

2023 HOUSE JUDICIARY

HB 1205

2023 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Room JW327B, State Capitol

HB 1205
1/17/2023

Relating to objectionable materials or performances; and to provide for application

Chairman Klemin opened the hearing on HB 1205 at 9:30 AM

Members present: Chairman Klemin, Vice Chairman Karls, Rep. Bahl, Rep. Christensen, Rep. Cory, Rep. Henderson, Rep. S. Olson, Rep. Rios, Rep. S. Roers Jones, Rep. Satrom, Rep. Schneider, Rep. VanWinkle, Rep. Vetter

Discussion Topics:

- Explicit sexual material
- Public library obscene books
- Public funded use
- Supreme Court laws

In favor:

Rep. Lefor: Introduced bill. No written testimony.

Rep. Steiner: No written testimony.

Tom Tracy: No written testimony.

Mark Jorritsma: ND Family Alliance: Testimony # 20506

Autumn Richard, Lefor, ND: Testimony #14188

Nicholas Scotten, Valley City, ND: Testimony #13756

Ruth Heley, Dickinson Resident: Testimony # 13672

Opposed:

Cody Schuller, ACLU: Testimony # 13785

Christine Kava: Bismarck Librarian: No written testimony

Sandi Bates: Master Degreed Librarian: Testimony # 13716

Janet Anderson, Library Director, Minot Public Library. Testimony # 13787

Allan Blume, Valley City-Barnes County Public Library Board Vice President: Testimony #13919

Additional written testimony:

#13243, #13272, #13284, #13286, #13327, #13334, #13339, #13353, #13358, #13367, #13402, #13456, #13468, #13484, #13500, #13570, #13577, 13579, #13581, #13583, #13599, #13631, #13636, #13665, #13668, #13673, #13681, #13682, #13683, #13685, #13686, #13697, #13702, #13703, #13709, #13713, #13717, #13720, #13724, #13725, #13726, #13727, #13728, #13729, #13732, #13734, #13735, #13736, #13746, #13750, #13751, #13752, #13770, #13772, #13776, #13780, #14183, #13512, #13515, #13516, #13518, #13542, #13558, #13560, #13564, #13569, #13571, #13647, #13706.

Hearing closed at 10:37 AM

Delores Shimek, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Room JW327B, State Capitol

HB 1205
2/13/2023

Relating to objectionable materials or performances; and to provide for application

Chairman Klemin opened the meeting on HB 1205 at 3:48 PM. Members present: Chairman Klemin, Vice Chairman Karls, Rep. Bahl, Rep. Christensen, Rep. Cory Rep. Henderson, Rep. S. Olson, Rep. Rios, Rep. S. Roers Jones, Rep. Satrom, Rep. Schneider, Rep. VanWinkle, Rep. Vetter

Discussion Topics:

- Amendment
- A Year's timeframe.
- Maintenance.
- Penalties.
- Explicit sexual material.
- State overreach/local control.

Rep. Lefor: Presented a proposed amendment. Testimony #27114

Rep. Christensen moved the amendment 23.0407.02003. Seconded by Rep. Vetter

Representatives	Vote
Representative Lawrence R. Klemin	Y
Representative Karen Karls	Y
Representative Landon Bahl	Y
Representative Cole Christensen	Y
Representative Claire Cory	Y
Representative Donna Henderson	Y
Representative SuAnn Olson	Y
Representative Nico Rios	Y
Representative Shannon Roers Jones	Y
Representative Bernie Satrom	Y
Representative Mary Schneider	N
Representative Lori VanWinkle	Y
Representative Steve Vetter	Y

Roll Call Vote: 12 Yes 1 No 0 Absent

Rep. Vetter moved a Do Pass as Amended;
Seconded by Rep. VanWinkle:

Representatives	Vote
Representative Lawrence R. Klemin	Y
Representative Karen Karls	Y
Representative Landon Bahl	N
Representative Cole Christensen	Y
Representative Claire Cory	Y
Representative Donna Henderson	Y
Representative SuAnn Olson	Y
Representative Nico Rios	Y
Representative Shannon Roers Jones	N
Representative Bernie Satrom	Y
Representative Mary Schneider	N
Representative Lori VanWinkle	Y
Representative Steve Vetter	Y

Roll call vote: 10 Yes 3 No 0 Absent

Motion carried.

Carrier: Rep. Satrom

Hearing closed at 4:26 PM.

Delores Shimek, Committee Clerk

2-13-23

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1205

- Page 1, line 2, remove "sexually explicit books; to"
- Page 1, remove line 3
- Page 1, line 4, replace "objectionable materials or performances" with "explicit sexual material"
- Page 1, line 4, after the semicolon insert "to provide for a legislative management report;"
- Page 1, remove lines 6 through 24
- Page 2, remove lines 1 and 2
- Page 2, line 5, replace "or promoting certain books" with "**explicit sexual material - Report**"
- Page 2, line 11, after the fourth underscored comma insert "computer video."
- Page 2, line 19, remove "Sexual preferences:"
- Page 2, line 20, remove "(8)"
- Page 2, line 20, after the underscored semicolon insert "or"
- Page 2, line 21, replace "(9)" with "(8)"
- Page 2, line 21, remove the underscored semicolon
- Page 2, remove lines 22 and 23
- Page 2, line 24, remove "(12) Gender identity"
- Page 2, line 28, remove "or promote"
- Page 2, line 28, remove "make as their"
- Page 2, line 29, replace "primary subject the study of" with "contain"
- Page 3, line 1, remove "An individual who believes a public library is maintaining a book in violation of"
- Page 3, remove lines 2 through 5
- Page 3, line 6, remove "5."
- Page 3, line 9, after "a." insert "For the removal and disposal of explicit sexual material from the public library:"
- b."
- Page 3, line 12, replace "b." with "c."
- Page 3, line 12, replace "and" with an underscored comma
- Page 3, line 12, after "evaluate" insert ", and respond to"
- Page 3, line 13, after "books" insert "or other materials"

Page 3, line 15, replace "c." with "d."

Page 3, after line 16, insert:

- "4. Each public library shall provide a compliance report to the legislative management before May 1, 2024, on the implementation of a policy and process for reviewing library collections as required by this section and to ensure sufficient compliance with this section."

Page 3, line 17, after "or" insert "library"

Renumber accordingly

A
2-13-23

1/2

REPORT OF STANDING COMMITTEE

HB 1205: Judiciary Committee (Rep. Klemin, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (10 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1205 was placed on the Sixth order on the calendar.

Page 1, line 2, remove "sexually explicit books; to"

Page 1, remove line 3

Page 1, line 4, replace "objectionable materials or performances" with "explicit sexual material"

Page 1, line 4, after the semicolon insert "to provide for a legislative management report;"

Page 1, remove lines 6 through 24

Page 2, remove lines 1 and 2

Page 2, line 5, replace "or promoting certain books" with "explicit sexual material - Report"

Page 2, line 11, after the fourth underscored comma insert "computer video."

Page 2, line 19, remove "Sexual preferences:"

Page 2, line 20, remove "(8)"

Page 2, line 20, after the underscored semicolon insert "or"

Page 2, line 21, replace "(9)" with "(8)"

Page 2, line 21, remove the underscored semicolon

Page 2, remove lines 22 and 23

Page 2, line 24, remove "(12) Gender identity"

Page 2, line 28, remove "or promote"

Page 2, line 28, remove "make as their"

Page 2, line 29, replace "primary subject the study of" with "contain"

Page 3, line 1, remove "An individual who believes a public library is maintaining a book in violation of"

Page 3, remove lines 2 through 5

Page 3, line 6, remove "5."

Page 3, line 9, after "a." insert "For the removal and disposal of explicit sexual material from the public library:"

b."

Page 3, line 12, replace "b." with "c."

Page 3, line 12, replace "and" with an underscored comma

Page 3, line 12, after "evaluate" insert ", and respond to"

Page 3, line 13, after "books" insert "or other materials"

Page 3, line 15, replace "c." with "d."

Page 3, after line 16, insert:

- "4. Each public library shall provide a compliance report to the legislative management before May 1, 2024, on the implementation of a policy and process for reviewing library collections as required by this section and to ensure sufficient compliance with this section."

Page 3, line 17, after "or" insert "library"

Renumber accordingly

2023 SENATE JUDICIARY

HB 1205

2023 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Peace Garden Room, State Capitol

HB 1205
3/13/2023

A bill relating to prohibiting public libraries from maintaining explicit sexual material; to provide for a legislative management report; and to provide for application.
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10:00 AM Chairman Larson opened the meeting.

Chairman Larson and Senators Myrdal, Estenson, Sickler, Paulson and Braunberger are present. Senator Luick is absent.

Discussion Topics:

- Mental illness
- Books
- Child safety
- Pornography

10:00 AM Representative Lefor introduced the bill and provided written testimony #24250.

10:14 AM Representative Vickie Steiner spoke in favor of the bill.

10:16 AM Senator Boehm spoke testified in favor of the bill and provided written testimony #24266.

10:21 AM Senator Myrdal moved to adopt amendment LC 23.0407.03003, #24255, 24256. Motion seconded by Senator Estenson.

10:21 AM Roll call vote is taken.

Senators	Vote
Senator Diane Larson	Y
Senator Bob Paulson	Y
Senator Jonathan Sickler	Y
Senator Ryan Braunberger	Y
Senator Judy Estenson	Y
Senator Larry Luick	AB
Senator Janne Myrdal	Y

Motion passes 6-0-1

10:22 AM Mairah Ralston Deragon testified opposed to the bill and provided written testimony #24047.

10:35 AM Janet Anderson, Director, Minot Library, testified opposed to the bill and provided written testimony #24040.

10:52 AM Caedom Marx spoke opposed to the bill.

10:56 AM Isabella Anderson testified opposed to the bill and provided written testimony #24020.

11:00 AM Cody Schuler, ACLU of North Dakota, testified opposed to the bill and provided written testimony #24127.

11:07 AM Chairman Larson closed the public hearing.

Additional written testimony:

Liz Legerski #24220

Traci Juhala #24217

Jodi Plecity #24216

Gina Sandgren #24213

Jason Fincel #24207

Mona Tedford Rindy #24206

Karen Van Fossan #24205

Kerrienne Boetcher #24189, 24177

Gabriela Balf #24176

Alexis Whitehorn #24172

Nick Archuleta #24170

Anita Tulp #24167

Renee Newton #24166

Faith Wahl #24150

Maggie Oakland #24145

Cody Severson #24108

Alexis Varvel #24096, 24763

Alida Arnegard #24093

Brian Kopp #24087

Shannon Krueger #24084

Daphne Pedersen #24080

Lisa Pulkrabek #24078

Ana Tobiasz #24075

Ruth Heley #24071

Christopher Brown #24068

Justin Anderson #24062

Mark Jorritsma #24051

Faye Seiderler #24049

Alfred Wallace #23807

David Klein #23804

Sarah Mertz #23761

Troy Reiten #23756

Julie Reiten #23755

John Schroeder #23754

Shawnda Schroeder #23753

Joseph Rector #23733

Rachel Kercher #23721

Pamela Carswell #23720, #23844, #23702

Ann Kreidt #23715

Owen Carswell #23653

Kara Geiger #23630

Cindy Aaser #23620

Montana Ackman #23522, 23521, 23520, 23519

Stephen McDonough #24044

Heather Szklarski #24041

Kristie Miller #24032

Mike Fladeland #24023

Robert Newman #24010

Autumn Richard #23993

Kristie Miller #23986

Sandi Bates #23980

Kevin Tengesdal #23979

Andrea Placher #23968, 23963

Gretchen Deeg #23962

Elizabeth Loos #23956

Janet Mathistad #23951

Timothy Mahoney #23950

Martina Kranz #23926

Phyllis Johnson #23924

Christine Kujawa #23921

Wesley Byzewski #23918

Mary Lorenz #23881

Whitney Oxendahl #23873

Carmen Repnow #23868

Mary Weiler #23863

Derek Harnish #23857

Brenda Weiler #23856

Bree Langemo #23852

Marty Toepke-Floyd #23837

Erin Power #23823

Tamara Toepke-Floyd #23817

Cindy Aaser #23745

10:56 AM Chairman Larson closed the meeting.

Rick Schuchard, Committee Clerk

March 13, 2023

DK
171
3-14-23

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1205

- Page 1, line 9, remove "does not include works of art that, when taken as a"
- Page 1, remove lines 10 through 13
- Page 1, line 14, replace "computer video, or computer-generated image, showing" with "means any material which"
- Page 1, line 15, replace "Human masturbation" with "Taken as a whole, appeals to the prurient interest of minors"
- Page 1, line 16, replace "Deviant sexual intercourse" with "Is patently offensive to prevailing standards in the adult community in North Dakota as a whole with respect to what is suitable material for minors"
- Page 1, line 16, after the underscored semicolon insert "and"
- Page 1, line 17, remove "Sexual intercourse;"
- Page 1, remove lines 18 through 21
- Page 1, line 22, replace "(8) Sexual perversion" with "Taken as a whole, lacks serious literary, artistic, political, or scientific value for minors"
- Page 2, line 1, remove "containing collections of books or periodicals for"
- Page 2, remove line 2
- Page 2, line 3, replace "derived from taxation" with "established under chapter 40-38"
- Page 2, line 4, after "its" insert "children's collection"
- Page 2, line 9, replace "and disposal" with "or relocation"
- Page 2, line 9, replace "from" with "in"
- Page 2, line 14, after "removal" insert "or relocation"
- Page 2, line 17, after "material" insert "in the children's collection"
- Page 2, line 19, remove "a policy and process for reviewing"
- Page 2, line 20, replace "library collections" with "collection development and relocation of materials policies"
- Page 2, line 22, after "any" insert "children's"
- Page 2, line 22, remove "or library collection"
- Renumber accordingly

2023 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Peace Garden Room, State Capitol

HB 1205
3/13/2023

A bill relating to prohibiting public libraries from maintaining explicit sexual material; to provide for a legislative management report; and to provide for application.
--

11:57 AM Chairman Larson opened the meeting.

Chairman Larson and Senators Myrdal, Estenson, Luick, Sickler, Braunberger and Paulson are present.

Discussion Topics:

- Committee action

11:59 AM Senator Myrdal moved to Do Pass the bill as amended.

11:59 AM Senator Myrdal withdrew her motion to Do Pass the bill.

11:59 AM Chairman Larson closed the meeting.

Rick Schuchard, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Peace Garden Room, State Capitol

HB 1205
3/14/2023

A bill relating to prohibiting public libraries from maintaining explicit sexual material; to provide for a legislative management report; and to provide for application

9:07 AM Chairman Larson opened the meeting.

Chairman Larson and Senators Myrdal, Luick, Sickler, Estenson, Paulson and Braunberger are present.

Discussion Topics:

- Committee action

9:07 AM Senator Estenson moved to Do Pass the bill as amended. Senator Myrdal seconded the motion. Amendment LC 23.0407.03003 was adopted at a previous meeting.

9:14 AM Roll call vote is taken.

Senators	Vote
Senator Diane Larson	Y
Senator Bob Paulson	Y
Senator Jonathan Sickler	Y
Senator Ryan Braunberger	Y
Senator Judy Estenson	Y
Senator Larry Luick	Y
Senator Janne Myrdal	Y

Motion passes 7-0-0.

Senator Myrdal will carry the bill.

This bill does not affect workforce development.

9:14 AM Chairman Larson closed the meeting.

Rick Schuchard, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1205, as engrossed: Judiciary Committee (Sen. Larson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1205 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 1, line 9, remove "does not include works of art that, when taken as a"

Page 1, remove lines 10 through 13

Page 1, line 14, replace "computer video, or computer-generated image, showing" with "means any material which"

Page 1, line 15, replace "Human masturbation" with "Taken as a whole, appeals to the prurient interest of minors"

Page 1, line 16, replace "Deviant sexual intercourse" with "Is patently offensive to prevailing standards in the adult community in North Dakota as a whole with respect to what is suitable material for minors"

Page 1, line 16, after the underscored semicolon insert "and"

Page 1, line 17, remove "Sexual intercourse:"

Page 1, remove lines 18 through 21

Page 1, line 22, replace "(8) Sexual perversion" with "Taken as a whole, lacks serious literary, artistic, political, or scientific value for minors"

Page 2, line 1, remove "containing collections of books or periodicals for"

Page 2, remove line 2

Page 2, line 3, replace "derived from taxation" with "established under chapter 40-38"

Page 2, line 4, after "its" insert "children's collection"

Page 2, line 9, replace "and disposal" with "or relocation"

Page 2, line 9, replace "from" with "in"

Page 2, line 14, after "removal" insert "or relocation"

Page 2, line 17, after "material" insert "in the children's collection"

Page 2, line 19, remove "a policy and process for reviewing"

Page 2, line 20, replace "library collections" with "collection development and relocation of materials policies"

Page 2, line 22, after "any" insert "children's"

Page 2, line 22, remove "or library collection"

Re-number accordingly

TESTIMONY

HB 1205

I'm writing to OPPOSE HB 1205, which would ban public libraries from maintaining "sexually explicit" materials. This is blatant censorship and would create a very dangerous precedent. It would diminish the value of public libraries as repositories of information freely available to the public. It would erode public trust in libraries and in the local government as a whole.

If the bill's sponsors had done their homework, they would have learned that public libraries already have policies and procedures in place concerning 1) How the library decides what materials to add or remove from the collection; and 2) A process for a citizen to challenge a specific title. For example, you can view the Morton Mandan Public Library's policy on their website. Here's the link:

[https://www.cityofmandan.com/vertical/sites/%7B38C3EFDC-F4D8-4D02-9E13-0987A081A7A4%7D/uploads/MMPL_Policy_Manual_2018\(1\).pdf](https://www.cityofmandan.com/vertical/sites/%7B38C3EFDC-F4D8-4D02-9E13-0987A081A7A4%7D/uploads/MMPL_Policy_Manual_2018(1).pdf)

(The Collection Management Policy starts on Page 15)

The government has no business censoring public libraries. Therefore, I strongly oppose HB 1205.

Kara L. Geiger
Mandan, ND

My name is Rachel Kercher and I am the Youth Services Librarian at the Leach Public Library in Wahpeton. I have worked in North Dakota libraries for over fourteen years, and have spent the past ten years at the Leach Library serving library users and community members aged 0-18 years old and their families. Throughout all my years of library work, study for my MLS and my ongoing professional development, I have never been as concerned for the future of libraries and the people that we serve as I am now. These are difficult and scary times to raise children. With liberals and conservatives arguing and undermining each other at every turn, it can be hard to know who to listen to and believe. I understand that House Bill 1205 is the legislature's way of trying to protect our children; however, a parent's love of their child should not be politicized in order to promote censorship. The bill is flawed and has the potential to do more harm than good.

