

Testimony for Hearing on HB1446  
Eric J. Murphy, District 43

Thank you, Chairman Elkin and my honorable colleagues on the Senate Education Committee. For the record, my name is Eric James Murphy, representative from District 43, Grand Forks.

Today I will testify in opposition to HB1446, which has caused quite a stir among constituents in my district in Grand Forks. A recent article on this bill and others, was published in the Chronicle of Higher Education, which did not paint North Dakota as a faculty friendly state. In fact, this will undoubtedly make recruiting faculty to our North Dakota University System institutions much more difficult.

This amended bill provides for a three-year study at Bismarck State College (BSC) and Dickinson State University (DSU). While other institutions in the North Dakota University System (NDUS) are not included, this is the beginning of the proverbial slippery slope.

I am well qualified to testify regarding the major issues this bill raises. As a faculty member at the University of North Dakota for the past twenty-two years, I have taught medical students, graduate students, and undergraduate students. I now teach a large undergraduate section class in the area of pharmacology each fall and spring semester, including this semester. I teach scientific ethics, lipid biochemistry, as well as Advanced Neurochemistry to graduate students. To medical students I teach lectures in pharmacology and biochemistry. I have an active research lab and a Hirsch number of 46, which demonstrates excellent recognition of my research prowess in my field of brain lipid neurochemistry and lipid nutrition. I have served as an editor-in-chief of a science journal, *Lipids*, for 13.5 years and am a fellow of the American Oil Chemists' Society. I have served the NDUS as a non-voting member of the State Board of Higher Education for 2 years and as President of the Council of College Faculties for one year. I think my background in higher education provides an excellent perspective on this bill.

This bill suggests that faculty, even those with tenure, can be relieved of their appointment by the President of DSU or BSC if their performance is not adequate. This is tremendously problematic as the president of an institution is the last individual in the chain of evaluation for a faculty member and they are not involved in the yearly evaluation of faculty.

In addition, for a vested tenure-track faculty member or a tenured faculty member, specific processes must be followed for termination as defined by SBHE policy. For a tenure-track faculty member, they can be relieved of their duties, but must have an opportunity to grieve through a Standing Committee on Faculty Rights (SCoFR) hearing. A tenured faculty member can be relieved for cause, but again has an opportunity for a SCoFR hearing. These hearings include a hearing officer (at UND we generally use a retired judge), a court reporter, and a panel of five tenured faculty members.

I have chaired these hearings and have participated in one that comprised over 40 hours of sworn testimony and some 10 hours of deliberations by the committee prior to submitting a

report to the president for their final decision. The lack of a clear delineation of how this policy would be implemented in this bill is a clear violation of SBHE policy.

Interestingly, this bill proposes that the president of the institution be directly involved in evaluation and termination. This is deeply flawed. The faculty member's dean and the provost should only be involved, while the president is completely uninvolved. As the final decision maker, this is critical to avoid a potential for bias. Such a bias could impact the courts view of the proceedings if indeed a lawsuit is filed.

Further, I think it is important to understand why we have tenure in higher education. We have tenure to promote the freedom of ideas and scholarship. Tenure gives faculty the opportunity for unfettered research, despite the potential for this research to be controversial. It allows faculty the ability to interact in an environment that promotes diversity of thought and of ideas. In other words, the academy is one place in which an faculty member (employee) and vehemently disagree with their chairperson, dean, or president in a manner that respects their autonomy to do so. Tenure is not a free pass for a lifetime job.

In summary, this bill does not recognize these important nuances that tenure provides and does not recognize the unique nature of a faculty member in higher education.

Respectfully, for the reasons stated above, I cannot support this bill in its present form.