

HB 1437
Government and Veterans Affairs Committee
February 6, 2025
Rachelle Hunt, President
Council of College Faculties

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

We write to you on behalf of the Council of College Faculties representing the 11 public institutions of the North Dakota University System (NDUS).

Faculty across all NDUS institutions have raised serious concerns about HB1437, and we encourage a **do not pass** recommendation.

First and foremost, prohibition of tenure at any institution will have an impact on all institutions in North Dakota. The first evidence of that was published Forbes on Jan 27, "[States Once Again Considering Bills to Ban or Limit Faculty Tenure](#)". The headline is what prospective faculty, and administrators (e.g., Chairs, Deans, along with upper administration), will see and it will impact consideration for application to any of the 11 institutions, not just those who are targeted with this bill. This includes the Presidential searches for three of our institutions occurring in 2025, two of which will have to deal with the implications of this legislation.

Second, all ND institutions are accredited by the Higher Learning Commission (HLC) where expectations of qualified faculty are clearly identified through three avenues:

- "Achievement of academic credentials means that an instructor possesses an academic degree relevant to what they are teaching and at least one level above the level at which they teach, except in programs for terminal degrees."
- "Progress toward academic credentials means demonstrable, current, and consistent progress toward the academic credential(s)..."
- "Equivalent experience means experience that is commensurate with achievement of academic credentials... Previous years of classroom instruction does not alone constitute equivalent experience." ([Higher Learning Commission, Institutional Policies and Procedures for Determining Faculty Qualifications: HLC's Criteria for Accreditation and Assumed Practices](#), p3), p3).

Rather than allowing the processes and procedures of Post-Tenure Review, established by each institution and the NDUS (described below), to address this issue, HB1437 will exacerbate the problem as qualified faculty will apply to regional institutions rather than two-year institutions. The result will have potentially devastating effects not only for North Dakota two-year institutions, but also, as previously stated, for all NDUS institutions.

Third, the State Board of Higher Education has been working with Majority Leader Lefor on the post-tenure review process that resulted from the last legislative session. This process resulted in each institution updating their tenure and post-tenure review policies and procedures. The application of those revisions begins in AY 25-26 with every tenure member undergoing a rigorous review not only by their supervisors and peers within a department and college but also with opportunities for their institution's President or President's designee to review as well. For

the two-year institutions, all the work of the past two years will have been wasted effort as they will need to create new policies and procedures for recruitment, hiring, and review of candidates where tenure is no longer an option at their institution.

Fourth, this legislation is unnecessary. The North Dakota Constitution provides the SBHE with broad powers and explicitly states that the SBHE retains any powers it does not explicitly delegate to the institutions. Specifically, the SBHE was established by an initiated measure approved by the voters in 1938 (now Art. VIII, § 6 of the North Dakota Constitution). Art. VIII, §6 states the SBHE “shall have the control and administration of” all of the state institutions established in the state constitution at that time and “such other state institutions of higher education as may hereafter be established.” Further, the SBHE “shall have full authority over the institutions under its control” and “full authority to organize or reorganize within constitutional and statutory limitations, the work of each institution under its control, and do each and everything necessary and proper for the efficient and economic administration of said state educational institutions.” Later, the state legislature enacted North Dakota Century Code § 15-10-01.2, which states: “The institutions of higher education under the control of the state board of higher education are a unified system of higher education, as established by the board, and are designated as the North Dakota University System” (NDUS).

However, we do see a path forward with CCF, SBHE, and the Legislature. There is an amendment provided in testimony by Representative Motschenbacher (Document 35085) that seems to incorporate several of the SBHE Ad Hoc Post Tenure review committee recommendations. We ask that the following edits be taken into consideration for that amendment:

- In 1b, strike “by the president of the institution or the designee of the president”. This solution will not fit the administrative structure at all 11 of the institutions. In addition, each institution already has a nested series of reviews that will be implemented under the new SBHE policies.
- In 1c, replace “three” with “five”. Again, with the new SBHE policies, institutions may review every three years, but when evaluations raise no concerns by any level of review a comprehensive review would occur every five years.
- Also in 1c, strike everything after “subdivision b”. There is not a single committee that reviews every faculty member at any institution. As stated above, there are multiple layers of review that include content level experts, near peers in other content areas, supervisors, and college/unit level review before it gets to the Provost/Vice President for Academic Affairs/President.
- In 1d, strike “revocation of tenure or”. There are already mechanisms for removal from position with or without cause that were recently updated through SBHE activity. Revocation of tenure is career damaging for that faculty member to find success outside of a NDUS institution.
- Also in 1d, we support the second sentence if it reads as follows: “The decision to remove faculty from a position must be made by the employing institution.” The NDUS system and SBHE are far removed from the operations of the institution and the wording would permit the decision of a President who is charged with the staffing and operations of the institution to be overruled.

We recommend the legislature work with the SBHE to ensure HLC criteria are followed for any tenured position and that Presidents work with their faculty to address any deficiencies that may exist. Further, we recommend that Presidents review with their leadership the criteria at the time of recruitment as not every position needs to be a tenure-track position. That is evidenced by the institutions who have a diverse range of tenured, tenure-track, and special appointments.

Again, we recommend a **do not pass** on HB 1437 as was originally submitted and are supportive of the above edits to the proposed amendment.

Respectfully,
Rachelle Hunt, President
Council of College Faculties