In Section 2.2 of HB 1205 it is stated that "a public library may not maintain in its inventory or promote books that make as their primary subject the study of sexual explicit material." This sentence is vague and has an incredibly broad reach that affects library users of all ages. Are the books and materials in this statement specifically intended and collected for minors, or are librarians now expected to deny the reading choices of fully informed, consenting adult patrons? How is the term "sexually explicit material" being defined and where is that definition coming from? What is sexually explicit to one person may not be to another. In cases of law, it is important to be as objective as possible. For example, in the list of terms in Section 2.1 of the bill, "sexual identity" and "gender identity" are included despite the fact that neither of these things have anything to do with the act of sex itself. According to the American Psychological Association a person's sexual identity is the gender assigned at birth and is a biological status, while gender identity is a person's sense of themselves as male, female or other. (<https://www.apa.org/topics/lgbtq/transgender.pdf>.) Sexual acts, explicit or otherwise, are not involved. Books about queerness and LGBTQIA+ topics are not inherently sexually explicit, and portraying them as explicit or in some way sexually deviant is discrimination against the LGBTQIA+ community. So again I ask, where are the definitions of "sexually explicit" and the subjects included in this list coming from?

Another problem with HB 1205 is in Section 2.3-4, where it is stated that a person who believes that a library is out of compliance with earlier sections of this bill may request that the book be removed from the library's collection and the library must comply within 30 days. This contradicts 2.5b, which requires libraries to have policy and procedure in place to evaluate a challenge request. The majority of libraries in North Dakota, including the Leach Public Library, have collection development policies already in place that explain to patrons and the general public the criteria used in the selection and weeding processes, as well as what steps to take in order to challenge an item and the procedure the library follows in that event. This bill requires libraries to have policies in place to address challenges but Section 2.3-4 takes away our ability to use those policies. For example, under the bill as it is written, a patron can file a written complaint to remove a book from our library's adult non-fiction collection for containing sexually explicit quotations such as "and they were both naked, the man and his wife, and were not ashamed" and "let her breasts satisfy thee at all times". The library would be required to remove this book within 30 days regardless of the fact that the majority of our patrons would be up in arms at censoring the King James Bible (Genesis 2:25; Proverbs 5:19). This bill opens the door wide for censorship of all types without giving librarians or the people we serve any recourse.

Additionally, this bill places the entire onus of monitoring children's reading habits on public libraries and librarians, to the point that we can be charged in court for simply trying to do our jobs. If this bill is indeed intended to protect minors, where are the parents? Parents bring their children to the library, sign them up for library cards, help them find books or even select books for them. What say do parents have in this situation? Do not all parents have the right and responsibility to decide for themselves what their children and families should and should not read? It is true that librarians choose which books to purchase for their libraries, and we do so carefully in order to create balanced collections that reflect our patrons, communities and the broader world. We can recommend books, but in the end it is the parent or guardian who has the responsibility to decide what is right for their own child.

Please consider what this bill is saying and the lasting consequences that it could have for libraries and library users in our state. There are better ways to protect and nurture our children in a library setting, ways that do not involve blanket censorship. I urge you to start conversations with the North Dakota State Library, the North Dakota Library Association, and hardworking librarians throughout the state so that we can work together on this issue.

On a deeply personal note, I have to add that I love my job. I am privileged every day to see the joy and excitement in our youngest patrons when they find a book they love, to experience the trust that teens put in me to help them find the materials they need to understand their identities, emotions and life experiences without judgement, and the gratitude of parents and grandparents for providing a welcoming space for their children to be themselves and the resources they need to succeed. I urge you to please do everything you can to defeat this bill so that I, and all other North Dakota librarians, can continue to serve our patrons and community members in the way they deserve.



Mr. Lawrence R. Klemin
Chair House Judiciary Committee

Dear Sir,

The Fargo Public Library Board and Administration stand firmly in opposition to House Bill No. 1205 on the grounds that it impacts the free access to materials from the libraries in North Dakota and forecasts disruptions to library services. Additionally, language in the bill concerns us greatly as it is overly broad and would potentially criminalize library staff performing their duties in good faith.

The Fargo Public Library Board contests censorship in any form, regardless of the motivations of the censor. The Fargo Public Library Board affirms both the Library Bill of Rights and the Freedom to Read declaration.

It is essential that House Bill No. 1205 be prevented from becoming law in order for libraries in North Dakota to continue to fulfil our first amendment duties for the communities we serve. We urge all House members to comply with their constitutional duty and prevent censorship from occupying North Dakota public libraries.

Sincerely,

Dr. Carlos Hawley President Fargo Public Library Board
Timothy S. Dirks, MLIS, MPA Director Fargo Public Library

I am Michele Anderson, a patron of the Fargo Public Library.

I'm compelled to testify on HB1205 because it appears to target libraries. Libraries are the cornerstones of American democracy. They are for everyone, everywhere. Because libraries provide free access to information, they bring opportunity to all people. Attempts to remove materials from public use is censorship and denies people the opportunity to choose and think for ourselves. Please vote NO on HB1205.

Thank you for considering my views,

Michele Anderson, Fargo, District 46

McKenna Wilke (16)

Testimony on HB 1205 2023

House Bill #1205 interferes with the leading purpose of public libraries. Public Libraries are meant to provide books on all subjects for all people. We don't know why some people choose to read books that have sexually explicit photos, it could be for certain educational purposes. Taking these books away from the readers due to the pictures the book involves is simply wrong. As someone who is around teenagers and minors every day, I can assure you that there is not much that they haven't seen online. If people are so concerned about minors finding an explicit photo in a book or other reading articles, providing an 18+ section in a library could be a simple solution. I also am a strong believer that photography is a form of art. Saying that nude photographs don't fit in this theme of art just because the photographs are 'explicit' doesn't make sense. What makes nude photos in one art medium okay but not in others?

Brian Kopp
Opposition to HB1205

HB1205 if enacted would violate first amendment rights. It would create an environment that would remove libraries from having materials for a number of educational and informational reasons. Libraries are publically funded for the public and are to exist with first amendment guarantees and the library bill of rights followed. HB1205 would allow for the removal of books that based on someone's opinion were explicit, not the already created and enacted rules that prohibit pornography in public libraries, or by definition actually explicit materials. The discussions that have happened around books that are related to the list created in the new "Section 2" of this bill:

- (1) Human masturbation;
- (2) Deviant sexual intercourse;
- (3) Sexual intercourse;
- (4) Direct physical stimulation of genitals;
- (5) Sadomasochistic abuse;
- (6) Postpubertal human genitals;
- (7) Sexual preferences;
- (8) Sexual activity;
- (9) Sexual perversion;
- (10) Sex-based classifications;
- (11) Sexual identity; or
- (12) Gender identity.

(Continued) have been largely around religious beliefs and an active will to censor those lifestyles and gender identities that some folks do not agree with. This bill attempts to put the legislature in charge of what religious and expressive freedoms are. There are already protections in place for much of the above, which is why we do not see issues brought up until the end of the list, items 7 through 12, in the discussions and recent news stories. Many of the books that would come in to question have not had any legal ramifications for their publishing for the exact reasons listed above. The claims made against books that are used for educational purposes have single lines taken out of context, paragraphs ignored when discussing how print material for teens can teach them that sexting is illegal if they or the other party are under 18 years of age. Removing books based on personally held, mostly religiously based, beliefs is a direct violation of first amendment rights and will remove helpful knowledge of both sexuality and in some cases even the law as noted.

HB1205 would also allow those whom hold religious beliefs that gender isn't fluid in direct opposition to all scientific and historical evidence of the opposite to make a claim against a book or work of art. The standards to make the claim are up for wide interpretation and could allow communities/authorities to choose what is available at their public library instead of having a library that serves the whole community, which is funded by the whole community and state.

The claims that this bill protects children is a misdirection of the real target, sexual identity and gender identity. What I mean by this is those who oppose any commentary, discussion, or teaching about gender identity point to the much higher than average rate of self-harm and suicide among transgender people. The research is clear that the rates of self-harm and suicide is from the lack of their acceptance in society, ridicule, and being discriminated against. In 2016, the Departments of Education and Justice sent a letter to schools receiving federal funding that interpreted Title IX protection to apply to gender identity and transgender students. Libraries are part of our educational system and we should not as a

state decide to start discriminating against people based on their sexual identity or gender identity by removing books and print materials they or anyone may be interested in or could learn from.

Libraries should stay as a neutral ground for beliefs and ideas. It's why I have no issue with religious books of other religions in my public library or even some of the literature types being targeted in this bill. If they serve the community and do not harm the community they should be able to be available. Lastly there have been multiple comments throughout the state that children could unknowingly come across books that are not age appropriate. This is another misdirection from the actual issue, parenting. Parents have a legal responsibility for their children. If their children are violating library policy, by not supervising their children, the parents or guardians are at fault, not the library and society. We place safeguards in society to protect both children and adults, but we do so in a manner that does not restrict the rights of all people. If all current rules and laws are followed and enforced HB1205 serves no purpose other than to restrict first amendment rights to the freedoms of speech, expression, and religion (and from religion).

Please maintain the integrity of our libraries as an open and welcoming source of information and education for our communities here in North Dakota. Please oppose HB1205

Library Bill of Rights for reference:

The American Library Association affirms that all libraries are forums for information and ideas, and that the following basic policies should guide their services.

I. Books and other library resources should be provided for the interest, information, and enlightenment of all people of the community the library serves. Materials should not be excluded because of the origin, background, or views of those contributing to their creation.

II. Libraries should provide materials and information presenting all points of view on current and historical issues. Materials should not be proscribed or removed because of partisan or doctrinal disapproval.

III. Libraries should challenge censorship in the fulfillment of their responsibility to provide information and enlightenment.

IV. Libraries should cooperate with all persons and groups concerned with resisting abridgment of free expression and free access to ideas.

V. A person's right to use a library should not be denied or abridged because of origin, age, background, or views.

VI. Libraries which make exhibit spaces and meeting rooms available to the public they serve should make such facilities available on an equitable basis, regardless of the beliefs or affiliations of individuals or groups requesting their use.

VII. All people, regardless of origin, age, background, or views, possess a right to privacy and confidentiality in their library use. Libraries should advocate for, educate about, and protect people's privacy, safeguarding all library use data, including personally identifiable information.

Adopted June 19, 1939, by the ALA Council; amended October 14, 1944; June 18, 1948; February 2, 1961; June 27, 1967; January 23, 1980; January 29, 2019.

Inclusion of "age" reaffirmed January 23, 1996.

Casey Kruger

Mr. Or Madame Chair and members of the committee, my name is Casey J. Kruger from Valley City. I am 18 years old and attend Valley City High School. I stand in negation of this bill because it is blatantly disregardful of past accepted regulations for public libraries and is a gross violation of every citizens first amendment rights. I cannot help but draw correlations between the wording of this bill and the actions of past dictatorships and facist states. On May 10th members of the German Student Union, a group affiliated with the Nazi German party, stormed the Institute of Sexology. According to the Holocaust Memorial Day Trust, this institute was a champion of homosexual rights and sex-related research, the members looted and burned hundreds of books involving, but not limited too, Sexual intercourse, Sex preferences, postpubertal human genitals, sexual identity, and gender identity. Now, this act does not necessarily ban all books that may cover these topics, but it opens the doors for members of the Student Union to come streaming in to our libraries. My generation has not grown up in a world that has known book burning, we have not seen or experienced the terrors of authoritarian rule on the other side of the world. But we know it is wrong. And we know who is responsible for restricting our access to knowledge. We know our friends that will be hurt by this legislation. And we will remember. We will remember in 2 years, 4, 6, 8, however long it takes to remove those who have damaged our society. We will remember.

Hello, representatives of North Dakota. My name is Benji, and I am a teenager from Fargo. I speak in opposition of House Bill #1205.

Not only does this bill seek to restrict our access to valuable educational material across the state of North Dakota, it aims to reduce the representation of already marginalized groups of people. This directly infringes on our first amendment rights as US Citizens and further limits historical, cultural and sexual education in this country. This bill benefits no one who remains true to the founding principles of the United States of America.

Representatives, I ask you this. Would you erase history because it does not fit your worldview? Would you destroy culture because it makes you uncomfortable? Would you have us burn our books out of fear?

If the answer is yes, then you must ask yourself a bigger question. What separates you from the instigators of World War II? The list of distinctions grows smaller and smaller with every homophobic bill proposed, while the list of similarities grows ever longer.

I am aware that this bill claims to protect education, but I am unconvinced. If that were the case, we would not be discussing book restrictions. In times like these, where teenage pregnancy is rampant and STD rates exceed those of every other developed country on the globe, I beg of you, do not stifle sexual education. Instead, develop infrastructure to support it. Use the power you have to promote positive change for everyone.

What you decide today is incredibly important to me, as it affects many of my closest friends. I would like you to know that my generation is watching, and our existence is not a crime. Our identities are not perverse, and LGBTQ+ literature does not harm you. Do not move forward with this bill.

Thank you for your time.

Greetings,

I am a homemaker and home-educator from Fargo, North Dakota. I am writing to you today to express my strong opposition to HB 1205.

The banning of books is an extreme act of censorship that inhibits the rights of citizens to access information representing a wide variety of views including those considered unorthodox.

This bill demonstrates a lack of trust in North Dakotans. It points toward a lack of awareness to the codes of ethics that librarians abide by.

Additionally, bans like this one often disproportionately impact already marginalized LGBTQ communities by restricting access to LGBTQ representation in media.

Furthermore, I find it troubling that this bill prohibits the depiction of “postpubertal human genitals” whilst not prohibiting the depiction of prepubescent human genitals. If the depiction of nudity always represents sexual exploitation as this bill suggests, then children ought to be at the top of the list of individuals protected from such exploitation.

Sincerely,
Ashley L. Aus

To: ND Legislators
Re: HB1205 and SB2123

As parents we oppose HB1205 and SB2123. The core of the US Constitution and Freedom of Religion is Freedom of Speech. Censoring books at public libraries is a direct violation of Freedom of Speech.

It is parents' responsibility to decide what a child reads. Some children may not have access to proper information about relations. Allowing children (and adults) access to materials gives them proper information and helps people understand what real relationships are like.

Banning books on content would also ban art books, educational material, scientific material, and religious material (including the Bible).

Are these concerned parents censoring the movies their children watch that show sexual abuse? Are parents stopping children from watching online videos? Are there discussions about video games?

Parents need to do the education. Parents need to take the responsibility. The materials need to be there to educate children and parents and help spur discussions.

David & Erin Klein
1006 19th St NE
Jamestown, ND 58401
vcsuvike@hotmail.com

Hello. My name is Martina L. Kranz. I've lived in Minot, North Dakota for 25 years. I'm a board member of the Minot Public Library's Friends of the Library, a librarian, and a retired member of the U.S. Army. I'm writing my testimony in opposition to the library bills being introduced to the State Legislature. These bills are censorship and a violation of the First Amendment rights of every citizen in North Dakota.

First, as a member of the military, I defended every U.S. citizen's constitutional rights. We possess every right to read and to choose what we want to read. Our country consists of many different citizens, which is why we are called a "melting pot" and makes the U.S. a culturally rich country. To keep our citizens educated and well-informed, libraries contain many types of books to help the community members solve problems, provide entertainment, provide answers for research, navigate through a tough time, and many other reasons. To have certain groups of people protest books because of a character's race, religion, sexual orientation or any other reason that they deem "objectionable" or "pornographic" is ludicrous. Sometimes, people turn to books to identify with other people in their same situation in life. If parents worry about what their children see, hear, or read, then they need to accompany their children to the library at all times and supervise their own children, not try to impose a "moral" law onto everyone else. During my career in the military, I defended the First Amendment, and I'm going to defend it now. Just as we have the Second Amendment in the Constitution, the right to bear arms, we also have the freedom to read, which is a defense against ignorance, racism and all the other "isms," and misinformation.

Second, as a librarian, the idea of criminalizing librarians for helping patrons, whether adults or children, is ludicrous too. There is a reason that most libraries contain a children's library and an adult library. We help patrons according to their age and provide materials

appropriate for their age. Our justice system has much more important duties than prosecute librarians because they allowed patrons to borrow materials that might help them with problems or feelings or inform them about other people and their view of the world. Other people and other ideas about the world exist. The effort to homogenize a community or city by censoring books and making it a criminal act to provide access to them is ideological repression. To make access to “objectionable” books a criminal act is another form of thought and speech control. Arthur Fletcher, former head of the United Negro College Fund, said “A mind is a terrible thing to waste.” It’s also a terrible thing to control. We wouldn’t have a democratic or dynamic country. If we begin censoring books and denying citizens their First Amendment rights for the comfort of certain groups, we are no different than dictatorships or Communist regimes. Please, no thought control here.

RE: Opposition to North Dakota HB1205

Mr. Lawrence Klemin
Chair House Judiciary Committee

Dear Sir,

I am writing to you today as a citizen and former librarian of North Dakota who opposes House Bill No. 1205. Not only is the language of this bill overly broad, but it will also interfere with people's right to information and turn librarians into agents of censorship.

I am also a survivor of childhood sexual abuse. That is not a fact I share lightly, and one that I have never shared publicly. My local and school libraries saved my life by having books that talked about the things I experienced. These same books would likely be removed from bookshelves under this bill. That is unacceptable to me.

It is in the public interest, and that of a democracy, to have a diversity of information and opinions available to its citizens. I appreciate that this bill likely came about as an attempt to "protect" people, but this isn't the way to do that.

Stephanie Baltzer, Mandan, District 34
Former North Dakota Library Association President
Lifelong ND Library Patron

Bea Kaiser

Resident of Bismarck, ND

I urge you to vote “do not pass” on HB 1205.

I’m proud to live in a state that prides itself on freedom and am surprised by the proposal of this bill. The limitations resulting from censorship promote misinformation which runs rampant when facts aren’t available or accessible.

Throughout my life I’ve appreciated that libraries could be counted upon to provide a safe place to research anything I was curious about. Have you ever had questions you felt embarrassed not knowing, perhaps didn’t feel comfortable asking? Maybe your interests weren’t mainstream. It’s reassuring to know someone is available to assist, nonjudgmentally. Penalizing librarians with threats of misdemeanors, whose only crime is helping those who seek information, should not be tolerated.

Access for all is far more beneficial to promote open dialog versus the limitations of censorship. I encourage you to promote efforts of acceptance rather than the infringement of rights.

Again, I urge you to vote “do not pass” on HB 1205.

Patrick Sinner – Testimony in opposition to HB 1205

Dear members of the North Dakota House Judiciary Committee:

I write to you today to urge you to give a ‘do not pass’ recommendation to HB 1205 relating to censoring various materials in public libraries. The four major reasons for this are that it is an overreach by the state government, the definitions contained in the bill are overbroad and unworkable, it unfairly criminalizes public employees, and it contains contradictory enforcement language.

This bill would usurp the rights of local public libraries and the communities they are located in to make decisions regarding the materials they hold in their collections. If a member of the local community finds a particular book to be objectionable, they can bring that up with the library and have a discussion as to what is appropriate for that community. This bill imposes state standards for what is properly a local decision.

Second, the definitions contained in this bill are overbroad and unworkable. First, banned “explicit sexual material” contains a carve out for works of art that “have serious artistic significance” and various scientific works. Sec. 2, subd. 1(a). This creates a judgment call as to what artistic or scientific work is sufficiently significant to justify its inclusion in a local library. There is no direction or definition to assist in making that determination. The subcategories of “explicit sexual material” do not offer any helpful guidance in making that determination. The first six categories (Sec. 2, subd. 1(a)(1-6)) are more or less clear on their face. However, the last six categories (Sec. 2, subd. 1(a)(7-12)) are so broad as to be meaningless. For example, Sec. 2, subd. 1(a)(10) prohibits any visual depiction of sex-based classifications. This could be construed as to prohibit children's books which show the differences between male and female animals. I doubt the legislature intends to criminalize books that show that male lions have manes and female lions do not. This would essentially require every public library to remove every Noah's Ark book from their shelves. Similarly, Sec. 2, subd. 1(a)(7) prohibits any visible depictions of sexual preferences. This would prohibit public libraries from stocking any book that shows a family with a mom and a dad as it would indicate the sexual preference of those parents. Both of these examples are clearly beyond the scope of what the author of this bill intended (which appears to be to censor the depiction of any non-heterosexual relationship in public libraries).

