

February 1, 2023

**Statement Against the Proposed Emergency-Measure House Bill 1446
Relating to a Pilot Program for Tenured Faculty Review
at Institutions of Higher Education**

The proposed House Bill 1446 ([HB 1446](#)) stipulates that the president of each institution of higher education under the control of the State Board of Higher Education (SBHE) “may review performance of any or all of the duties and responsibilities [...] of any faculty member holding tenure at any time the president deems a review is in the institution’s best interest” (Section 2.1), and that a university 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” (Section 2.3). HB 1446 further stipulates that a university president’s review of tenured faculty under the control of the SBHE “is not appealable or reviewable by a faculty member or faculty committee” (Section 2.6).

If enacted, HB 1446 will have negative consequences on faculty retention and recruitment and on the quality of teaching and learning. By targeting tenure and academic freedom, it places an institution of higher learning at risk of losing its accreditation. The overall impact of HB 1446 will be detrimental to workforce development and the overall economy of North Dakota.

Therefore, the Executive Committee of the Faculty Senate (FSEC) of North Dakota State University (NDSU) fully supports the North Dakota University System Council of College Faculties’ (CCF) Resolution in Opposition to HB 1446, approved on January 31, 2023, and urges Chairman Shauer and Members of the Committee on Government and Veterans Affairs to vote “do not pass” on HB 1446.

Rationale

The process of acquiring tenure takes six years. It is conducted ethically, with multiple checks and balances, including at the level of the President, and in accordance with SBHE [Policy 605.1: Academic Freedom and Tenure; Academic Appointments](#) and NDSU [Policy 352: Promotion, Tenure and Evaluation](#). These policies also specify procedures for post-tenure review that ensure accountability for tenured faculty’s performance of contractual duties and responsibilities, and the general terms and conditions for faculty termination and appeal.

The FSEC upholds SBHE [Policy 605.1](#), according to which “[t]he purpose of tenure is to assure academic freedom.” The duties and rights related to academic freedom are set forth in [SBHE](#)

[Policy 401.1](#) and the [1940 Statement of Principles on Academic Freedom and Tenure](#) (Rev. 1990), adopted by the American Association of University Professors and the Association of American Colleges.

Academic freedom is one of the criteria for accreditation by the Higher Learning Commission (HLC), NDSU's accreditation body. According to HLC [Criterion 2: Integrity: Ethical and Responsible Conduct](#), an accredited "institution is committed to academic freedom and freedom of expression in the pursuit of truth in teaching and learning" (Section D), and its "governing board preserves its independence from undue influence on the part of donors, elected officials, ownership interests, or other external parties" (Section C, item 4).

Finally, the FSEC upholds the NDSU Faculty Senate's [guiding principles for shared governance](#), which reiterate SBHE [Policy 305.1: Institution President Authority and Responsibilities; Contract Terms](#) that "each President shall ensure effective and broad-based participation in the decision-making process from faculty, staff, students, and others in those areas in which their interests are affected" (Section 4.a).

Approved by the Voting Members of the Faculty Senate Executive Committee

Dr. Anastassiya Andrianova, *Faculty Senate President*

Dr. Florin Salajan, *Faculty Senate Past President*

Dr. Warren Christensen, *Faculty Senate President-Elect*

Dr. Eric Berg, *College of Agriculture, Food Systems, and Natural Resources*

Dr. Pamela Emanuelson, *College of Arts, Humanities, and Social Sciences*

Dr. David Hong, *College of Business*

Dr. Jerry Gao, *College of Engineering*

Dr. Karla Haug, *College of Health Professions*

Dr. Ryan McGrath, *College of Human Sciences and Education*

Dr. Mila Kryjevskaja, *College of Science and Mathematics*