

**2025 HOUSE GOVERNMENT AND VETERANS AFFAIRS**

**HB 1437**

# 2025 HOUSE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Pioneer Room, State Capitol

HB 1437  
2/7/2024

Relating to the prohibition of academic tenure at two-year colleges.
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10:09 a.m. Chairman Schauer opened the hearing.

Members present: Chairman Schauer, Vice Chairman Satrom, Representatives Bahl, Brown, Grindberg, Karls, McLeod, Rohr, Schneider, Steiner, VanWinkle, Vetter, Wolff

Members absent: Representative Christy

### Discussion Topics:

- Improvement of professors
- Balanced evaluations
- Negative impacts
- Breach of Authority
- Shared governance

10:09 a.m. Representative Motschenbacher, District 47, introduced the bill and submitted testimony, #35085, #36200.

10:16 a.m. House Leader Lefor, District 37, testified in favor and submitted testimony, #36201.

10:23 a.m. Dr. Meagan Salyers, Dickinson Resident, testified in favor.

10:32 a.m. Nick Archuleta, President of North Dakota United, testified in opposition and submitted testimony, #36152.

10:40 a.m. Lloyd Halvorson, Vice President for Academic and Student Affairs at Lake Region State College, testified in opposition and submitted testimony, #36217.

10:46 a.m. Carter Gill, Vice President of Governmental Affairs of the NDSA, testified in opposition and submitted testimony, #36099.

10:49 a.m. Chancellor Hagneraut, Academic Student Affairs of the North Dakota University System, provided neutral testimony.

10:53 a.m. Vice-Chancellor Johnson, Academic Student Affairs of the North Dakota University System, provided neutral testimony and submitted testimony, #36221.

### Additional written testimony:

#36130, #33187, #33314, #33320, #34417, #34899, #35268, #35627, #36048, #36058, #36081, #36110, #36118, #36119, #36134, #36147.

11:02 a.m. Chairman Schauer closed the hearing.

*Jackson Toman, Committee Clerk*

1/31/2025

**To: Government and Veterans Affairs Committee**

**Subject: Faculty Senate Support for Continued Tenure at NDSCS**

Dear Members of the Government and Veterans Affairs Committee,

The NDSCS Faculty Senate, representing the dedicated faculty members of North Dakota State College of Science, hereby expresses its strong support for continuing tenure at our institution.

Tenure, a cornerstone of academic freedom, plays a vital role in:

- **Ensuring Quality Education:** Tenure promotes a culture of excellence by encouraging faculty to engage in continuous professional development, scholarly pursuits, and innovative teaching methods.
- **Strengthens Institutional Reputation:** A strong tenure system enhances an institution's reputation as a place that values academic excellence and supports the intellectual growth of its faculty. This reputation attracts top students, fosters collaborations with other institutions, and enhances the overall prestige of the university system.
- **Protecting Academic Freedom:** Tenure safeguards faculty members' right to pursue research, express diverse viewpoints, and engage in scholarly inquiry without fear of reprisal. This freedom is essential for fostering a vibrant and intellectually stimulating learning environment.
- **Attracts Top Talent:** Tenure is a highly valued benefit that helps institutions attract and retain the most talented and accomplished scholars. It signals potential faculty members that the institution values academic freedom, supports their research endeavors, and offers a stable and rewarding career path.
- **Retaining High-Quality Faculty:** Tenure helps retain talented and committed faculty members who are essential for the continued success of NDSCS. It provides stability and security, allowing faculty to focus on long-term teaching, research, and service goals.
- **Contributes to Public Good:** Tenure benefits society by protecting academic freedom and supporting scholarly inquiry. It allows faculty to address critical social and global challenges, contribute to advancing knowledge, and inform public policy debates with rigorous research and thoughtful analysis.

- **Focus on student learning:** Without the constant worry of job security, tenured faculty can dedicate more time and energy to student learning. This can manifest in various ways, such as:
  - Developing innovative teaching methods: Experimenting with new approaches to engage students and enhance learning outcomes.
  - Providing individualized attention: Offering students more personalized guidance and support, including mentoring and advising.
  - Engaging in scholarly activities that directly benefit students: Conducting research that informs teaching and creates valuable learning opportunities for students.

Tenure fosters an environment where faculty can freely explore diverse ideas and prioritize student learning, ultimately enhancing the quality of all students' education.

We understand the complexities surrounding tenure and the need for ongoing evaluation of its effectiveness at two-year institutions. To address some of these concerns, NDSCS has drafted a post-tenure review policy that we feel fairly represents the needs of the faculty and the university system. However, we believe that the benefits of tenure for both faculty and students at NDSCS significantly outweigh any potential drawbacks even without this procedure in place.

The Faculty Senate is committed to working collaboratively with the legislature and other stakeholders to ensure that tenure policies are fair, transparent, and effectively support the mission of NDSCS, the university system, and the State of North Dakota. We believe a robust tenure system is critical to maintaining a high-quality educational experience for our students and fostering a thriving academic community.

We urge the legislature to consider tenure's value carefully and support its continued existence at NDSCS.

Sincerely,

A handwritten signature in black ink, appearing to read 'B. Whitmore', with a long horizontal flourish extending to the right.

Benjamin J. Whitmore M.Ed. CEC  
NDSCS Faculty Senate President  
[Benjamin.whitmore@ndscs.edu](mailto:Benjamin.whitmore@ndscs.edu)



Birgit Pruess, Ph.D.  
3696 Harrison St. S  
Fargo, ND

January 31, 2025

RE: HB1437

Dear members of the 69<sup>th</sup> Legislative Assembly of North Dakota,

I am a resident of Fargo, ND. Please, accept the below as my testimony IN OPPOSITION of HB1437 to prohibit tenure at our two year colleges. I like to point out that I have been the faculty advisory member on the State Board of Higher Education between 2017 and 2019. I am not testifying on their behalf or in representation of anybody else. I am testifying as a private person, albeit with a good amount of knowledge about Higher Education in North Dakota.

The North Dakota constitution very clearly states in Article VIII Education, Section 6, that “A board of higher education, to be officially known as the state board of higher education, is hereby created for the control and administration of the following state educational institutions, to wit:.....” (<https://ndlegis.gov/constit/a08.pdf>). This means that the SBHE is the legislative body responsible for policies regarding North Dakota State Colleges and Universities. HB1437 is legislative overreach and in contradiction to our State Constitution.

Other arguments against prohibiting tenure at two year colleges:

- 1) There appears to be a misconception as to what constitutes ‘tenure’. It does not mean a faculty can’t get fired anymore. They can get fired, for cause and for financial reasons. Meaning, the faculty has to be told why they got fired. In theory, people should not get fired unless they did something wrong or there is a financial reason anyways. And one should tell them what they did wrong.
- 2) More importantly, tenure is about academic freedom and that is free speech, as in the 1<sup>st</sup> amendment to our US Constitution. HB1437 is in contradiction to our US Constitution.
- 3) It is not easy to make people move to and stay in our State. Salary is also the greatest and dependent on the respective field of a faculty, they could get a much better paying job in industry. Right now, benefits and academic freedom are still what draws people to academia. Do we really want to lose people? If we want top people to join our institutions, we need to treat them accordingly.

Altogether, I oppose HB1437 and recommend a DO NOT PASS vote.

As in all my testimonies, I much appreciate the hard work and dedication that each member of my state legislative assembly puts into our state. Thank you.

Sincerely and respectfully Birgit  
Pruess, Ph.D.

North Dakota House Government and Veterans Affairs Committee  
North Dakota Legislative Assembly  
600 E Boulevard  
Bismarck, ND 58505

January 31, 2025

**Re: VOTE DO NOT PASS on HB 1437**

Dear Chair Schauer and Members of Government and Veterans Affairs:

I write **in opposition to House Bill No. 1437** – a bill relating to the prohibition of academic tenure at two-year colleges.

I am a tenured full professor in the English Department at North Dakota State University (NDSU). The following testimony reflects my knowledge, experience, and opinions as a public employee in the NDUS system since January 2014, and it in no way reflects the opinions of my employer, NDSU.

Although the current bill (version [25.0830.01000](#)) does not apply to four-year colleges nor those faculty, like myself, who were hired prior to July 1, 2026, I am *deeply concerned* about my current and prospective colleagues at community colleges in our state.

This bill is unwarranted. It treats two-year colleges, their faculty, students, and staff as second-class citizens, and it will have a detrimental impact on two-year colleges. It will also have a chilling effect on *all* faculty considering employment at two- *and* four-year colleges in our state.

The primary purpose of tenure is to ensure academic freedom, the exchange of diverse ideas and perspectives. But tenure is so much more. Tenure ensures that faculty **research and teaching are of high quality**, and thus **impacts student learning**, who benefit from this directly, and **both scholarly and lay communities**, who benefit in direct and indirect ways from faculty research outputs. Tenure adds to the **prestige** of our state institutions of higher learning, and it helps to **attract and recruit** new talent *and* **retain** current high-quality researchers and teachers.

To be awarded tenure, faculty go through rigorous processes, which include thorough evaluations of research, teaching, and service to the department, college,

university, and the State of North Dakota. External expert evaluators are brought into this vetting process. If a faculty member does not meet the necessary criteria, they are not awarded tenure. **This is quality control.**

Further, tenured faculty can be terminated for just cause based upon poor performance, academic misconduct, exigency, and other valid reasons. All of this was clearly articulated during the last legislative session (2023) in testimonies relating to House Bill No. 1446 ([23.0083.04000](#)), sponsored by Rep. Lefor. That bill was defeated in the Senate. This is another version of the same bill, and the same arguments apply.

Please, Honorable Committee Members, **VOTE DO NOT PASS on HB 1437** and focus on ways to recruit and retain faculty in our state!

Thank you for your time and consideration of my testimony, and your service to the State of North Dakota.

Sincerely,  
Dr. Anastasiya Andrianova, MA, MPhil, PhD  
Professor of English, NDSU  
District 11 - Fargo, ND

Dear Chair Schauer and members of the Government and Veterans Affairs committee,

Thank you for the opportunity to provide testimony on HB 1437. We are writing on behalf of Bismarck State College (BSC) Faculty Senate to express our strong opposition to this bill and to highlight its potential consequences for the North Dakota University System, particularly BSC's polytechnic mission and our ability to attract and retain highly qualified faculty.

### **Collaborative Efforts to Strengthen Faculty Evaluation Policies**

Since February 2024, BSC administration and Faculty Senate Leadership have worked extensively to create policies regarding the evaluation of probationary and tenured faculty, addressing concerns raised by the legislature.

The draft policies outline detailed expectations and review processes, ensuring accountability and alignment with institutional goals. These changes reflect a commitment to fostering excellence among our faculty while maintaining the integrity of tenure.

### **The Importance of Tenure in Two-Year Colleges**

For all colleges, including two-year institutions, the value of tenure cannot be overstated:

1. **Attracting and Retaining Talent:** North Dakota's higher education institutions must remain competitive in attracting highly qualified educators and industry leaders. Without tenure, BSC would struggle to compete with lucrative opportunities in both academia and private industry, particularly in emerging fields like AI, cybersecurity, automation, and robotics.
2. **Enhancing Institutional Reputation:** The presence of tenured faculty enhances the credibility and prestige of an institution, signaling a commitment to long-term academic excellence. Tenured faculty are a crucial part of building and maintaining institutional stability. Vested in their institutions, these faculty members serve on committees, work with advisory boards, and use current research in their classrooms: all things that drive innovation and contribute to student success.
3. **Supporting Academic Freedom:** Tenure protects faculty members' ability to innovate in their teaching and research without fear of political or administrative repercussions. This freedom is essential for fostering critical thinking and preparing students to address complex challenges in their industries.

### **The Broader Impact on North Dakota's Economic Growth**

North Dakota is currently experiencing an economic boom, with opportunities to expand in industries that will define the future. BSC is uniquely positioned to support this growth by preparing the next generation of skilled workers. However, HB 1437 would create a significant barrier to achieving this goal. Without the ability to offer tenure, BSC loses its competitive edge, both in attracting talent and in delivering innovative, industry-relevant education.

## A Call for Legislative Support

We understand and respect the legislature's interest in ensuring accountability within the North Dakota University System. BSC has demonstrated its commitment to addressing these concerns through the collaborative development of new, rigorous evaluation policies for faculty. These efforts are a testament to our shared goal of fostering excellence in education.

However, HB 1437 would hinder these efforts and weaken the very foundation of what makes institutions like BSC successful. We ask the committee to recognize the vital role of tenure in supporting academic freedom, attracting top talent, and advancing North Dakota's economic growth. By opposing HB 1437, you can ensure that BSC and other institutions in the state continue to thrive and fulfill their missions. We urge the committee to consider a **do not pass** recommendation.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Danica Allard". The signature is fluid and cursive, with the first name "Danica" written in a larger, more prominent script than the last name "Allard".

Bismarck State College Faculty Senate Executive Committee

Kevin Cavanagh - President

Danica Allard – Vice President

Amy Helgeson – Secretary

Dear North Dakota Legislators,

I am writing to express strong opposition to HB 1437, which would ban tenure at North Dakota's two-year colleges for faculty hired after July 1, 2026. This bill is unnecessary, harmful to our higher education institutions, and threatens the quality of education available to North Dakota students.

Tenure is not a job security measure—it is a safeguard for academic freedom and a tool for attracting and retaining high-quality educators. By removing tenure, HB 1437 would create a chilling effect on the ability of faculty to thoroughly educate students and conduct research without fear of political or administrative retaliation. Academic freedom is essential to ensuring that North Dakota's students receive a rigorous, well-rounded education that prepares them for the workforce and civic life.

Moreover, the passage of HB 1437 would weaken North Dakota's ability to compete for top-tier faculty. Community colleges play a critical role in workforce development, and removing tenure protections will make it harder to recruit and retain the best educators for these institutions. Weakening the foundation of our community colleges ultimately harms our entire university system and the reputation of higher education in North Dakota.

This bill is a solution in search of a problem. North Dakota should be focused on strengthening our higher education institutions, not dismantling the very structures that allow them to thrive. I urge you to give HB 1437 a DO NOT PASS and stand in support of our educators, students, and the future of higher education in our state.

Thank you for your time and consideration.

Angela Smith

25.0830.01001  
Title.

Prepared by the Legislative Council  
staff for Representative  
Motschenbacher

February 4, 2025

Sixty-ninth  
Legislative Assembly  
of North Dakota

## PROPOSED AMENDMENTS TO

### HOUSE BILL NO. 1437

Introduced by

Representatives Motschenbacher, Hauck, J. Johnson, Klemin, Lefor, Meier, Rohr, Dockter

Senators Larson, Rummel, Dwyer

1 A BILL for an Act to create and enact a new section to chapter 15-10 of the North Dakota  
2 Century Code, relating to ~~the prohibition of~~ academic tenure policy at ~~two-year~~  
3 ~~colleges~~ institutions of higher education.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1.** A new section to chapter 15-10 of the North Dakota Century Code is created  
6 and enacted as follows:

7 **Academic tenure ~~prohibited at two-year colleges~~ - Policy - Evaluations.**

8 ~~— A faculty member is not eligible for academic tenure, if the faculty member is hired after~~

9 1. By July 1, 2026, and employed at a two-year college in the state. For purposes of this  
10 section, a two-year college is any of the following: Bismarck state college, Dakota  
11 college at Bottineau, Lake Region state college, North Dakota state college of science,  
12 and Williston state college institutions of higher education under the control of the state  
13 board of higher education offering faculty academic tenure shall develop and adopt a  
14 policy for tenured and tenure-track faculty employed by the institution, which:

15 a. Defines progression and advancement criteria at each stage of tenure  
16 progression, including post-tenure review.