These unworkable definitions become much more serious given the criminal penalties included in this bill. Any librarian who inadvertently includes materials on their shelves which may fall within these if again overbroad definitions may be found guilty of a Class B misdemeanor. This is both patently unfair and raises significant issues with sovereign immunity. Library staff are public employees, not individuals operating a store for their own economic benefit. This would open them to personal criminal liability for performing their public function.

Finally, this bill contains confusing and contradictory enforcement language. Sec. 2, subd. 3 allows any individual who believes a book is in violation of this bill to request the public library to remove it from its inventory. Sec. 2, subd. 4 requires the public library to remove the offending book within 30 days of receiving the request. There is no mechanism for appeal or determination as to whether that book actually violates the law. Rather, any book could be withdrawn at the request of one person, who is not even required to be a resident of the town or state in which the library is located. Sec. 2, subd. 5 gives vague guidance for libraries to create guidelines to evaluate requests to remove offending materials, but does not contradict the above mentioned procedures. These are two directly contradictory

requirements contained in the same bill. Such conflicting enforcement mechanisms make this entire bill unworkable on its face.

Therefore, because this bill is an overreach by the state government, the definitions contained in the bill are overbroad and unworkable, it unfairly criminalizes public employees, and it contains contradictory enforcement language, I strongly urge you to give HB 1205 a 'do not pass' recommendation.

Sincerely,

A handwritten signature in black ink, appearing to read "P. J. Sinner". The signature is written in a cursive, somewhat stylized font.

Patrick J. Sinner

Shannon Smith

330 Eddy Ct S
Fargo, ND 58103
(701)515-1147
ShannonBee2021@gmail.com

16th January 2023

ND Legislative Council

600 East Blvd
Bismarck, ND 58505

North Dakota Legislative Council Members:

HB1205 proposes extreme government overreach under the guise of religious freedom. Nobody has the right to impose their religious beliefs onto the general public. We don't ban books in this country.

We all know this isn't about sexual content in public libraries, or Harlequin Romance books would have been banned decades ago. This is about fringe religious extremists imposing their beliefs on the public. I oppose HB1205.

Sincerely,

Shannon Smith

Melissa Lloyd
Assistant Director
Valley City Barnes County Public Library
assistantdirector@vcbclibrary.org
410 Central AVE N
Valley City, ND 58072
vcbclibrary.org

January 14th, 2023

Honorable Lawrence R. Klemin & the ND House Judiciary Committee
North Dakota Legislative Council
State Capitol
Bismarck, ND 58505

Dear Committee Chair and Members of the ND House Judiciary Committee:

My name is Melissa Lloyd. I am the Assistant Director at the Valley City Barnes County Public Library. I am writing to you to express my opposition to HB 1205. I am concerned that this bill would make it impossible for public libraries to even exist. The very pillar of a Public Library's foundation is equitable access of information to everyone regardless of race, religion, sexual identity, or socioeconomic status. As a Public Librarian I respect and support a person's freedom to choose what they read. When a government begins to restrict access and/or ban books you start to question the democracy of that government and the freedoms guaranteed by the United States Constitution. I ask you to consider these points:

1. The bill's definition of "sexually explicit" sets up a slippery slope. It suggests "images" fit into this definition. But, reading requires the use of one's imagination. Doesn't reading words on a paper invoke images of what the author is writing. Do we remove books because the words create "sexually explicit" images in people's heads? By that logic, if a book has "sexually explicit" words would a library have to remove everything? Then you would have nothing on the shelves. For example, A gentleman came in the library to complain about the "filth" he read in an inspirational romance, the two main characters, had "kissed and held each other in a tender embrace". The gentleman thought this was too explicit. According to the bill, he could write a letter, and the library would have to remove the book. If it did not the librarian would be charged with a misdemeanor.
2. This bill would create fear for librarians. It is wrong to persecute people who have done nothing wrong. It is a librarian's job to provide access to information. Librarians don't force anyone to read books with "sexually explicit" material. If someone were

Honorable Lawrence R. Klemin & the ND House Judiciary Committee
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to request a book deemed “sexually explicit”, the librarian would have to deny the request for fear of persecution. Hindering the rights of the individual to access information.

3. It also sets up restrictions to access to Graphic Novels. Graphic Novels have been a valuable tool to people with reading disabilities to achieve greater understanding of literature. This bill would eliminate access for these individuals. Examples of Graphic Novel literature which feature images described in the bill include: *The Holy Bible*, Shakespeare’s *Hamlet* and *Romeo and Juliet* and Homer’s *The Odyssey*.
4. The people who claim that the books are “sexually explicit” will also claim that they are obscene and pornographic. That is their opinion. These books do not fit the three rules of the Miller test. Most if not all these books are available at retail stores. The purpose of this bill would be to punish people whose tax dollars are used so they don’t have to purchase these materials from accessing information, and persecute the libraries and librarians who provide access to the information.

It is my understanding that this bill was introduced to response to a book that has been challenged both at Dickinson and Valley City Barnes County Public Library. The book *Let’s Talk About it: The Teen’s Guide to Sex, Relationships and Being Human* by Erika Moen and Matthew Nolan. The book in question is a Graphic Novel Sex Education Text. According to the verbiage of this bill it would not succeed in being removed. I would like to reiterate the library did nothing to sensationalize this book. It sat on the shelf at the Valley City Barnes County Public Library for almost a year and a half, with no checkouts. It wasn’t until the local paper published a piece painting the book as salacious, people began to cry foul. The article was full of misinformation and missed the overarching message of the book. The wording “taken as a whole” is incredibly important in terms of this book, because I have read this book, and the message of this book is “Communication”. To empower teens and young adults the importance of communication in relationships especially sexual ones. Now, I’m not an expert in pornography or obscene materials, but I challenge anyone to find legitimate pornography that’s message is the importance of communication in a sexual relationship. That information was not mentioned anywhere in the article. But the article or the writer aren’t the ones being persecuted, instead this bill is going after the librarians and the library.

In the course of this book challenge. The library and staff were painted as the bad guys, when all we did was make information available to those who choose to read it. I and other staff members have been threatened, bullied, and treated with contempt. I feared for the safety of

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my children, the staff, and myself. But we've also been supported. We received numerous letters of support not to remove the book, the patrons who use the library in our community understand the importance of access to information. The foundation of public libraries is still strong. The freedom to read and to provide access to that is the right of every citizen in every community.

A majority of these people opposed to the book don't have library cards and don't use the library. They want this book and other books like it banned. Whether you support the book or not, whether you agree with it or not. Libraries don't ban books, because people who do are never painted as heroes.

Thank you for the opportunity to share my story.

Sincerely,

Melissa Lloyd
Assistant Director
Valley City Barnes County Public Library
assistantdirector@vcbclibrary.org
410 Central AVE N
Valley City, ND 58072
vcbclibrary.org

January 16, 2023

To Members of the House Judiciary Committee:

As a North Dakotan, a library patron, a reader, a parent, and a taxpayer, I must add my voice in strong opposition to HB 1205 – a bill that is a prime example of a solution in search of a problem that does not exist.

HB 1205 may appear to be limited in scope but looks are very much deceiving. HB 1205 seeks to wage war on obscenity but, as the late Supreme Court Justice Potter Stewart noted, obscenity cannot be defined. Obscenity, like beauty, is very much in the eyes of the beholder.

As written, HB 1205 would have four immediate impacts on our state's public and school libraries.

First, HB 1205 fails to account for the research value of materials it seeks to ban. The overwhelming majority of materials subjected to banning under HB 1205 are reference in nature. These materials aim to provide essential information on human sexuality, psychology, and sociology. Most often, these materials are checked out by patrons conducting academic research or parents wanting information on issues pertaining to changes and challenges a child may be experiencing.

Second, HB 1205 is a gross overreach of state power. If enacted, it would take power away from local entities that oversee public and school libraries. HB 1205 imposes a one-size-fits-all approach on all libraries which is the very definition of government overreach and antithetical to the nature of true conservatism, which so many legislators purport to be dedicated to.

Third, HB 1205 would have a chilling effect on libraries. The proposed law would subject librarians to scrutiny and possible harassment by individuals in search of materials the individuals deem as obscene but that, in fact, serve a specific academic or reference purpose. Subsection 3 creates a "heckler's veto" for any patron, an outcome that courts have ruled as unconstitutional in many cases, most notably in *Sund v. City of Wichita Falls, Texas (2000)*.

This leads me to the final point: HB 1205 is blatantly unconstitutional. The sponsors' motivation for banning these materials are based on their own disapproval of the ideas contained in such materials. Several court rulings extending back to the 1940s find this to be censorship and a clear violation of the First Amendment. As such, if passed and signed into law, HB 1205 would subject the state to extensive litigation, which would cost North Dakota taxpayers hundreds of thousands of dollars in defense of a law that is by every reasonable and historical definition unconstitutional. In short, it's a waste of state government resources.

The legislature should leave this matter to where it belongs: With parents, local public and school libraries, and the professional librarians who are trained and dedicated to the impartial distribution of information as requested by patrons and the protection of intellectual freedom.

Sincerely,



Jason Matthews

3037 Ontario Lane
Bismarck, ND 58503

My name is Randi Monley, and I am the Children's Librarian at the Minot Public Library in Minot, North Dakota. I have worked in the Minot Public Library for 10 years with the past 7 years being devoted to children's services. I also hold a Bachelors of Arts degree in Literature, and I have my own children to raise. I strongly oppose HB 1205. HB 1205 is vast and vague.

Under 1-1, this would deplete the public library's collection for adults as "minors are or may be invited as part of the general public" into all areas of the public library.

Under Section 2-1A, what is "explicit sexual material"? Who defines this?

Under Section 2-1A, who will be in charge of denoting what is "serious artistic significance, or works of anthropological significance."

Under Section 2- 1A subsections, I question who will have the authority to define (2) deviant sexual intercourse (7) sexual preferences (8) sexual activity (9) sexual perversion (10) sex-based classifications (11) sexual identity and (12) gender identity. I argue that this verbiage means something different to all people. Therefore, having one body define these terms for all North Dakotans is beyond the scope of the government.

The government nor the library have been called to serve in loco parentis. The library maintains access for all patrons and families to make their own decisions on what is correct for their children. As a Children's Librarian, I feel it is the duty of the caregiver to be a part of their child's reading and viewing experience. As a parent, I am happy to have my children come to me with materials they want to check out, so that I can read, understand, question, and foster conversation with them. Therefore, I do agree that material should be accessible to all ages. It is my right as a parent to my children to have control over what they experience. It is not the right of North Dakota or any government to usurp my judgement regarding my children.

WRITTEN TESTIMONY IN OPPOSITION TO HB 1205

House Judiciary Committee on House Bill 1205

Date of Hearing: January 17, 2023 10:15 a.m.

Debra L. Hoffarth, 1320 11th Street SW, Minot, ND 58701

This written testimony is presented in opposition to HB 1205, which is an attempt to censor books and block North Dakota residents from participating in free speech.

My local library has a policy on “Collection Management” which considers the developmental and information needs of children and teens.¹ This policy includes a right of the public to object to materials and a process for resolving those objections. It also places the responsibility for determining if a book is appropriate on the parents of the child, where it should rightly land.

Libraries are one of the only places where anyone can freely find information. To allow any individual to demand the removal of a book and the library must do so, is allowing the power of one individual to censor the availability of information to society at large. This is a ridiculous concept. We need a diversity of books available to ensure that people can fully research topics and be informed. Libraries are a safe haven for people to learn and should not be a place where political rhetoric and ideals determine available information.

This proposed legislation also is an attempt to usurp the authority of the parents in determining what is appropriate for their children. Parents know best the values of their family and should be allowed to educate their children on those ideals.

The government should not be in the business in blocking access to information or censoring books.

Please oppose HB1205.

Debra L. Hoffarth
1320 11th Street SW
Minot, ND 58701

¹ Minot Public Library Collection Management Policy
(<https://drive.google.com/file/d/16AW7LK74PaGuWH3FAiw3MbGrGtgs6pcA/view>)

Good morning,

I am writing in opposition to HB 1205 as a ND citizen with concerns about how the Bill relates to First Amendment rights and censorship. The language of HB 1205 is, at times, vague. Based on some of the wording, the Bible may not be appropriate for placement in public libraries. North Dakota already has Century Code that relates to obscenity and I believe it is sufficient.

As a Trustee on our local library board, I'm concerned that HB 1205, again, is vague and doesn't even specify who is able to decide what works "have serious artistic significance, or anthropological significance." The Bill also states that if a complaint is made the work must be removed. As public libraries are a resource for everyone, it is not just or reasonable for one individual to be able to block other library users from accessing material.

In conclusion, I am opposed to HB 1205 and suggest it not be passed.

Respectfully,
Heather Szklarski
Grafton, ND

I am writing as a member of the Board of Trustees for Minot Public Library, a library volunteer as well as patron, and a mom. HB 1205 is blatant censorship that will negatively affect libraries across the state. It is not for the government to decide what is and is not appropriate to read. As a parent, it is my job to determine what my child reads.

Libraries are for everyone. They provide access to information, entertainment, and education. Denying any of those to constituents who may have a different opinion of what is "sexually explicit", is to create inequities. Sex is a natural, normal human experience and as such has been depicted in art and literature for thousands of years. It is not for elected officials to decide which of those depictions are accessible in a place that is meant to serve the entirety of the community.

There are already policies in place for any member of the public to challenge any materials in a public library, but the easiest option they maintain is to just not check out that material. While I understand that the intent is to protect minors, the fact is, the worst that will happen if a child comes across the type of book HB 1205 alludes to, is an uncomfortable conversation with their guardian. It does not negatively affect a minor's health and wellness.

Please do not criminalize librarians for their service.

To: Legislative Judiciary Committee Members -Rep. Lawrence Klemin, Rep. Karen Karls, Rep. Landon Bahl, Rep. Cole Christensen, Rep. Claire Cory, Rep. Donna Henderson, Rep. SuAnn Olson, Rep. Nico Rios, Rep. Shannon Roers Jones, Rep. Bernie Satrom, Rep. Mary Schneider, Rep. Lori VanWinkle, Rep, Steve Vetter

Re: HB 1205

Dear Committee Members.

I am writing to urge you to recommend a DO NOT PASS for this bill. This bill basically allows censorship, infringes on an individual's freedom to read, and criminalizes the work of library employees,

Everyone is ensured the freedom to read. The First Amendment of the US Constitution protects individuals from government attempts to suppress ideas and information. Americans should not have to sacrifice their heritage of a free press in order to be protected against what others think may be bad for them.

Public Libraries provide access to information for all citizens. The library ensures that everyone has the freedom to read what they want. The great thing about the public library is that if an individual does not agree with something, they have the right not to check it out. Furthermore, all material in the library have been reviewed by librarians so that only highly rated books reach the shelves of the library. Americans of all ages should make their own decisions about what they read. In the case of minors, parents should make those decisions.

In the words of Robert A. Heinlein, Science Fiction Author, "When any government or church for that matter, undertakes to say to its subjects, this you may not read; this you may not see; this you are forbidden to know, the end result is tyranny and oppression no matter how holy the motive."

Again, I urge a DO NOT PASS on this bill.

Sincerely,

Paulette Nelson

Traci Lund

Director, Divide County Public Library

Former President of NDLA

Opposition to HB 1205

I am writing in opposition to HB 1205. As a librarian, teacher, parent, and citizen of North Dakota, this bill does not stand for what we are as North Dakotans. This bill puts an end to the First Amendment in our State and is only the beginning to the demoralizing effects of our rights.

This bill also contains language that is broad and corrupt for libraries and library staff across our state. This bill contains misinformation about libraries and our collections. As librarians, we go to great lengths to provide inclusion for all our patrons. It is not our responsibility as librarians nor is it yours to censor materials to our citizens and take away their first amendment rights.

I urge you to take a close look at this bill and understand the ramifications it will cause not only to libraries but to the staff and the citizens of North Dakota and do everything in your power to oppose HB 1205.

Before the House Judiciary Committee
Hearing on ND HB 1205
January 17, 2023

Written Testimony in support of HB 1205
Thea Lee

Relating to prohibiting public libraries from maintaining sexually explicit books.

I am in support of HB 1205 but ask that **this bill be amended to include all tax funded education systems** in ND. All of our schools and libraries should be held to the same standards set by ND Century Code as the common citizens of ND. Our schools and libraries should continue to be safe places of learning for our children.

My name is Mike Fladeland. I'm a Bismarck resident and a member of the Board of Trustees of the Veterans Memorial Public Library (VMPL). I oppose HB 1205 for several reasons, including references to "maintaining or promoting certain books," pertaining to certain subjects listed under Section 2. However, my primary objection is to censorship of the collections of the state's public libraries.

The VMPL has a Collection Development Policy that includes sections addressing Principles of Selection and Reconsideration of Library Materials. As stated in our Principles, "The Library makes available, as the budget allows, a wide range of ideas and viewpoints in a variety of formats in support of an informed citizenry. It supports the individual choice and judgment of library users in seeking information and upholds the freedom of users to read, view, and listen, even though the content may be controversial, unorthodox, or unacceptable to others."

The Reconsideration section provides for "a process whereby opinions and/or complaints from Burleigh County citizens or individuals with current non-resident Library cards regarding materials selection can be voiced," and acted upon.

That's how the VMPL approaches censorship as well as, more specifically, "book banning." While that's "just us," on a broader level, the American Library Association affirms in the Library Bill of Rights, that "Libraries should challenge censorship in the fulfillment of their responsibility to provide information and enlightenment." Further, the Association, in a Freedom to Read Statement, states "**The freedom to read is essential to our democracy.**"

This bill represents an insidious and dangerous attempt to limit the people's freedom of choice.

I am imploring you to vote "do not pass" on HB1205.

As a library employee in a number of different libraries over the years, it is frightening to imagine this kind of censorship imposed on what is displayed on our shelves and contained in our collection. It may seem far-fetched to compare this kind of legislation with Nazi authoritarianism, but it is not. Nearly 25,000 books were burned under the Nazi regime in 1933 – and that initial book burning proved to be just the beginning of a massive undertaking to remove more and more rights from certain people in Germany.

I am especially saddened to see in the bill's definition of "explicit sexual material" the terms: "gender identity, sexual identity, [and] sexual preferences." The inclusion of these terms seems like a direct, unapologetic attack on our state's queer population. There are many books which describe people in relationships without ever mentioning the act of sexual relations. To assume that a book with a queer relationship in it is inherently sexually deviant in some way is a repugnant form of bigotry. In addition, the term "sexual preferences" would include heterosexual relationships...would we really be forced to remove all books that depicted *any* kind of relationship?

