

Information regarding HB1446 was disseminated among faculty at Bismarck State College. The following testimony was compiled from faculty feedback, which was passed as a resolution by the Faculty Senate at our meeting on February 2, 2023, to be delivered orally at the House Government and Veterans Affairs Committee hearing on February 3, 2023.

1. The Faculty Senate of Bismarck State College opposes HB1446. The language of the bill would allow the circumvention of established processes for reviewing and holding tenured faculty accountable, could eliminate accountability and checks and balances in making programming decisions, and threatens the quality of instruction in the classroom.
2. Tenured faculty at BSC and other NDUS institutions are not untouchable, permanent employees. The NDUS, the SBHE, and individual institutions have policies and procedures in place that provide for regular review and potential dismissal of a tenured faculty member under certain circumstances. These include: financial exigency; loss of legislative funding for a position or program; loss of enrollment or elimination of courses. Tenured faculty are held to rigorous academic and ethical standards and can be dismissed for demonstrated incompetence, continued unsatisfactory performance evaluations, neglect of duty, neglecting institutional responsibilities, and violation of policies. These are outlined in SBHE 605.1 and 605.3 and referenced by the BSC Faculty Handbook that we all signed on to.
3. Thus Section 1 of HB1446 seems redundant and unnecessary insofar as it holds nobody accountable in any new way. Section 2, however, seemingly removes the processes, procedures, and accountability already in-place in reviewing tenured faculty. It forgoes established checks and balances on college presidents and their administrations, giving them broad abilities to review and potentially dismiss tenured faculty *without* accountability. Additionally, very few, if any, public employees are subject to the type of at-will re-evaluations and no-recourse dismissal that this bill lays out uniquely for already-tenured college faculty.
4. By giving broad criteria for review with no checks and balances, as laid out in the language of Section 2, this bill also potentially exposes college presidents to undue political or financial influences. If a politician or a wealthy donor were to have a personal problem with a faculty member or a program at a college, they could pressure the administration to review them. The Tenure system was put in place to shield both teachers and administrators from such pressures.
5. Further, we are particularly concerned with Section 1.1, which seemingly defines teacher-scholars as revenue generating employees, contradicting the dual missions of public service (which encompasses all state employees) as well as public education, both of which are *not* for-profit ventures, but instead public investments in state and local economies, and in the greater civic and social good.
6. This redesignation, laid out in Section 1.1, seems to create a new class of public employee, different from any other administrator, civil servant, legislator, in that few, if any, other state employees are required to generate enough cash for their own salary. While it is true that some research faculty positions are grant-funded, most faculty at BSC have no say over appropriations or budgets in their areas.

7. HB 1446 does not acknowledge or lay out broader responsibilities for revenue generation. Currently there are about two administrators and support staff for every one full-time faculty member at BSC. Administrators and staff are not held accountable to the same revenue-generating standard, are not required to demonstrate the economic justification for their specific position and are not held accountable by the Legislature, NDUS, or SBHE by those standards. According to the language of Section 1.1, professors generate their own salaries, and it is supposed that state appropriations cover administrative and staffing costs, whether or not that is the intention.

8. Furthermore, the broad and vague scope of Section 1.1, with its undue emphasis on the revenue generated by individual faculty members, has the potential to place all faculty, and all programs, under review at any time. Very few college faculty in the NDUS, or even nationwide, would not be under threat from something like Section 1.1 at some point, due to fluctuating enrollments, innovating and piloting new programs or classes, etc., thus opening nearly all faculty to dismissal if the administration decides they are up for review. For a school like BSC, this is not limited programs that provide public support for the arts and humanities, like Theater, and Music, but most certainly includes STEM and especially industry workforce-related programs that tend to have higher program costs, for facilities, for equipment, for industry-competitive faculty salaries, that are hardly ever "paid back" by the tuition generated by enrollment. This includes our Ag, Energy, and Power Plant programs, all of which could be placed under review at any time under the language in this bill.

9. Faculty have no say in the cost of tuition or the funding model and cannot adjust the amount of cash they generate in this way. Thus a program running a surplus could be adjusted and put in the red through no action or fault of the faculty that helped to build that program.

10. Section 1.1, by placing undue emphasis on a faculty member's solvency, is problematic because it could endanger academic integrity by, for example, potentially corrupting something as fundamental as the grading process. The state funding model for BSC subsidizes the school for credit hour production, which means the school receives less money for students who fail courses than for those who pass. If this bill were to go into effect, it is possible to see the pressure that could be put on professors to pass students who have low marks, or might have demonstrated incompetence, in order to generate their revenue quotas. By holding students to the rigorous standards our future workforce demands, a faculty member could be in danger of falling "into the red."

11. In closing, BSC's polytechnic mission is endangered by this bill, by the reasons stated above, but also because it would make us less competitive for the talent we need to prepare tomorrow's workforce. North Dakota is currently experiencing an economic boom, but we are not the only ones. BSC's polytechnic mission was created to prepare North Dakotans now, and prepare a new generation, to continue this workforce growth in industries like manufacturing and petroleum, but also spearhead growth in industries like in AI, Cybersecurity, Automation and Robotics, where North Dakota is primed to soar—if we have the support. BSC needs to compete with lucrative industry and educational positions elsewhere so that we can attract not just people who can teach, but leaders in industry, leaders in their fields. And by weakening and endangering Tenure, this bill wouldn't just hurt our ability to do this, it could effectively hamstring it.

12. The Faculty Senate of Bismarck State College ask you to vote DO NOT PASS on HB1446.