

Good morning chair Elkin, vice chair Beard and members of the Senate Education committee, for the record, my name is Mike Lefor and I represent District 37- Dickinson in the House. I bring HB 1446 for your consideration. This bill which I call the "tenure with responsibilities act", provides a mechanism for tenured professors to be reviewed by the university president as it pertains to job performance.

In states such as Florida and Texas, they have recently introduced either by statute or policy a post tenure review process similar to what is being proposed here today. As we all know, higher education is becoming a more complex, more competitive market for our young people and adults.

If you look at available data, you will find more students taking classes on-line than ever before. This means students can literally have their pick of hundreds of universities across the country for their courses. I know of an individual in my hometown who is taking courses at a university in another state rather than North Dakota due to a lower cost.

Our taxpayer supported universities are moving forward with strategies to remain competitive in the marketplace and aligning with other groups to provide the best educational opportunities. Two of these universities are changing their business models to provide more of these opportunities right here in North Dakota.

Dickinson State University is changing to a dual mission campus and Bismarck State College is providing more polytechnic courses. They are aligning with the career and tech academies, local high schools, and adding technology to provide more access to classes online. Recognizing these challenges, the "tenure with responsibilities act" provides for a pilot program within these two institutions to mirror some of the policies being enacted in other states.

Last year, SB 7044 was signed into law in Florida. It includes a provision stating the Florida Board of Governors is now empowered to by state statute to establish performance reviews of tenured professors. These reviews must address:

1. accomplishments and productivity.
2. Assigned duties in teaching, service, and research.
3. Performance metrics, evaluations, and ratings.
4. Improvement plans and consequences for underperformance.

Similar to the provisions contained in this bill.

In the bill you will note this is a four-year pilot program with the following points.

- a. Comply with the policies and procedures and directives of the institution, the president and other administrators, the state board of higher education and the North Dakota university system.
- b. Effectively teach and advise a number of students approximately equal to the average campus faculty teaching and advising load.
- c. On page 1, engage in measurable and effective activities to:

- (1) Help retain students for the institution.
- (2) Help students achieve academic success.
- d. Perform all other duties outlined in any applicable contract and position description.
- 3. An institution involved in the pilot program under this section:
  - a. May adopt policies and procedures requiring tenured faculty to promote advancement of and further the mission of the institution.
  - b. Shall provide a progressive report of the pilot program to the legislative management no later than December 31, 2025.
  - c. Shall provide a final report of the pilot program to the legislative management no later than December 31, 2026.

In section two of the bill on page two beginning on line 10, it provides for a faculty review by presidents of these institutions as follows:

- 1. The president of each institution of higher education under section 1 of this Act may review performance of any or all of the duties and responsibilities under Section 1 of the act.
- 2. A review under subsection 1 must include a written assessment of whether the faculty member is complying with the duties and responsibilities reviewed.
- 3. Explains what happens when a president feels the tenured faculty member has failed to comply with a duty or responsibility, the president may not renew the contract of the tenured faculty member unless the president articulates why it is in the interest of the institution to continue to employ the faculty member.
- 4. The president may enlist the assistance of an administrator at the institution to conduct a review but may not delegate responsibility for the review to a faculty member who is not an administrator.
- 5. When conducting a review, the president may look at other factors including what is in the best interests of the institution or it's students. (For example, a professor teaching a few students and the university needs these courses for a bachelor's program, etc. it gives the president some latitude.
- 6. Under number six allows an appeal to the chancellor of the university system if a faculty member's contract is not renewed or if their employment was terminated or suspended as a result of a review under this section. Additionally, the president is responsible to the chancellor and state board of higher education for the reviews conducted under this section.
- 7. States the presidents and administrators, shall fulfill these duties without fear of reprisal or retaliation. The state shall indemnify the board of higher education for any action brought forward under this section.

At this time, I will have you refer to the handout I provided. If you look at the attachment it shows the higher education capital projects approved by legislature since 2013 until the end of this biennium. The total amount of general funds that were approved amounts to \$311,139,742. This does not include those dollars in the other funds category.

If you look at appropriations for higher education and compare it to our higher education enrollment, the enrollment has not really grown since 2013 but our funding certainly has.