17 b. Establishes a procedure for annual evaluation of all nontenure, tenure-track, and  
18 tenured faculty by the president of the institution or the designee of the president.

19 c. Establishes a procedure for tenure progression evaluations and post-tenure  
20 reviews, which must be completed at least every three years, informed by the



1                   annual evaluations under subdivision b. and conducted by a committee  
2                   appointed by the president of the institution or the designee of the president. The  
3                   committee must include the faculty member administrative supervisor of the  
4                   faculty member under evaluation or review, at least one ranking administrator,  
5                   and no more than one other faculty member.

6                   d.   Defines the outcome of an unsatisfactory review of post-tenured faculty, which  
7                   may be revocation of tenure or removal from the position. The decision to revoke  
8                   tenure or to remove faculty from a position must be made by the employing  
9                   institution, the North Dakota university system, or the state board of higher  
10                  education.

11                  e.   Is approved by the North Dakota university system and the state board of higher  
12                  education.

13                  2.   Advertisement of open faculty positions by institutions of higher education under the  
14                  control of the state board of higher education offering faculty academic tenure must  
15                  designate the position as nontenure-track or tenure-track. Upon offering a tenure-track  
16                  position to a candidate, the institution shall provide the candidate the policy required  
17                  under this section.



North Dakota House Government and Veterans Affairs Committee  
North Dakota Legislative Assembly  
600 E Boulevard  
Bismarck, ND 58505

February 5, 2025

Dear Chair Schauer and Members of Government and Veterans Affairs:

I write **in opposition to House Bill No. 1437** – a bill relating to the prohibition of academic tenure at two-year colleges. This bill is unnecessary, harmful to our higher education institutions, threatens the quality of education available to North Dakota students, and would deter future scholars and innovative minds from coming to North Dakota.

I am a tenured professor of sociology at North Dakota State University (NDSU). The following testimony reflects my knowledge, experience, and opinions as a citizen of North Dakota and public employee in the NDUS system since August of 2005 and in no way reflects the opinions of my employer, NDSU.

Tenure is not a job security measure—it is a safeguard for academic freedom and a tool for attracting and retaining high-quality educators and researchers. By removing tenure, HB 1437 would create a chilling effect on the ability of faculty to thoroughly educate students and conduct research without fear of political or administrative retaliation. Academic freedom is essential to ensuring that North Dakota's students receive a rigorous, well-rounded education that prepares them for the workforce and civic life.

I am *deeply concerned* about the impact this bill will have on my current and prospective colleagues at 2-year colleges, as well as on the reputation of North Dakota's higher educational system. The passage of HB 1437 would weaken North Dakota's ability to compete for top-tier faculty. Community colleges play a critical role in workforce development, and removing tenure protections will make it harder to recruit and retain the best educators for these institutions. Weakening the foundation of our community colleges ultimately harms our entire university system and will leave many potential educators and innovators overlooking our state as a place where they can find a home.

Tenure is not something that just happens and it is not a free pass that means I can never be fired. Tenure is earned and we continue to be evaluated each year after tenure. Typically, it takes six years to earn tenure, which up until then one can be

released for not performing adequately in the areas of teaching, research, and service. Over my time at NDSU, I have witnessed a variety of people in different departments be denied tenure for not performing at the level they need and subsequently were released from positions.

In addition, tenure does *not* mean you cannot be fired for just cause based upon poor performance, academic misconduct, exigency, and other valid reasons. I have witnessed tenured faculty be terminated for those reasons over my time at NDSU.

Tenure is a rigorous process and over my time serving on tenure committees and evaluating faculty, I have witnessed a range of faculty and skills. The common features of people who pass tenure are passionate about their fields, engage in quality research that contributes to the land grant mission of NDSU, and have an overwhelming dedication to educating future generations of scholars, teachers, business-owners, public service employees, engineers, nurses, architects (I can go on and on here), neighbors, and citizens.

North Dakota should be focused on strengthening our higher education institutions, not dismantling the very structures that allow them to thrive. I urge you to give HB 1437 a DO NOT PASS and stand in support of our educators, students, and the future of higher education in our state.

Thank you for your time and consideration of my testimony, and your service to the State of North Dakota.

Sincerely,  
Dr. Christina Weber, PhD  
Professor of Sociology, NDSU  
District 27 - Fargo, ND

**To whom it may concern,**

**I support tenure and am against Bill HB1437**

**The 2-year schools teach the same undergraduate classes (Common Course Numbering) as the 4-year schools. So, there is no difference in the need for Academic Freedom.** If an administrator does not agree with the scientifically supported information for a topic such as climate change or evolution, without academic freedom, the instructor could be fired. It is imperative that the students of North Dakota have access to the most up to date information to be well informed citizens. Information supported by scientific research and the scientific community. Not the opinion of an administrator, especially one supporting pseudoscience.

I teach Biology, Microbiology, Genetics, Biotechnology and Astronomy and have taught Agriculture classes too. Academic freedom to teach the scientifically supported topics such as Climate Change and Evolution is a critical need. I teach what is accepted by most scientists, but not necessarily understood by the general public. So yes, academic freedom to teach discipline accepted ideas may be critical to more academic areas of study than might be obvious. I can see the fields of psychology, biology, geology, astronomy, nutrition, anatomy and physiology could cover controversial topics in the mind of the general public. The medical field is slow to change, and recent research in the fields of nutrition and anatomy and physiology contradict some long-held beliefs of the mainstream medical field. (Part of the reason may be the financial influence of pharmaceutical companies on the medical field.) I point these out in my biology classes. The microbiology for nursing and other students majoring in biology covers topics that can be controversial such as COVID-19. The argument of evolution also impacts the fields of astronomy and geology as creationists believe the age of the earth to be 6000 to 10,000 years old. Mainstream scientific evidence points to the age of the earth to be about 4.6 billion years. Geology contends with flat earthers and psychology contends with scientology. With the recent advent of AI, holding students accountable to do their own work is harder. I can see English classes needing Academic Freedom to enforce their requirements. History and anthropology are always changing and updating with new discoveries. The general public may not understand the new scientific evidence and thus the need for Academic Freedom.

We want the students of North Dakota to be the best informed and to be able to think critically so Academic Freedom is critical for all disciplines

The high percent of tenure at an institution may reflect the age of the faculty and the length of time they have been there. The thought of age discrimination crosses my mind. The older faculty do have a lot to offer. I don't understand the problem with the percent of tenured faculty. If they are not doing their job, then there are ways to remove them. Good faculty can be difficult to replace. Tenure can be a critical recruitment tool.

To attain tenure in the first-place, faculty need to go above and beyond. (I had the first online lab science class in the state of North Dakota.) When Common Course Numbering was initially started in the 1990's, I was the chair for the 2-year schools and the co-chair for the state for the Biology Discipline. I spent countless hours assuring the commonality/transferability of Biology classes for students of the state of North Dakota. I also volunteered to take 18 graduate credits in Space Studies from UND so I could teach Astronomy for the Elementary Ed students.) This is an incentive for new faculty to aspire to higher levels of achievement.

Our tenured faculty have always been evaluated by both students and administrators. WSC has recently developed specific guidelines to address evaluation of tenured faculty.

I see the job security issue and this aspect of tenure differently than you, I think. In past decades the faculty have played a greater role (shared governance) in the institutions of higher ed. A book you could read on this topic is *The Fall of the Faculty* by Benjamin Ginsberg. The job security of tenure from my perspective is the ability to hold administrators accountable for their actions. The faculty input for institutional governance is important. The book I mentioned may help with this. I don't think the longer contracts would address the real issue. The faculty member would be dismissed, just a year or two later.

Please support and celebrate the value of the faculty in North Dakota. Do not devalue tenure and do not limit our institutions to a particular percentage of tenured faculty. This could lead to the loss and discarding of valuable human resources. Ultimately it will be the students and citizens of North Dakota who are hurt by this short sightedness.

If you would like I can consult with other colleagues to look at other discipline specific controversial topics to address the Academic Freedom issue.

Sincerely,

Susan Zimmerman Professor Biology WSC

Dear House Government and Veterans Affairs Committee Members,

As a concerned citizen of the state of North Dakota, I support the opposition to HB1437. I concur with many of the statements prepared by North Dakota United which largely align with comments seen in other written testimony.

*This bill is unnecessary, harmful to our higher education institutions, and threatens the quality of education available to North Dakota students.*

*Tenure is not a job security measure—it is a safeguard for academic freedom and a tool for attracting and retaining high-quality educators. By removing tenure, HB 1437 would create a chilling effect on the ability of faculty to thoroughly educate students and conduct research without fear of political or administrative retaliation. Academic freedom is essential to ensuring that North Dakota's students receive a rigorous, well-rounded education that prepares them for the workforce and civic life.*

*Moreover, the passage of HB 1437 would weaken North Dakota's ability to compete for top-tier faculty. Community colleges play a critical role in workforce development, and removing tenure protections will make it harder to recruit and retain the best educators for these institutions. Weakening the foundation of our community colleges ultimately harms our entire university system and the reputation of higher education in North Dakota.*

*This bill is a solution in search of a problem. North Dakota should be focused on strengthening our higher education institutions, not dismantling the very structures that allow them to thrive. I urge you to give HB 1437 a DO NOT PASS and stand in support of our educators, students, and the future of higher education in our state.*

Respectfully,

Adam K. Matz

To: Chair Schauer and the Government and Veteran Affairs Committee  
From: The University Senate of the University of North Dakota  
**Subject: Opposition to House Bill 1437**  
Date: February 6, 2025

Dear Chair Schauer and members of the Government and Veteran Affairs Committee,

I am Zarrina Azizova, an Associate Professor of higher education, and I currently serve as the Chair of the University Senate at the University of North Dakota. On behalf of the University Senate, I submit this testimony to oppose HB 1437. This bill, which seeks to prohibit tenure at North Dakota's two-year colleges for all new hires, would undermine the governing expertise and authority of the SBHE, weaken the academic and administrative expertise of the North Dakota University System and its institutions, and make North Dakota less competitive in recruiting top-tier faculty.

The ability to establish and revise tenure policies should remain with the State Board of Higher Education (SBHE) as currently authorized by the Art. VIII, § 6 of the North Dakota Constitution and North Dakota Century Code § 15-10-01.2. The SBHE is best positioned to make policy decisions that reflect the needs of each higher education institution in the NDUS, while ensuring accountability through the ongoing post-tenure review practices and improvements that are already in place or will be adopted by March 15, 2025.

In addition to encroachment on SBHE authority, our key concerns, that inform this opposition, stem from the several foundational principles and values that have historically governed the U.S. higher education to position it to be one of the most distinguished models in the world. These concerns are as follows:

1. **Erosion of academic freedom and high-quality student educational experience:** The curriculum that faculty develop is contingent on the faculty's expertise and their ability to teach without political or ideological pressure. Academic freedom is a bedrock of high-quality teaching and student learning and is strongly connected to tenure. Weakening or eliminating tenure threatens academic freedom and the integrity of course content, which in turn undermines the quality of education at two-year colleges, and across all NDUS institutions, as students may continue to a 4-year institution upon completion of their Associates.
2. **False assumptions that tenure is given not earned:** Earning tenure is a rigorous and competitive process that has nested levels of reviews to include academic peers, faculty, and administrators. Academic and professional standards inform each level of review processes. Through this tenure review process, that takes several years, a faculty member earns a long-term or permanent appointment. This multi-level and multi-year process is designed to ensure fairness and uphold academic standards. New policies for each institution—pre- and post-tenure—are outlined in the documents that are or will be submitted to the NDUS by March 15, 2025, as required by the SBHE.

3. **Negative impact on faculty recruitment and retention:** Tenure is a critical factor in attracting and retaining talented faculty in a highly competitive national job market. Removing tenure protections will make North Dakota a less desirable place to work, leading to faculty shortages and reducing educational opportunities for students. Even if the current proposal only applies to two-year colleges, the national perception will be that North Dakota is moving toward eliminating tenure altogether, discouraging potential faculty from considering employment in the state. Current news headlines trigger such perceptions. For example, the January 27<sup>th</sup> (2025) *Forbes* article, “*States Once Again Considering Bills to Ban or Limit Faculty Tenure*,” highlights a growing national concern over legislative attacks on tenure. North Dakota should avoid becoming part of this trend, which risks damaging its higher education system’s reputation and effectiveness.

Consequently, unless there are amendments that recognize the governing expertise and authority of the SBHE and the academic (with significant input of faculty with subject area expertise) and administrative expertise in TRP process of the North Dakota University System and its institutions, we urge a **DO NOT PASS** recommendation on HB 1437 to protect the quality, credibility, 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

**House Government and Veterans Affairs Committee**  
**February 7, 2025    HB 1437**  
**Testimony in Opposition**

Chairman Schauer & members of the House Government & Veterans Affairs Committee:

**I strongly urge you to reject any legislation that eliminates or downgrades tenure at any type of institution in North Dakota.**

Tenure is important to the success of higher education at all types of institutions, including community and technical colleges. Academic freedom is important not only at research universities, but in teaching-focused colleges as well – it just looks a little different. I understand this issue well as I have worked at Duke University (which I also attended as a student), Drexel University, the University of Chicago (which I also attended as a graduate student), the University of Nebraska–Lincoln, and Bismarck State College.

Tenure plays a significant role in the recruitment and retention of quality faculty at Bismarck State College (BSC), Dakota College at Bottineau (DCB), Lake Region State College (LRSC), the North Dakota State College of Science (NDSCS), and Williston State College (WSC). And such quality faculty are key to the education that students receive.

The stability of tenure-track faculty offers continuity as students navigate their years, supporting mentorship for students. These faculty also take root and contribute to their neighborhoods, their own children's schools, local nonprofits, municipal governments, and more. Our communities don't benefit as much from higher ed instructors who come and go. Stable, rooted faculty are healthy not just for the institutions they directly serve, but for their broader communities.

Community and technical college students share the needs of university students: They need to learn to think, speak, read, write, grasp math, and understand history at a level that supports full participation in society. Education is not merely a box to be checked for an occupation; it prepares us for citizenship and adult-level functioning. A revolving door of instructors who aren't full participants in campus or community life will never educate our young people the way that tenure-track faculty can.

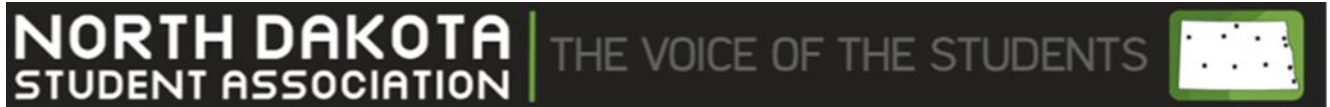
Someone earning a technical degree still deserves great professors and great mentorship. Our entire community benefits when our young people can tackle the demands of adulthood and citizenship with a solid educational foundation. Diminishing tenure stunts the growth of the next generation because it downgrades their educational experience.

Finally, I want to acknowledge that an amended version of this bill is possible, and it might be less destructive of tenure than the initial draft. However, unless this legislation ensures a fair appeals process for tenure-track faculty not granted tenure and for tenured faculty who are dismissed, it will still harm the quality of tenure available at ND institutions.

Thank you for your time and attention.

