

January 31, 2023

Honorable Members of the House Government and Veterans Affairs Committee,

As a currently-tenured faculty member at North Dakota State University (NDSU), I served for six years as the co-chair of my department's Promotion, Tenure and Evaluation (PTE) Committee, I am a member of the College of Human Sciences and Education PTE Committee and am serving as the Faculty Senate Past-President. Consequently, I am intimately familiar with the deliberations involved in the tenure process, have had an active role in improving policies governing tenure, and have worked to strengthen shared governance at NDSU. I am invoking this background as a testament to my expertise in and knowledge about these matters, but I am writing to you as a private citizen, not as a representative of any institution or group.

I am submitting this testimony in opposition to House Bill (HB) No. 1446 purportedly intended "to improve the tenure process" at NDUS institutions "in response to the urgent need to accelerate workforce development." In fact, if enacted, HB 1446 not only will it not improve the tenure process, but it will actually undermine it, erode it and render it meaningless. Granting tenure is a multi-layered, careful, rigorous, deliberate and methodical process that evaluates a faculty member's performance over six years of professional contributions to her/his/their institution and academic discipline. Few, if any, professionals in other fields undergo a longer probationary period than faculty members in higher education. Indeed, the process is intended to ensure that faculty members demonstrate the value of their academic production in the judgment of their peers in their field of expertise. Therefore, tenure is both an acknowledgment of and a reward for the faculty member's work, coming as the culmination of years of arduous preparation and dedication to her/his/their profession.

As I noted above, the proposed HB 1446 would not only undermine the tenure process, but, more concerningly, it represents a flagrant encroachment on principles of academic freedom, and faculty and shared governance, as well as a violation of [SBHE Policy 605.1: Academic Freedom and Tenure; Academic Appointments](#), which upholds said principles in the tenure process. As a faculty governance process, tenure evaluation is devolved to the faculty level, where deference is given to tenure decisions taken in the faculty member's department. Subsequent levels of evaluation involving faculty members' tenure portfolios (e.g., College level, Provost, etc.) may or may not uphold the tenure decision, but once granted, tenure cannot be revoked on grounds incompatible with those stipulated in Policy 605.1 and institutional policies deriving from the aforementioned policy (such as [NDSU Policy 352](#), for instance). This policy does not grant university presidents the right to unilaterally rescind a faculty member's tenure and, for good reasons, tenure serves as a protection mechanism from capricious retaliatory measures on part of higher administration.

Even when granted, tenure is not guaranteed unconditionally. It does not absolve faculty members from continuing to perform according to PTE criteria and expectations, and to comply with institutional and SBHE policies. Dismissal procedures of a tenured faculty member are clearly stipulated in [SBHE Policy 605.3: Nonrenewal, Termination or Dismissal of Faculty](#), and

such a decision needs to meet the “adequate cause” threshold under limited circumstances defined in Section 8 of that policy. Even in that case, the faculty member has recourse to challenge the decision via a hearing in front of the Standing Committee on Faculty Rights, composed of faculty peers, the task of which is to review and, potentially reverse, an institutional recommendation for dismissal.

No such recourse would be afforded through the sweeping power of review HB 1446 would invest in the university president. In fact, it would insulate the president from any challenge to her/his/their decision, giving her/him/them absolute power over a faculty member’s employment, notwithstanding the proposed perfunctory review by a university administrator, rather than by a committee of the faculty member’s peers. HB 1446 would effectively endow university presidents with broad discretionary powers to strip a faculty member’s tenure for, essentially, any reason the president might deem appropriate. This runs counter to principles of shared governance and academic freedom enshrined in tenure policies at NDUS institutions. Furthermore, it would allow a president gone rogue to target a faculty member because of perceived or real disagreements with, resentment or enmity toward the faculty member in question, under the pretenses of a performance review on criteria so broadly defined that anything could justify the president’s decision to revoke tenure, a status granted to faculty members precisely to prevent such arbitrary behavior on part of university upper administration. It is important to point out that this would undoubtedly create a climate of instability, reprisals and fear incompatible with the environment needed for academic work to flourish.

It is patently evident that the proposed bill is of grave concern for any current or prospective faculty member at an NDUS institution. It represents a solution in search of a non-existent problem. If passed and enacted, this law is certain to accelerate the exodus of faculty members from ND higher education institutions and will make our universities less attractive as places of employment for potential faculty colleagues who may consider working in our state. This will inevitably have deleterious effects on student learning, recruitment and retention, the negative repercussions of which on workforce development and the overall economy of North Dakota cannot be understated.

Therefore, I strongly urge you to vote DO NOT PASS on HB 1446. Thank you for your consideration.

Sincerely,

Florin D. Salajan, Ed.D.