Faculty Senate Routing Form
(action/proposal attached)

I. Item Title: Resolution in Response to NC House Bill 2

a) Brief Description: Supporting the continued inclusion of a number of protected classes in Western Carolina University Policy #10 on Non-Discrimination and Equal Opportunity and calling for the repeal of House Bill 2.

b) Initiated by: Faculty Senate Planning Team

II. Faculty Senate Action: ❑ approved ❑ not approved ❑ other date: 4/27/2016

Comments:

Vote: ❑ Vote by Ballot: 27 Ayes; 0 Nays; 1 Abstention

FS Secretary signature: [Signature]

Date: 5/6/16

III. Provost: ❑ for information ❑ Recognition of Receipt ❑ for action........... ❑ approved ❑ not approved

Comments:

Person responsible for Implementation:

Provost signature: [Signature]

Date: 5/6/16

IV. Chancellor: ❑ for information ❑ Recognition of Receipt ❑ for action........... ❑ approved ❑ not approved

Comments:

Chancellor signature: [Signature]

Date: 6/17/16

Once finalized copies will be returned to the Provost Office's representative who will scan and distribute electronically to:

Chancellor
Provost
Chair of Faculty Senate
Secretary of the Faculty Senate
Associate Provost (for catalog and handbook)
Associate Dean of Graduate School (for catalog)
Others (i.e. person responsible for implementation)
Resolution against North Carolina House Bill 2 and in support of the current Western Carolina University Policy #10 on Non-Discrimination and Equal Opportunity

Whereas, North Carolina House Bill 2 [1] states that Public agencies shall require every multiple-occupancy bathroom or changing facility to be designated for and only used by persons based on their biological sex; and

Whereas, North Carolina House Bill 2 defines biological sex as “The physical condition of being male or female, which is stated on a person's birth certificate;” and

Whereas, North Carolina House Bill 2 excludes sexual orientation, gender identity, gender expression, and veteran status in the regulation of discriminatory practices; and

Whereas, gender identity and gender expression are not reducible to biological sex as listed on birth certificates; and

Whereas, The U. S. Employment Non-Discrimination Act of 2013 prohibits covered entities (employers, employment agencies, labor organizations, or joint labor-management committees) from engaging in employment discrimination on the basis of an individual's actual or perceived sexual orientation or gender identity; and

Whereas, The U. S. Equal Employment Opportunity Commission [2] considers it discriminatory to deny an employee equal access to a common restroom corresponding to the employee's gender identity; and

Whereas, transgender youth have a high suicide rate that is exacerbated by lack of access to bathroom facilities corresponding to their gender identity [3] and has been apparently exacerbated by House Bill 2 [4]; and

Whereas, North Carolina may lose considerable economic benefits including the possible loss of federal funds due to violations of Title IX of the Education Amendments of 1972 and/or Title VII of the Civil Rights Act of 1964; and

Whereas, Western Carolina University, as an institution claiming a core value of cultural diversity and equal opportunity, has a moral mandate to protect our entire community; and

Whereas, the current climate calls for a reaffirmation of our respect for all members of the Western community, regardless of gender identity or expression, and of our desire to attract and retain quality faculty, staff and students, regardless of gender identity or expression; and

Whereas, the implications of the combination of HB2, Executive Order No. 93 and pending challenges in the courts are less than clear; and

Whereas, the U.S. Court of Appeals for the 4th Circuit deferred to the U.S. Education Department’s position that transgender students should have access to the bathrooms that match their gender identities rather than being forced to use bathrooms that match their biological sex.

Whereas, the chorus calling for the repeal of House Bill 2 includes not only academic institutions, university faculties and regional chambers of commerce, but also relevant medical professionals [5], at
least one legislator who voted for it and the President of the United States;

Therefore, Be It Resolved That
The Faculty Senate recommends that sexual orientation, gender identity, gender expression, and veteran status continue to be included as protected classes in the Western Carolina University Policy #10 on Non-Discrimination and Equal Opportunity, as quoted here:

Western Carolina University (the “University”) is committed to the principle that admission to, employment by, and promotion in the University should be based on merit. The University prohibits unlawful discrimination based on arbitrary considerations of such characteristics as race, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, disability, genetic information, and veteran status, consistent with applicable federal, state and local laws, regulations, and policies, and the policies of The University of North Carolina. Additionally, the University promotes the realization of equal employment opportunity for minorities, women, persons with disabilities, and veterans through its affirmative action program.

And Be It Further Resolved That,
The faculty of Western Carolina University calls for the repeal of this statute.