Ellie Shockley, Ph.D., Social Scientist  
District 34 Resident, Mandan, North Dakota  
EllieShockley.com



**HB 1437**

February 7, 2025

Carter Gill, North Dakota Student Association

(701) 388 7589 | carter.gill@ndus.edu

Chair Schauer and Members of the Committee: My name is Carter Gill and I am NDSA Vice President of Governmental Affairs. I am here today in opposition of HB 1437.

The North Dakota Student Association is dedicated to ensuring that students have a voice at the table in policy that affects higher education. We consist of delegates from each of the 11 public North Dakota University System (NDUS) institutions, meeting monthly to engage students in discussions about North Dakota higher education policy. Since 1969, our mission has been to empower students, create collaboration between the student bodies of the North Dakota public universities, and to provide a student perspective on higher education policy.

During the January 2025 General Assembly Meeting, the NDSA passed [NDSA-18-2425](#) which states our opposition to HB 1437. The NDSA believes that without any changes to the way the North Dakota University System contracts faculty, the removal of tenure would create uncertainty for faculty on whether their contract would be renewed or not to maintain employment. In the absence of tenure, we could see more of a revolving door at our two-year institutions, where students will be unable to build meaningful professional relationships with faculty and would also negatively impact the quality of students' education.

The NDSA also wants to acknowledge the relationship between the NDUS, State Board of Higher Education, and the North Dakota Legislature. In Article VII Section 6 of the ND Constitution, it states that the State Board of Higher Education was created for "the control and administration" of NDUS institutions, whose members are approved by members of the legislature. This is where the line for where legislature's involvement in higher education should be; with the nomination of the board's members. These board members have demonstrated to the

governor and others in the North Dakota government that they have the ability to govern our public institutions of higher education. This is especially the case with tenure. The decisions made about policy regarding tenure should be left up to the individual institutions in the best interests of faculty and students.

I understand that there is a proposed amendment regarding HB 1437 that would reflect the autonomy of the SBHE by leaving the policy on tenure up to both the SBHE and the 11 NDUS institutions.

On behalf of the North Dakota Student Association, I ask that this committee gives HB 1437 as it stands a DO NOT PASS recommendation and in support of the proposed amendments.

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

Dear Legislators and Committee members,

I am writing as an individual citizen in opposition to HB 1437. As a tenured professor myself, I ask that you please oppose HB 1437 as well, as it would ban tenure at North Dakota's two-year colleges for new faculty. This bill is based on misconceptions about faculty jobs and review processes and simply unnecessary. It is also harmful to our higher education institutions, reducing the competitiveness of our two-year colleges. As a result, it also threatens the quality of education available to North Dakota students by contributing to high turnover.

Tenure does not mean faculty are not reviewed regularly and cannot be dismissed. But it does safeguard academic freedom and is a critically important tool for attracting and retaining high-quality educators who could make significantly more in the private sector based on their educational credentials. In addition, by removing tenure, HB 1437 would have a substantial chilling effect on the ability of faculty to educate students and conduct research without fear of political or administrative retaliation. This contributes to an environment that will make faculty want to leave ND and also undermines efforts to recruit new faculty. Academic freedom is essential to ensuring that North Dakota's students receive a rigorous, well-rounded education that prepares them for the workforce and civic life. This is true for both research intensive universities as well as community colleges.

Moreover, the passage of HB 1437 would weaken North Dakota's ability to compete for top-tier faculty. Community colleges play a critical role in workforce development, and removing tenure protections will make it harder to recruit and retain the best educators for these institutions. These sorts of bills ultimately harm our entire university system and the reputation of higher education in North Dakota.

In short, this bill is a solution in search of a problem - procedures for evaluating and dismissing faculty already exist. If we want to remain competitive, North Dakota should be focused on strengthening our higher education institutions, not dismantling the very structures that allow them to thrive. For these and other reasons, I urge you to give HB 1437 a DO NOT PASS.

Please stand in support of our educators, students, and the future of higher education in our state.

Best regards,

Liz Legerski  
Grand Forks, ND



**Testimony for the 69th Legislative Assembly – Government and Veterans Affairs**

**February 7, 2025**

**Andy Armacost, President, UND**

**andrew.armacost@UND.edu | 701.777.2121**

**Bill: HB 1437**

**Position: Neutral**

Chairman Schauer and Members of the Government and Veterans Affairs Committee:

My name is Andy Armacost, and I serve as the President of the University of North Dakota. I should begin by acknowledging the work of Representative Motschenbacher on this bill, and for his willingness to consider amendments to the original bill. It is clear that Representative Motschenbacher, the North Dakota Legislature, the State Board of Higher Education, and the University of North Dakota all seek to improve the academic opportunities available to students and to enhance the reputation and impact of the entire North Dakota University System.

Tenure is a cornerstone of a successful academic enterprise, as it supports academic freedom and the advancement of freedom of speech. It supports the reputation of our universities and allows us to build a highly qualified and productive faculty, which is the very basis of a sound educational system. It supports innovation and economic prosperity within the state, which advances the interests of our citizens.

There must be systems of accountability and meaningful review protocols attached to any tenure system in order to promote enterprise, excellence, and ongoing productivity. This is true whether tenure exists at a 2-year or 4-year institution, and the responsibility for maintaining systems of accountability and meaningful review protocols falls on individual institutions and on the State Board of Higher Education.

The University of North Dakota supports the efforts of the State Board of Higher Education and endorses the work of the SBHE Ad Hoc Committee on Tenure and Post-Tenure Review. Should it be deemed necessary by the legislature to add tenure language to Century Code, we would humbly advocate for legislation that is in line with the recommendations and principles established in the report of that SBHE ad hoc committee, particularly the directives for improved post-tenure review protocols at each campus under the control of the SBHE. Thank you.

69<sup>th</sup> Legislative Assembly  
House Government and Veterans Affairs Committee  
February 7<sup>th</sup>, 2025

Mr. Chairman and Members of the Committee,

My name is Kevin Black, a business owner from Minot, ND, and member of the State Board of Higher Education, where I chair our Budget and Finance Committee. Recently, Representative Motschenbacher submitted an amended version of HB 1437. Assuming those edits are adopted, I rise in support of HB 1437, a bill that advances reform of higher education employment practices in the North Dakota University System.

Technology and industry revolutions in ND have generated unprecedented demands on our state's workforce, and higher education is the single most powerful tool to solve these challenges. To do so, higher education must strategically adapt its business models to keep pace with industry, demonstrate greater responsiveness, and enable an entrepreneurial spirit. A key objective in achieving this strategic initiative is reforming tenure, or as I like to refer to it as – “modernizing our employment practices.”

HB 1437 sends a decisive message, encouraging clear approaches to establishing tenure criteria and demanding accountability through rigorous and consistent reviews of faculty performance. In that vein, I recently submitted approximately one dozen serious and meaningful SBHE policy edits aimed at reforming tenure and non-tenure employment practices. I am pleased to announce that as of last week, the SBHE has adopted most of those edits including the following:

1. Eliminated tenure as “right” to continuous employment.
2. Established clear timelines and expectations for post-tenure review.
3. Allowed for greater transparency to the public on faculty hearings and appeals.
4. Significantly reduced the notification period for termination for non-tenured faculty and tenured faculty whose programs face low enrollment, elimination, or consolidation. Thus, empowering presidents to move much more quickly to reimagine, reshape, and retool their institutions to meet industry and societal needs.
5. Removed the requirement that an institution, aka taxpayers and students, must pay 100% of mediation costs in termination disputes.
6. Eliminated the ability for faculty to file grievances against administrators' discretionary actions.



In summary, along with several other policy reforms, the SBHE has taken pivotal steps toward restoring a more fair and commercial balance to the employee/employer relationship.

However, we recognize more work is required of the SBHE, and we are committed to rigorously reviewing our policies to ensure we are driving the type of outcomes our students, families, businesses, and taxpayers expect. Specifically, our next step is to evaluate the type of employment practices that truly make sense for our two-year institutions.

Finally, I want to recognize and share my thanks for the amazing faculty who work tirelessly to teach the next generation of North Dakotans and conduct life-changing research. To be clear, we have dedicated, smart, and caring faculty throughout our system. Frankly, we need more of them, and, without a doubt, tenure is a market-driven component to attracting talented individuals to ND.

We should not eliminate tenure, and I'm grateful for this bill's amended approach. Working together, we can put the necessary guardrails around tenure policies that both drive accountability and reward our highest achieving faculty members.

Thank you for your time and support of the North Dakota University System

Kevin Black

Minot, ND



## Minot State University Faculty Senate

To: House Government and Veterans Affairs Committee  
State of North Dakota 69th Legislative Assembly

Re: House Bill 1437: A BILL for an Act to create and enact a new section to chapter 15-10 of the North Dakota Century Code, relating to the prohibition of academic tenure at two-year colleges.

Testimony by the Faculty Senate of Minot State University  
6 February 2025

Dear esteemed members of the committee:

We, the Faculty Senate of Minot State University, strongly urge the House Government and Veterans Affairs Committee to give a Do Not Pass recommendation to HB 1437. The personal growth and educational development of students enrolled in the North Dakota University System is the primary focus of faculty across our varied institutions. Eliminating academic tenure at two-year institutions would endanger that growth and development.

At the center of what we do is student success—both for students preparing for the 21st-century North Dakota workforce and for those going on to advanced study at other NDUS institutions. Elimination of tenure puts the continuity of these students' degree programs and the mentorship and advising of students done by those programs' tenured faculty at risk.

Academic tenure is neither automatic nor "employment for life." To earn tenure, faculty members undergo a five-year process during which students, supervisors, and peers evaluate a faculty member's engagement with and accomplishment in teaching, scholarship and professional development, and service. This process is repeated on a yearly basis across this period. If a tenure-track faculty member receives tenure—not all do—performance reviews continue each year for the entirety of their career. In fact, beginning in Fall 2025, all tenured NDUS faculty members also undergo an additional and regular post-tenure review.

Tenure is the keystone of colleges' and universities' ability to ensure the supply and retention of highly-qualified, student-centered faculty. Tenured faculty form the backbone of programs that produce a highly competent and productive workforce. The continuous professional development these faculty members engage in enables them to assess and improve the effectiveness and currency of students' programs. Tenured faculty also provide professional services that ensure their institutions are efficient, effective, and connected to the communities and employers they serve. For example, tenured faculty oversee the

delivery of countless hours of rural and community outreach like supervising and mentoring student paraprofessionals serving in rural K-12 schools throughout North Dakota—work that would not happen without those students' tenured faculty mentors.

Across the United States, college and university instructors who are not tenured or eligible for tenure are limited in their ability to contribute these many hours of additional work in support of students and academic programs. If tenure were eliminated, then the state's institutions of higher learning would have to recruit new, paid workers for those tasks who would be less likely to have expertise in students' fields and less able to build the sort of continuity of experience that supports institutions and their students.

Moreover, academic tenure supports academic freedom, and the commitment to scholarship that academic freedom makes possible enables faculty to identify and create educational experiences that align with disciplinary expertise, workforce needs, and the newest ideas and technologies. These are the educational experiences that best train our students to achieve lifelong success.

Academic tenure ensures the ongoing production of quality, engaged graduates who help our state grow to the best of its great potential. We ask you to make sure that continues by giving HB 1437 a Do Not Pass recommendation.

Yours sincerely,

The Faculty Senate of Minot State University

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

I write to you on behalf of the NDSU Faculty Senate of which I serve as the President.

Faculty 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 will see. We should be focused on vetting the best candidates for these positions, recognizing that it is challenging to recruit highly qualified educators into academia over the more lucrative private sector, rather than merely reassuring them that tenure is not currently in jeopardy for NDSU or NDUS.

Second, NDSU has articulation agreements with the two-year schools in ND. These agreements support the transfer of students to complete their four-year degrees at NDSU. We expect our colleagues to be the best possible faculty teaching those students as they begin their post-secondary education. These are also the faculty who mentor HS teachers for most of the states' dual-credit opportunities. Loss of tenure opportunities will inevitably lead to a decrease in quality faculty which will directly impact the opportunities of our secondary students looking to continue their post-secondary education through ND schools. This will have a devastating impact on all NDUS schools.

Finally, we have worked with the State Board of Higher Education on revisions, and compromises, for the 600 series of tenure policies. Those revisions, along with the updated tenure and post-tenure review policies ensure the faculty and administration at all NDUS institutions are upholding the highest level of quality standards in their tenured faculty and tenure candidates. These revisions are the result of cooperation between the SBHE and Legislature in the previous session and seek that tenure be protected at all institutions while these processes are implements.

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

- On 1b, strike "by the president of the institution or the designee of the president". This is not a solution that will fit the administrative structure in all 11 of the universities. As stated above, there is already a nested series of reviews that will be implemented under the new SBHE policies.
- On 1c, replace "three" with "five". Again, with the new SBHE policies, institutions may review every three years, but when reviews raise no concerns by any level of review a comprehensive review would occur every five years. At NDSU the Faculty Senate, Staff Senate, Student Senate, Provost, and President all approved NDSU policy update to include PTR every five years unless warranted earlier by unsatisfactory performance.
- Also on 1c, strike everything after "subdivision b". There is not a single committee that reviews every faculty member. As stated above, there are multiple layers of review. At NDSU that includes content level experts, near peers in content areas, supervisors, college peers, and Dean review before it gets to the Provost and ultimately the President.

- On 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 on 1d, we support the second sentence to read “The decision to remove faculty from a position must be made by the employing institution.” The NDUS system and SBHE are far removed for the operations of the institution and as written, could overrule the decision of a President who is charged with the staffing and operations of the institution.

In conclusion, tenure is not merely a job perk; it is a cornerstone of a robust and dynamic educational system. Tenure encourages faculty to make long-term commitments to their institutions and the students.

Again, we recommend a **do not pass** on HB 1437 as it is currently written. However, inclusion of the edits above would change our position.

Lisa Montplaisir, PhD

Faculty Senate President, 2024-2025



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Great Public Schools

Great Public Service

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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.



# North Dakota House of Representatives

STATE CAPITOL  
600 EAST BOULEVARD  
BISMARCK, ND 58505-0360



## **Representative Mike Motschenbacher**

District 47

2905 Remuda Drive

Bismarck, ND 58503-0103

*mmotschenbacher@ndlegis.gov*

## **COMMITTEES:**

Finance and Taxation

Political Subdivisions

2/7/25

Chairman Schauer and members of the GVA committee. For the record, Mike Motschenbacher representing District 47 which consists of most of NW Bismarck. Today I bring before you HB 1437

I'm first going to give you some reasons of why I brought the bill, and then will go into specifics of what the bill does.

HB 1437 addresses tenure at North Dakota colleges. I've spent a good part of the past year researching tenure and why it's so widely implemented. One article that I read explained it best. The article starts out "Of all the things a university professor can achieve in their career, few are as desirable as academic tenure. Academic tenure is a system of strong job protections, that virtually guarantees a university professor will never be fired or let go except in the most extreme of circumstances. A key idea is to allow faculty to speak freely – whether on campus or in public – without fear of reprisal." To me, this explains the problem. Why does any employee at any level in any industry deserve this type of protection?

As you can imagine, I've had an enormous amount of feedback from many in our university system regarding this bill. Many have asked "Why are you trying to get rid of tenure" and I've asked many of them back "Why do we need it". The only answer I've received back so far that I'm somewhat in agreement with is that it may put us at a disadvantage versus other states that do offer tenure. However, bills that remove tenure are not unique to North Dakota. Texas and Ohio are both considering similar bills as we speak. In recent years, North Carolina, Iowa, Georgia, Wisconsin and Florida have also had legislation in front of them that would greatly curb tenure in one way or another. Some universities themselves, most recently in Kansas and Florida, have gone out on their own and eliminated tenure or denied tenure to employees. This is not a new idea, but the reasoning behind why they are doing it is similar in all these cases.