Members of the Senate Education committee, the cost of higher education in our state continues to grow and we are the stewards of the taxpayer elected to represent them when dollars are allocated. We also need to be competitive for the future and the changing ways in which educational opportunities are offered.

Other states have enacted policy to provide for similar reviews, why not North Dakota? That completes my testimony, and I would be happy to answer any questions.





# HIGHER EDUCATION CAPITAL PROJECTS APPROVED BY THE LEGISLATIVE ASSEMBLY OR BUDGET SECTION

	2013-15		2015-17		2017-19		2019-21		2021-23	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
BSC Communications and Fine Arts Center (private and local funds) Campus infrastructure Student Union lower level renovations (local funds) Nursing building Polytechnic building and transition costs (federal COVID funds)	\$12,635,000	\$6,665,000	\$1,575,000	\$600,000	\$8,900,000				\$38,000,000	
LRSC Erlandson Technical Center remodel and addition Switchgear, electrical, and other campus repairs Precision Agriculture Center (\$3 million private and local funds, \$363,000 SLIF)	5,650,164		1,548,423		1,000,000		\$3,363,000			
WSC Campus Drive project Stevens Hall renovation	1,710,000 11,630,354									
UND, including SMHS School of Medicine and Health Sciences facility project Law School building renovation (private funds) High Performance Center (private funds) Purchase of resident apartment building (revenue bonds) Student housing facility (revenue bonds) Wilkerson Hall project (revenue bonds)	60,450,000 11,400,000	2,507,448 19,500,000	62,000,000				35,000,000			
School of Medicine and Health Sciences Bismarck Family Practice Center project Museum of Art repairs Aerospace building project (private funds) Collaborative energy center (private funds) Airport apron projects (federal COVID funds) Student engagement projects (private and local funds) Chester Fritz Library project (private and local funds) Deferred maintenance and parking projects (local bonding)	750,000 190,000	24,950,000 15,500,000	760,000	6,000,000	\$21,000,000				5,000,000	
Memorial Union replacement (revenue bonds) Gamble Hall replacement (\$55 million private and local funds, \$6 million state bonds) Space Command initiative Merrifield Hall renovation (federal COVID funds)					9,000,000		30,000,000 80,000,000 61,000,000		\$4,000,000	50,000,000

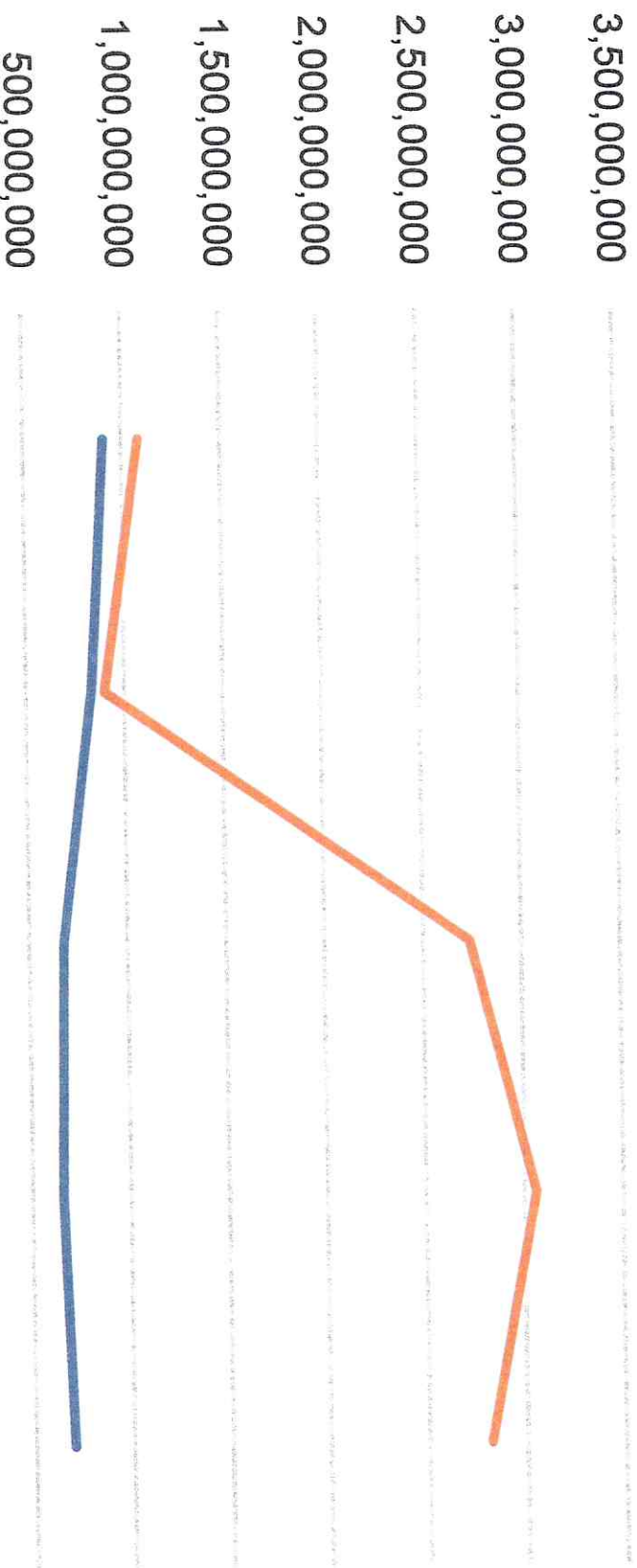
Prepared by the Legislative Council staff