As a member of the board of Dakota Outright, I have seen firsthand the effects that anti-LGBTQ+ language and attitudes have had on North Dakotans who do not identify as cis-gender or straight. I know personally people who cannot be themselves in this state because they fear ridicule, anger, cruelty, and possible discrimination from their own government. The suicide rate is high among the LGBTQ+ community, and adding exacerbating factors like this bill, only adds to the problem.

Please vote "do not pass" on this bill.

Thank you.

Good Afternoon, Representatives Lefor and Steiner and members of the committee. My name is Dr. Liann Hanson and I am the Board President of the West Fargo Library. I have been a board member and board president since 2021. I have also taught for 5 years and have been a school administrator for 16 years. Most recently, I am a district administrator. I have been an educator in the states of Colorado, Minnesota, and North Dakota. I have seen a wide variety of library systems and the importance that libraries have on patrons and its community in different states and school districts. My submission here is to publicly oppose House Bill 1205.

House Bill 1205 promotes censorship. To exclude certain books, ideology, or people is a form of censorship. House Bill 1205 promotes and supports inequity by design. All patrons of libraries deserve inclusion, belonging, and dignity. For libraries to continue to be a place of inclusion and support, we must continue to create environments that foster a sense of belonging by honoring the dignity of each and every person. "Inclusion is not a strategy to help people fit into the systems and structures which exist in our societies; it is about transforming those systems and structures to make it better for everyone. Inclusion is about creating a better world for everyone," states Diane Richler in *Ruthless Equity* by Ken Williams. Libraries create structures to make better systems and support for all people.

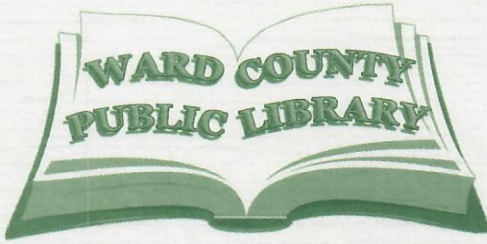
We need to support all kids, families, and communities. Providing a wide range of materials that meet the needs of the individual is the way to do that. Allowing parents to support their children and the books they check out is the way to do that. Allowing libraries to enforce their policies is the way to do that. Supporting libraries, its staff, and the library board to do their job is the way to do that.

The West Fargo Public Library and libraries across the state also have current policies in place in regards to purchasing and maintaining materials which meet the standards of their community. This bill could potentially override those standards and policies, which could lead to a more lax standard for the types of materials that are made available for the use of public library patrons. This bill is overly broad and does not have an adequate system of appeal or oversight in place. Overall, the proposed bill is highly controversial and will limit freedom of expression, override existing policies, and lead to a decline in the quality of library services available to the public.

It is important for the libraries in the state of North Dakota to continue to provide a welcoming, safe, and inclusionary environment for all patrons. One way we can do that is to oppose House Bill 1205 and to continue to support the systems and policies libraries already have in place.

House Bill 1205 doesn't do any of that. It promotes censorship, bigotry, and autocratic leadership. I oppose House Bill 1205 and I urge you to do the same.

I appreciate you taking the time to read my testimony. Thank you for serving library patrons and its community throughout the state of North Dakota in an equitable way by opposing House Bill 1205.



Phone 701-852-5388
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PO Box 5005
Minot, ND 58702
225 3rd St. SE
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January 16, 2023

Chairman Klemin
And the Members of the Judiciary Committee,

I am writing to voice my opposition to the proposed changes presented in HB 1205.

The American Library Association first adopted a Freedom to Read Statement in June of 1953.
This statement reads:

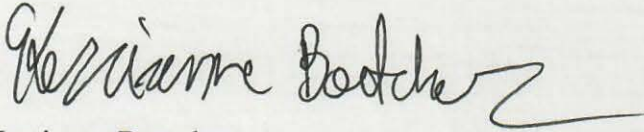
1. It is in the public interest for publishers and librarians to make available the widest diversity of views and expressions, including those that are unorthodox, unpopular, or considered dangerous by the majority.
2. Publishers, librarians, and booksellers do not need to endorse every idea or presentation they make available. It would conflict with the public interest for them to establish their own political, moral, or aesthetic views as a standard for determining what should be published or circulated.
3. It is contrary to the public interest for publishers or librarians to bar access to writing on the basis of the personal history or political affiliations of the author.
4. There is no place in our society for efforts to coerce the taste of others, to confine adults to the reading matter deemed suitable for adolescents, or to inhibit the efforts of writers to achieve artistic expression.
5. It is not in the public interest to force a reader to accept the prejudgment of a label characterizing any expression or its author as subversive or dangerous.
6. It is the responsibility of publishers and librarians as guardians of the people's freedom to read, to contest encroachments upon that freedom by individuals or groups seeking to impose their own standards or tastes upon the community at large; and by the government whenever it seeks to reduce or deny public access to public information.
7. It is the responsibility of publishers and librarians to give full meaning to the freedom to read by providing books that enrich the quality and diversity of thought and expression. By exercise of this affirmative responsibility, they can demonstrate that the answer to a "bad" book is a good one, the answer to a "bad" idea is a good one.

I firmly believe in this statement and that my beliefs and viewpoints should not dictate what another person may or may not want to read. The decision of whether or not a minor should have access to reading a particular subject is one that is best left up to their parents and/or guardians and is not one that should be left to an outside entity with no knowledge of the minor and their development.

The proposed changes are a violation of the rights of individuals to select for themselves what they would like to read whether that is in a public bookstore or a public library. I am gravely concerned with the legality of this bill and the level of control that it is taking away from the individual and their right to choose what they and their family read.

I urge you to consider voting against the proposed changes and I thank you for your time and consideration.

Respectfully,

A handwritten signature in black ink that reads "Kerrianne Boetcher". The signature is written in a cursive style with a long, sweeping underline.

Kerrianne Boetcher
Library Director
Ward County Public Library
kerrianne.boetcher@co.ward.nd.us
701-857-6471



January 16, 2023

Chairman Klemin and the Members of the Judiciary Committee,

My name is Kerriane Boetcher and I am writing as the President of the North Dakota Library Association (NDLA) to voice my opposition to the proposed changes presented in HB 1205.

There are several areas of concern that NDLA has with these changes. Section One leaves public servants open to criminal prosecution for the selection of reading materials that they as a professional deem appropriate for a library collection, pursuant to board policies and in compliance with state and federal laws. There is also the risk of exposure to potential lawsuits on the censoring of Constitutionally-protected materials.

Section Two will prohibit librarians from fulfilling their mission to serve information needs of their local communities. It violates the rights of readers to access constitutionally protected materials at their public libraries. There is a contradiction in the changes where a single request requires the removal of books, but libraries must also develop reconsideration policies.

Additionally, the idea that the presence of any content relating to sex, sexuality, sexual orientation, or gender identity with a work being sexually explicit overall is one that we reject.

Many of our public and school libraries have a collection development or collection management policy as approved by their Library Board of Trustees or School Board. These policies lay out the procedures that a library follows when evaluating materials for their collection. These policies include examining reviews from multiple peer journals, the analysis of the current collection, and a work as a whole. Many of them also include a process for the reconsideration of materials should a patron have concerns over a particular material while still remembering that a work must be evaluated as a whole and not a single scene or comic panel.

Libraries have a responsibility to allow patrons to access information on whole variety of topics including race/ethnicity, gender/sexuality, ability/disability, religion, socioeconomic status, and family situation. Libraries exist to level the playing field and provide equitable and authentic access for everyone. We provide no cost access to technology and more to help alleviate information poverty.

At our most recent annual conference, the North Dakota Library Association passed a resolution to release a statement against book challenges. I have attached the statement to my testimony.

The North Dakota Library Association is asking the committee for a do not pass recommendation on this bill.

Sincerely,

A handwritten signature in black ink that reads "Kerriane Boetcher".

Kerriane Boetcher
President of the North Dakota Library Association
president@ndla.info

FOR IMMEDIATE RELEASE:

Contact: Kerrienne Boetcher, President

Organization Name: North Dakota Library Association

Telephone Number: 701-857-6471

Email Address: president@ndla.info

Website address: <https://ndla.info/>

Libraries Have A Place For Everyone

By The North Dakota Library Association Executive Board

Across the state of North Dakota, a few organizations are attempting to advance the idea that the voices of the marginalized have no place of library shelves. They have brought forth calls for the censorship of books and other resources that relate to the lives of those who are gay, queer, or transgender or that tell the stories of persons of color. By claiming that these works are immoral and subversive; they attempt to sway elected and non-elected officials to abandon constitutional principles and individual rights. They are resorting to intimidation and threats while targeting the safety and livelihoods of library workers, educators, and board members who are dedicated to the public service and our communities.

NDLA strongly condemns these acts of censorship and intimidation.

We are committed to defending the constitutional rights of all individuals, of all ages, to use the resources and services of libraries. We champion and defend the freedom to speak, the freedom to publish, and the freedom to read, as promised by the First Amendment of the Constitution of the United States.

We stand opposed to censorship and any effort to coerce belief, suppress opinion, or punish those whose expression does not conform to what is deemed to be orthodox in history, politics, or belief. The unfettered exchange of ideas is essential to the preservation of a free and democratic society.

With the freedom to read under threat, the NDLA, including its Executive Board, Sections, and other units stand firmly with our members, the entire library community, allied organizations, and all those across this country who choose to exercise their own right to read and access information freely, and we call on others to do the same.

Dear Representatives,

Please Oppose the following two bills:

SB 2123: This bill relates to “displaying objectionable materials” and endorses censorship and government overreach. If any organization willfully displays “objectionable materials,” whether image or written format, and someone challenges said material in court, the library and/or library director may be charged with a class B misdemeanor, fines, or both. From the public library perspective, this would be a logistical nightmare. Librarians would have to monitor the contents of every title in the collection and the age of who is looking at them or face the penalty of a class B misdemeanor, fines, or both if they don’t remove material based on someone’s nebulous and subjective definition of “objectionable” content.

HB 1205: This bill relates to “prohibiting public libraries from maintaining sexually explicit books.” HB 1205 endorses censorship, government overreach, and anti LGBTQ sentiments. If a public library has in its collection any material with visual depictions of “explicit sexual material” and someone challenges this in court, the library and/or library director may be charged with a class B misdemeanor, fines, or both. This could include romance novels, unless the covers are removed; movies with sex scenes; any books with images on the covers or inside books relating to sexual identity and gender identity. What it comes down to is that parents should choose what their kids are reading, not the government.

The bylaws of the library state that the library is to remain uncensored and provide material to the community that all citizens can check out. These bills are an overstep of government power to censor what the libraries can offer to the public.

The library does have a procedure in place if someone does have a complaint about a specific book that is on our shelf. This procedure needs to be followed so that it is documented and other colleagues are aware of the complaints and possible bans.

Please vote NO on both of these bills.

Respectively submitted,

Cindy Aaser

Director Hazen Public Library

Chairman Lawrence Klemin
House Judiciary Committee
Regarding HB 1205
January 17, 2023

Dear Chairman and Members of the Committee,

My name is Corinne Edgerton and I am a library technician and concerned North Dakota library patron. I am testifying today against the proposed bill relating to prohibiting public libraries from maintaining sexually explicit books.

Public libraries are charged with the mission of providing services and resources to meet the diverse interests and informational needs of the communities they serve. They have written policy that guides the selection, deselection, and reconsideration of library resources. Developing a collection is a process that is worked on every day by the collection librarian. They evaluate a plethora of titles looking to ensure their accuracy, timeliness, and value. This also establishes a process by which individuals can share their concerns about library resources in a discussion with a librarian or, if their concerns are unresolved, invoke a formal reconsideration process. Thus, libraries should not limit the selection and development of library resources simply because minors will have access to them.

Although this bill is motivated by a desire to protect children from “sexual explicit” content, Access to Library Resources and Services for Minors, an interpretation of the Library Bill of Rights (American Library Association’s basic policy concerning access to information) states that, “Librarians and governing bodies should maintain that parents—and only parents—have the right and the responsibility to restrict the access of their children—**and only their children**—to library resources.” Censorship by librarians of constitutionally protected speech, whether for protection or for any other reason, violates the First Amendment.

On a more personal note, as someone on the asexual and aromantic spectrums, there were not many stories for me to understand myself growing up. But today, diverse books create a better lens through which all children and teens can see themselves in library collections. However, this bill targets LGBTQ+ youth and I do not want them to feel like they are less than.

In conclusion, books are powerful. Books can save lives. Books teach empathy. Sharing stories important to us means sharing a part of ourselves. Books reach across boundaries and build connections between readers. Censorship, on the other hand, creates barriers. As Supreme Court Justice William J. Brennan, Jr. said in *Texas v. Johnson*, “If there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable.” Therefore, I urge you

to give a “do not pass” recommendation for this bill. I thank you for your time and your consideration.

Sincerely,

Corinne Edgerton

Corinne Edgerton (she, her)

I am writing as a concerned citizen opposing HB 1205. This bill would create heavy censorship of libraries' duty to supply free reading material to all. If the intent of the bill is to protect children, it is not the government's right nor duty to protect children from reading material but rather it is parental right and duty. Actually this bill brings to mind the shameful book burnings and other censorship activities practiced by non-democratic societies.

Sincerely,

Gail K Reiten

Dear Judiciary committee:

Lawrence R. Klemin - Chairman Mary Schneider, Karen Karls - Vice Chairman

Landon Bahl, Cole Christensen, Claire Cory, Donna Henderson, SuAnn Olson, Nico Rios

Shannon Roers Jones, Bernie Satrom, Lori VanWinkle and Steve Vetter

North Dakota is a free-thinking state with our roots as varied followers of many faiths, attitudes, standards and values. I strongly oppose bills HB 1205 and SB 2123 as a librarian for teens. Teens are trying to make sense of the world around them, themselves, their feelings and other people they come into contact with, but also those they may never meet in real life. They have the right to read, and decide for themselves what to think.

Books and other materials offer a mirror, a window, a door to new ideas, thoughts and feelings they may agree with, ardently disagree with, try on for size or dispense with entirely. The choice is up to the reader. It is however, their choice. In the case of both of these bills, the teens may be looking for answers to feelings, researching a syndrome or word they came across, or wanting to know more about the human condition. Curiosity is not a sin. To appreciate another's ideas is not to agree.

Parents need to parent and if they object to materials their children are accessing, they need to object to THEIR children's access not other peoples' children. Parents should step up and read the books with their children they are unsure about and dialogue openly, not shut down communication. Many of the materials objected to, are objected to not because they are giving incorrect information, but because they are giving information at all. Is this really what we stand for as North Dakotans?

Censorship is mistaken. Have we become a Communist state like China where we cannot express a thought, publish it or think for ourselves? I may greatly despise what you have to say but I will defend your right to say it. Restricting what can be read, discussed, commented upon or otherwise deliberated only makes what you have to say that much more interesting. Teens only go read the "banned" books or other materials in secret. Preventing the library from keeping a copy of a work only makes banned books more desirable and creates shame, guilt and embarrassment from reading. Isn't being a teenager hard enough? Bring North Dakota back to our free-thinking roots. Vote NO!

Sincerely,

Pam Carswell (She/Her)

Teen Librarian

Minot Public Library

516 2nd Ave SW

Minot ND 58701

I am writing to oppose HB 1205. While I am a librarian with a Masters Degree in Library and Information Science, I work in a federal library that does not receive any state funding, so I am writing as a concerned citizen and library user rather than as a librarian, but I am still using my library education and experience to offer insights. I would like to offer some clarification on how public libraries operate, explore the rights of parents and how they fit into this issue, and point out that the bill violates constitutional rights.

The bill seems to assume that the existence of materials pertaining to sex endanger children when in public libraries. Children are not permitted unsupervised access to public libraries. If a child has wandered into a teen or adult area, it is because their parent or guardian has allowed them to do so. If the parent did not want the child to be in that section, then the child's wandering was clearly due to a lack of parental supervision that is in violation of library policy. Children are also not permitted to hold library cards unless their parents have signed a form to allow it. Children cannot access any library materials that their parents disprove of unless that parent has been negligent in supervising their child's library use which is a deliberate choice made by the parent. Library staff are not responsible for anything a child does or looks at in a library. The parents are the only ones who can take that kind of responsibility.

A library serves all members of its community. Our communities have LGBTQIA+ families, parents who support their LGBTQIA+ children, parents who want to raise their children to be tolerant of LGBTQIA+ people regardless of their own orientations, and parents who don't consider the sex education provided by schools to be sufficient. All of these have a right to find materials that support them at their public library.

Public libraries are not only for those who want to raise their children in a particular way. Parents who do not want their children to encounter materials pertaining to LGBTQIA+ people, sex education, or adult materials need only expend the effort to communicate with their children and to supervise their access to media including inside public libraries. There are actually parents who do just that. Librarians encounter both parents who ask for help finding LGBTQIA+ materials and parents who ask for help to find materials that don't contain content that they disapprove of, and librarians help both groups of parents find what they need.

Libraries can't support a diverse population by removing materials, including those to which someone might object. To take the children's picture books as an example, some people object to picture books that contain LGBTQIA+ people or people of color. Others object to materials that contain only white, straight, cis-gendered people, so in order to satisfy both groups by removing materials, the library would have to get rid of all picture books containing humans. (Actually, by the letter of this law, libraries would have to remove all books portraying humans because straight and cis-gendered are sexual and gender identities.) That leaves us with the plant, animal, and inanimate object books. Most of those have animals, plants or inanimate objects that are anthropomorphized (have human characteristics like the bears in Goldilocks), and some people object to that as inconsistent with reality, so if we remove all of those, we're left with a tiny number of naturalistic animals books that mostly aren't very interesting, and there are so few that you might as well not have a library. Removing all potentially objectionable books is neither possible nor desirable. Instead, libraries support a diverse population by trying to ensure that there is something for everyone.

There are some that have the strange idea that libraries only have material for liberal families. In actuality, libraries also deliberately purchase material to support all kind of families, including conservatives. Materials by and about LGBTQIA+ people and people of color are a tiny minority

percentage in our library's collections. Logically, if the library's community is, for example, 20% LGBTQIA+, the library perhaps should contain 20% LGBTQIA+ materials. In actuality, most libraries have around 0-5% LGBTQIA+ materials. These materials are comparable to the non-LGBTQIA+ in terms of age appropriateness. A children's picture book featuring, for example, two fathers and their daughter contains no more implied sexual content than a children's book featuring a male father, a female mother, and their daughter. A parent can easily identify the difference by looking at the description either on the flap of the book or in the library catalog or just by paging through it.

When a Library purchases materials, librarians use professional reviews and various other sources to select materials aimed to both represent and appeal to the library's members. Librarians adhere to a code of ethics that requires them to do their best to put aside their personal beliefs and instead consider the needs of all sectors of their community. If a librarian purchases materials that are not wanted by the community, as shown by a lack of individuals borrowing that material over a particular span of time (how long varies depending on the library and the type of material), then the materials are removed. If there were truly no need or demand for LGBTQIA+ and sex education materials in our libraries, they would be removed due to lack of check-outs.