I understand that some instructors need some sort of "academic freedom" when teaching courses especially in science and medical fields as many of those subjects can maintain a level of opinions needed to effectively instruct students. But a much larger portion of fields of study do not require this protection, and in my opinion should not qualify to be a tenured position.

Having said all that, the amendments I've brought before you do not eliminate tenure as the original bill would have. The amendments are the result of me working in conjunction with several in the NDUS to come up with a solution that will address the issue of tenure, but without the unintended consequences that may have resulted from the original bill. It provides clear guidelines of what colleges must do should they choose to continue offering tenure. This clearly defines how they must conduct tenure, post tenure review, and also makes it clear that institutions of higher education can take action even on tenured faculty should they receive sub par performance reviews. It addresses who conducts reviews, and also makes it clear that institutions must make it clear of what type of position they are hiring for.

If you look in your packet, you will see a page describing attempts to address tenure during the last legislative session specifically HB 1003 and HB 1446. You will also find some details regarding the constitutionality of this bill, as I've been made aware that some who speak behind me may question it. The attached sheet gives some clear examples that this bill is indeed constitutional, but I'd like to point out specifically that in the ND Constitution Article VIII section 6, subsection 6b it clearly states " The said state board of higher education shall have 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" I'm not a lawyer, but this is clear to me that it is completely within our power to create statutory limitations on institutions.

To conclude, I know the SBHE and/or NDUS have some suggested edits that they will present. I'm going to let them address those with you, and I'm asking that after the hearing, chairman Schauer you and I and can get together with them to discuss those proposed changes.

This completes my testimony, and I would happily stand for any questions.

### Summary of recent history of tenure and post tenure review.

During the 2023 legislative session, Representative Lefor brought forth HB 1446 that would have addressed tenure related issues. (copy attached) This bill passed the house 66-27 but failed in the Senate by a vote of 21-23. While HB1446 did not pass, Representative Lefor added a provision to HB 1003 (copy attached) that grants NDUS presidents specific authority to manage the SBHE Tenure and Post-Tenure Review processes, policies, and procedures.

Here is the relevant portion of NDCC 15-10-73:

“The president of an institution under the control of the state board of higher education may adopt policies, procedures, and directives for the institution, with input—but no authoritative control—from faculty and others through shared governance. The commissioner of higher education and the state board of higher education may overturn or amend the president's policies, procedures, and directives.”

This gave specific abilities for presidents to adopt policies and procedures regarding tenure, however, it seems as if they are not following these directives.

Over the interim, there have been many conversations at SBHE meetings addressing tenure, but to date, there have not been additional policies officially put into place. If this bill is passed, this will simply move the process along faster.

**FIRST ENGROSSMENT  
with Senate Amendments  
ENGROSSED HOUSE BILL NO. 1446**

Introduced by

Representative Lefor

1 A BILL for an Act to create and enact two new sections to chapter 15-10 of the North Dakota  
2 Century Code, relating to a program for tenured faculty review at institutions of higher  
3 education; to provide for a legislative management report; and to declare an emergency.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1.** A new section to chapter 15-10 of the North Dakota Century Code is created  
6 and enacted as follows:

7 **Faculty tenure duties and responsibilities - Program - Report to legislative**  
8 **management.**

- 9 1. The state board of higher education shall implement a four-year program focused on  
10 the new campus models at Bismarck state college and Dickinson state university no  
11 later than May 1, 2023, to improve the tenure process. The program may not apply to  
12 a research university.
- 13 2. A tenured faculty member employed at an institution of higher education under the  
14 control of the state board of higher education as listed in subsection 1 shall:
- 15 a. Comply with the policies, procedures, and directives of the institution, the  
16 institution's president and other administrators, the state board of higher  
17 education, and the North Dakota university system.
- 18 b. Effectively teach and advise a number of students approximately equal to the  
19 average campus faculty teaching and advising load.
- 20 c. Engage in measurable and effective activities to:
- 21 (1) Help retain students for the institution.
- 22 (2) Help students achieve academic success.
- 23 d. Perform all other duties outlined in any applicable contract and position  
24 description.



3. An institution involved in the 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 program to the legislative management no later than December 31, 2025.

c. Shall provide a final report of the program to the legislative management no later than December 31, 2026.

**SECTION 2.** A new section to chapter 15-10 of the North Dakota Century Code is created and enacted as follows:

**Faculty tenure review by presidents of institutions of higher education.**

1. The president of each institution of higher education designated under section 1 of this Act may review performance of any or all of the duties and responsibilities under section 1 of this Act of any faculty member holding tenure at any time the president deems a review is in the institution's best interest.

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. If a president determines a tenured faculty member has failed to comply with a duty or responsibility of tenure, the president may not renew the contract of the tenured faculty member, unless the president specifically articulates why it is in the interest of the institution to continue to employ the faculty member despite the faculty member's failure to comply with the duties and responsibilities of tenure.

4. The president of an institution 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 under this section, the president of an institution may assess and review other factors relevant to the faculty member's employment and the interests of the institution and the institution's students.

6. A review under this section is not reviewable by a faculty member or faculty committee. A faculty member whose contract is not renewed or whose employment is terminated or suspended as a result of a review under this section may appeal the review to the commissioner of the state board of higher education. The president is

- 1           subject to review and assessment by the commissioner and the state board of higher  
2           education for the reviews the president conducts under this section.  
3        7. The president and any administrators delegated to assist the president shall fulfill  
4           these duties without fear of reprisal or retaliation. No complaint, lawsuit, or other  
5           allegation is allowed against a president or other administrator for actions taken  
6           pursuant to these provisions. The state shall indemnify the members of the state board  
7           of higher education, the president of an institution of higher education, or an  
8           administrator of an institution of higher education for all reasonable costs, including  
9           attorney's fees, incurred in defending any actions taken pursuant to this Act.  
10        **SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.

1 **Disclosure of financial condition.**

2 The state board of higher education shall provide a disclosure of the financial condition of  
3 an institution to the qualified applicants designated as finalists pursuant to section 44-04-18.27  
4 for the position of president of an institution. The disclosure of financial condition must identify  
5 the institution's reserves, recent audit findings, anticipated future funding changes pursuant to  
6 chapter 15-18.2, and the institution's composite financial index ratio. The state board of higher  
7 education may require the qualified applicants to sign a nondisclosure agreement prior to  
8 receiving the disclosure of financial condition.

9 **SECTION 19.** A new section to chapter 15-10 of the North Dakota Century Code is created  
10 and enacted as follows:

11 **Campus policies and procedures.**

12 The president of an institution under the control of the state board of higher education may  
13 adopt policies, procedures, and directives for the institution, with input but no authoritative  
14 control from faculty and others through shared governance. The commissioner of higher  
15 education and the state board of higher education may overturn or amend the president's  
16 policies, procedures, and directives.

17 **SECTION 20.** A new section to chapter 15-10 of the North Dakota Century Code is created  
18 and enacted as follows:

19 **Larry C. Skogen polytechnic institute.**

20 The polytechnic center constructed on the campus of Bismarck state college is officially  
21 named the Larry C. Skogen polytechnic institute.

22 **SECTION 21. AMENDMENT.** Section 15-10-38.1 of the North Dakota Century Code is  
23 amended and reenacted as follows:

24 **15-10-38.1. Skilled workforce student loan repayment program - Skilled workforce**  
25 **student loan repayment program fund - Continuing appropriation - Report. (~~Repealed~~**  
26 **effective July 1, 2023)**

27 1. There is created in the state treasury the skilled workforce student loan repayment  
28 program fund. The fund consists of moneys transferred into the fund by the legislative  
29 assembly, matching funds received, and loan repayments. Moneys in the fund are  
30 appropriated to the state board of higher education on a continuing basis for the  
31 purpose of distributing student loan repayment grants directly to the Bank of North



### Questions of constitutionality of this bill:

It has come to my attention that some may question whether this bill is constitutional. This is based on some of the testimony that you find online. Here is my response to that.

After the legislature introduced HB 1446 during the 2023 session, some asserted that only the State Board of Higher Education, not the Legislature, has the authority, under the North Dakota Constitution, to regulate tenure. I believe this is demonstrably incorrect.

Article VIII of the North Dakota Constitution creates the State Board of Higher Education. Article VIII, Section 6(6)(b) outlines the authority of the SBHE. In full, it states:

The said state board of higher education shall have full authority over the institutions under its control with the right, among its other powers, to prescribe, limit, or modify the courses offered at the several institutions. In furtherance of its powers, the state board of higher education shall have the power to delegate to its employees details of the administration of the institutions under its control.

*The said state board of higher education shall have 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.*

North Dakota Constitution, Article VIII, Section 6(6)(b); see also N.D.C.C. § 15-10-11 (equivalent). Tenure is a matter of organization of the NDUS institutions. Thus, as with other such matters (i.e., regarding all such regulation of the NDUS institutions by the SBHE), the SBHE must act “within . . . statutory limitations.” This makes it clear that statutes trump SBHE regulations, not vice versa.

The North Dakota Constitution makes it clear that the SBHE must act within “statutory limitations.” If the Legislature passes and the governor signs (or the bill becomes law without the governor’s signature) a statute regulating, limiting, or banning tenure, the SBHE must act in accordance with that statute.

Said another way, the Legislature has the authority to control the decisions of the SBHE, as it has the authority to control the decisions of other state boards and agencies. Like other state boards and agencies, the SBHE does NOT have the authority to control the decisions of the Legislature.

In the last session, it was also suggested that the Legislature has not passed statutes regulating the employment of NDUS faculty. Again, this is demonstrably incorrect. The Legislature has passed several statutes regulating the employment of NDUS faculty. For example, N.D.C.C. § 15-10-13.1, **“Faculty - English language proficiency,”** requires NDUS institutions to hire only those who “exhibit written and verbal proficiency in the English language” as faculty members. Also, N.D.C.C. § 15-10-13.2, **“Public institutions of higher education - Faculty members - Oath or affirmation,”** requires every faculty member to take a specific oath included in the statute “before entering upon the discharge of duties” as a faculty member. Furthermore, N.D.C.C. § 15-10-13.3, **“Public institutions of higher education - Alien faculty members - Oath or affirmation,”** requires any faculty member who is not a U.S. citizen to take an additional oath. In each of these instances, the Legislature passed a statute, as it is well authorized by the North Dakota Constitution to do, regulating the conditions of employment of NDUS faculty members. Once it did so, the SBHE and the NDUS institutions had to act in accordance with the statute, even if they found the statute unwise.

My bottom line analysis is: The North Dakota Constitution explicitly gives the Legislature the authority to enact a statute regulating, limiting, or eliminating tenure. If the Legislature passes such a statute and it becomes law, the SBHE and, therefore, the NDUS institutions must act within the statutory limitations, even if they disagree with the statute.

Representative Mike Lefor

HB 1437 Testimony

Good morning Chairman Schauer and members of the House Government and Veterans Affairs committee, my name is Mike Lefor and I represent District 37 - Dickinson in the House of Representatives. I am here to speak in favor of HB 1437.

Today, I want to discuss the potential benefits of not allowing tenured professors at two-year colleges. It may sound controversial at first, but when we consider the dynamics of community colleges and the unique needs of their students, the idea of tenure becomes less about academic freedom and more about flexibility, accountability, and the quality of education.

First, lets talk about flexibility. Our two-year institutions serve a wide range of students, from recent high school graduates to working adults seeking new career skills. These students, need professors who can adapt quickly to the evolving demands of the job market and the community. Without tenure, colleges can hire faculty based on their expertise and the immediate needs of the curriculum, without being locked into long-term contracts that might not serve the best interests of the students.

Tenure, in many cases, creates an environment where professors feel secure in their position even when they might not be meeting the expectations of the institution. Removing tenure could motivate faculty to continually demonstrate this through teaching effectiveness, student outcomes, and innovative contributions to the college community.

When educators are incentivized to perform everyone benefits especially the students. One of the core purposes of a two-year institution is to provide a high-quality education that directly supports the career aspirations of students. Without the security of tenure, professors would have to remain focused on delivering the best teaching and engaging their students effectively.

This could reduce the tendency for some faculty to become disengaged or complacent over time, as they would always have to prove their worth through student success, innovation in the classroom.

The increased cost of higher education in North Dakota and increased competition from other states necessitates becoming more flexible in how we deliver education in our state.

Finally, the absence of tenure could create an environment where faculty feel more motivated to innovate and collaborate with peers. Without tenure, faculty would have an incentive to stay engaged, pursue professional development, to continue to improve and better student outcomes.

Non-tenured faculty at our two-year institutions can bring fresh perspectives, and stay nimble in the face of changes. By moving away from tenure in the two-year institutions we create an environment that is more accountable, financially sustainable, and focused on the dynamic needs of students in the 21<sup>st</sup> century.

Additionally, the bill spells out the particulars of defining progression and advancement criteria at each state of tenure and including post tenure review. It establishes an annual evaluation of all faculty by the president of each institution.

Further, it establishes a procedure for post-tenure review every three years.

I would ask the House GVA committee to give HB 1437 a "do pass" recommendation. Thank you.

Testimony: HB 1437

Friday February 7, 2025 9:30 AM

My name is Lloyd Halvorson. I am the Vice President for Academic and Student Affairs at Lake Region State College in Devils Lake. I speak on behalf of Lake Region State College and communicate to this committee the official position of our institution.

I have been employed with Lake Region for 23 years. My first ten years as a post-secondary tenured Assistant Professor of Law Enforcement and Director of Peace Officer Training. For the past 13 years, I have served as the senior leader responsible for all academic and career and technical education programs; including all full-time faculty, part time faculty, and those teaching dual credit for us in the high schools.

Some of the information presented today regarding shared governance and academic freedom comes directly from a white paper submitted to the NDUS in April 2024 by four of the five NDUS community college Chief Academic Officers, Dr. Atallah at WSC, Dr. Karch, at NDSCS, Kayla O'Toole at DCB, and myself. That white paper has been electronically submitted to the committee.

I want to start with the numbers. Last year, I submitted a report to the NDUS that showed LRSC having 37 full time positions; 16 with tenure and 19 without. In addition to those 37 faculty, we employ 90 part time faculty, and work with another 42 dual credit instructors. The reality is that less than half, just 43% of our full-time faculty have tenure; and overall, just 13% of the total number of instructional faculty have tenure.

Lake Region State College has maintained a proper balance with respect to full-time faculty, and we get maximum contribution from part time faculty who are crucial to our overall mission to provide a quality but affordable education.

Why is tenure important? First, Recruitment and Retention of high-quality faculty is crucial to what we do. You may hear someone tell you, *some two-year schools in other states don't offer faculty tenure; why do we need it here?*

This is true, some do not. But two-year schools in many place across the county are not comprehensive community colleges either. They are technical colleges and technical colleges are very different. How?

1. The community colleges in the NDUS have a full academic transfer program with guaranteed transfer and common course numbering that is binding on all 11 institutions, including UND and NDSU; many two-year technical colleges do not have such a guarantee of transfer or systemwide common course numbering like we do.
2. All of the NDUS community colleges have on-campus housing that provides for the full residential living and learning experience. Nationwide, only 27% of two-year colleges have on campus housing (AACC Data Points 2/19/2024).
3. We have a full complement of NJCAA Division I, II, and III athletic teams; many two-year technical colleges do not have NJCAA athletics.