March 2023

	2013-15		2015-17		2017-19		2019-21		2021-23	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>NDSU</b>										
STEM building	28,120,000	2,030,000								
Low rise lavatory projects (local funds)		975,000								
Memorial Union food court (local funds)		750,000								
Nutrition and dietetics and hospitality laboratory (local funds)		41,000,000								
Sanford Health athletic complex (private funds)										
Center of Computationally Assisted Science facility renovation (federal funds)		4,270,000								
Aquatics center project (\$10 million revenue bonds and \$1 million local funds)				11,000,000						
Mirnard Hall (local funds)				600,000						
Sudro Hall renovation and addition (private and local funds)						28,000,000				
Student residence halls (revenue bonds)						39,505,000				
University Village replacement (revenue bonds)						10,000,000				
Barry Hall (private and local funds)							37,600,000			
Indoor practice facility (private funds)							3,000,000			
Indoor softball facility (private funds)							50,000,000			
Dunbar Hall (\$40 million state bonds)							2,600,000			
Agriculture products development center (\$50 million state bonds, \$15 million private and local funds)							43,200,000			
Outdoor track project (private funds)							40,000,000			
							5,000,000			
<b>NDSCS</b>										
Old Main renovation	8,085,879									
Football complex renovation (private and local funds)		1,500,000								
Infrastructure repairs				13,298,000						
<b>DSU</b>										
Woods Hall renovation and purchase of student housing (\$9.6 million revenue bonds and \$1.9 million local funds)										
Pulver Hall (state bonds and local funds)				11,500,000						
Pulver Hall, meat processing laboratory, and other projects (federal COVID funds)							4,609,000			
<b>MASU</b>										
Old gymnasium replacement	5,510,000									
Campuswide drainage improvements	2,153,650									
Natural gas boiler project (local funds)									1,600,000	398,970