Parents who want their children to have access to LGBTQIA+ materials do so because they want their children to grow up happy and healthy. Numerous studies have shown that LGBTQIA+ teens, in particular, are much more likely to attempt or commit suicide than their peers. The feeling that there is something wrong with them is often a major factor in their unhappiness. Not having materials for them in libraries and bookstores sends them the signal that no one cares about them. That the way they were born was wrong or unacceptable. (There is no scientific basis for the common idea that exposure to LGBTQIA+ materials makes anyone LGBTQIA+. There is a lot of historical evidence that LGBTQIA+ people have always existed even though books about them have been few and difficult to access until relatively recently. While determining the cause of sexual and gender identity is still very much a work in progress, there is evidence that it might have to do with changes that occur prenatally.) Before the late 20th Century, most of the very few books about LGBTQIA+ people had pervasively negative messages and implied or stated that LGBTQIA+ people had no hope of happiness. Many older LGBTQIA+ people have reported that this lack of positive messages caused them to contemplate or attempt suicide in their youths.

Parents who want their teenagers to have access to sex education materials at their public library do so because books can provide more accurate and reliable information than online sources, and there have been studies that show that teens who are given factual and comprehensive sex education actually start having sex later than their abstinence-only peers. They also are less likely to contract a sexually transmitted disease, experience or cause teen pregnancy, or be involved in sexual or relationship violence. These parents feel that it is impossible to protect their children from the world but that it is possible to arm them against some of the troubles they may encounter. This attitude has always been around, but it has become increasingly common. The opposite approach has, after all, not had a very good success rate over the last few thousand years. Realistically, a teen who is curious about sex will find a way to find out about it. If they aren't permitted access to accurate, reliable, materials, they will turn to their peers (including by experimenting the old fashioned way), the internet (where teens (and adults) often struggle to identify the difference between reliable and unreliable sources), and pornography. Neither locker room talk nor pornography tend to emphasize the importance of consent or safe-sex (hence the higher statistics of STDs, pregnancy, and violence among abstinence-only teens). Unless things have changed considerably since I was in school, sex education offered by schools is neither comprehensive nor necessarily accurate (I hope it's more accurate nowadays. My teacher said

that condoms didn't protect against STDs which, in retrospect, makes me wonder if some of my classmates decided their wasn't a reason to use them and so did contract STDs).

In addition to looking for material that provides a more comprehensive and accurate sex education than their child is likely to get in school, parents often turn to libraries for sex education materials when their child is not developing according to the school schedule or because the parent is choosing to home school their child. Public schools usually teach about puberty, and particularly, periods, when kids are in the 5th grade. Some girls get their periods as early as 8, and it isn't uncommon for them to get their period before the 5th grade. Some parents want their children educated about puberty and periods before 5th grade and others are trying to perform catch-up after their daughter freaked out and thought she was dying due starting her periods earlier than her parents had expected. I remember helping a panicked single father in this situation a few years ago. He didn't feel either comfortable or qualified to help his child, so he turned to the library.

Sex education materials found in libraries are not textbooks per se, but they're usually categorized similarly by age appropriateness from the "mommy and daddy have a special cuddle and then a baby grows in mommy's stomach" and "tell an adult you trust if another adult touches you anywhere from your shoulders to knees" type for young children through the "what's happening to my body" puberty books through to more detailed information for older teens and even more detailed information and advice for adults. Please note that "older teens" includes individuals aged 18-19 who, by law, are old enough to consent to sex and even get married and have children. Opponents of sex education tend to assume that books for much older audiences are being accessed by much younger children. Again, if a child has wandered into an adult and teen section, it's because their parent has violated the library rules by failing to supervise their child.

In addition to impinging on the rights of parents, the proposed law also impinges on the rights of adults reading for themselves. Freedom of speech may be a little controversial when applied to children, but it is enshrined in the constitution and case law for adults. Do I need to discuss in detail why an adult might want to learn about LGBTQIA+, enjoy a romance book, look up the symptoms of something going wrong (or right) with their reproductive system, or learn a new way to please their spouse?

I also have a few questions for consideration:

If this law were passed, who would be considered responsible when someone finds a lewd picture left on a table or in a book? Usually, it's immature teen boys who draw these images, but how do you ascertain which one did it?

One of the most banned books in America at present is "Gender Queer" an autobiographical graphic novel for adults by Maia Kobabe about their journey in realizing that they are non-binary and asexual. Does non-binary count as a gender identity considering it is a rejection of gender identity? Although I haven't read it myself, it's my understanding it has maybe two graphic images in a lengthy book, and the book is well regarded for it's artistic merit, so would it be censored if this law were passed?

If we consider been non-binary to be a gender identity, then doesn't this bill ban all pictures of angels? According to old testament scholars, angels don't have a gender.

Again, straight is a sexual identity, and cis-gendered is gender identity, so this law bans all materials depicting humans (with the possible exception of non-binary ones). That would include the picture of the author on the flap of your favorite book series. Is that really what anyone wants?

I am writing in opposition to the spirit and language of House Bill 1205 because it is an example of censorship and government overreach. The bill further infringes on local control of North Dakota librarians who have professional expertise to make decisions about the materials in their libraries. North Dakota prides itself on a state of personal freedom and individual liberty, and the efforts of the ND legislature to limit citizens' ability to access a wide range of materials is essential to maintaining that proud tradition of the state. It is surprising to me that legislators who regularly embrace that world view would introduce a bill with this kind of overreach.

Likewise, the language of the bill is ambiguous and often subjective, particularly Section 2, parts 1.a.1-12. The language in 1.a suggests that "explicit sexual material" is being banned, but many of the subsidiary descriptors do not fall under that category. The blending of items like "sodomasochistic abuse" (which seems more clearly part of the 'explicit sexual material' category with "gender identity" which is simply defined as the gender that a person identifies with makes little sense. Likewise, "human masturbation" is, I suppose, an explicit sexual activity (but seems strangely specific—is 'animal masturbation' allowed, then?). Surely "deviant sexual intercourse" is a highly subjective description that is rooted in a wide range of cultural and personal understandings of what is or isn't normal. Is this something we really want to try to codify in a bill?

Other items in this list seem nearly impossibly to find agreement on. What exactly constitutes a shared agreement of "sexual perversion" – is a book that is intended to be instructional for readers about puberty and sexual ethics/health going to be acceptable to one library and not to another? To one patron and not another? Items 1.10, 1.11, and 1.12 are too broad and inclusive to be useful. Sex-based classifications, sexual identity and gender identity are just descriptions of how people look in pictures of people. Literally any book in the library with a picture of a person will fall under that category.

Given the free availability of inaccurate information that young people have access to through the internet—images and information that have little context. The language in the bill may limit the ability of librarians to acquire materials that will provide high quality and well-written texts that will actually place sexual content in a context that will promote kids' ability to think through their values and ethics. Wouldn't we rather our kids have access to quality and curated material that will support their human development than have access to only the worst kinds of content that is freely available online?

In other words, this bill is wrong-headed. As a parent and ND resident, I trust the judgment of our library professionals to make decisions about collection development, and I trust parents to make choices that are appropriate for *their* children within that context. I urge the ND legislature to vote down this bill.

5 **Public libraries prohibited from maintaining or promoting certain books.**

6 1. As used in this section:

7 a. "Explicit sexual material" does not include works of art that, when taken as a
8 whole, have serious artistic significance, or works of anthropological significance,
9 or materials used in science courses, including materials used in biology,
0 anatomy, physiology, or sexual education classes. The term means any pictorial,
1 three-dimensional, or visual depiction, including any photography, picture, or
2 computer-generated image, showing:

- 3 (1) Human masturbation;
- 4 (2) Deviant sexual intercourse;
- 5 (3) Sexual intercourse;
- 6 (4) Direct physical stimulation of genitals;
- 7 (5) Sadomasochistic abuse;
- 8 (6) Postpubertal human genitals;
- 9 (7) Sexual preferences;
- 0 (8) Sexual activity;
- 1 (9) Sexual perversion;
- 2 (10) Sex-based classifications;
- 3 (11) Sexual identity; or
- 4 (12) Gender identity.

5 b. "Public library" means a library containing collections of books or periodicals for
6 the general population to read, borrow, or refer to which is supported with funds
7 derived from taxation.

8 2. A public library may not maintain in its inventory or promote books that make as their
9 primary subject the study of explicit sexual material.

DIRECTIONS: Please enter your registrant information and select agenda items on which you wish to provide testimony. Please indicate whether your testimony is in support of, in opposition to, or neutral. Please indicate if your testimony is written only or is written and oral on this measure. Oral testimony may be provided online via a Microsoft Teams virtual meeting or in-person in the committee room. Click Browse Files... to browse your file system to upload your testimony document. Your testimony document must be either a PDF or a text file. You may upload up to 5 testimony documents per bill.

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Testimony to the 68th Legislative Assembly (2023-25)

HB1205

January 17, 2023

Hello Fellow North Dakotans! I've been a North Dakotan almost my entire life. Born in Washington since my parents briefly lived there, but they moved back to ND when I was 2. I LOVE North Dakota. There's no better place to raise your kids than in North Dakota. People around America say we're "North Dakota Nice", and I would agree. But sometimes, that's to our detriment as we find ourselves presently failing at protecting the innocence of the children of North Dakota.

Historically, those that moved West to settle this great nation protected children. Think about it. When the wagon trains made their way here to North Dakota, if they came up against a threat, what did they do? They 'circled the wagons'. Why? Why would they circle the wagons? It was for protection. And who was placed in the middle of that circle? Women and children. The men sacrificed themselves and all they owned in this world that was packed in that wagon, to protect the women and children. Why? I believe it was because they placed greater value on them than they did on themselves. If they didn't, they wouldn't have chosen to sacrifice themselves for their safety. Because even if they perished, their children would live on. That was of greater value to them than their own lives or possessions. What happened?

As I have looked around America over the last 3 years, I've said so many times, "I'm so glad I live in North Dakota." I believed we were insulated from a lot of the harm that was being done to children, as I saw in other states. So much sexualization happening that I feared for my grandkids and what kind of society they were going to be growing up in. And then in October 2022, my eyes were opened and my heart was broken. "This doesn't happen in North Dakota", I thought. I was almost in a sense of denial when I began to hear and read about the pornography and obscenity that was in my public library in my little town. This is the library my children were raised in, the kind of library I was raised in. I thought the people that were calling it pornography were just exaggerating about the contents of the books there. "They were probably religious pearl clutchers", I thought in my mind. "Or SUPER REPUBLICANS", you know the kind! And I certainly wasn't either! I brushed it all off until I finally decided to go look for myself at a meeting being held at the library. I arrived early so I could go look in the stacks. I can tell you I stood stunned. Just shocked and silent. I met more people that were there for the meeting and one was a librarian for a school in a surrounding area. She began pulling book after book after book off the shelf of the young adult section. She was familiar with these books and she began to show me the content. I can tell you that saying the word horrified isn't being over dramatic. My mind could hardly conceive of what I was seeing. The book that had been in question wasn't available on the shelf at that time, but someone there had the

book and allowed me to borrow it and thumb through before the meeting. It WAS pornography! I couldn't believe it!! It's almost like it wasn't real?! Surreal. This can't be happening. This can't be out for kids to see?! When it finally sunk in, I was angry and wanted to ask questions at the public meeting so I went downstairs and was seated, waiting patiently for the meeting to start and my opportunity to speak.

The Library President stood and read a prepared policy that more or less told all of the tax-payers there that they have no right to speak so kick rocks. I couldn't believe what I was witnessing. How? How can a LIBRARY, a PUBLICALLY FUNDED ENTITY, withdraw the ability to speak from the same people who fund it? And do so with a POLICY? When did we get to a place in our country where policies usurp statutes, amendments, and ordinances? These are the only 3 "forms of law" in America. I left that meeting determined to find the answers to the hundreds of questions that were now in my head. That's when I learned about this exemption from prosecution that we had here in ND. So, I ordered the book in question that was titled, "Let's Talk About It" The Teens Guide to Sex, Relationships, and Being Human, and began researching EVERYTHING. I needed understanding. How did this happen? How did we get HERE? I TRUSTED my library. I TRUSTED this would never happen in my library, in my city, in my state. This was North Dakota! We don't allow this stuff! But I was wrong. We do. Because it's happening right now, all over the state and the good people of North Dakota are doing all they can to try to make it stop. But we need help. We need this exemption to be repealed.

I learned about OES's. Because of a statute called an OES or Obscenity Exemption Statute, from the 1960s that ND passed to protect sex ed in schools and books in libraries and art in museums and galleries that showed stuff like Renaissance nudes, we now have pornography and obscenity being distributed to minors in our state. So how did THAT happen? Where did that leap happen, from books with Renaissance nudes in them to books that have lifelike sketched images of things like for example, a naked man, laying on his back on the floor, and another naked man laying on top of him, with his penis in the other man's mouth! How is THAT given to any 14 year old child and ANY ADULT thinks that's OK?? We have obscenity to minors statues on our books. So how crazy is this? If I took that book out of the library, walked across the street, and gave it to a 14 year old girl and said, "Hey, lots of great info in here about being human, you should read it!" Do you realize I'd be arrested and charged with a Class C Felony?!! And rightfully so! But a librarian can hand it over to a kid in the library and that's called "intellectual freedom"? How messed up is that? And please let me be clear. This isn't just A BOOK that people are making some big fuss about, this is an agenda to sexualize children across America. Why do I say that? Because I've done the research; but that's another discussion for a different day. I never make a statement I can't back up with facts. Not feelings. Not assumptions. Not a statement made from some religious or political stance. Just facts. Let me give you a few examples so you understand.

This book is defined in ND Century Code as “**obscene material**” but it’s also **very harmful to minors** as proven by FBI, Sex Crime Investigators, and treatment and recovery centers just to name a few. Hard core porn is defined in law as: ***porn featuring sexual penetration and other sexually explicit acts.*** On pages 91,117, and 165 penetration is shown by a penis, a finger, and a mouth! **Porn is NOT protected under the First Amendment so let’s stop calling this “censorship”!** The book is “harmful to minors” because a sex crime investigator and child sex abuse and trafficking expert has explained that **graphic scenes in children’s books make minors more vulnerable to sex crimes. When children are exposed to sexual activity, it piques their curiosity, reduces their inhibitions and makes them more vulnerable to be exploited. Early exposure to sexual images and literature normalizes sex acts, which makes it less alarming to children when predators groom them.**

FBI warns of an explosion in sextortion cases targeting teens ages 14 to 17 online. Just in case you haven’t heard about this rapidly exploding crime in America, it’s as follows: A predator poses as a teen your age. He coaxes you into sending a naughty picture because you believe it’s someone that likes you. You send the picture or pictures and they have you right where they want you. They begin to terrorize you. Unless you send the money through the cash app they tell you, they threaten to expose you to your school, your community, your family, everyone who you would never want to see those pictures. So, kids do whatever they need to in order to get that money. Until they can’t anymore. They try to reason with the predator but of course we know how that goes. So the child ends up killing themselves. With **12 deaths from suicide and over 7000 cases reported just last year.** It’s a growing crisis and completely devastates children and families. But in December, BBC America reported on December 20th that the game just got more cruel. How? How does it get more cruel than kids getting dead from thinking the internet is safe and being told to explore their kinks and fantasies online? So they do. And they die? How does it get worse? Well, now these sextortionists are extorting parents! They tell the parents if they don’t want the pictures of their dead kids to be posted everywhere, they need to pay up! There’s a 2022 movie called Sextortion. I’d encourage all of you to watch it. I did. And it made me even more determined to do whatever it takes to protect the kids of North Dakota from predators. These poor kids that killed themselves, the last thing they felt in this world was—SHAME. Not LOVE. But SHAME. Doesn’t that make your stomach sick? Because it makes mine sick.

On page 152 of this library book on sexting—“***Before you start sending your naughty masterpieces around the world, take some time to get friendly with photo-editing software or apps.***” Page 164, “***A great place to research fantasies and kinks safely is on the internet. There are TONS of people and communities out there who share your interests and have all kinds of advice. The online world is also chockablock FULL of PORNOGRAPHY, professionals and amateurs alike sharing their sexy adventures.***” Next to the oral sex porn on page 165...it tells children, “***But there’s nothing wrong with enjoying some porn; it’s a fun sugary treat!***” But is it? The

answer to that is NO. That's a lie and it's harming children across America. And yes, we would be fools if we didn't believe it was also harming children right here in North Dakota.

A content analysis of 4009 heterosexual scenes from Pornhub and XVideos reported that 45% of Pornhub scenes and 35% of XVideos scenes included at least one act of physical aggression. Women were the target of physical aggression in 97% of scenes, and they responded with pleasure or neutrality in at least 93% of these scenes.

This shows how porn is normalizing objectification of and physical aggression against women teach teens and preteens that we as women, should enjoy and welcome aggression from male suitors and feel like that is a good thing and that there's nothing wrong with that; opening up women to domestic violence situations and relationships, since that's what's portrayed in the majority of porn that these books are recommending and directing them toward. The objectification of women in porn also leads to low self esteem teaching that women are nothing more than an object that men can use for sex and that if they don't allow men to use them for sex then they have no value and will never have a relationship; which is the one thing most teen girls desire. Someone to love them. To call them their own. To want them and want to be with them. And on the flipside from the male perspective it's teaching teen and preteen boys who are already pumped full of new testosterone, that aggression is okay; that women desire that and enjoy that, and that's how they should show that they are interested in a girl. This combination can lead to a variety of issues, the most common being domestic violence and abuse.

There is no disagreement that the prefrontal cortex, the part of the human brain that is able to conceptualize and assess long-term consequences, the part that is responsible for impulse control, and the part where judgment and reason are exercised, remains under development until around age twenty-five. Because of this, adolescents at age 13 don't have the physical brain to be able to consent to sexual activity in the same way that they can at age 18, and the eighteen year-old's consent is similarly less informed and less meaningful than the consent of that same person at around age twenty-five.