As a result, we look more like and compete for students and faculty with our regional four-year colleges and universities. Recruitment and retention is especially challenging considering that some of our community colleges are not located in highly populated urban areas and we must convince future faculty to move across the state or country to teach here. This can be difficult when you are only offering a candidate a special appointment that can be just a one-and-done with no renewal without cause completely at the discretion of the institution.

Next, tenure is important to protect academic freedom. Without tenure, the administration could sanitize the curriculum (by hiring and non-renewing faculty) to meet the administration's perspective or beliefs on inherently debatable subjects.

It is important to recognize that college presidents are subject to political forces, hold strong views on social, religious, and cultural issues, and can and do at times interfere in the teaching and learning process. The faculty must have the ability to teach our students what they need to secure employment across a variety of industries, despite the socio-political views of the governor, chancellor, president, or provost. Without tenure, these faculty would put their livelihood at risk every year for not teaching the curriculum the way those in authority demand.

Perhaps Dr. Michelle Murphy, former Lake Region State College Professor of Biology, communicates this need perfectly when she writes, *"As a scholar who publishes and presents nationally, tenure provides protection from coercion and bias in my data and the conclusions drawn from them. Tenure provides assurance to the scholarly community that I am free from pressure to skew my research in a way that would facilitate job security. With tenure, I can publish and present the data as it is, not as my administration wishes it to be."*

Finally, shared governance. This is fundamental to the success of higher education. The faculty must have the security that the tenure processes provide in order to be empowered and assertive in their shared governance role. If a college president has universal authority to non-renew every member of the faculty at the end of every year, faculty will be less likely to be assertive in this way.

I'll make two final points. One, tenure is not a lifetime appointment as some would say. Faculty with tenure can be terminated for not meeting expectations. Termination for cause is real. There is a misconception that tenured faculty cannot be let go for cause. This is absolutely not true.

The second point, if a college or university has a problem with tenure, they do not have a faculty problem, they have an administrative problem. If, over the years, the college's leadership allowed tenured faculty to retire on duty, that is an administrative failure, not a faculty or tenure failure. I say that as having been both. Don't let anyone misrepresent this. A good leader and a quality administrator will know how to motivate people and when they find one that can't be motivated and is not meeting expectations, they know how to utilize policy to terminate for cause.

You, as legislators, need not be afraid of tenure or of the faculty. The faculty are the ones on the ground floor carrying out and living the mission every day. If you want to make sure colleges are taking care of business, I would encourage you to watch over and hover on the administrative side of things. Take time to study this and work with the SBHE to ensure that campus leadership is not asleep at the wheel, that policies around tenure are solid, and that administrators have set high expectations for faculty, all faculty, and that they hold themselves and those they supervise accountable.

I strongly encourage this committee to give HB 1437 a unanimous "Do Not Pass" recommendation. I cannot think of one benefit the State of ND would reap by taking tenure away from Lake Region State College. Thank you for allowing me the opportunity to speak to you today.

**Lloyd Halvorson, Vice President  
Academic and Student Affairs & Chief of Police**

**Lake Region State College  
1801 College Dr N  
Devils Lake ND 58301**

**(701) 662-1681  
Lloyd.halvorson@lrsc.edu**



25.0830.01001  
Title.

Prepared by the Legislative Council  
staff for Representative  
Motschenbacher  
February 4, 2025

Sixty-ninth  
Legislative Assembly  
of North Dakota

## PROPOSED AMENDMENTS TO

### HOUSE BILL NO. 1437

Introduced by

Representatives Motschenbacher, Hauck, J. Johnson, Klemin, Lefor, Meier, Rohr, Dockter  
Senators Larson, Rummel, Dwyer

1 A BILL for an Act to create and enact a new section to chapter 15-10 of the North Dakota  
2 Century Code, relating to ~~the prohibition of~~ academic tenure policy at two year  
3 collegesinstitutions of higher education.

#### 4 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

5 **SECTION 1.** A new section to chapter 15-10 of the North Dakota Century Code is created  
6 and enacted as follows:

#### 7 ~~Academic tenure prohibited at two year colleges~~ Policy - Evaluations.

8 ~~A faculty member is not eligible for academic tenure, if the faculty member is hired after~~

9 1. By July 1, 2026, and employed at a two year college in the state. For purposes of this

10 section, a two year college is any of the following: Bismarck state college, Dakota

11 college at Bottineau, Lake Region state college, North Dakota state college of science,

12 and Villiston state college institutions of higher education under the control of the state

13 board of higher education offering faculty academic tenure shall develop and adopt a

14 policy for tenured and tenure-track faculty employed by the institution, which:

15 a. Defines progression and advancement criteria at each stage of tenure

16 progression, including post-tenure review.

17 b. Establishes a procedure for annual evaluation of all nontenure, tenure-track, and

18 tenured faculty by the president of the institution or the designee of the president.

19 c. Establishes a procedure for tenure progression evaluations and post-tenure

20 reviews, which must be completed at least every three five years, informed by the



1 \_\_\_\_\_ annual evaluations under subdivision b, and conducted by a committee  
2 appointed by the president of the institution or the designee of the president. The  
3 committee must include the faculty member administrative supervisor of the  
4 faculty member under evaluation or review at least one ranking administrator,  
51 and no more than one other faculty member.

62 \_\_\_\_\_ d. Defines the outcome of an unsatisfactory review of post-tenured faculty which  
7 may be revocation of tenure or removal from the position include termination of  
employment. The decision to revoke  
tenure or to remove faculty from a position terminate a faculty member's employment must be made by  
the employing

8 \_\_\_\_\_ institution, the North Dakota university system, or the state board of higher  
98 education.

109 \_\_\_\_\_ e. Is approved by the North Dakota university system and the state board of higher  
1110 education.

1211 \_\_\_\_\_ 2. Advertisement of open faculty positions by institutions of higher education under the  
1312 control of the state board of higher education offering faculty academic tenure must  
1413 designate the position as nontenure-track or tenure-track. Upon offering a tenure-track  
1514 position to a candidate, the institution shall provide the candidate the policy required  
1615 under this section.

# 2025 HOUSE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Pioneer Room, State Capitol

HB 1437  
2/13/2025

Relating to the prohibition of academic tenure at two-year colleges.
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10:37 a.m. Chairman Schauer opened the meeting.

Members present: Chairman Schauer, Vice Chairman Satrom, Representatives Brown, Grindberg, Karls, Rohr, Schneider, Steiner, VanWinkle, Vetter, Wolff

Members absent: Representatives Bahl, Christy, McLeod

### Discussion Topics:

- Committee action
- Evaluations amendments

10:44 a.m. Lisa Johnson, Vice-Chancellor for Academic and Student Affairs of the NDUS, testified and answered questions.

10:46 a.m. Vice-Chairman Satrom moved to amend by removing two-year institutions from policy and adding policy evaluation information.

10:46 a.m. Representative Vetter seconded the motion.

10:46 a.m. Voice vote failed.

10:46 a.m. Chairman Schauer called for a Roll Call Vote.

Representatives	Vote
Representative Austen Schauer	Y
Representative Bernie Satrom	Y
Representative Landon Bahl	AB
Representative Collette Brown	Y
Representative Josh Christy	AB
Representative Karen Grindberg	Y
Representative Karen Karls	Y
Representative Carrie McLeod	AB
Representative Karen Rohr	Y
Representative Mary Schneider	Y
Representative Vicky Steiner	Y
Representative Lori VanWinkle	Y
Representative Steve Vetter	Y
Representative Christina Wolff	N

10:47 a.m. Motion passed 10-1-3.

10:48 a.m. Vice-Chairman Satrom moved a Do Pass as Amended.

10:48 a.m. Representative Vetter seconded the motion.

<b>Representatives</b>	<b>Vote</b>
Representative Austen Schauer	Y
Representative Bernie Satrom	Y
Representative Landon Bahl	AB
Representative Collette Brown	Y
Representative Josh Christy	AB
Representative Karen Grindberg	Y
Representative Karen Karls	Y
Representative Carrie McLeod	AB
Representative Karen Rohr	Y
Representative Mary Schneider	Y
Representative Vicky Steiner	Y
Representative Lori VanWinkle	N
Representative Steve Vetter	Y
Representative Christina Wolff	N

10:48 a.m. Motion passed 9-2-3.

Representative Rohr will carry the bill.

10:48 a.m. Chairman Schauer closed the meeting.

*Jackson Toman, Committee Clerk*

RS 2/13/25  
( of 2

Sixty-ninth  
Legislative Assembly  
of North Dakota

## PROPOSED AMENDMENTS TO

### HOUSE BILL NO. 1437

Introduced by

Representatives Motschenbacher, Hauck, J. Johnson, Klemin, Lefor, Meier, Rohr, Dockter

Senators Larson, Rummel, Dwyer

1 A BILL for an Act to create and enact a new section to chapter 15-10 of the North Dakota  
2 Century Code, relating to ~~the prohibition of~~ academic tenure policy at ~~two-year~~  
3 ~~colleges~~ institutions of higher education.

#### 4 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

5 **SECTION 1.** A new section to chapter 15-10 of the North Dakota Century Code is created  
6 and enacted as follows:

##### 7 **Academic tenure prohibited at two-year colleges- Policy - Evaluations.**

8 ~~A faculty member is not eligible for academic tenure, if the faculty member is hired after~~

- 9 1. By July 1, 2026, and employed at a two-year college in the state. For purposes of this  
10 section, a two-year college is any of the following: Bismarck state college, Dakota  
11 college at Bottineau, Lake Region state college, North Dakota state college of science,  
12 and Williston state college institutions of higher education under the control of the state  
13 board of higher education offering faculty academic tenure shall develop and adopt a  
14 policy for tenured and tenure-track faculty employed by the institution, which:  
15 a. Defines progression and advancement criteria at each stage of tenure  
16 progression, including post-tenure review.  
17 b. Establishes a procedure for annual evaluation of all nontenure, tenure-track, and  
18 tenured faculty by the president of the institution or the designee of the president.  
19 c. Establishes a procedure for post-tenure evaluations, which must be informed by  
20 the annual evaluations under subdivision b and conducted by a committee

1 appointed by the president of the institution or the designee of the president. The  
2 first evaluation must occur within three years. Subsequent evaluations must  
3 occur every five years or more frequently. The committee must include the faculty  
4 member administrative supervisor of the faculty member under evaluation or  
5 review, at least one ranking administrator, and no more than one other faculty  
6 member.

7 d. Defines the outcome of an unsatisfactory review of post-tenured faculty, which  
8 may be removal from the position. The decision to remove faculty from a position  
9 must be made by the employing institution and the state board of higher  
10 education.

11 e. Is approved by the state board of higher education.

12 2. Advertisement of open faculty positions by institutions of higher education under the  
13 control of the state board of higher education offering faculty academic tenure must  
14 designate the position as nontenure-track or tenure-track. Upon offering a tenure-track  
15 position to a candidate, the institution shall provide the candidate the policy required  
16 under this section.



**REPORT OF STANDING COMMITTEE  
HB 1437**

**Government and Veterans Affairs Committee (Rep. Schauer, Chairman)** recommends **AMENDMENTS** ([25.0830.01003](#)) and when so amended, recommends **DO PASS** (9 YEAS, 2 NAYS, 3 ABSENT AND NOT VOTING). HB 1437 was placed on the Sixth order on the calendar.

**2025 SENATE EDUCATION**

**HB 1437**

# 2025 SENATE STANDING COMMITTEE MINUTES

## Education Committee Room JW216, State Capitol

HB 1437  
3/11/2025

Relating to academic tenure policy at institutions of higher education.
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10:00 a.m. Chairman Beard called the hearing to order.

Members Present: Chairman Beard; Vice-Chairman Lemm; Senators: Axtman, Boschee, Gerhardt, and Wobbema.

### Discussion Topics:

- Defines tenure policies
- Clarifies timeline
- Clarifies review procedure
- Evaluation process

10:00 a.m. Representative Motschenbacher, District #47, introduced the bill and submitted testimony #40363.

10:08 a.m. Representative Lefor, District #37, testified in favor and submitted testimony #40495.

10:13 a.m. Representative Rohr, District #31, testified in favor.

10:14 a.m. Dr. Meghan Salyers, Assistant Dean University of Mary, testified in favor and submitted testimony #40506.

10:25 a.m. Nick Archuleta, President ND United, testified in opposition and submitted testimony #40209.

10:27 a.m. Lisa Montplaisir, President of NDSU Faculty Senate, testified in opposition and submitted testimony #40392.

10:36 a.m. Lisa Johnson, Vice Chancellor for Academic and Student Affairs ND University System, testified in opposition and submitted testimony #40513.

10:45 a.m. Carter Gill, Vice President of Governmental Affairs ND Student Association, testified in opposition and submitted testimony #40361.

### Additional written testimony:

Anastassiya Andrianova, citizen, submitted testimony in opposition #39625.

Birgit Pruess, citizen, submitted testimony in opposition #39779.



Danica Allard, Faculty Senate Vice President Bismarck State College, submitted testimony in opposition #40097.

Zarrina Azizova, Senate Chair University of ND, submitted testimony in opposition #40313.

Andrew Armacost, President University of ND, submitted testimony in opposition #40354.

Amy Reid, Freedom to Learn Senior Manager, submitted testimony in opposition #40430.

Rachelle Hunt, President Council of College Faculties, submitted testimony in opposition #40433.

10:47 a.m. Chairman Beard closed the hearing.

*Susan Helbling, Committee Clerk*

North Dakota Senate Education Committee  
 North Dakota Legislative Assembly  
 600 E Boulevard  
 Bismarck, ND 58505

March 7, 2025

**Re: VOTE NO on HB 1437**

Dear Chair Beard and Senators Lemm, Axtman, Boschee, Gerhardt, and Wobbema:

First of all, thank you for your service on the Senate Education Committee. As a tenured full professor at North Dakota State University, I value your support of higher education in our state.

I write to you today **in opposition to HB 1437**, “Relating to academic tenure policy at institutions of higher education.” This testimony is based on my knowledge and more than twenty years of research and teaching experience at the college/university level. It reflects my own opinions and in no way represents those of my employer, NDSU.

I sent the following response to the sponsor of House Bill No. 1437 when he emailed me the proposed amendments to this bill ahead of the House vote. I am sharing it with you because I believe that **this bill is unnecessary** given that **post-tenure review has already been mandated by the SBHE**, which has subsidiary power over all institutions of higher education in our state.

*Dear Representative Motschenbacher,*

*Thank you for reaching out and sharing the proposed amendments to House Bill No. 1437 ahead of tomorrow’s hearing. As a tenured full professor, I am highly invested in and informed about this subject, and I am grateful for your willingness to have a conversation: both my professional career and my very livelihood depend on this.*

*I appreciate the spirit of these amendments in that they ask for more oversight and accountability for faculty in the NDUS system, but do not, as in the bill’s original version, put an end to tenure at two-year public institutions in our state.*

However, I do not support these amendments for three reasons:

- 1) Policies for tenure- and post-tenure review are already required by the SBHE, making the amendments in this bill unnecessary and redundant.
- 2) The composition of the post-tenure review committee specified in Section 1.c does not provide adequate faculty representation, nor a system of checks and balances, and can therefore result in an unfair review.
- 3) There is no mention in Section 1.d of an appeals process in the case of an unsatisfactory result, which gives faculty no recourse in the case of an unfair or biased review.

**First, public institutions under the purview of the SBHE already have policies on tenure and post-tenure review.**

Following the failure of HB 1446 (the tenure bill sponsored by Rep. Lefor) during the Senate revote in the last legislative session, the SBHE was tasked with conducting a study of post-tenure review, and in turn, all institutions of higher learning under its purview were required to develop and adopt specific policy on post-tenure review (PTR).

