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**Testimony Before the House Government and Veterans Affairs Committee
HB 1437
Friday, February 06, 2025**

Chairman Schauer and members of the House Government and Veterans Affairs Committee, for the record my name is Nick Archuleta, and I am the president of North Dakota United. I rise today to urge a ***do not pass*** recommendation for HB 1437.

What is Tenure?

To begin, Mr. Chairman, as I did last session, I would like to cite the North Dakota State Board of Higher Education's (SBHE) policy on Academic Freedom and Tenure:

"The purpose of tenure is to assure academic freedom. Academic freedom applies to all scholarly pursuits. Freedom in scholarship is fundamental to the advancement of knowledge and for the protection of the rights of the faculty members and students. It carries with it duties and responsibilities correlative with rights..." (605.1 Academic Freedom and Tenure; Academic Appointments, Section 1)

How do Faculty get Tenure?

To be considered for tenure, a faculty member must first complete six years of probationary service to their institution. During these six years, that faculty member's performance is evaluated at least annually by the institution. When a faculty member wishes to apply for tenure status, they must follow a lengthy, thorough process that has been established by their institution to evaluate their scholarship in teaching, contribution to a discipline or profession through research, other scholarly or professional activities, service to the institution and society, and additional criteria as that institution may seem fit. Only after successfully receiving a recommendation from the institution's individual tenure process, a recommendation from the institution's President, and a recommendation

from the Chancellor, may the State Board of Higher Education (SBHE) award a faculty member with tenure.

What does the award of tenure mean, in practice? It means a recognition of academic excellence, a demonstration by the institution that the faculty member's contributions are valued, and an assurance of due process protections against political interference or administrative favoritism. What it does *not* mean is an unchecked privilege or job guarantee. Even after being granted tenure, faculty are required to be evaluated annually, and, if there are unsatisfactory evaluations, institutions are required to take appropriate remedial action. Generally speaking, if an institution is suffering from certain financial issues or if a tenured faculty member is not meeting the responsibilities and duties of their job, they can be terminated. That is the reality under current state law and current SBHE policy. Institutions and the SBHE already have flexibility if they are experiencing financial distress. Accountability for faculty—tenured or not—is already baked into the system.

Elimination of Tenure is Bad for Recruitment and Retention

Chairman Schauer and members of the Committee, by eliminating tenure, HB 1437 would hinder our two-year institutions' ability to recruit and retain high quality faculty. High quality educators are attracted to institutions with reasonable tenure policies because it allows them to engage in scholarly pursuits that tackle big issues without fear of retribution due to political shifts or favoritism. Focusing on solutions to today's biggest problems is made all the more difficult if we restrict free thought and expression.

In fact, during the SBHE's comprehensive review of tenure policies, our college presidents have spoken to the risks eliminating tenure would pose to recruitment of faculty. Williston State College President Bernell Hirning [was quoted as saying](#) "If [tenure] goes away at Williston, we're going to struggle to get even one applicant for a position, and it's already difficult... With Williston being in a remote area and the oil industry driving up the cost of living there, northwest North Dakota is a difficult place to recruit faculty."

If we cannot assure current and prospective faculty that academic freedom is valued and respected in North Dakota, they will look elsewhere for employment.

Elimination of Tenure is Bad for Students

Members of the committee, without tenure and the ability to attract and retain high quality educators to our two-year institutions, the quality of education will decline, and we will not be able to compete with institutions in other states that do prioritize academic freedom. Community colleges are often a great option for students looking for an affordable way to start their college career, either to complete a program at the college or transfer to a four-year college later. Without high quality educators, we lower the quality of education students can receive at community colleges and damage the value proposition of such an education.

Anyone who has ever had a great teacher in school or a great trainer at work knows how much of an impact that person can have on their future success. The world is changing. Artificial intelligence, energy, healthcare, and countless other fields are developing rapidly. How can we effectively train & educate our students to take on these exciting new challenges? By having the best educators who can teach freely on subjects of which they are the experts so we can produce top-tier, homegrown college graduates.

Elimination of Tenure at Two-Year Institutions Negatively Impacts ALL Institutions

Chairman Schauer and members of the committee, our two-year institutions work in concert with our four-year institutions to provide flexibility for our students in achieving their academic goals while maintaining high standards of education. Students can take courses at two-year schools provided by high-quality, tenured faculty who work together with other institutions to complete the education and training of our students. By eliminating tenure at two-year schools, we risk losing current faculty who are at the forefront of these partnerships, which would effectively limit the opportunities for our students to seek an education that fits their needs.

The repeated threats to tenure in North Dakota have already attracted national attention that has cast a negative light on North Dakota's institutions of higher learning, and this bill would only make that worse. If a prospective faculty member who is considering a position in North Dakota does a search online, they are going to see articles about how tenure is

banned in this state. Regardless of the distinction between two-year or four-year schools, the takeaway will be that academic freedom and free speech are not valued here.

HB 1437 is a Breach of State Board of Higher Education Authority

Finally, this bill is a constitutional overreach of the legislature on the authority of the State Board of Higher Education. In the past year and a half, the SBHE has been reviewing and updating its tenure policies for all institutions in North Dakota, of which they have the authority as written in Article VIII, Section 6 of the North Dakota Constitution. If this bill were to pass, it would effectively override the constitutional authority of the governing body of our institutions of higher education.

Comments on Proposed Amendments

While North Dakota United is asking for a ***do not pass*** on this bill in its original form, the initial amendments proposed by Representative Motschenbacher with the edits suggested by the SBHE are less objectionable. We encourage changes to the bill that allow each institution to tailor their policies and procedures to best fit their unique mission and eliminate duplicative and unnecessary meetings and administrative red tape.

Conclusion

Chairman Schauer and members of the Committee, to summarize: the elimination of tenure at two-year colleges would hinder recruitment & retention, harm all institutions, and be bad for students and the quality of education they deserve. For these reasons, Chairman Schauer and members of the House Government and Veterans Affairs Committee, I respectfully ask for a ***do not pass*** recommendation for HB 1437. This concludes my testimony, and I am happy to stand for questions.