Sources cited: ***A Descriptive Analysis of the Types, Targets, and Relative Frequency of Aggression in Mainstream Pornography***, Archives of Sexual Behavior 49, (2020) and Jochen Peter & Patti M. Valkenburg (2016) ***Adolescents and Pornography: A Review of 20 Years of Research***, The Journal of Sex Research, 53:4-5, 509-531, DOI: 10.1080/00224499.2016.1143441

So, now I ask you, "Is porn a fun sugary treat for a 14 year old? A 16 year old? Should we have books in the library endorsing and promoting pornography? Encouraging kids on page 164, '***When consumed right, porn can help you discover new aspects of your sexuality and help you safely explore kinks and fantasies...Look up interviews with your fave porn performers, go to the sites they recommend, and pay for your porn.***' Should kids have "fave porn performers"? How is THIS BOOK and all of the rest like it, STILL ALLOWED to be in the hands of kids? Dickinson did an independent audit

of their library and so far, have listed 107 books that should never be in the hands of children. This isn't just a ONE OFF thing. The good people of Gillette, Wyoming fought to protect their kids from the harmful obscenity and pornography in their library for over a year and was finally successful October 2022 in taking it back, with a new library director and board, cut ties from the American Library Association because they know that's where the poison is coming from, and they have a library that is now meeting their community standard of promoting healthy families and children. And THAT'S just one story. ***Parents and Grandparents from July 2021 to June 2022, have been fighting obscenity and pornography in books in 5,049 Public Schools, 138 School Districts, in 32 states.*** And that DOESN'T include North Dakota because we didn't officially enter this battle until after June 2022. Does THIS reveal an agenda to sexualize kids? If those numbers don't shock you, you're either sleeping or dead! So again, how did it happen? How does the library consistently defend it's peddling of porn? The answer is again, the American Library Association. They have Award Winning Books. They have THEIR OWN RATING SYSTEM. They make their recommendations sound so solid, so unquestionable, so credible—that the average person says, "OH, WELL IT WON THE **2016 ALA Stonewall Book Award, Honor Book**, So it MUST be good, right?" That's the Sex is a Funny Word book in the library. Since I've researched for hundreds of hours to try to figure this whole thing out, I want to thank you all for the opportunity to share all that I discovered while I sought my own understanding. Rating Systems. There are other book rating systems out there. The BookLook rating system was inspired by the widely accepted MPA rating system. *It's a rating system based on objectionable content whose definitions were derived from legal statutes and widely-accepted community standards. A base rating of 0 to 5, is determined via the type and severity of the objectionable content found in the rating system. The final rating is based on the work as a whole, therefore, on occasion, there may be a rating lower than expected as mitigating factors may be present, negating the higher rating.* So what did the LIBRARY say about this book? What did BookLook say about this book? The library rates it for ages 8 to 10 in their description. However in it's tags [which is how the book is generated when random searches are made in their system] the book will be generated as a suitable suggestion if one searches: ***non fiction books for kids age 5-8, or children's books by age 5-8, or kids books ages 6-8, books for 7 year old girls, nonfiction books for kids 6-8, books for 8 year old boys, sex, dating.*** So lets stop there! Just THINK about that list I just gave you. That's only 8 of the tags the library gave to this book. The whole list totals 25 tags and also lets you know that it's Kindle compatible. Any critical thinker will ask themselves questions after reading a list. My question is? How do you tag a book for 5-8 year olds AND tag it for SEX AND DATING? Do 5 year olds need to know about SEX AND DATING? All questions nobody asks the American Library Association and our local libraries have fully insulated themselves with the "policies" handed down from the top, to stifle questions or dissent about any book. Nobody will hold the library accountable for their decisions. Why? Somebody needs to hold them accountable for the sexualization that's happening to our kids. Now, do you want to hear the rating by the INDEPENDENT BOOK RATING SYSTEM? They rated this book a 4/NOT FOR MINORS! So, a book that is not for minors

is being tagged as a book for 5 year olds? How? PLEASE let these questions cause the angst and curiosity within yourselves that they caused in me. Curiosity to figure it out, and I did! The wisdom to see the THREAT that it is to our children that will cause all of the good men and women of North Dakota to circle the wagons and protect our kids!!

Just ONE BOOK in my library that was in the young adult non fiction stack, was written by 2 cartoonists, not even a degree in ANYTHING of note to be instructing our vulnerable and impressionable kids promoted all of these ideas: ***Virginity is a silly label, Polyamorous Relationships are loving, intimate, romantic relationships, a hook up is still a relationship, friends with benefits is just a more casual relationship that focuses more on the sexual side of things. They have such wise advise from these cartoonists like, "chat it out before you pound it out", exactly what I remember lovingly advising my 13 year old daughter, how about you???*** They normalize promiscuity as they call sleeping around experimenting and SUPER NORMAL. And in case you didn't know, the book informs the readers that HPV AND HERPES are really no big deal. WHEW!!! Here I thought one led to cervical cancer and the other stayed with me for life. I'm sure glad they're NO BIGGIE!! That makes me feel better so I can have more casual relationships!!! STIs are NO BIG DEAL, There's a whole chapter on KINKS AND FANTASIES! Why? Why on God's Green Earth are we pushing books on KINKS AND FANTASIES when the US RANKS NEAR THE BOTTOM IN A SURVEY OF 15 YEAR OLD STUDENT MATH SKILLS in 30 industrialized countries according to US and World Economics Magazine. Out of 79 countries, US ranks 11th in Science and 30th in Math. Did you know that? Because I didn't until I fell down this rabbit hole of research in October 2022. Those low scores mean that US students may not be as prepared to take high-paying computer and engineering jobs, which often go to foreign workers. When you view it through the lens of education, preparing our kids for the REAL WORLD, teaching them about anal sex, rimming, fisting, and butt plugs doesn't seem that important. It actually seems more like a way to distract them, spin them out, stop them from reaching their true potential by getting all caught up in the trappings of the titillating bait that's dangled in front of them. But at what cost?

Today in North Dakota as across America, our teens are more medicated, more depressed, more anxious, feel more hopeless, more addicted to drugs and alcohol, and more suicidal than any generation before them. Recovery Centers nationwide have studies out that link porn usage to drug usage as they explain they have the strongest link to one another. They are "Cross-Addictions". Upwards of 80% of males in one study on porn addiction also had past or current issues with drug addiction. The studies stated that it's not surprising that many addicts are addicted to multiple substances or behaviors. After all, addiction is driven by a desire to escape from trauma, anxiety, depression, or other painful emotions. It concludes by stating, ***"Often, porn addiction and substance abuse go hand in hand. Both behaviors provide an escape and fulfill the addict's need for risk, which produces pleasant chemical changes in the brain. Unfortunately, these compulsions fuel one another."*** So, in other words, the library

is promoting porn as a FUN SUGARY TREAT, when in all actuality porn creates addicts. Drug addicts. Alcohol addicts. Nothing fun and sugary about that!

And how about all that sexualization that's portrayed as SEXY ADVENTURES? What do experts say about this—INSTEAD OF CARTOONISTS? ***“When girls are viewed, portrayed, or treated as objects, they start to self-objectify and this can be psychologically damaging, especially when the girls begin to value physical attractiveness or sexual worthiness above intelligence and personal well-being. When young girls suffer from poor mental health, they become vulnerable to manipulation, false promises, violent acts, and mistreatment. All girls, regardless of social standing or geographic location, are susceptible to sexual harassment, sexual assault, sexual abuse, prostitution, and sex trafficking, all of which can stem from sexualization. Girls are being exploited all across the country...Putting a stop to the sexualization of girls requires many SYSTEMIC AND SOCIETAL CHANGES.”***

The changes are pretty simple to start. The precedent has already been set. Law has been settled on this matter a long time ago. How? Back when it took the law a minute to catch up with society back in 2000. The internet hit the world in 1995, transforming everything. So, by 2000 there was a lot to catch up with in America. Congress passed CIPA at that time. The Children's Internet Protection Act which **required public libraries to make it harder for internet surfers to look at pornography. “Congress adopted the Children's Internet Protection Act of 2000 to require schools and libraries receiving certain federal funding to block children's access to obscene material, pornography, and material deemed harmful to minors.”** One provision of the law required that these institutions provide access to such materials for adults who needed it for bona fide research purposes. That seems pretty clear to me. HOWEVER, we see the true colors of the American Library Association at that time. How come? Because they CHALLENGE THIS! What?? What kind of person thinks it's NOT a good idea to keep porn from the eyes of kids?? You really need to question that because I do. So, the US Supreme Court in 2003 in United States v. ALA, **“upheld the constitutionality of the federal Children's Internet Protection Act, finding that the act DOES NOT VIOLATE A LIBRARY PATRON'S FIRST AMENDMENT RIGHTS.** SCOTUS went on to state, **“The filters must prevent access to visual depictions of obscenity and child pornography; for computers that are accessible to minors, visual depictions that are ‘harmful to minors; also must be filtered.”** Why do I cite this case? Because it's relevant. If the Supreme Court required libraries to block children's access to obscene materials and material deemed harmful to minors ONLINE, we all know they will be consistent with the law and require the same of printed materials. In 2000 and 2003, these obscene books didn't exist. But they do now. The American Library Association is exploiting old exemptions on the books to sexualize children. There is enough data out there to support the realization that early sexualization of children is harmful in so many ways. The floodgates are wide open, it's time we begin to dial it back and start protecting our kids again. A great place to start is by passing this bill and making libraries safe for all children to learn and grow again. The majority of North Dakotans will agree that

pornography and obscenity needs to be removed from access to children in our schools and libraries. Please vote yes on this bill. The kids will thank you—later.

Written Testimony
HB 1205
By Ruth Heley
January 16, 2023

Thank you for the opportunity to offer my testimony. My name is Ruth Heley and I have been a resident of Dickinson, ND since 1994. I was a private music teacher and classical performer for 22 years and have homeschooled my son for the past 6 ½ years. I am offering testimony in favor of House Bill 1205. This bill addresses protecting our minors well in that it is highly specific about what constitutes the offensive material not suitable for our libraries and clarifies inconsistencies in the Century Code.

I want to first focus on how this bill prevents harm to our minors. A number of the 107 contested books in our Dickinson library encourage several known harmful or dangerous behaviors. According to the FBI's website, "The FBI has seen a huge increase in the number of cases involving children and teens being threatened and coerced into sending explicit images online—a crime called sextortion." In addition, "The FBI also has recently seen [an increase in financial sextortion](#) cases targeting minor victims in the U.S. Financial sextortion is different from traditional sextortion." Teens caught in this trap have been prone to kill themselves rather than be found out. A book in ND libraries, *Let's Talk About It* describes sexting, the sending of sexually explicit pictures, as "...the highlight of your day. It's thrilling, sexy, and fun—a way of saying "you turn me on...". This book offers scant warnings about the negative sides of sexting.

I would also like to address pornography use and its treatment in some of these books. According to *Psychology Today's* website, "...parents, educators, and psychologists alike have expressed concern about porn serving as [de facto sexual education](#) for many young people, because of its unrealistic depictions of sexual activity." *Let's Talk About It* sends conflicting messages, describing porn as a "fun sugary treat" while telling minor children that some porn "can be unethical or illegal to watch". In my experience, minor children are challenged to determine appropriate research materials for school subjects much less have the capacity to research what porn is "ethical" or not. These kinds of cautions coupled with enticements are not likely to be heeded by children at all.

In addition, a number of these books are geared to encourage sexual experimentation amongst minors. No minor in the State of North Dakota is

legal to have sexual relationships due to our age of consent laws. Engaging in sex can open up tweens and teens to sexually transmitted diseases, pregnancy and emotional harm. These are not healthy choices for our children.

Secondly, this bill protects parental rights to introduce sexual information at time when the child is developmentally and emotionally ready. In the library in Dickinson, Juvenal and Young Adult sections are completely combined. The only difference that separates them is a sticker on the spine to designate one from the other. This spans an age group of about 8 or 9 all the way up to 18. Despite a parent's best efforts at monitoring a child, any book taken indiscriminately by them from the shelf and opened may expose them to images and language that they may not be ready for emotionally or maturity-wise. My experience as a parent has shown me that I know my child well and am best acquainted with the nature of our family and our moral beliefs. In the book, *Puberty is Gross, But Also Really Awesome*, readers are urged at multiple occasions to seek answers through hotlines or school counselors and not their parents or guardians first. While these other options can be useful in some difficult home circumstances, rarely suggesting parents as a resource drives a wedge of mistrust in the family unit.

Finally, this bill *does not* prevent the right to free speech and intellectual freedom. These authors have been able to write these sexually explicit books aimed at our youth as guaranteed by the First Amendment. They are allowed to have them published and allowed to have them for sale through the internet and in stores that choose it. HB 1205 will not prevent them from doing so in the future. I propose further that these authors have abused their intellectual rights by writing material that encourages harmful behavior and directed it to some of the most vulnerable individuals in our society. The further galling aspect is that I am currently expected to pay the bill for this material, to be made available at a publicly funded institution, regularly utilized by minor children. As a North Dakota tax-paying individual, I reject this idea and I support the passage of HB 1205. Thank you.

Testimony in opposition to HB1205

This is a country that is founded on and very proud of our freedom of speech, with that strong pillar, I find it hard to believe that the state wants to ban books. One of the most important avenues of freedom of speech is books. They bring ideas that can be discussed. They can help people in similar situations not feel so alone. They are educational and are an enjoyment. In our society of social media and instant access to all sorts of illicit material, we should not ban access to sources of credible knowledge at the school and public libraries. We should not make our librarians afraid to do their work. We should not be afraid of books. We should not leave our children unable to safely look for information or experiences they are searching for.

This letter is in opposition of House Bill 1205.

This bill creates unnecessary government overreach into libraries, which already have established policies and procedures for library materials. Libraries were established as places to learn, share diverse ideas, and as a social center for the community. Not all library material will be agreeable to all people, but individuals should get to decide what they would like to access.

Removing LGBTQIA people from library materials removes a part of the population of ND from representation in the community and is incredibly discriminatory.

I support the testimony submitted by the librarians regarding this issue. Please leave this one to the experts- the librarians themselves.

Thank you.

Testimony in opposition to HB 1205

16 Jan 2023

To the honorable members of the North Dakota House Judiciary Committee:

I am a librarian in the employ of the University of North Dakota, and a resident of District 43. Please note that I submit the following testimony as a private citizen, on my own time, with my own equipment, and that my opinions do not necessarily reflect those of UND or the North Dakota University System.

I write in opposition to House Bill #1205, which seeks to forbid public libraries from keeping depictions of nudity or sexual activity in their collections. I have numerous objections.

- 1) As a librarian, I believe every American has the right to choose for themselves what they wish to read. This bill infringes on that right to no good purpose.
- 2) In an age when anyone with access to a phone or computer can pull up pornographic material of any description in seconds, seeking to purge library collections of sexual material is pointless. The library is not where people go to indulge in that sort of thing.
- 3) Section 1(c) of the proposed bill specifies that the bill does not apply to a "school, college, university, museum or art gallery." But the definition of "public library" given in 2(1)(b) specifies that any library that offers access to the public and receives tax funds is included. I work at the Chester Fritz Library (CFL) on the University of North Dakota campus. CFL is part of a university, which means it is exempt.

But CFL also receives funds from state appropriations, and offers service to members of the general public. Anyone can walk in and consult CFL's collection. People who wish to check materials out from CFL can obtain a community borrower card.

Thus, as written, CFL is simultaneously exempt and NOT exempt, which is flatly contradictory. In order to be unambiguously exempt, CFL would need to stop allowing members of the public to consult the collection. There is no practical way to prevent members of the public who are not affiliated with UND from walking into the building. Doing so would require checking the IDs of everyone entering the building at all three entrances, which strikes me as both difficult, expensive, and pointless.

I believe that all or most of the other public universities and colleges in the state are in the same boat: they receive tax dollars and allow the public in. It would not surprise me if there are some school libraries in some of the smaller towns in North Dakota that fill dual roles as school and public libraries. If so, they too would suffer from this issue. As written, the exemption clause simply is not workable with the realities of libraries in the state.

- 4) Section 2 (2) states that "a public library may not maintain in its inventory or promote books that make as their primary subject the study of explicit sexual material." As an academic librarian, I have often met and assisted college students working on assigned papers examining pressing social issues. One topic I have seen students write on is the rise of digital pornography and its social effects. This bill would force us to remove materials supporting such academic study, and infringe on the academic freedom of both students and professors studying this issue.

5) Section 2 part (4) specifies that "a public library shall remove the book requested for removal within thirty days of receiving the request." It does not allow for any kind of evaluation process -- despite such a thing being referred to later. It does not provide any mechanism for a library to deny a spurious or borderline request. As written, the library is required to remove any book that anyone objects to. The requestor is not even required to give a reason for their request. As a matter of policy, this is badly written and opens the door to malicious actors submitting frivolous requests.

6) The bill is very likely an infringement of the First Amendment, and thus unconstitutional. Only a court could decide that for certain. But I, for one, would rather see state resources put to more fruitful uses than defending the constitutionality of a bill whose primary purpose appears to be controlling what people can read.

I urge the honorable members of the Judiciary Committee to oppose this bill.

Will Martin

I did not move from California to North Dakota to watch it become a nanny state. Libraries already review materials and have processes in place for challenging those materials. Any law that moves to make people less free has no place here.

January 16, 2023

Dear Members of the ND House Judiciary Committee,

I'm director of James River Valley Library System in Jamestown, and I'm writing to respectfully oppose HB 1205 and any similar bills. Librarians are deeply committed to equitable provision of information, even information with which we may personally disagree.

Our society is divided in many ways, and because the mission of public and school libraries is to serve all people in our communities, social fissures often play out in library decisions. My library colleagues will present many important points regarding HB 1205, but I want to highlight two shortcomings of HB 1205: first, indecency is almost impossible to consistently define; and second, our communities should be allowed to continue exerting discretion over their library collections without the threat of misdemeanors for librarians.

I was a secondary teacher at conservative Christian boarding academies before I became a library director. Every spring, teachers would meet to modify the student dress code, and each year, we thought we'd solved our concerns through enhanced definitions, more prohibited types of attire, and more effective sanctions. Each year, we were sadly mistaken. I recall one young man who had been dress-coded several times. One day, he appeared at school wearing a plaid sport coat several sizes too large, an ill-fitting Oxford shirt, a clownish tie, awful slacks, and scuffed dress shoes. He had turned himself into a human scarecrow, but he was technically compliant with dress code. Efforts to define objectionable library materials will fail for the same reasons that I and my well-meaning school colleagues repeatedly failed to fully define proper school attire: there is simply no clear, consistent definition that can be applied to all situations in all communities of North Dakota.

The second reason to vote against HB 1205 and similar legislation is that our communities are diverse, and our diversity means local control of libraries is the only way to answer the question of what is objectionable in a community. Library trustees are locally appointed, and most libraries in North Dakota have item-challenge policies approved by the Board of Trustees. Therefore, when difficult questions arise, issues can be fully vetted and addressed at the local level. If a statewide law is imposed, important local discussions will be restricted by the parameters of state law rather than the needs and wishes of the people paying property taxes to support their library.

The issue of potentially objectionable materials is difficult and laden with emotion from people of good will representing various perspectives. I hope and believe that these issues can find solutions through good-faith discussions at the local level rather than state-wide legal definitions that may end up satisfying no one. I respectfully request that our legislators vote against HB 1205 and similar measures.

Sincerely,



Joseph Rector

Director

James River Valley Library System

225 N. Michigan Avenue
Suite 1300
Chicago, Illinois 60601
USA

Telephone 312 944 6780
Toll Free 800 545 2433
E-mail: ala@ala.org
www.ala.org

ALA American Library Association

As the nation's oldest non-profit, non-partisan organization dedicated to the development, promotion, and improvement of library and information services in the United States, serving members in North Dakota and across the country, the American Library Association opposes HB 1205.

HB 1205 threatens public servants with criminal prosecution for fulfilling their professional responsibility to curate reading materials for a library collection, pursuant to locally approved school or library board policies and in compliance with state and federal laws, including the First and Fourteenth Amendments of the United States Constitution.

The broad restrictions imposed by HB 1205 would prohibit libraries from fulfilling their mission to serve the information needs of their communities and would violate the rights of all North Dakotans to access constitutionally protected materials at their public libraries. They also expose libraries and their governing bodies to potential lawsuits that will consume limited public resources.

The Supreme Court held over 40 years ago that the government “may not remove books from . . . library shelves simply because they dislike the ideas contained in those books and seek by their removal to ‘prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion.’” *Bd. of Educ., Island Trees Union Free Sch. Dist. No. 26 v. Pico*, 457 U.S. 853, 872 (1982) (quoting *W. Virginia State Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943)).