In the case of NDSU, where I am employed, individual units already had similar policies in place, but following the mandate, the university developed and approved a new section of NDSU Policy 352 Promotion, Tenure and Evaluation, namely, Section 4.8: Post-Tenure Review (<https://www.ndsu.edu/fileadmin/policy/352.pdf>), amended 23 October 2024, pp. 10-14.

This new section 4.8 of NDSU Policy 352 spells out the policy and procedure, including:

- the time frame and any extensions and exceptions (4.8.1-4.8.3);
- the necessary documentation (4.8.2);
- department-level review: conducted independently by the department/unit PTE (Promotion, Tenure and Evaluation) committee and by the Chair/Head; and the procedure in the case of un/satisfactory result (4.8.3);
- college-level review: conducted independently by the college PTE committee and the college Dean (4.8.4);
- procedure for an additional review in the case of an unsatisfactory result confirmed by the Provost, by a Post-Tenure Review performance committee (4.8.5), which will develop, in consultation with the faculty member, a performance improvement plan (4.8.5.2-4.8.5.6);
- any compromising circumstances, such as conflicts of interest defined (4.8.6);
- procedure for appealing an unsatisfactory result of a post-tenure review (4.8.7).

As evidenced by my summary, NDSU Policy 352 on Promotion, Tenure and Evaluation provides a very thorough procedure with checks and balances, which involves multiple levels: department/unit, college, and university. The department- and college-level reviews are independently conducted by a committee consisting of faculty and by the appropriate administrator, department Chair/Head and college Dean, respectively, subject to the chief academic officer, the university Provost.

This leads me to **my second reason** for opposing the proposed amendments: **not only would this bill be redundant following the SBHE mandate for institutions of higher learning to develop post-tenure review policies and procedures, but the proposed amendments would override fair policies already in existence and likely result in an unfair review without adequate peer (faculty) representation and a system of checks and balances.**

I am especially concerned about **Section 1.c**, which specifies the composition of a single tenure review committee:

“The committee must include the faculty member administrative supervisor of the faculty member under evaluation or review, at least one ranking administrator, and no more than one other faculty member.”

I will use my experience to support my point. For a typical faculty member, their administrative supervisor is their Chair/Head, who holds the rank of administrator, and who (at NDSU, in any case) evaluates each faculty member in their department/unit on an annual basis as well as

provides an independent tenure and post-tenure review. The ask for another “ranking administrator” would mean the college dean, vice provost, or provost, and these are already involved in the process at a later college- and university-level review.

In effect, these proposed amendments to HB 1437 collapse what is a more nuanced system of checks and balances to a review committee that has only one peer (faculty) member. It is important that peers and external experts in the faculty member’s area of expertise are part of the evaluation process and not just administrators, whose expertise may be in a very different field. For example, how would my supervisor (Chair), who is a historian, and my college administrator (Dean), who is a botanist, evaluate me, a scholar of literature? That is why department- and college-level PTE committees that consist of other faculty are so important to this process. There is still oversight at each of these levels, but this administrative review is conducted independently to ensure that the faculty member gets an objective evaluation free from intradepartmental or, alternatively, college- or university-wide biases.

**Third, the proposed amendments do not provide for an appeals procedure in the case of an unsatisfactory result, which would leave faculty members with no recourse in the case of an unfair review.** That is why I am equally concerned about **Section 1.d**, which makes no mention of an appeals procedure in the case of an unsatisfactory result.

Thank you for your time and consideration.

Sincerely,  
Dr. Anastassiya Andrianova, PhD  
Professor of English, NDSU  
Fargo, ND

Birgit Pruess, Ph.D.  
3696 Harrison St. S  
Fargo, ND

March 9, 2025

RE: HB1437

Dear members of the 69<sup>th</sup> Legislative Assembly of North Dakota,

Please, accept the below as my testimony IN OPPOSITION of HB1437, to “to create and enact a new section to chapter 15-10 of the North Dakota Century Code, relating to academic tenure policy at institutions of higher education.” I am a resident of Fargo and employed by the State University System. I do not, however, testify in representation of anybody other than myself. I was once the faculty advisory member on the State Board of Higher Education, but I do not serve in that role any longer. I just have a good knowledge of the system.

I have testified in opposition to this bill when it was on the House site. I appreciate the communication with Representative Motschenbacher I had after this. I also appreciate the change from prohibiting tenure at a selection of our institutions to a broader post-tenure review. The change from review every 3 years to review every 5 years is also much appreciated. Going through HB1437 in its current form and Policy 352 at NDSU, a lot of what is requested in the bill is similar to what NDSU has established during the past year since HB1446 failed two years ago and the SBHE developed a new policy to address the issue.

I am now summarizing my remaining concerns. While the policy set by SBHE follows the make up of tenure (and Full Professor) review, HB1437 seems to shortcut the process. One of the advantages of the many levels of tenure review is that experts on subject matter get to perform the first evaluation. I would not expect a President or Provost of any of our institutions to be a subject expert on the large variety of subjects faculty can work on. I would highly recommend to allow for the SBHE to govern this policy and permit for our institutions to go on with a process that I always considered highly effective. As a personal note, I neither enjoyed going through the tenure nor the full professor process myself and mostly hate serving on the committee for my colleagues. It involves a lot of conflict as faculty are not quite the agreeable bunch as some legislators may think. But I always thought it was necessary and beneficial to the faculty and the institution. The current review is exceedingly thorough and the 15+ people who end up reviewing some 150 pages of portfolio come from different parts of campus and serve in different roles. This makes for a thorough review from all possible sides. The faculty colleagues from the Department and the Head can assess quality of the research and teaching activities on the subject. The faculty colleagues from the College and the Dean can assess what the contribution of research and teaching are to the College, or in my case to Agriculture in North Dakota.

To be sure, the administrative supervisor is part of the current process and so are three ranking administrators, Dean, Provost, and President. One could consider the Department and College committees as appointed by the President. So, the only real difference is that there is more than one faculty involved. I can assure you these are not usually more lenient towards their colleagues than administrators. At least, not in my experience.

As written, I highly recommend a DO NOT PASS vote on this bill. However, if one could make an amendment and allow the current thorough and comprehensive process to play out for post-tenure review with a larger number of faculty/subject experts involved, I would change this to Do Pass.

As in all my testimonies, I much appreciate the hard work and dedication that each member of my state legislative assembly puts into our state. Thank you.

Sincerely and respectfully Birgit Pruess,  
Ph.D.

**Bill:** HB 1437

**Position:** opposed

Dear Chairman Beard and members of the Education Committee,

We appreciate the legislature's goal of ensuring accountability within the North Dakota University System for tenured and tenure-track faculty. As the bill was read during its First Engrossment to the Senate committee, Bismarck State College Faculty Senate is opposed; however, we are committed to working with lawmakers to find a solution that supports both the integrity of the North Dakota University System and its purpose in educating for industry and community needs.

As evidence of this commitment, the BSC Faculty Senate proposes the following amendment to Section 1.c: deletion of the last sentence which currently reads, "The committee must include...".

We do not oppose the principles of tenure-track, tenure, or post-tenure review; however, we want to allow institutions the ability to customize policies according to their specific needs and circumstances. Providing this flexibility would allow each institution to design a review committee structure that secures accountability, while also honoring the distinct missions and goals of the diverse institutions.

We are grateful for the legislature's collaborative work with us. We ask that the committee strongly consider the above revision to HB 1437. Thank you for considering this amendment as we strive to reach a mutually agreeable solution.

Sincerely,

*Danica Allard*

Bismarck State College Faculty Senate Executive Committee  
Kevin Cavanagh - President  
Danica Allard – Vice President  
Amy Helgeson – Secretary



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*Great Public Schools**Great Public Service*

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**Testimony Before the Senate Education Committee  
HB 1437  
Tuesday, March 11, 2025**

Chairman Beard and members of the Senate Education 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.

Though this bill has been amended to no longer eliminate tenure at two-year colleges, it remains problematic and unnecessary for our institutions of higher education and encroaches on the constitutional authority of the State Board of Higher Education.

In section 1, subsection b, the bill calls for all annual evaluations of nontenure, tenure-track, and tenured faculty be conducted by the president of the institution or a designee of the president. Faculty, tenured or otherwise, already undergo yearly evaluations conducted by their department chair, dean, or other supervisor. This allows for the evaluation to be completed by an administrator with the relevant knowledge and expertise to evaluate a faculty member within their academic field. Requiring the president or a designee of the president to lead the yearly evaluation not only puts more work on the plate of an institution president, but it also takes the responsibility of yearly evaluation out of the hands of the direct supervisor of a faculty member.

As currently written, section 1, subsection c would make for a less rigorous post-tenure review process that would include one ranking administrator, one supervisor, and only one faculty member. By setting parameters for the makeup of post-tenure review committees, this bill restricts the ability of institutions to include subject-matter experts and effectively evaluate faculty. The needs of each college and university vary, and we should allow each institution to tailor their policies and procedures to best fit their unique missions and eliminate duplicative and unnecessary administrative red tape.

Chairman Beard and members of the Senate Education 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.



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



**Testimony for 69th Legislative Assembly – Senate Education Committee**

**March 11, 2025**

**Andy Armacost, President, UND**

**andrew.armacost@UND.edu | 701.777.2121**

**Submitted in Opposition to Engrossed House Bill 1437**

Chairman Beard and Members of the Senate Education Committee:

My name is Andy Armacost, and I serve as the President of the University of North Dakota. I should begin by acknowledging the work of Representative Motschenbacher on this bill and for his willingness to amend the original bill.

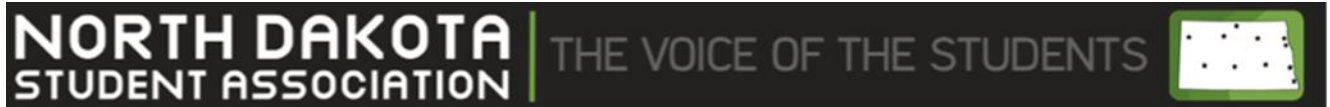
Tenure is a cornerstone of a successful academic enterprise, as it supports academic freedom and the advancement of freedom of speech. It supports the reputation of our universities and allows us to build a highly qualified and productive faculty, which is the very basis of a sound educational system. It supports innovation and economic prosperity within the state, which advances the interests of our citizens.

There must be systems of accountability and meaningful review protocols attached to any tenure system to promote excellence and ongoing productivity. This is true whether tenure exists at a two-year or four-year institution, and the responsibility for maintaining systems of accountability and meaningful review protocols falls on individual institutions and on the State Board of Higher Education (SBHE).

We humbly advocate for legislation that is in line with the recommendations and principles established in the report of the recent SBHE ad hoc committee on tenure, particularly the directives for improved post-tenure review protocols at each campus under the control of the SBHE. Several important amendments have already been made to create better alignment.

Our final concern is the proposed committee structure for post-tenure review as described in the final sentence of section 1.C. That sentence, we believe, is overly restrictive, and post-tenure review should have a structure that aligns with best practices. We suggest the removal of that sentence.

With such a change, we support this bill. Thank you.

**HB 1437**

February 21, 2025

Carter Gill, North Dakota Student Association

(701) 388-7589 | [carter.gill@ndus.edu](mailto:carter.gill@ndus.edu)

Chair Beard and Members of the Committee: My name is Carter Gill and I am Vice President of Governmental Affairs for the North Dakota Student Association. I am here today in opposition of HB 1437.

The North Dakota Student Association is dedicated to ensuring that students have a voice at the table in policy that affects higher education. We consist of delegates from each of the 11 public North Dakota University System (NDUS) institutions, meeting monthly to engage students in discussions about North Dakota higher education policy. Since 1969, our mission has been to empower students, create collaboration between the student bodies of the North Dakota public universities, and to provide a student perspective on higher education policy.

This year, the NDSA passed [NDSA-18-2425](#) - A Resolution in Opposition to HB 1437: The Prohibition of Tenure for Faculty at Two-Year Colleges. Although this bill has been amended to remove any prohibition of tenure, it is the position of the NDSA that policies regarding tenure should be left up to the individual institutions and the State Board of Higher Education's authority to manage these institutions and provide the highest quality of education for students.

Any bill that would dictate the policy for tenure in the NDUS sets the troubling precedent that the legislature would, in later sessions, continue to restrict tenure. The SBHE, by and large, aligns with the legislature ideologically on most issues regarding higher education. The legislature should be collaborating with the SBHE to determine what policies the SBHE should create for the NDUS rather than the legislature unilaterally determining policy with legislation; that is not the role of the legislature in higher education.

Understanding that any bill passed to restrict the SBHE and NDUS's ability to determine their own policies on tenure is an infringement on the SBHE's authority to manage the 11 NDUS institutions, the NDSA asks that this committee gives HB 1437 a **DO NOT PASS** recommendation.



# North Dakota House of Representatives

STATE CAPITOL  
600 EAST BOULEVARD  
BISMARCK, ND 58505-0360



## Representative Mike Motschenbacher

District 47  
2905 Remuda Drive  
Bismarck, ND 58503-0103  
[mmotschenbacher@ndlegis.gov](mailto:mmotschenbacher@ndlegis.gov)

## COMMITTEES:

Finance and Taxation  
Political Subdivisions

3/11/25

Chairman Beard and members of the Senate Education committee. For the record, Mike Motschenbacher representing District 47 which consists of most of NW Bismarck. Today I bring before you HB 1437

I'm going to give a much shorter testimony than I did in the house when I introduced the bill. Hopefully that in itself will earn me a vote or two. I'll give a brief description of why I brought the bill and then will go into specifics of what the bill does and also address an amendment I'd like the committee to consider.

HB 1437 addresses tenure at North Dakota colleges. I've spent a good part of the past year researching tenure and why it's so widely implemented. One article that I read explained it best. The article starts out "Of all the things a university professor can achieve in their career, few are as desirable as academic tenure. Academic tenure is a system of strong job protections, that virtually guarantees a university professor will never be fired or let go except in the most extreme of circumstances. A key idea is to allow faculty to speak freely – whether on campus or in public – without fear of reprisal." To me, this explains the problem. Why does any employee at any level in any industry deserve this type of protection?

As you can imagine, I've had an enormous amount of feedback from many in our university system regarding this bill. The original bill would have eliminated tenure at all of the two year institutions. This certainly raised awareness and I received a lot of calls from those within higher ed with concerns. This bill in it's current form is a result of me working with NDUS, SBHE, and others to address the issues they had with the original bill, and I'm assuming that those that testify behind me will agree that this bill is acceptable to them. It simply defines tenure processes and puts a timeline on them to implement these policies which according to everyone I've spoken to is reasonable and acceptable.

So what does this bill do? It simply clarifies the timeline of July 1<sup>st</sup>, 2026 as to when these policies must be in place by. It clearly defines how they must conduct tenure, post tenure review, and also makes it clear that institutions of higher education can take action even on tenured faculty should they receive sub-par performance

reviews. It ensures that the president of the institution is involved in the procedures and who is chosen to conduct post tenure review and addresses who conducts reviews. It addresses how often post tenure review must take place. It also states that institutions must make it clear of what type of position they are hiring for, whether it's tenure track or non-tenure track.

If you look in your packet, you will see a page describing attempts to address tenure during the last legislative session specifically HB 1003 and HB 1446. You will also find some details regarding the constitutionality of this bill, as I've been made aware that some who speak behind me may question it. The attached sheet gives some clear examples that this bill is indeed constitutional, but I'd like to point out specifically that in the ND Constitution Article VIII section 6, subsection 6b it clearly states " The said state board of higher education shall have 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" I'm not a lawyer, but this is clear to me that it is completely within our power to create statutory limitations on institutions.