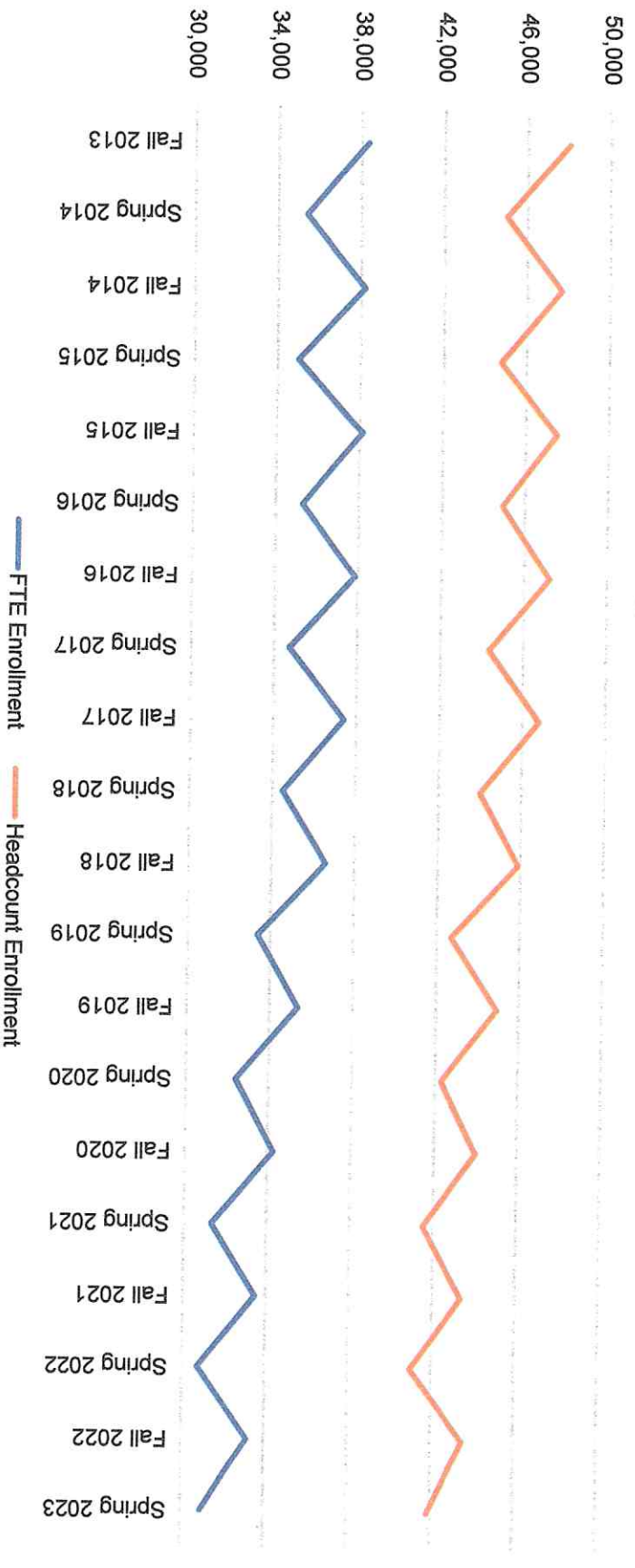
# Higher Education Appropriations



**NOTE:** Beginning with the 2017-19 biennium, the total funds appropriation amount includes appropriation authority of all special funds received by the University System office and institutions. Prior to the 2017-19 biennium, special funds appropriations for the University System office and institutions were provided only for certain items, such as capital projects.



## Higher Education Enrollment





**Lefor, Mike**

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**From:** Aus, Joan <joan.aus@dickinsonstate.edu>  
**Sent:** Wednesday, February 1, 2023 10:45 PM  
**To:** Lefor, Mike  
**Cc:** Secord, Deborah; Hoffmann, Darla; Braunagel, Jerolyn; Grinsteinner, Amy; Crossingham, Sarah  
**Subject:** HB 1446

4

Dear Representative Lefor,

My name is Joan Aus and I'm the Chair of the School of Education (SoE) at Dickinson State University. I've been tenured for over 12 years and was just granted approval to be promoted to the rank of Full Professor. I take my tenure very seriously and consider tenure a privilege and obligation to serve my university through student-centered teaching, creation of new programs, recruiting and scholarship. In my department I have the privilege of working with like-minded and hard-working faculty all of who have been teachers in K-12 classrooms. The faculty in SoE are veteran teachers who also actively participate in recruiting, and advising for over 169 students. We have tried very hard to grow our education programs and have increased our FTE by 22%, mainly through distance learning programs.

Unfortunately there are senior tenured faculty at DSU who oppose change and perceive tenure as a means to block growth and keep their teaching load small. Some tenured faculty even think tenure is an excuse for poor teaching and allows them the right to pick and choose which students they will teach and which programs they will support. It's time to hold all faculty accountable, including tenured faculty.

I support HB 1446 and have been given permission to include the names of my faculty, who are also in support: Dr. Deborah Secord, Professor Darla Hoffman, Professor Jeri Braunagel, Professor Amy Grinsteinner and Professor Sarah Crossingham.

Sincerely,

Dr. Joan Aus

**JOAN OIGAWA AUS, Ed.D.**  
Director of Graduate Studies  
Chair



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vindictive culture attacking other faculty

