

To: Chair Beard and the Education Committee
From: The University Senate of the University of North Dakota
Subject: Opposition to House Bill 1437
Date: March 10, 2025

Dear Chair Beard and members of the Education Committee,

I am Zarrina Azizova, an Associate Professor of Higher Education and Chair of the University Senate at the University of North Dakota. On behalf of the University Senate, I submit this testimony in strong opposition to the amended HB 1437. While the bill no longer seeks an outright prohibition of tenure at two-year colleges, it remains a significant and unnecessary overreach into higher education governance. By overriding the authority of the State Board of Higher Education (SBHE), imposing prescriptive mandates on tenure evaluation, and misusing post-tenure review as a tool for dismissal, this bill creates uncertainty that will undermine North Dakota's higher education system, erode academic freedom, harm faculty work as well as faculty recruitment, and fail to attract excellent students.

The North Dakota Constitution (Art. VIII, § 6) grants the SBHE sole authority over the management and oversight of higher education institutions. HB 1437 prescribes specific tenure and post-tenure evaluation processes and standards that should be determined by the SBHE. In fact, North Dakota higher education institutions already have a tenure review process that includes annual faculty evaluations. Moreover, the SBHE has directed institutions to further refine these processes, with revised policies due by March 15, 2025. This bill adds no new value to higher education policy; instead, it creates unwarranted legislative interference in an area that is already being managed. HB 1437 mandates who must serve on post-tenure review committees and how frequently evaluations must occur, removing decision-making authority from universities and colleges on developing their review process that should be informed by academic best practices and principles. Thus, HB 1437, if passed, can be legally challenged on the grounds of unconstitutional infringement on the authority of the SBHE and will potentially delay the implementation of the post-tenure policy and review that have been approved by the SBHE. Lawsuits, challenging similar tenure legislatures, are already in place (for example, see *Hernandez, Sarah vs Board of Governors of the State University System*, 2024).

We support post-tenure review and want to acknowledge that post-tenure review is not a new phenomenon. But, as the American Association of University Professors (AAUP) has affirmed since 1983, post-tenure review should support faculty growth and not be used as a punitive tool. The 1999 AAUP report reiterates that post-tenure review must be conducted “for faculty development” and not “undertaken for the purpose of dismissal.” (<https://www.aaup.org/report/post-tenure-review-aaup-response>). However, HB 1437 explicitly defines faculty removal as a potential outcome of post-tenure review. This contradicts the long-

standing principle that post-tenure reviews should focus on faculty development, not serve as a pretext for dismissal. This bill misinterprets the intent of post-tenure review, potentially chilling academic freedom and discouraging faculty from engaging in innovative and controversial research. In fact, the above-mentioned lawsuit states that legislature of tenure removes protections for tenured professors and “replace these protections with what amounts to a [three-] five-year contract renewable at the discretion of the university’s president.” These legal arguments make it clear that “tenure laws” “imperil academic freedom” and damage tenured faculty’s career opportunities and ability to secure long-term funded research grants. This could lead to the damaging economic consequences as universities depend on long-term research funding from grants that require stable faculty appointments. By legislating post-tenure review as a potential pathway to dismissal, this bill also weakens North Dakota’s ability to attract new faculty in a highly competitive national market. Prospective faculty members will perceive this legislation as part of a broader trend to erode tenure protections, making North Dakota a less desirable place to work.

All these consequences are harmful for the quality of faculty, their work, and overall reputation of North Dakota higher education nationally and globally. This trend in turn will limit learning opportunities for students who choose to attend higher education institutions in North Dakota but may decide to leave for other institutions with richer faculty’s expertise, research, and learning.

For these reasons, we urge a **DO NOT PASS** recommendation on HB 1437 to protect the quality, autonomy, and reputation of higher education in North Dakota.

Respectfully submitted,

Zarrina Azizova, Ph.D.
2024-2025 Chair, University Senate of the University of North Dakota