To conclude, I do have another minor amendment that I passed out which is the last page of your packet. This I believe would address one of the issues that still remained after we passed the bill through the house as to who would conduct reviews, and once again, this amendment was brought with input from some within the university system, so I'm confident they will also agree with the amendment and should alleviate their concerns. I have passed out this amendment to others in the room that are in attendance and I'll let them speak to that if they should so choose. Most the changes are just clarification changes. Section c is split into two different sections in that amendment into section c and d. Section d is the part that actually changes slightly from the bill you have in front of you currently, and this was brought forth because of concern that it may have been too restrictive, especially since some post-tenure review committees are comprised of varying numbers of members, so the new subsection d would address that. Just to be clear, this is NOT a LC drafted amendment as we just finalized it Sunday evening. I think it's simple enough and clear enough that this can be done in committee, but if you would like I can certainly take this to LC to be drafted officially. Just one last comment on the amendment. If you look at the testimony online, there is a lot of testimony in opposition to the bill. However, if you look at the dates, almost all that testimony was prior to the house committee adopting the first amendments that I brought to that committee. The remaining testimonies in opposition that were posted the past couple days, I believe this new amendment will alleviate their concerns also so I would ask that you adopt that amendment.

This completes my testimony, and I would happily stand for any questions.

## FIRST ENGROSSMENT

### ENGROSSED HOUSE BILL NO. 1437

Introduced by

Representatives Motschenbacher, Hauck, J. Johnson, Klemin, Lefor, Meier, Rohr, Dockter  
Senators Larson, Rummel, Dwyer

- 1 A BILL for an Act to create and enact a new section to chapter 15-10 of the North Dakota  
2 Century Code, relating to academic tenure policy at institutions of higher education.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** A new section to chapter 15-10 of the North Dakota Century Code is created  
5 and enacted as follows:

6 **Academic tenure - Policy - Evaluations.**

- 7 1. By July 1, 2026, institutions of higher education under the control of the state board of  
8 higher education offering faculty academic tenure shall develop and adopt a policy for  
9 tenured and tenure-track faculty employed by the institution, which:
- 10 a. Defines progression and advancement criteria at each stage of tenure  
11 progression, including criteria for continued post-tenure review.
- 12 b. Establishes a procedure for annual evaluation of all nontenure, tenure-track, and  
13 tenured faculty by the president of the institution or the designee of the president.
- 14 c. Establishes a procedure for post-tenure evaluations, which must be informed by  
15 the annual evaluations under subdivision b and conducted by a committee  
16 appointed by the president of the institution or the designee of the president. The  
17 first post-tenure evaluation must be completed within three years. Subsequent  
18 evaluations must  
19 be completed at minimum every five years.
- 20 d. The post-tenure review committee must be comprised of the administrative  
supervisor of the faculty member being evaluated or  
reviewed, at least one ranking administrator, and faculty that number no less than  
one-third and no more than one-half of the committee. The composition of the  
committee must assure fidelity to performance excellence within the faculty role.



- 1           e. Defines the outcome of an unsatisfactory review of post-tenured faculty, which  
2           may be removal from the position. The decision to remove faculty from a position  
3           must be made by the employing institution and the state board of higher  
4           education.
- 5           f. Is approved by the state board of higher education.
- 6       2. Advertisement of open faculty positions by institutions of higher education under the  
7       control of the state board of higher education offering faculty academic tenure must  
8       designate the position as nontenure-track or tenure-track. Upon offering a tenure-track  
9       position to a candidate, the institution shall provide the candidate the policy required  
10       under this section.

Dear Chairman Beard and members of the Education Committee,

My name is Lisa Montplaisir and I write to you as the President of the NDSU Faculty Senate.

Faculty have raised serious concerns about HB1437 in its amended form and we encourage a **do not pass** recommendation.

However, we do see a path forward in conjunction with the Council of College Faculties, State Board of Higher Education (SBHE), and Legislature. Faculty from many institutions, including their elected representation in CCF, opposed HB 1437 in its current form. This amended version incorporates several of the SBHE Ad Hoc Post Tenure review committee recommendations with one notable exception that is highly problematic. We ask that the following edit be adopted for amendment:

- On 1c, strike everything after “subdivision b”.

There is not a single committee that reviews every faculty member; there are multiple nested layers of comprehensive review. Throughout the tenure process there are numerous review committees that include content level experts, near peers in content areas, supervisors, college peers, and a Dean who review before it gets to the Provost and ultimately the President. When considering post-tenure review, we should also include a nested review process. As written, 1c removes the rigor of the review process that is in place at NDSU.

We recognize that the review committee may look different at each of the institutions dependent upon their mission, scope, and size and believe that is entirely appropriate. As identified in 1b, the President of an institution is responsible for establishing the procedures for annual evaluations. In following that rationale, the President should also be responsible for establishing the procedures for post-tenure review rather than being prescribed for them.

Tenure is critical for all NDUS institutions and should never be deemed merely a job perk; it is a cornerstone of a robust and dynamic educational system. Tenure encourages faculty to make long-term commitments to their institutions and the students. A robust tenure and post-tenure review process is a strength for institutions.

Again, we recommend a **do not pass** on HB 1437 as it is currently written. However, inclusion of the edit above would change our position.

Lisa Montplaisir, PhD

Faculty Senate President, 2024-2025



The Freedom to Write

**Amy Reid, Senior Manager**  
**Freedom to Learn, PEN America**  
 abreid@pen.org | Phone: (941) 315-6953

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 Zachary Karabell  
 Franklin Leonard  
 Margo Lowy  
 Paul Muldoon  
 Lynn Nottage  
 George Packer  
 Jodi Picoult  
 Michael Pietsch  
 Allison Markin Powell  
 Marvin Putnam  
 Alix Ritchie  
 Anya Salama  
 Richard Sarnoff  
 Andrew Solomon  
 Luis Alberto Urrea  
 Suzy Wahba  
 Tara Westover  
 Jamie Wolf

To: Senate Education Committee  
 State of North Dakota 69th Legislative Assembly

Re: HB 1437  
 Position: Opposition

March 11, 2025

Mr. Chair Jay Elkin and Members of the Senate Education Committee,

My name is Amy Reid, and I write to you on behalf of PEN America's Freedom to Learn team, urging you to protect academic freedom by either recommending a do not pass to the full chamber or adopting the attached amendment to H.B. 1437 that offers a narrowly targeted revision to the provision on post-tenure review committee membership, which remains our final concern.

PEN America is a nonpartisan, non-profit writers' membership organization that operates at the intersection of literature and human rights to celebrate literature and defend the freedoms that make it possible, including academic freedom and the freedom of speech. The Freedom to Learn Program tracks, analyzes and responds to legislation that censors ideas in higher education or erodes the institutional structures necessary to preserve academic freedom. Before joining PEN America, I taught for almost thirty years in the Florida State University System, serving as a professor of French language and Literature at New College of Florida. My career teaching there crystallized my commitment to ensuring America's public college and university students have access to the highest quality education, because it matters for the future and prosperity of our country. I also have personal experience with post-tenure review, which has long been the standard practice at New College; I can attest to the value of rigorous peer reviews of the teaching, research and community service records faculty, both pre- and post-tenure. When done right, post-tenure review by committees of faculty from across the institution provides the feedback and mentorship necessary for professors to succeed and grow as teachers and scholars. But faculty review is a process that works best when designed and led by faculty with the institutional knowledge and commitment to shared governance that enables schools to flourish, free from undue political influence.

I first want to say to the sponsor, Representative Motschenbacher, that we appreciate his response to stakeholder concerns that resulted in a reworking of his introduced bill, which originally would have entirely banned tenure for certain institutions. In its current form, PEN America does not object to most provisions in H.B. 1437 – we do not oppose post-tenure review, nor requiring universities to adopt criteria and procedures to govern the tenure process. What we do oppose, however, is *pretending* that the structure of tenure remains while, in reality, rendering tenure effectively meaningless. And that is,

WASHINGTON, D.C.  
 NEW YORK  
 LOS ANGELES

unfortunately, exactly what H.B. 1437 now does. We did reach out to Representative Motschenbacher to explain our concerns, but received no response, so we now bring these concerns in public testimony to request your consideration.

A key protection of tenure is that a tenured faculty member's teaching and research are evaluated by a panel of peers – respected experts of the institution with extensive and recognized experience in teaching and research in pursuit of knowledge and understanding. This ensures that faculty are not subject to political pressure from administrators but are judged according to standards of scholarship and their contributions to the institution. It is faculty who have already earned tenure who are best equipped to assess the breadth and depth of the teaching, research and service accomplishments detailed in a tenure or post-tenure review file, and the consistency brought by these faculty members ensures that standards are upheld over time, prioritizing the good of the institution. Under this system, faculty whose work is controversial or unpopular are not forced to temper their conclusions simply due to an administrator's disagreement or an administrator's fear of reprisal by powerful actors. Conversely, when a faculty member's career is directly subject to the scrutiny of administrators who, themselves, serve at will and ultimately answer to those controlling their institution's purse-strings, actors such as private funders or politicians distributing appropriations may easily exert influence over tenure and employment decisions. Faculty research and creative works, and the school's curricula, could be inappropriately impacted as a result, impinging on the quality of teaching and learning.

This fraught system is exactly what the North Dakota Legislature will mandate if it passes H.B. 1437 in its current form. Post-tenure review committees would be appointed by public university or college presidents and the composition would *include* the faculty members' administrative supervisor, *at least* one administrator, and *no more than* one other faculty member. These strictures both empower and hamstring the president in ways that undermine the review process. Not only would the highest-ranking administrator of the institution have unilateral power to appoint the individuals charged with completing post-tenure reviews, that administrator would be subject to severe and explicit limits on including other faculty, who are, in fact, those best qualified to perform the review.

While a university or college president might intend to act as responsibly as possible under the constraints of the law, they would also be entirely within their authority to not appoint a faculty member at all, or to relegate the faculty appointment to obscurity by appointing many administrators to outweigh their expertise. Even worse, by specifying that membership must *include* certain positions and failing to limit membership to *only* those types of individuals, legislators would grant university and college presidents the statutory authority to place *any individual* on a committee. Should they choose, they could establish a review panel made up of the faculty member's supervisor and a university administrator, but also a private donor funding the faculty member's research, their next-door neighbor, myself, every member of this legislative committee, or any combination of these. And this would be the body charged with a review that, per the bill's language, could lead to a faculty member's

termination. I believe we can all agree that such a process for appointing post-tenure review committees would not serve college students in North Dakota particularly well, undermining the ability of academic institutions to properly and professionally evaluate their faculty members' research, teaching and service.

Rather than attempting to establish a one-size-fits-all approach in law that will inevitably fail North Dakota faculty and students, legislators should allow the state's public universities and colleges to craft policies that strike a more appropriate balance. The attached amendment proposes exactly this solution. Without this amendment, H.B. 1437 will serve as pavement on the road to censorship for public higher education. I urge this committee to make the responsible choice and adopt this amendment to protect true academic freedom in North Dakota.

Thank you for your consideration.



Dr. Amy Reid

HB 1437  
Proposed amendment  
Reference House Engrossed Bill (First Engrossment)

Page 1, line 16, strike "by the president of the institution or the designee of the president" insert "in accordance with the policy adopted by the institution pursuant to this section"

Line 18, strike "The committee must include the faculty"

Strike lines 19 through 21

The resulting paragraph would read:

c. Establishes a procedure for post-tenure evaluations, which must be informed by the annual evaluations under subdivision b and conducted by a committee appointed ~~by the president of the institution or the designee of the president~~ in accordance with the policy adopted by the institution pursuant to this section. The first evaluation must occur within three years. Subsequent evaluations must occur every five years or more frequently. ~~The committee must include the faculty member administrative supervisor of the faculty member under evaluation or review, at least one ranking administrator, and no more than one other faculty member.~~

**HB 1437**

March 10, 2025

Senate Education Committee

Rachelle Hunt, President

Council of College Faculties

Dear Chairman Beard and members of the Education Committee,

I am writing on behalf of the Council of College Faculties (CCF), representing the 11 public institutions of the North Dakota University System (NDUS). Faculty across all NDUS institutions have raised serious concerns regarding HB 1437, and we encourage a **DO NOT PASS** recommendation.

HB 1437 represents an overreach into the governance of higher education in North Dakota, which is constitutionally vested in the State Board of Higher Education (SBHE). The North Dakota Constitution, through Article VIII, Section 6, provides the SBHE with broad powers over the state's institutions of higher education. Established by an initiated measure approved by voters in 1938, the SBHE is granted "control and administration of" all state institutions of higher education, both existing and future. The Constitution explicitly states that the SBHE "shall have full authority over the institutions under its control" and the power 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."

In fact, HB 1437 is unnecessary. The SBHE already has policies in place for all of these needs and recently approved new policies for post-tenure review that campuses are now required to implement. These SBHE policy revisions were created with the encouragement of the legislature after the 2023 legislative session. They detail and explicitly state how institutions of higher education in the NDUS define and implement policies for annual evaluation of all faculty, including tenure-track, tenured, and non-tenure positions, policies for tenure and promotion, and for post-tenure review. These policies are rigorous, tailored to the needs of each institution, and will be implemented in the academic year 2025-2026.

However, our opposition goes beyond the lack of need. As currently written, Section 1.c of the bill prescribes a specific approach to post-tenure review that represents a significant departure from the multi-layered, rigorous approach campuses already take. Ultimately the President has authority over the entire process, subject to whatever rules the SBHE policy requires. Faculty are reviewed initially by those best positioned to understand the work that faculty do, which generally includes multiple faculty peers and their immediate supervisors who have a broad view of the contributions expected from faculty at different career stages and in different disciplines. Currently, there is no single committee or person who can do this, nor would that approach ever be adequate. In other words, the approach taken in 1.c would actually diminish the quality and

rigor of review that is inherent in the system of policies that are already in place or are about to be implemented.

On behalf of the NDUS faculty, I urge the committee to consider the significant implications of this bill and vote as a **DO NOT PASS**.

Sincerely,  
Rachelle Hunt, President  
Council of College Faculties



Representative Mike Lefor

## HB 1437 Testimony

Good morning, Chair Beard and members of the Senate Education Committee, my name is Mike Lefor, and I represent District 37 - Dickinson in the House of Representatives.

Today, I am here in support of HB 1437 which provides a commonsense approach and road map to post tenure review within our university system. The bill states that the institutions under the control of the state board of higher education which offers faculty academic tenure to develop and adopt a policy which provides for defining the progression and advancement criteria at each stage of tenure progression, including post tenure review.

The bill further defines post tenure evaluations which must occur within the first three years. After that, every five years. Further, it establishes a procedure for an annual evaluation of all non-tenure, tenure-track and tenured faculty.

Tenure, in some cases, can create an environment where professors feel secure in their position even when they might not be meeting the expectations of the institution. This could reduce the tendency for some faculty to become disengaged or complacent over time, as they would always have to prove their worth through student success and other criteria.

I want to highlight the critical role post-tenure review plays in advancing the quality of education for our students. Tenure is utilized to provide a long-term commitment; however, our ultimate responsibility is to our students - their growth, their learning and their success.

Post-tenure review ensures that even after achieving tenure, our faculties continue to grow as professionals, refining teaching methods and staying current in their fields. It holds them accountable to the ever-evolving educational landscape, allowing us to adapt to new technologies, research findings, and the needs of our students.

