

March 12, 2023

Dear Chairman Elkin and members of the Senate Education Committee,

We write to you as members of the Executive Committee of UND United, the local of ND United (AFT Local #6942) which represents faculty and staff at UND, to express our **opposition to HB 1446**. We have many concerns about HB 1446 and ask your committee to **not pass** this bill.

The bill's author claims this legislation will make Dickinson State University (DSU) and Bismarck State College (BSC) more competitive and will lead to improved student outcomes, but he has not provided any explanation for how this would be accomplished through this legislation; this bill includes no provisions related to student programming or outcomes and by undermining tenure at these institutions, HB1446 would actually reduce the competitiveness of DSU and BSC because high-performing faculty would rather work in tenure-eligible positions than in places where tenure and due process protections are lacking.

This legislation is also unnecessary and based on a number of misconceptions about faculty contracts and work. The bill's authors have suggested tenured faculty are not accountable to a supervisor. This is simply false. As described in SBHE [Policy 605.1](#), tenure-eligible faculty may apply for tenure following a probationary period of about 6 years after the faculty member has demonstrated a record of outstanding teaching, research/creative activity, and/or service. To earn tenure, a faculty member must receive approval from many levels of university administration, including the campus President and the SBHE. Faculty are employed on annual contracts, even after they earn tenure. While tenure gives faculty some financial stability, it does NOT guarantee employment indefinitely - faculty must continue to meet the duties and responsibilities outlined in their annual contract. If a tenured faculty member fails to meet their obligations or follow policies and procedures, or if the resources to support their position are eliminated, they can be dismissed with cause as described in SBHE [Policy 605.3](#).

Current SBHE [Policy 605.1](#), requires each campus to establish procedures for the continued evaluation of faculty after receiving tenure. Higher Learning Commission (HLC) (re)accreditation also requires regular evaluation of faculty by their institution as described in [Criterion 3D](#). Within the university system, all faculty, including tenured faculty, are held accountable to several levels of supervisors, who are responsible for working with their faculty to engage in annual goal setting, contract negotiation, and performance evaluation. These supervisors include a faculty member's department or unit Chair, their college or school Dean, and the Provost or VP who oversees faculty. HB 1446 consolidates the power to evaluate faculty in the hands of one person who makes a unilateral decision. This could lead to abuse of power and would likely result in costly lawsuits to our university system.

While HB 1446 is written as a pilot program, the bill's creator has made it clear in public statements that he would like to see the bill's provisions expanded to other NDUS campuses. This would have significant negative impacts on our university system. The opportunity to earn tenure acts as an important recruitment tool to attract the best and brightest professionals

across the country and provides a level of stability across our university system. While all faculty, including contingent faculty, are an important part of our campus communities, sustaining a vibrant tenured faculty is viewed very positively in the national marketplace of universities, making institutions with more tenured faculty more competitive for research and grant funding opportunities.

In addition, HB 1446 includes a number of concerning stipulations that would impact our institutions in detrimental ways. For example, section 1.3 of the bill mandates all faculty “teach and advise a number of students approximately equal to the average campus faculty teaching and advising load.” These requirements do not reflect how universities operate. While some courses are large and generate a lot of tuition revenue, many specialized courses and labs, such as graduate courses and those with more hands-on and technical training, are intentionally small. In fact, accreditation standards for some programs require faculty-student ratios that may be lower than those of other programs. The costs of these smaller courses are offset by larger classes. Including such provisions may impact accreditation for some programs and undermines our ability to offer the classes and training needed to meet the workforce development needs of our state.

Finally, the NDUS generates [billions of dollars in revenue for our state each year](#). It is vital that we stabilize faculty turnover and support employee morale in order to recruit and retain the people needed to provide the educational programming required for our students and graduates to meet the state’s workforce needs. A tenured faculty is essential to student recruitment efforts, particularly within professional and graduate programs. HB 1446 has already generated substantial negative press in the national media (see [Forbes](#), [Inside Higher Ed](#)), and if passed, this legislation will deter new faculty hires, undermine faculty morale across the NDUS, and cause faculty to look for new employment in states that value tenure and shared governance.

As a result, we ask your committee to **not pass HB 1446**.

Sincerely,

UND United Executive Committee members

Liz Legerski, UND United President
Melissa Gjellstad, Vice President
Daphne Pedersen, Secretary-Treasurer