

University Senate  
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UND.edu/university-senate

**HB 1446**

ND House Government and Veterans Committee

Feb. 3, 2023

Robert Newman, Chair, University Senate, University of North Dakota

Chairman Schauer, Vice Chairman Satrom, and Members of the Government and Veterans Committee:

My name is Robert Newman, I am a professor in the Biology Department at the University of North Dakota and the Chair of UND's University Senate. On behalf of the UND University Senate I submit this **testimony in opposition to HB 1446.**

**I. The bill as currently written would directly harm the state of North Dakota, its citizens and students by significantly degrading a meaningful and impactful tenure system in the NDUS, thereby dramatically reducing the ability of the eleven schools of the NDUS to meet their missions.**

The maintenance of a meaningful tenure system in North Dakota is vital, for it provides a number of benefits to the state. A meaningful tenure system,

1. Undergirds principles of **academic freedom**.
2. Supports the advancement of **freedom of speech**.
3. Provides **standing and a positive reputation** for universities on the national stage, which allow institutions to compete at a national level for attracting and retaining world-class faculty.
4. Provides **stability in the academic enterprise** of a university through the building of a highly qualified and productive faculty, which is the very basis of the higher education system.
5. Supports **innovation and enterprise** within a community, state, and a region, which advances the economic, intellectual, social, and cultural interests of the citizenry. It does this by allowing faculty the freedom to create, innovate, and advance knowledge without being subject to special interest groups and other outside pressures.

**II. The bill as written does not reflect the fact that policies and procedures already exist across the NDUS system to respond decisively to performance- or fiscally-related faculty workload adjustments and/or terminations.** The University of North Dakota and other schools in the NDUS already have rigorous and fair

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Today, the University of North Dakota rests on the ancestral lands of the Pembina and Red Lake Bands of Ojibwe and the Dakota Oyate — presently existing as composite parts of the Red Lake, Turtle Mountain, White Earth Bands, and the Dakota Tribes of Minnesota and North Dakota. We acknowledge the people who resided here for generations and recognize that the spirit of the Ojibwe and Oyate people permeates this land. As a university community, we will continue to build upon our relations with the First Nations of the State of North Dakota — the Mandan, Hidatsa, and Arikara Nation, Sisseton-Wahpeton Oyate Nation, Spirit Lake Nation, Standing Rock Sioux Tribe, and Turtle Mountain Band of Chippewa Indians.

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policies and standards for hiring, evaluation, and tenure / promotion decisions, including review of faculty performance in relation to fulfilling the mission of the universities.

The bill has three sections. **Section 1** states that each tenured faculty member must bring in enough revenue to cover the costs to the university of employing them. This requirement is inconsistent with the mission and operation of any of our institutions and would set an ill-advised precedent even as a limited pilot.

- Faculty are not hired to generate revenue individually. Students chose schools because those schools offer programs that students see as pathways to future employment opportunities and careers. Faculty collectively constitute a team that delivers those programs.
- **Section 1.3**, expecting everyone to teach the same number of students is unrealistic. We teach different courses with different ways of engaging students appropriate to the course objectives. The nature of the course, the academic discipline, and accreditation requirements dictates maximum enrollment for effective pedagogy. Departments balance work load among faculty, not student credit hours.

**III. As written (section 1.4 of the proposed legislation) the bill would compromise freedom of speech.**

**IV. In Section 2 of the proposed legislation, the process of review (and subsequent termination of tenured faculty by presidential declaration) outlined contains no provisions for redress for the dismissed faculty member. Thus, the proposed legislation would enact a law, if passed, that would seem to violate due process, undermine fundamental principles of shared governance and simply be unfair.**

At UND we have a Standing Committee on Faculty Rights to allow the hearing of grievances and appeals. Tenured faculty may be terminated in the case of a financial exigency or for cause. In all instances, faculty must be notified and have the opportunity to appeal. The “faculty governance structure shall... [involve] faculty participation” in the termination proceedings. All of these policies are in accordance with SBHE Policy (Manual 11-16-01, section 605.3). Moreover, the UND Faculty Handbook unambiguously identifies shared governance and due process as fundamental values that underlie the integrity of the faculty experience in higher education and underwrite institutional standing at the national level. It is vital to the reputation of our universities in North Dakota that the tenure system maintain due process and rights of redress, in accord with the principles of shared governance.

Granting university presidents—or their designees—the unilateral power to terminate faculty without due process, puts **academic freedom is at risk**, inhibits freedom of speech, degrades institutional standing and reputation, disrupts stability in the academic enterprise which affects the ability of NDUS institutions from meeting their missions on behalf of students and the citizens of the state, and runs counter to the principles of innovation and entrepreneurship which are essential components of the North Dakota value system

- **Finally, we fully support the testimony from the Council of College Faculty opposing HB 1446.**
- **We urge the committee to oppose HB 1446 and vote Do Not Pass.**

Respectfully,

Robert Newman, PhD. / Chair, University Senate, UND