

February 2nd, 2023

My name is Kelsey Menge and I serve as an Assistant Professor of Speech Communication at Bismarck State College.

I write in **opposition** to **House Bill 1446** for the following reasons:

1. H.B. 1446 eliminates due process rights of faculty members in the NDUS system and gives total control to an institution's president to terminate a tenured faculty member without an appeal process, and the president and/or administrator can do so with fear of reprisal or retaliation.
2. Currently, all tenured faculty are still subject to yearly performance reviews and additional teaching observations, through the channels of Assistant Deans, and require the signature approval of Academic Deans, and the Vice President of Academic Affairs. No faculty member goes without an evaluation each academic year.
3. Not only does this violate due process rights, but a factor of **shared governance** is also eliminated. In higher education, shared governance is defined as "structures and processes through which faculty, professional staff, administration, governing boards, and sometimes students and staff, participate in development of policies and in decision-making that affect the institution." It is clear the sponsor of this bill, Representative Lefor, does not understand shared governance in higher education. Rep. Lefor stated on January 21st, 2023 in "Coffee with Legislators" that he does not believe in "shared governance." This proves to be concerning as shared governance is a factor for accreditation.

The NDUS system is accredited through the Higher Learning Commission. The Higher Learning Commission (HLC) is an independent corporation that was founded in 1895 as one of six regional accreditors in the United States. HLC accredits degree-granting post-secondary educational institutions in the United States. HLC is as an institutional accreditor, accrediting the institution as a whole.

One of the criteria components for accreditation through the HLC is **shared governance**:

5.A. Through its administrative structures and collaborative processes, the institution's leadership demonstrates that it is effective and enables the institution to fulfill its mission.

Shared governance at the institution engages its internal constituencies—including its governing board, administration, faculty, staff and students—through planning, policies and procedures.

The institution's administration uses data to reach informed decisions in the best interests of the institution and its constituents.

The institution's administration ensures that faculty and, when appropriate, staff and students are involved in setting academic requirements, policy and processes through effective collaborative structures.

<https://www.hlcommission.org/About-HLC/about-hlc.html>

If an institution does not meet the requirements of the Higher Learning Commission, the institution can lose federal financial aid, students cannot transfer credits to another school, and students may not obtain professional licensure in their field.

4. The institutions of Dickinson State University and Bismarck State College were chosen as pilot schools due to the nature of new mission statements. HLC evaluates an educational institution in terms of its mission. There is no evidence to support the new mission statement has an impact on the effective teaching and performance of tenured faculty.
5. The emergency nature of the bill is concerning. If Rep. Lefor considers this an emergency, we need evidence to determine *why* it is an emergency.

In sum:

H.B. 1446 is unconstitutional, unnecessary, and flawed. If Rep. Lefor wants to aid in the improvement of the tenure process, he should do so by:

- A. Addressing the State Board of Higher Education with concerns
- B. Seeking out feedback from faculty members of NDUS institutions
- C. Research accreditation policies and shared governance
- D. Provide evidence supporting the claims that this bill is needed for the mission change of the two pilot schools, in addition to the emergency measure

I strongly recommend the Education Committee give **H.B. 1446 a do not pass** recommendation.

Please do not hesitate to contact me with any questions or concerns.

Thank you for your time and service to the state of North Dakota.

Sincerely,

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