“The principles set forth in *Pico*—a school library case—have even greater force when applied to public libraries.” *Sund v. City of Wichita Falls, Tex.*, 121 F. Supp. 2d 530, 548 (N.D. Tex. 2000). Local governments “cannot limit access to library materials solely on the basis of the content of those materials, unless the [government] can demonstrate that the restriction is necessary to achieve a compelling government interest and there are no less restrictive alternatives for achieving that interest.” *Id.*

In addition, HB 1205 includes conflicting provisions regarding the removal of materials. The legislation, as proposed, provides no recourse to those citizens who might be opposed to the demand for removal and fails to provide any means to adjudicate the claims of an individual objecting to a book to ascertain whether the book is, in fact, in violation of local policy or the law. While Section 2.5b requires libraries to establish policies and procedures for reviewing challenged material, Section 2.4, as written, does not allow the library to apply its policies, or allow the elected or appointed library board any role in the removal process. Best practice supports the development of policies and procedures that are followed when a person raises a concern about a library book to ensure transparency, consistency, conformity with the rule of law, and preservation of the right of each reader to decide what is appropriate reading for themselves and their families. The vast majority of North Dakota libraries already have these policies in place.

Finally, HB 1205 falsely conflates the presence of any image relating to sex, sexuality, sexual orientation, or gender identity with a work being inappropriate for readers. This is simply not the case, and would disqualify classic and contemporary works of literature, or works addressing topics related to the sciences, health, and wellbeing, based on the objections of a single person.

As community institutions, libraries take seriously their responsibility to avoid bias and ensure that their materials and programs represent a variety of viewpoints and encompass all topics of interest, including those that might be controversial or even objectionable to some in the community. In addition, public libraries have a particular responsibility to operate in accordance with the First Amendment, which protects the right of every person to access and receive information in the public library, free from any government censorship.

The American Library Association strongly affirms the right to read and urges the judiciary committee to recommend "do not pass" on HB 1205.

Respectfully submitted.
January 16, 2023

My name is Damian White Horse I'm a proud supporter of free speech. If this bill were to pass that would be restricting the information that should be freely available to the public, and thereby creating a precedent for the government to restrict what we as a public can and cannot learn for ourselves.

Bills like this encourage the myth that society is opposing on minors that their bodies are disgusting and shameful, which ultimately could be damaging to a child's growing development. Making it harder for them to identify potential predators going forward, and is just overall damaging to their own body image.

For these reasons I am strongly opposing HB 1205 because the government should not be regulating the content we are allowed to view in our public areas, and the administrators of these facilities shouldn't be prosecuted just for displaying works that they themselves did not create.

Thank you for your time.

I, Matthew Mullins, as a North Dakota resident hereby state my opposition towards House Bill 1205 (HB 1205). My reasoning is as follows:

Regardless of what the general intention of this bill is the inclusion of sexual identity, gender identity, and sexual preferences in the clarification of the term 'explicit sexual material' immediately makes this bill an effort to restrict information that is directly relevant to a child's mental and social health.

Multiple studies ([https://www.jahonline.org/article/S1054-139X\(18\)30085-5/fulltext#intraref0010a](https://www.jahonline.org/article/S1054-139X(18)30085-5/fulltext#intraref0010a) & <https://publications.aap.org/pediatrics/article-abstract/137/3/e20153223/81409/Mental-Health-of-Transgender-Children-Who-Are?redirectedFrom=fulltext> to name two) have shown the positive benefits of transgender and gender non-conforming children being supported by the environments they frequent. Schools and libraries being just such environments for most children.

Denying children the opportunity or ability to encounter these topics is a direct blockade of their ability to understand said topics and thus themselves. Any action to accomplish this is an effort to immediately remove a positive factor in the environments of children across all of North Dakota. To willfully deny a child an available positive influence is not something any governing, legislative, or judicial body should stand for. There is absolutely no benefit to society to be gained from an action of this nature.

It does not matter if an action has good intent in the eyes of those performing it if a very predictable result of that action is negative. This action has very predictable consequences present in the histories of American families with family members denied any chance to understand themselves or express a sense of personal identity, of which gender and sexual orientation are a prevalent contributor in modern society. Those consequences are pain and the loss of life, which brings only more pain to those close to the departed.

In its current state this bill will accomplish far more harm than it ever could good. It is for this reason I stand against it.

House Judiciary Public Hearing
Tuesday, January 17, 2023, 9:00 AM - 12:00 PM
327B Room - ND State Capitol

OPPOSING HB 1205: Relating to objectionable materials or performances; and to provide for application.

Please include with the Committee Hearing testimony journal for public record

Chair Representative Lawrence R. Klemin (District 47 | R), Vice Chair Representative Karen Karls (District 35 | R), Committee Member Representatives Landon Bahl (District 17 | R), Cole Christensen (District 24 | R), Claire Cory (District 42 | R), Donna Henderson (District 9B | R), SuAnn Olson (District 8 | R), Nico Rios (District 23 | R), Shannon Roers Jones (District 46 | R), Bernie Satrom (District 12 | R), Mary Schneider (District 21 | D), Lori VanWinkle (District 3 | R), Steve Vetter (District 18 | R), and fellow citizens of North Dakota, Greetings. My name is Kevin R. Tengesdal from here in Bismarck. As a citizen of North Dakota, I resolutely request a unanimous DO NOT PASS on House Bill 1205 as presented, or amended.

HB 1205 endorses censorship, government overreach, and anti First Amendment sentiments. If a public library has in its collection any material with visual depictions of explicit sexual material and someone challenges this in court, the library and/or library director may be charged with a class B misdemeanor, fines, or both. This could include romance novels unless the covers are removed, movies with sex scenes, any books with images on the covers, or inside books relating to sexual identity and gender identity.

In addition, it is no hidden secret that the gathered writings of Scripture are emblazoned with many sexually explicit tales showing:

- 01] Human masturbation (Genesis 38:8-9);
- 02] Deviant sexual intercourse (Ezekiel 16:17);
- 03] Sexual intercourse (abundant passages);
- 04] Direct physical stimulation of genitals (Deuteronomy 25:11-12);
- 05] Sadomasochistic abuse (Ezekiel 23:3);
- 06] Postpubertal human genitals (Deuteronomy 23:1);
- 07] Sexual preferences (all throughout);
- 08] Sexual activity (numerous passages);
- 09] Sexual perversion (all of the above?);
- 10] Sex-based classifications (Ephesians 5:22-24);
- 11] Sexual identity (Genesis 3:16); or
- 12] Gender identity (Genesis 1:27).

In short, the bible includes hardcore pornographic literature questionably appropriate for the age and maturity levels of the individuals who may access the materials. Even though no one gains any sexual morality from reading the Bible, it is inherently used for condemning those who sin differently, as it stirs ones loins.

It is my anticipation that you, and the members of the 2023 North Dakota Legislative Assembly, will choose to stand on the honorable side of history and vote against this dangerous bill.

Thank you for your time and your consideration.

Kevin R. Tengesdal, District 35

My name is Tammy Loran. I am coming to you as a private citizen of North Dakota. I oppose HB 1205. There is a saying that every good library has something to offend everyone. While this comment is usually said in slight jest, the idea is that libraries cater to a wide variety of patrons, with different informational and recreational wants and needs. What is concerned moral, which is truly what this bill represents, is very personal and varies from individual to individual. These are restrictions that should occur within private homes, not in public spaces. There is nothing wrong with not wanting your teenager to read a certain book; however, there is quite a bit wrong with demanding that all teenagers, even those who come from homes with a different set of morals, cannot have access to such a title. It is really no different than demanding everyone follow Christianity, or be heterosexual. Minors do not have it easy, especially when they reach their tween and teen years. Their bodies are going through a lot of changes, as well as their emotions. In an ideal world, all teens and tweens would be 100% comfortable with talking to their legal guardians about these changes and any questions that come with them; all legal guardians would be comfortable having those conversations, as well. This world is not ideal. Books are one of the best ways to address these questions and curiosities without readers feeling embarrassed for even wondering in the first place.

Written Testimony from Officers of the Friends of the West Fargo Public Library
Contact: friendsofthewfpl@gmail.com
In opposition of HB1205
January 16th, 2023

Dear House Judiciary Committee,

We are the officers of the Friends of the West Fargo Public Library. Our purpose is to promote the functions, resources, services and needs of the West Fargo Public Library. Our organization assists the library overall, as well as library staff and library board members. We also help to raise funding for library programming and outreach to the community of West Fargo.

We are writing this testimony to communicate our opposition of HB1205 which relates to “prohibiting libraries from maintaining sexually explicit material.” This bill specifically states that “a public library may not maintain in its inventory or promote books that make as their primary subject the study of explicit sexual material.” HB1205 is pro-censorship and has anti LGBTQ sentiments. It doesn’t allow parents to choose what their children are reading. These are of grave concern to us as a supportive organization to West Fargo Public Library, who in turn provides resources to the entire community of West Fargo. The library makes knowledge and ideas freely available to the community of West Fargo, so that individuals can learn from different perspectives and have the freedom to read freely. HB1205 would take away the right to read freely from the community of West Fargo and citizens across North Dakota.

This bill will have a negative effect on services that the Friends organization assists the West Fargo Public Library with. One of these is the book sale, which brings in money for library programming such as the library’s mobile programming through the Little Red Reading Bus and the Summer Boost Program. We rely on donations from the community and without those donations, the West Fargo Public Library would not be able to provide the programming and outreach that it does to the community. Also of note, this bill is contradictory in reference to removing a material deemed “sexually explicit” within 30 days and then creating policies to curate a collection in order to remove “explicit sexual material. Furthermore, if someone challenged a library holding in court the library and/or library staff could be charged with a class B misdemeanor, fines or both. What does this mean for volunteers and those who donate books?

Overall, HB1205 would infringe on the rights of the West Fargo community and all citizens of North Dakota’s freedom to read. It would deny young people from accessing materials that will help them deal with challenges they face. Banning books doesn’t actually protect children from dealing with tough issues. HB 1205 endorses government overreach and doesn’t allow for individual parents to make choices concerning their child’s reading. The Officers of the Friends of the West Fargo Public Library strongly oppose HB1205.

House Judiciary Committee, we urge you to vote ‘do not pass’ on HB1205. Thank you for your time and consideration,
Officers of the Friends of the West Fargo Public Library
Mari Krajewski, President
Donelle Richmond, Treasurer
Sara Westall, Secretary
Jacob Fischer, Social Media Manager

Chairman Klemin and members of the North Dakota House Judiciary Committee,

Thank you for this opportunity to express my opinion as a citizen of Valley City, North Dakota, a public library patron, former professional librarian, educator, and mother of a now grown son.

Please do not pass HB 1205. It is completely unnecessary legislation.

Virtually all public libraries already have comprehensive collection development policies in place that reflect the needs and wants of their service community. They also have policies and procedures in place to address patron challenges to items in their collection. All of HB 1205 Section 2:5 already exists in public libraries as a matter of best practices. State level legislation is unnecessary.

HB 1205 Section 2:3 is already a standard practice in virtually all public libraries. However, Section 2:4 requires that any book objected to by any one patron should be automatically removed without further review of whether a complaint has merit or not. This could easily lead to many materials of value being removed because it offended one person. If a book offends one or two people, or the subject matter makes a few uncomfortable, access to it should not be denied to the rest of the community.

I do not know of any public library that intentionally seeks to collect pornographic materials, and certainly not for any "commercial gain."

HB 1205 Section 2:1a lists what is not included under this bill: "works of art, when taken as a whole, have serious artistic significance, or works of anthropological significance, or materials used in science courses, including materials used in biology, anatomy, physiology, or sexual education classes." However, most challenges to library materials have come from patrons taking photographs or illustrations *out* of the context of the work as a whole.

HB 1205 assumes that all persons have equal access to textbooks and literature in a classroom setting and can afford to purchase entertainment materials. This is not always the case. Some may depend on a public library to have access to these materials.

This bill assumes that all persons can equally process written information without the assistance of photographs or illustrations. This is not true. Some patrons of all ages need to rely upon illustrated materials to understand the subject matter or story.

Non-fiction works on sexual education will inevitably contain images that when taken out of context could be construed as pornographic. Images from a health text on various diseases or books with information on breastfeeding, when taken out of context, could be called pornographic by some people.

Section 2:1a:1, 3, 4, 7 and 8 are all things that are part of any healthy human sexual experience and would naturally be part of a text designed for sexual education.

Who gets to decide how sections 2:1a;2 and 2:1a;9 are to be defined or interpreted?

Items mentioned in section 2:1a10, 11, and 12 would prohibit materials that refer to part of a federally protected class of citizens and therefore would discriminate against these patrons.

Not every book in a public library will appeal to everyone, nor should it. A collection needs to fulfill the needs of the whole community, and not cater to only a select few.

HB 1205 is blatantly promoting that public library materials be censored based upon the subjective opinions of a few. Collection decisions should not be dictated at the state level.

In state that openly promotes individual freedoms, I find it abhorrent that our state legislators are advocating for this type of censorship.

Sincerely,

A handwritten signature in black ink that reads "Victoria M. Hammel". The signature is written in a cursive style with a large, looped "V" and "H".

Victoria M. Hammel
January 16, 2023

Sandi L. Bates, Bismarck, ND

In 2022 the national polling agency, OnePoll, queried 2,000 parents with children ages 5-18 about having “the talk.”

Unfortunately, the results showed, not every parent is talking “the talk.” More than 20% of adults in the US say they are NOT planning to have a conversation about the birds and the bees with their kids.

Results of the survey also revealed 60% of American parents were raised thinking sex was “taboo,” which may affect how they approach the subject with their children.

On the positive, it found 58% of respondents have already spoken to their children about sex. On the negative, 21% are planning on doing so in the future.

Having just finished a statistics refresher course, I can do the math to confidently conclude this means more than 40 percent of parents are NOT talking about sexuality to their kids. So where are they children getting the information? And is what they are getting accurate?

This is what library books are for – to assist curious individuals in finding information to answer their questions. By limiting choice and access to information, we are raising generations of non-information literate

individuals who are unable to critically assess information because they are not able to read materials which may make some people uncomfortable.

While this has been made out to be conservative versus liberal, one political party against another, the facts don't prove that out. According to a 2017 article from the major science journal, PLoS One, "More than 89 percent of parents that identified as Republicans or Democrats support including a wide range of topics in sex education including puberty, healthy relationships, abstinence, sexually transmitted diseases (STDs) and birth control in high school. In middle school, 78 percent or more of both parents that identified as Republicans and Democrats support the inclusion of those topics. Controlling for key demographic factors, parents that identified as Democrats are more likely than those that identified as Republicans to support the inclusion of the topics of healthy relationships, birth control, STDs, and sexual orientation in both middle and high school. However, a strong majority of Republican parents want all these topics included in sex education. Sex education which includes a broad set of topics represents an area of strong agreement between parents of both political parties." (Kantor, 2017)

The other damage to literacy is this bill also results in adult readers have materials censored at the library. As a person who reads 50-75 books per year across all genres and topics, I am livid HB1205 will significantly limit my intellectual freedom and the ability to choose my own reading material. Additionally, think about this: A young person at aged 17 years 364 days would not be able to publicly access materials in the restricted categories listed in this bill. The next day The. Very. Next. Day. at age 18, the young person now is qualified to vote and go to war. There's something very wrong with that situation.

Lastly, student projects in the New York University Media and Cultural Analysis class, reported, "Books were banned or burned categorically by the government if the authors had Jewish lineage, communistic or pacifist sympathies. These books were completely unavailable to the public under the control of the Nazis." (<https://counterarchive.hosting.nyu.edu/exhibits/show/book-banning-by-governments/censorship--banning--and-book->)

Paraphrasing to match this legislation you can easily fill in these categories with:

Books were banned categorically by the government if the authors had sexuality or homosexuality information, gender identity explanations or

sympathies toward those groups. These books were completely unavailable to the public under the control of the North Dakota Legislature.

History repeating itself. Again. History. Repeating. Itself.

I adamantly ask to you to stamp HB1205 DO NOT PASS.

<https://www.onepoll.us/six-in-10-american-parents-were-raised-thinking-sex-was-taboo/>

Kantor L, Levitz N. Parents' views on sex education in schools: How much do Democrats and Republicans agree? PLoS One. 2017 Jul 3;12(7):e0180250. doi: 10.1371/journal.pone.0180250. PMID: 28672027; PMCID: PMC5495344.

January 16, 2023

To: House Judiciary Committee

Chairman Klemin and Members of the House Judiciary Committee:

For the record my name is Christine Kujawa, Library Director at Bismarck Veterans Memorial Public Library and I oppose House Bill 1205.

We have a collection of over 470,000 items, print and digital, and add 20,000 new items to the shelves annually, all in the open and available to any age. Many of the items in our adult non-fiction collection, while neither textbooks nor used in science courses, are used for academic and intellectual pursuits for the average citizen. This includes books about childbirth, sexual intercourse, and other medical related subjects. While we don't necessarily promote these books, they are in our collection should anyone want information on these subjects, free from judgment and stigma.

With an average of 187,000 visitors in the building every year, how would we ever monitor who is looking at these books? The answer is, we can't and shouldn't. Citizens should have the freedom to choose the information they want access to. In the case of minors, parents are responsible for this, not the government. Not in North Dakota, in the United States, a state and country so rightfully proud of a representative democracy.

I consulted with area lawyers regarding this proposed legislation. Should this law pass and I find myself facing criminal charges for providing free and open information to my community, one of them would represent me on contingency followed by suing the State of ND. This is something I never thought I would have to consider during my career as a librarian.

It is not the government's job to prohibit access to information. Censoring intellectual and academic freedom raises significant constitutional questions and issues and is bad public policy. It will be costly to the state in that whoever sues will have their attorney fees paid by the state, and according to my legal sources, that's an average of \$500/hour or more. Why waste the Attorney General's time and money defending an indefensible law? It is an insult to librarians and an insult to our citizens.

Please choose "DO NOT PASS" on HB 1205.

Sincerely,

Christine Kujawa
Library Director, Bismarck Veterans Memorial Public Library

North Dakota House Judiciary Committee

Committee Chair and members of the Committee:

My name is Vicki Rosenau and I am a resident of Valley City, ND, where I have lived for 50 years. I am writing in opposition to H.B. 1205.

I oppose this bill because it would enact obvious censorship and censorship is un-American. Communist and other totalitarian governments regularly impose censorship, but democratic governments like ours do not and must not, because democracy cannot survive under censorship.

I oppose this bill because, if enacted into law, it would prove very costly to North Dakota taxpayers like myself. The bill is in clear violation of the First Amendment to the U.S. Constitution. If approved, it would be challenged in courts of law at great, avoidable expense to the State of North Dakota.

Thank you very much for receiving my input regarding H.B. 1205.

--Vicki Rosenau
January 17, 2023

House Judiciary Public Hearing
January 17th 9:30am
HB 1205 - Testimony in Opposition

Chairman Klemin and members of the House Judiciary Committee, my name is Whitney Oxendahl, and I am here in opposition of House Bill 1205. I oppose this bill because I am a parent of three small children, and this bill aims to limit what books and resources my public library can offer to my family, my children, and my community.

I am also a former member of the Fargo Public Library Board of Directors. The Fargo Public Library is run by an amazing staff of librarians who are professionals with advanced degrees in library science. The librarians overseeing and curating the collection of the hundreds of thousands of books and magazines are professionals, and this bill overrides their credentials.

