarian

Richard Millspough (University of North Dakota) - Immediate past CCF Secretary

Elizabeth Legerski (University of North Dakota) – Immediate past Faculty Rep to the SBHE

North Dakota University System Council of College Faculties

Resolution in Opposition to HB 1446

RATIONALE:

WHEREAS SBHE [Policy 605.1](#) outlines the purpose of tenure, which is to protect academic freedom, it also requires campuses to establish procedures for the continuing evaluation of faculty following tenure. These criteria include assessing faculty teaching, scholarship or creative activity, and service. How annual evaluations are conducted varies by campus due to variability in organizational missions and structures, but they generally involve review by a committee of faculty and the approval of multiple administrators such as a Department Chair, College Dean, and/or Provost or VP. Existing SBHE policy requires each NDUS institution to establish procedures and criteria for continued evaluation. Additionally, Higher Learning Commission accreditation and evaluation for re-accreditation requires regular evaluation of faculty by each institution as described in [Criterion 3D](#). While tenure provides a sense of financial stability for faculty through continuous employment, it does not prevent faculty from being dismissed with adequate cause or under extraordinary circumstances as described in SBHE [Policy 605.3](#); and

WHEREAS section 1.1 of HB 1446 imposes on several NDUS institutions requirements that individual faculty generate more tuition or grant revenue than their salary and benefits, this fails to recognize how universities operate with each unit contributing to and supporting the functioning of the whole. While some courses are large and generate a lot of tuition revenue, many specialized courses and labs are small. The costs of these courses are offset by larger classes. Graduate courses and those with more hands-on and technical training, for example, tend to have smaller class sizes, which are more costly. Faculty salaries also vary a great deal by discipline, which makes the burden of this requirement more difficult to meet in healthcare, business, and technology programs where faculty are paid more because professionals in these fields can make substantially more in private industry; and

WHEREAS accreditation standards for some programs, such as nursing, for example, require faculty-student ratios that may be lower than those of other programs, section 1.3 of the bill, which mandates that faculty “teach and advise a number of students approximately equal to the average campus faculty teaching and advising load,” may impact program accreditation from the Higher Learning Commission and/or other accrediting bodies, resulting in the loss of training programs critical to meeting the workforce needs of the state; and

WHEREAS dismissal procedures for tenured faculty members are already stipulated in [SBHE Policy 605.3](#), HB 1446 would grant the unilateral review and dismissal of faculty by campus presidents and removes guarantees for reasonable dismissal procedures, including a written assessment of the faculty member’s performance and the right to appeal a decision. Such a

policy is not only undemocratic but would likely also result in costly lawsuits. By usurping current termination processes established through campus structures of shared governance, this policy also creates greater burdens for campus presidents, the SBHE, and the Chancellor; and

WHEREAS the NDUS generates [billions of dollars in revenue for the state](#), it is vital that we maintain positive faculty morale in order to recruit and retain a vibrant workforce on our campuses, grow student enrollments, and provide the educational programming needed to meet the state's workforce needs. A tenured faculty is essential to student recruitment efforts, particularly within professional and graduate programs. If passed, HB 1446, which has already generated substantial negative press in the national media (see [Forbes](#), [Inside Higher Ed](#)), will act as a deterrent to new faculty hires, undermine faculty morale across the NDUS, and cause faculty to look for employment at other institutions of higher ed and in other states that recognize the value of tenure and shared governance.

RESOLUTION:

THEREFORE BE IT RESOLVED that the ND Council of College Faculty (CCF) opposes HB 1446 and asks the various bodies and committees of the ND Legislature to not pass this bill.

BE IT FURTHER RESOLVED that the ND CCF stands in solidarity with our colleagues at Dickinson State University and Bismarck State University, who would be most immediately and directly impacted by this legislation.

BE IT FURTHER RESOLVED that the ND CCF steadfastly upholds the values of tenure and shared governance as core principles of higher education.

BE IT FURTHER RESOLVED that the ND CCF resolutely rejects any attempts to remove tenure or undermine shared governance in the evaluation processes and grievance protections currently in place.

BE IT FURTHER RESOLVED that the ND CCF affirms the American Association of University Professors [1940 Statement of Principles on Academic Freedom and Tenure](#) (Rev. 1990), which has been endorsed [by more than 250 scholarly and education groups](#).

Adopted by the ND CCF on January 31, 2023.