The process is not about scrutinizing or undermining tenure, it's about embracing a culture of continuous improvement. Through regular, constructive feedback, post-tenure review helps to identify opportunities for professional development.



Ultimately, it ensures we as a state are providing the highest-quality learning experiences for our students.

When we maintain a commitment to excellence beyond tenure, we model the very principles of lifelong learning that we encourage in our students. By embracing post-tenure review, we reaffirm our dedication to their futures and uphold the integrity of our institutions.

As the competition for students continues to grow, our universities are going to have to have a great deal of flexibility and accountability in order to successfully recruit and retain students in the future. The citizens of our great state deserve no less than the very best our institutions have to offer, and HB 1437 is a commonsense solution to provide both the best our professional staff have to offer and guidance where needed.

I ask your committee to consider a "do pass" recommendation and thank you for your consideration.

**Testimony for the 69<sup>th</sup> Legislative Assembly – Education Committee  
March 9, 2025**

**Dr. Meghan Salyers, 20-Year Veteran of Higher Education**

**Bill: Engrossed HB 1437**

**Position: In Favor of Most Recent AMENDED Engrossed Draft\***

*\*Amended Engrossed Draft follows on the next page*

Chairman Beard and Members of the Education Committee:

I sincerely thank Rep. Motschenbacher for his collaborative work with the State Board of Higher Ed, the ND University System, and many institutional representatives in the tenure initiative. My name is Dr. Meghan Salyers, and I currently serve North Dakota as an assistant dean in one of our valuable institutions of higher education. Having served in both public and private, large and small universities over the past 20 years and now a large community college, I have had the earned and *humbling privilege* of seeing our students become impactful teachers, engineers, nurses, attorneys, entrepreneurs, and more, alongside gifted faculty who share in this mission. I am one of several across the North Dakota University System who also serves as a national and state lead accreditation reviewer. The sole purpose of program reviews is to assure high quality and effective preparation in higher education so it should be noted that there are many within the NDUS campus walls who stand for exceptional quality performance.

I have experienced what *proper* implementation of tenure practices can do for an institution and their students: at *minimum*, it attracts national and international talent, assures continued excellence through *constructively* challenging processes, and provides an outstanding platform for our state's students to be even more effective in our communities. It begets local, state, and national impact and recognition.

*Improper* implementation of tenure practices, in my experience, has led to toxic work environments with low employee morale, reduced growth and stagnancy of programs, and *far* less-than-optimal preparation of the next generation of industry and community workers. Understandably then, continuous excellence in teaching, research, and service are vital to being *sustainably* competitive and respected in the national (and international) arena(s). My colleagues and I have worked very hard and purposefully in our respective fields to be credible and influential voices in the national arena and contribute to better preparation for our students. I believe that no one in our state wants us to lose that footing.

I am pro-tenure and *fully* support faculty who continuously strive for high standards. I am in favor of tenure policy that holds responsible all faculty *and supervisory administration*, of whom I am one, to very high ethical standards and practices that empower those in our care. Although I am not certain that a law is necessary to ensure this practice, I am in favor of the AMENDED bill that Rep. Motschenbacher submitted to you this morning *with one additional small but very important wording change in 1.d that he has agreed to:*

from "The review committee must be comprised of..."

to "The composition of the committee must include the administrative supervisor of..."

I believe this will clarify the intent of the bill sponsors and alleviate warranted fears of having an unfair evaluation. The AMENDED Engrossed bill below contains inclusive language that will balance the voices between administration and faculty by putting into law that the committee must be comprised of at least one-third and no more than one-half faculty (new 1.d). It also maintains that each institution has

the freedom to select their committee members beyond the two administrators. Should you find that a law is needed, I firmly believe that a law that holds faculty accountable for continued excellence must also provide opportunity for supervisory administration to empower excellence through fair, objective, and well-informed evaluations. *The most recent iteration of the Engrossed bill\* that was given to you today assures – as much as should be possible and ethical through law - fair and accurate evaluation through the balance of voices.*

*Sections 1.a and 1.b provide space for the institutional freedom to (a) define its criteria for achieving tenure and continuous tenure performance and (b) the processes by which this can be accomplished. This supports the institutions' individual identities and control with oversight by the SBHE, which is already in statute. The language in these Sections also leaves space for institutions to define appeals processes for faculty to appeal their review. Further and very importantly, 1.b allows for peer review in the process should an institution choose.*

*The new Section 1.d that includes the aforementioned wording change ("...composition must include..."), reaffirms the institutional freedom to choose the size and composition of tenure review committees as long as the immediate supervisor and one ranking administrator are involved. Although this is common practice in many institutions, it is stipulated to provide supports for other institutions.*

Many institutions in the NDUS have much more rigorous review processes than this law requires. I believe that law is the floor of quality, not the ceiling. As I read the AMENDED bill with my suggested wording change, I do not see a ceiling for individual institutions, nor anything that would detract from institutions' missions and values. I want to thank the legislators for hearing and learning about higher education and its unique context, and for their willingness to work with so many stakeholders in this process. The many people involved in this bill and here today to defend tenure and academic freedom is a testament to its importance. Thank you.

#### AMENDED Engrossed HB 1437 as of March 9, 2025

- 1 A BILL for an Act to create and enact a new section to chapter 15-10 of the North Dakota
- 2 Century Code, relating to academic tenure policy at institutions of higher education.

#### 3 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

- 4 SECTION 1. A new section to chapter 15-10 of the North Dakota Century Code is
- 5 created

- 6 and enacted as follows:

#### 6 Academic tenure - Policy - Evaluations.

- 7 1. By July 1, 2026, institutions of higher education under the control of the state
- 8 board of

higher education offering faculty academic tenure shall develop and adopt a  
policy for



- 9            tenured and tenure-track faculty employed by the institution, which:
- 10           a.   Defines progression and advancement criteria at each stage of tenure
- 11           progression, including criteria for continued post-tenure review.
- 12           b.   Establishes a procedure for annual evaluation of all nontenure, tenure-
- 13           track, and
- 14           tenured faculty by the president of the institution or the designee of the
- 15           president.
- 16           c.   Establishes a procedure for post-tenure evaluations, which must be
- 17           informed by
- 18           the annual evaluations under subdivision b and conducted by a committee
- appointed by the president of the institution or the designee of the
- president. The
- first post-tenure evaluation must be completed within three years.
- Subsequent evaluations must
- be completed at minimum every five years.
- d.   The post-tenure review committee must include in its composition the
- administrative supervisor of the faculty member being evaluated or
- reviewed, at least one ranking administrator, and faculty that number no less
- than one-third and no more than one-half of the committee. The composition
- of the committee must assure fidelity to performance excellence within the
- faculty role.

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f. Is approved by the state board of higher education.

2. Advertisement of open faculty positions by institutions of higher education under the control of the state board of higher education offering faculty academic tenure must designate the position as nontenure-track or tenure-track. Upon offering a tenure-track position to a candidate, the institution shall provide the candidate the policy required under this section.

**HB 1437**

Senate Education Committee

March 11, 2025

Lisa A. Johnson, North Dakota University System  
701-340-5054 | [lisa.a.a.johnson@ndus.edu](mailto:lisa.a.a.johnson@ndus.edu)

Chair Beard and Members of the Senate Education Committee -

My name is Lisa Johnson. I serve as the Vice Chancellor for Academic and Student Affairs with the North Dakota University System (NDUS). I am writing in opposition to one specific section of engrossed HB 1437.

First, I wish to convey the University System's appreciation for the bill sponsor and his willingness to make substantive amendments to HB 1437 that aligned well with State Board of Higher Education policies prior to crossover.

As written, there is only one specific sentence remaining that the NDUS faculty, campus administrators, and the SBHE seek to strike as our only proposed amendment to HB 1437 in Section 1.c.

The language in Section 1.c. describes a very prescriptive post-tenure review committee in the last sentence. It is the only section of the bill that is misaligned with the seven newly revised SBHE tenure and post-tenure policies. As written, the sentence has caused confusion among faculty and campus administrators in its application. Perhaps most concerning is the elimination of lower-level reviews and feedback from a wider array of constituents—content or industry experts, fellow researchers, external constituents, etc.

I understand there is public perception that campus presidents are limited in their input and participation in the tenure/post-tenure review process. Every campus president signs off on each candidate for the award of tenure. At the larger research institutions, the volume of tenure and post-tenure reviews may be delegated to a Provost or Vice President. They rely on feedback from committee members—both internal and external to the department and sometimes even the institution. At smaller institutions, the campus president is more likely to have greater interaction with the faculty member, campus colleagues, and the community in assessing a recommendation for the award of tenure or post-tenure review. In short, the process works. A prescribed "one size fits all" post-tenure committee to review candidates for the continuation of tenure as outlined in HB 1437 is unnecessary, reduces valuable feedback from additional constituents, and assumes a protocol as if all campuses were similar in size, mission, and teaching or research responsibilities.

The NDUS and the SBHE urge a Do Not Pass with the current inclusion of a prescribed post-tenure review committee. The NDUS and the SBHE remain supportive of the remaining language reflected in the bill and are confident that we can work together for a resolution to advance HB 1437.

FIRST ENGROSSMENT

ENGROSSED HOUSE BILL NO. 1437

Introduced by

Representatives Motschenbacher, Hauck, J. Johnson, Klemin, Lefor, Meier, Rohr, Dockter  
Senators Larson, Rummel, Dwyer

- 1 A BILL for an Act to create and enact a new section to chapter 15-10 of the North Dakota  
2 Century Code, relating to academic tenure policy at institutions of higher education.

3 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

- 4 SECTION 1. A new section to chapter 15-10 of the North Dakota Century Code is created  
5 and enacted as follows:

6 Academic tenure - Policy - Evaluations.

- 7 1. By July 1, 2026, institutions of higher education under the control of the state board of  
8 higher education offering faculty academic tenure shall develop and adopt a policy for  
9 tenured and tenure-track faculty employed by the institution, which:  
10 a. Defines progression and advancement criteria at each stage of tenure  
11 progression, including post-tenure review.  
12 b. Establishes a procedure for annual evaluation of all nontenure, tenure-track, and  
13 tenured faculty by the president of the institution or the designee of the president.  
14 c. Establishes a procedure for post-tenure evaluations, which must be informed by  
15 the annual evaluations under subdivision b and conducted by a committee  
16 appointed by the president of the institution or the designee of the president. The  
17 first evaluation must occur within three years. Subsequent evaluations must  
18 occur every five years or more frequently. ~~The committee must include the faculty~~  
19 ~~member administrative supervisor of the faculty member under evaluation or~~  
20 ~~review, at least one ranking administrator, and no more than one other faculty~~  
21 ~~member.~~

Sixty-ninth  
Legislative Assembly

- 1           d. Defines the outcome of an unsatisfactory review of post-tenured faculty, which
- 2           may be removal from the position. The decision to remove faculty from a position
- 3           must be made by the employing institution and the state board of higher
- 4           education.
- 5           e. Is approved by the state board of higher education.
- 6        2. Advertisement of open faculty positions by institutions of higher education under the
- 7        control of the state board of higher education offering faculty academic tenure must
- 8        designate the position as nontenure-track or tenure-track. Upon offering a tenure-track
- 9        position to a candidate, the institution shall provide the candidate the policy required
- 10       under this section.



# 2025 SENATE STANDING COMMITTEE MINUTES

## Education Committee Room JW216, State Capitol

HB 1437  
3/19/2025

Relating to academic tenure policy at institutions of higher education.
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2:30 p.m. Chairman Beard called the hearing to order.

Members Present: Chairman Beard; Vice-Chairman Lemm; Senators: Axtman, Boschee, Gerhardt

Members Absent: Senator Wobbema

### Discussion Topics:

- Amendment language
- Committee action

2:30 p.m. Lisa Johnson, Vice Chancellor for Academic and Student Affairs North Dakota University System, answered questions regarding wording for an amendment.

2:39 p.m. Senator Boschee moved Amendment LC #25.0830.02004.

2:39 p.m. Senator Axtman seconded the motion.

Senators	Vote
Senator Todd Beard	Y
Senator Randy D. Lemm	Y
Senator Michelle Axtman	Y
Senator Josh Boschee	Y
Senator Justin Gerhardt	Y
Senator Mike Wobbema	AB

Motion Passed 5-0-1

2:42 p.m. Senator Boschee moved Do Not Pass as amended.

2:43 p.m. Motion dies for lack of second

2:43 p.m. Senator Gerhardt moved Do Pass as amended.

2:43 p.m. Senator Axtman seconded the motion.

Senators	Vote
Senator Todd Beard	Y
Senator Randy D. Lemm	Y
Senator Michelle Axtman	Y
Senator Josh Boschee	N

Senator Justin Gerhardt	Y
Senator Mike Wobbema	AB

Motion Passed 4-1-1

Senator Beard will carry the bill.

2:44 p.m. Chairman Beard closed the hearing.

*Susan Helbling, Committee Clerk*

CO  
3/19/25  
10fz

Sixty-ninth  
Legislative Assembly  
of North Dakota

## PROPOSED AMENDMENTS TO FIRST ENGROSSMENT

### ENGROSSED HOUSE BILL NO. 1437

Introduced by

Representatives Motschenbacher, Hauck, J. Johnson, Klemin, Lefor, Meier, Rohr, Dockter  
Senators Larson, Rummel, Dwyer

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- 7 1. By July 1, 2026, institutions of higher education under the control of the state board of  
8 higher education offering faculty academic tenure shall develop and adopt a policy for  
9 tenured and tenure-track faculty employed by the institution, which:  
10 a. Defines progression and advancement criteria at each stage of tenure  
11 progression, including criteria for continued post-tenure review.  
12 b. Establishes a procedure for annual evaluation of all nontenure, tenure-track, and  
13 tenured faculty by the president of the institution or the designee of the president.  
14 c. Establishes a procedure for post-tenure evaluations, which must be informed by  
15 the annual evaluations under subdivision b and conducted by a committee  
16 appointed by the president of the institution or the designee of the president. The  
17 first post-tenure evaluation must occur be completed within three years.  
18 Subsequent post-tenure evaluations must occur be completed at least every five  
19 years or more frequently. The

- 1 d. Provides the composition of a culminating post-tenure evaluation committee must  
2 include the ~~faculty member~~ administrative supervisor of the faculty member ~~under~~  
3 ~~evaluation or review~~ being evaluated, at least one ranking administrator, and  
4 tenured faculty comprising no less than one-third and no more than ~~one other~~  
5 ~~faculty member~~ one-half of the committee.
- 6 d.e. Defines the outcome of an unsatisfactory review of post-tenured faculty, which  
7 may be removal from the position. The decision to remove faculty from a position  
8 must be made by the employing institution and the state board of higher  
9 education.
- 10 e.f. Is approved by the state board of higher education.
- 11 2. Advertisement of open faculty positions by institutions of higher education under the  
12 control of the state board of higher education offering faculty academic tenure must  
13 designate the position as nontenure-track or tenure-track. Upon offering a tenure-track  
14 position to a candidate, the institution shall provide the candidate the policy required  
15 under this section.

**REPORT OF STANDING COMMITTEE  
ENGROSSED HB 1437**

**Education Committee (Sen. Beard, Chairman)** recommends **AMENDMENTS** ([25.0830.02004](#)) and when so amended, recommends **DO PASS** (4 YEAS, 1 NAY, 1 ABSENT OR EXCUSED AND NOT VOTING). HB 1437 was placed on the Sixth order on the calendar. This bill does not affect workforce development.