



February 2, 2023

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

The faculty Senate of Lake Region State College opposes the proposed emergency-measure House Bill [1446](#) relating to a pilot program for tenured faculty review at institutions of higher education.

The faculty at Lake Region State College collectively believes that HB 1446 would have significant long-term negative effects on their college and the entire university system. They strongly request that the committee not pass the bill due to the reasons outlined in the following rationale.

1. HB 1446 proposes to give the president of each institution of higher education under the State Board of Higher Education (SBHE) the power to review the performance of any tenured faculty member at any time the president sees fit, without the possibility of appeal or review by the faculty member or committee. The university president would have the discretion to not renew the contract of a tenured faculty member if they do not believe it is in the institution's best interest and must provide a specific explanation for their decision. The bill would remove the possibility of appeal or review for these decisions.

2. This bill proposes to replace the policy [SBHE 605.1](#) performance review process for tenured faculty at two campuses with a new system that allows for random and unannounced evaluations by the campus president, removing due process rights and raising concerns of arbitrariness and retaliation. The current policies provide for structured and regular performance evaluations, but the proposed changes would eliminate this.

3. This bill would eliminate the rights of tenured faculty to appeal administrative decisions and to seek legal remedies for wrongful termination, limiting their ability to protect their rights and interests.

4. The bill would negatively impact the efforts of some campuses to recruit and retain high-quality faculty. The recent high faculty turnover at some campuses combined with the potential for negative national press resulting from the passage of this bill would make it more difficult to attract and retain competitive faculty.

5. This bill is potentially unconstitutional according to the North Dakota State Constitution, which grants the State Board of Higher Education (SBHE) full authority over the institutions it controls. The bill would infringe upon this authority and is therefore not within



the authority of the Legislative Assembly to pass. If a pilot program of this nature is desired, it should be proposed to the SBHE instead.

6. This bill would harm small programs and classes, labs, and clinicals that are essential for meeting the workforce development needs of the state. The requirement for faculty members to generate a certain level of tuition and teach a minimum number of students may negatively impact these programs, potentially leading to the loss of accreditation and closure of programs in areas such as nursing, wind technology, agriculture, and simulation technology.

Lake Region State College faculty strongly encourage the members of the ND House Government and Veterans Affairs Committee to reject this bill as it is detrimental and ill-conceived.

Sincerely,

Lake Region State College Faculty Senate

Submitted by Melissa Moser, MSN, RN, CNEcl. Associate Professor of Nursing, Faculty Senate President AY 2022-23