The bill would also override the Fargo Public Library's policy: "The library will not restrict access to library materials under the assumption that certain materials may be 'harmful' to minors or in an effort to avoid controversy with parents... The library has a responsibility to ensure that young people have access to a wide range of informational and recreational materials and services to meet their diverse needs."

The Fargo Public Library also already has a Statement of Concern policy for reviewing items in the collection that individuals find concerning. A library committee reviews the statement, and the library board votes on the committee's recommendation.

Beyond this, the bill would create a tremendous, nearly impossible burden on North Dakota librarians to audit their entire collection for this type of content. Section 2 of the bill is too broad to even define let alone accomplish.

This bill is not about freedom and liberty, this is about placing restrictions on ideas and information. This bill is about censorship, and I urge you to give HB 1205 a Do Not Pass recommendation.

I'm sure you'll hear some passionate testimony today as we have a community that loves our public libraries. Thank you for the opportunity to share mine.

To whom it may concern,

Hello, my name is Isabella Anderson, I am a junior in high school, I live in Burlington North Dakota, and I am an avid reader. I am writing to you to oppose House Bill 1205. To get straight to the point, I believe that the passage of this bill would be very harmful to everyone in the state of North Dakota, especially for the young people and high school aged people. People go to the library for free, public information that they may not have access to anywhere else, restricting this public information in any sense is very harmful to the developing young minds that will someday be in charge of this great nation. To get more into specifics, this bill is very vague. For example, in regards to #12, the definition of gender identity is “a person's innate sense of their gender” so theoretically you could ban any book with a person who was born a man, who at any point in the book claims that they identify as a man. As for numbers 3, 7, 8, 9, and 10, this could include any book with any mention of sex, as well as educational books. There are many parents who refuse to teach their kids about sex, and often school doesn't teach it well enough, so without these books, children turn to the internet. Would you rather your children learn about sex from an informational/medical book, or from a site like PornHub? Overall, this bill is restricting children’s access to learning, in doing so, also restricting their minds, development, and their future. There are absolutely no upsides to this bill other than appeasing a few overly protective adults.

Dear Representatives,

My name is Montana Ackman, I have been a proud citizen of North Dakota for all of my teenage and adult life, and I am writing to you today to urge you to VOTE 'NO' on House Bill No. 1205. This bill, if enacted, would be incredibly harmful to the God-given and US Constitutionally protected rights of the citizens of North Dakota to raise and parent their children as they see fit and opens this assemble up to a variety of negative legal actions for its violation of the 1st Amendment as it relates to intellectual freedom, Freedom to Read, and Freedom to View. It also opens the door for litigation for violation of civil rights of marginalized groups and from the groups who will suffer from taxation without representation should this bill pass.

In a free society, it is the right and responsibility of its **citizens** not its **governing body** to use their good judgement in deciding what they deem to be acceptable content to consume.

As this bill relates specifically to minors and the places that they frequent, I would remind this Assembly that it is the job of a parent/legal guardian to filter content for their wards until the minors are of an age where they can be taught to monitor and filter the content that they choose to consume for themselves.

Additionally, with the exception of establishments that cater specifically to adults over the age of 21, there is no feasible place in society wherein minors would not be found. The way this bill has been written any doctor's office, dentist, motor vehicle repair shop, or other business institution that would have or display items such as *1984* by George Orwell, *People Magazine*, or even something as mundane as the *New York Times* could be found to be in violation of this bill and subject to a class B misdemeanor.

Can you see how this approach is unnecessarily harsh and wrong and places responsibility for a minor's safety into the wrong hands?

Until a minor is of the majority and can make decisions for themselves, it should not be legislators and strangers who are charged with the protection of a child's innocence and (though I am loath to put it this way) maintaining their purity of thought. It should be the job of the parents and guardians who are entrusted with that minor's care to protect their innocence and educate them of the morals and values that lead to good judgement.

Additionally, public libraries that would be forced to comply with this bill are funded by both state and local tax dollars. This means that all citizens of the state of North Dakota contribute to the total amount of money that is used to purchase library books and materials. Many of the books and other materials that you would be forcing libraries to remove would be books that many of the taxpayers of North Dakota would NOT wish to have removed. By this bill's definition books that would need to be removed would include award winning classics like George Orwell's *1984*, Judy Bloom's *Are you there, God? It's me, Margaret*, Christian romance, as well as most other critically acclaimed and award-winning books, audiobooks, magazine articles, newspaper articles, and movies and TV shows.

Additionally, the materials that you would be forcing libraries to remove from their collections disproportionately feature marginalized communities and people of color. This would include the stories of children of undocumented immigrants, stories of those who have experienced physical abuse in the home, stories of the survivors of sexual assault, stories of friends dealing with the death of a friend, classic works of literature, and so much more.

By choosing to remove these experiences from the narrative represented in the public libraries (that are funded by public tax dollars), you are telling the community members who have lived through and/or relate to the realities represented in the materials that would be removed that their experiences, culture, heritage, etc. is less worthy and that the rest of society must be protected from them but that their money is still good enough to line our government's pockets.

This flawed line of thinking not only puts some community members on a higher pedestal than others in that the library wants and needs that certain community members have will be funded and supported by all of our hardworking community members, but it also makes clear that the library wants and needs of other members of the community are subservient to those who are having their wants and needs met in that their tax dollars will still be taken and used, but their wants and needs will not be met or represented.

Can you see how this will not only create a division within our beloved communities but will also open this assembly to litigative action from the community members who are not properly being represented in our public libraries?

Please know that I understand the urge to protect minors who are not yet able to protect themselves; however, I would point out again that it is not the job of legislators and strangers to protect our state's citizens who are minors. It is the job of the parents and legal guardians of our state's minors to guide their children and safeguard their hearts and minds. If you don't want your minor to be consuming the types of materials outlined in this bill, then parent them! Have discussions about what materials are and are not acceptable in your household and why.

I was raised by parents who adhere to a strict moral code, my parents took the time to educate me on the morals and values that they wanted me to internalize within myself and apply to my life. To this day, I use the good judgement that they taught me to have whenever I am evaluating media and information that I wish to consume. An example of this is that, when I was growing up, my parents did not want me or my siblings to read Harry Potter as they were morally opposed to the idea of witches, wizards, ghosts, etc. My parents explained why we weren't allowed to read the books and while I could have still checked out the books from our public library and read them; I did not. In fact, I still have not read them to this day because I knew what was acceptable behavior in my parent's house and what was not because my parents took responsibility for my siblings and I, educated us on appropriate evaluation processes for viewing materials, and held us accountable for the decisions we did make. My parents prioritized educating their children on logical thought processes and conscious behaviors rather than simply censoring the materials available to us as they knew that we would one day be adults who would need to know how to reason through these decisions for ourselves.

What is and is not acceptable varies from person to person and family to family. What is acceptable to some is not acceptable to all. Every member of this state has their own limits and boundaries in this regard. Not only would enforcing this bill take away the Constitutionally protected right of freedom of expression which encompasses intellectual freedom, Freedom to Read, and Freedom to View, but it would also remove the right of each community member and parent to choose for themselves what is and is not acceptable within their home and family.

As for the legal action that this assembly is opening itself up to, I have attached the Merriam Webster Dictionary definition of **intellectual freedom** as well as **applied interpretations of the 1st Amendment** titled the Freedom to View Statement and the Freedom to Read Statement.

In light of this information, I would again urge you to **VOTE 'NO'** on House Bill No. 1205. House Bill No. 1205 goes against the freedoms protected in the 1st Amendment, places the responsibility for the protection of minors in the hands of strangers and legislators rather than in the hands that can properly protect them – those of parents and guardians, and the content that you would have your citizens heavily punished for displaying renting, and selling – while clearly defined- will be of varying levels of offence to different people. Additionally, the enforcing of this bill will cause certain members of society to be subjected to equal taxation with unequal representation.

I would urge you to consider all of this and count the cost when it comes time to vote!

Thank you for your time and consideration of this matter.

Respectfully,

The Freedom to Read Statement

The freedom to read is essential to our democracy. It is continuously under attack. Private groups and public authorities in various parts of the country are working to remove or limit access to reading materials, to censor content in schools, to label "controversial" views, to distribute lists of "objectionable" books or authors, and to purge libraries. These actions apparently rise from a view that our national tradition of free expression is no longer valid; that censorship and suppression are needed to counter threats to safety or national security, as well as to avoid the subversion of politics and the corruption of morals. We, as individuals devoted to reading and as librarians and publishers responsible for disseminating ideas, wish to assert the public interest in the preservation of the freedom to read.

Most attempts at suppression rest on a denial of the fundamental premise of democracy: that the ordinary individual, by exercising critical judgment, will select the good and reject the bad. We trust Americans to recognize propaganda and misinformation, and to make their own decisions about what they read and believe. We do not believe they are prepared to sacrifice their heritage of a free press in order to be "protected" against what others think may be bad for them. We believe they still favor free enterprise in ideas and expression.

These efforts at suppression are related to a larger pattern of pressures being brought against education, the press, art and images, films, broadcast media, and the Internet. The problem is not only one of actual censorship. The shadow of fear cast by these pressures leads, we suspect, to an even larger voluntary curtailment of expression by those who seek to avoid controversy or unwelcome scrutiny by government officials.

Such pressure toward conformity is perhaps natural to a time of accelerated change. And yet suppression is never more dangerous than in such a time of social tension. Freedom has given the United States the elasticity to endure strain. Freedom keeps open the path of novel and creative solutions, and enables change to come by choice. Every silencing of a heresy, every enforcement of an orthodoxy, diminishes the toughness and resilience of our society and leaves it the less able to deal with controversy and difference.

Now as always in our history, reading is among our greatest freedoms. The freedom to read and write is almost the only means for making generally available ideas or manners of expression that can initially command only a small audience. The written word is the natural medium for the new idea and the untried voice from which come the original contributions to social growth. It is essential to the extended discussion that serious thought requires, and to the accumulation of knowledge and ideas into organized collections.

We believe that free communication is essential to the preservation of a free society and a creative culture. We believe that these pressures toward conformity present the danger of limiting the range and variety of inquiry and expression on which our democracy and our culture depend. We believe that every American community must jealously guard the freedom to publish and to circulate, in order to preserve its own freedom to read. We believe that publishers and librarians have a profound responsibility to give validity to that freedom to read by making it possible for the readers to choose freely from a variety of offerings.

The freedom to read is guaranteed by the Constitution. Those with faith in free people will stand firm on

these constitutional guarantees of essential rights and will exercise the responsibilities that accompany these rights.

We therefore affirm these propositions:

1. *It is in the public interest for publishers and librarians to make available the widest diversity of views and expressions, including those that are unorthodox, unpopular, or considered dangerous by the majority.*

Creative thought is by definition new, and what is new is different. The bearer of every new thought is a rebel until that idea is refined and tested. Totalitarian systems attempt to maintain themselves in power by the ruthless suppression of any concept that challenges the established orthodoxy. The power of a democratic system to adapt to change is vastly strengthened by the freedom of its citizens to choose widely from among conflicting opinions offered freely to them. To stifle every nonconformist idea at birth would mark the end of the democratic process. Furthermore, only through the constant activity of weighing and selecting can the democratic mind attain the strength demanded by times like these. We need to know not only what we believe but why we believe it.

2. *Publishers, librarians, and booksellers do not need to endorse every idea or presentation they make available. It would conflict with the public interest for them to establish their own political, moral, or aesthetic views as a standard for determining what should be published or circulated.*

Publishers and librarians serve the educational process by helping to make available knowledge and ideas required for the growth of the mind and the increase of learning. They do not foster education by imposing as mentors the patterns of their own thought. The people should have the freedom to read and consider a broader range of ideas than those that may be held by any single librarian or publisher or government or church. It is wrong that what one can read should be confined to what another thinks proper.

3. *It is contrary to the public interest for publishers or librarians to bar access to writings on the basis of the personal history or political affiliations of the author.*

No art or literature can flourish if it is to be measured by the political views or private lives of its creators. No society of free people can flourish that draws up lists of writers to whom it will not listen, whatever they may have to say.

4. *There is no place in our society for efforts to coerce the taste of others, to confine adults to the reading matter deemed suitable for adolescents, or to inhibit the efforts of writers to achieve artistic expression.*

To some, much of modern expression is shocking. But is not much of life itself shocking? We cut off literature at the source if we prevent writers from dealing with the stuff of life. Parents and teachers have a responsibility to prepare the young to meet the diversity of experiences in life to which they will be exposed, as they have a responsibility to help them learn to think critically for themselves. These are affirmative responsibilities, not to be discharged simply by preventing them from reading works for which they are not yet prepared. In these matters values differ, and values cannot be legislated; nor can machinery be devised that will suit the demands of one

group without limiting the freedom of others.

5. *It is not in the public interest to force a reader to accept the prejudgment of a label characterizing any expression or its author as subversive or dangerous.*

The ideal of labeling presupposes the existence of individuals or groups with wisdom to determine by authority what is good or bad for others. It presupposes that individuals must be directed in making up their minds about the ideas they examine. But Americans do not need others to do their thinking for them.

6. *It is the responsibility of publishers and librarians, as guardians of the people's freedom to read, to contest encroachments upon that freedom by individuals or groups seeking to impose their own standards or tastes upon the community at large; and by the government whenever it seeks to reduce or deny public access to public information.*

It is inevitable in the give and take of the democratic process that the political, the moral, or the aesthetic concepts of an individual or group will occasionally collide with those of another individual or group. In a free society individuals are free to determine for themselves what they wish to read, and each group is free to determine what it will recommend to its freely associated members. But no group has the right to take the law into its own hands, and to impose its own concept of politics or morality upon other members of a democratic society. Freedom is no freedom if it is accorded only to the accepted and the inoffensive. Further, democratic societies are more safe, free, and creative when the free flow of public information is not restricted by governmental prerogative or self-censorship.

7. *It is the responsibility of publishers and librarians to give full meaning to the freedom to read by providing books that enrich the quality and diversity of thought and expression. By the exercise of this affirmative responsibility, they can demonstrate that the answer to a "bad" book is a good one, the answer to a "bad" idea is a good one.*

The freedom to read is of little consequence when the reader cannot obtain matter fit for that reader's purpose. What is needed is not only the absence of restraint, but the positive provision of opportunity for the people to read the best that has been thought and said. Books are the major channel by which the intellectual inheritance is handed down, and the principal means of its testing and growth. The defense of the freedom to read requires of all publishers and librarians the utmost of their faculties, and deserves of all Americans the fullest of their support.

We state these propositions neither lightly nor as easy generalizations. We here stake out a lofty claim for the value of the written word. We do so because we believe that it is possessed of enormous variety and usefulness, worthy of cherishing and keeping free. We realize that the application of these propositions may mean the dissemination of ideas and manners of expression that are repugnant to many persons. We do not state these propositions in the comfortable belief that what people read is unimportant. We believe rather that what people read is deeply important; that ideas can be dangerous; but that the suppression of ideas is fatal to a democratic society. Freedom itself is a dangerous way of life, but it is ours.

This statement was originally issued in May of 1953 by the Westchester Conference of the American Library Association and the American Book Publishers Council, which in 1970 consolidated with the American Educational Publishers Institute to become the Association of American Publishers.

Adopted June 25, 1953, by the ALA Council and the AAP Freedom to Read Committee; amended January 28, 1972; January 16, 1991; July 12, 2000; June 30, 2004.

A Joint Statement by:

American Library Association (/)

Association of American Publishers (<http://www.publishers.org/>)

Subsequently endorsed by:

American Booksellers for Free Expression (<http://www.bookweb.org/abfe>)

The Association of American University Presses (<http://www.aaupnet.org/>)

The Children's Book Council (<http://www.cbcbooks.org/>)


Freedom to Read Foundation (<http://www.ftrf.org>)

National Association of College Stores (<http://www.nacs.org/>)

National Coalition Against Censorship (<http://www.ncac.org/>)

National Council of Teachers of English (<http://www.ncte.org/>)

The Thomas Jefferson Center for the Protection of Free Expression

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intellectual freedom

idiom

: freedom that allows people to think about or study what they want
the library's commitment to *intellectual freedom*

Dictionary Entries Near *intellectual freedom*

[intellectual disability](#)


intellectual freedom

[intellectual history](#)

[See More Nearby Entries >](#)

Cite this Entry

Style

MLA 

“Intellectual freedom.” *Merriam-Webster.com Dictionary*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/intellectual%20freedom>. Accessed 16 Jan. 2023.

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Freedom to View Statement

The **FREEDOM TO VIEW**, along with the freedom to speak, to hear, and to read, is protected by the First Amendment to the Constitution of the United States. In a free society, there is no place for censorship of any medium of expression. Therefore these principles are affirmed:

1. To provide the broadest access to film, video, and other audiovisual materials because they are a means for the communication of ideas. Liberty of circulation is essential to insure the constitutional guarantee of freedom of expression.
2. To protect the confidentiality of all individuals and institutions using film, video, and other audiovisual materials.
3. To provide film, video, and other audiovisual materials which represent a diversity of views and expression. Selection of a work does not constitute or imply agreement with or approval of the content.
4. To provide a diversity of viewpoints without the constraint of labeling or prejudging film, video, or other audiovisual materials on the basis of the moral, religious, or political beliefs of the producer or filmmaker or on the basis of controversial content.
5. To contest vigorously, by all lawful means, every encroachment upon the public's freedom to view.

This statement was originally drafted by the Freedom to View Committee of the American Film and Video Association (formerly the Educational Film Library Association) and was adopted by the AFVA Board of Directors in February 1979. This statement was updated and approved by the AFVA Board of Directors in 1989.

Endorsed January 10, 1990, by the ALA Council

(/offices/oif)

Members of the House Judiciary Committee:

I wish to testify in support of HR 1205 to change the North Dakota Century Code from allowing public libraries to be exempt from the ban on making obscene books and materials available to youth to not permitting them in North Dakota libraries.

The Barnes County Valley City Public Library currently has on its shelves a book titled *Let's Talk About It* which is in the young adult section and readily available to teens and younger ages of children should they discover it. This book has been found in the Dickinson Public Library and similar books are finding their way into other North Dakota libraries.

I have seen the book *Let's Talk About It* and even for an adult the explicit illustrations are disturbing and hard to “un-see.” It calls virginity a “silly idea,” suggests experimenting with kinky acts of sexual self-stimulation, sex between male and females, and sex between homosexuals. No moral guidance is given and the book suggests going on the internet to view porn sites to learn more about what turns one on. Sexually transmitted diseases are dismissed as “no biggie.” There is no mention of the long-term emotional damage that can result to one's self or others. The book encourages gender confusion and contributes to grooming for LGBTQ lifestyles.

We need to keep youth from exposure to explicit sexual images and ideas at too young of an age. Therefore, the North Dakota Century Code should be changed so that libraries will not be allowed to put these materials on their shelves.

Testimony in opposition to HB 1205: (1/16/23)

My name is Traci Juhala. I currently hold the position of Head of Youth Services at the Bismarck Veterans Memorial Public Library and have been in this position since 2008. After reading the proposed amendments to NDCC 12.1-27.1-03.1 in HB 1205, I was extremely alarmed that were this bill to be passed and made law, not only would public libraries be required to censor materials, but librarians would potentially be held criminally accountable for not doing so.

Our library's mission is one I stand firmly behind: to collect, organize and provide open access to educational, informational, recreational, and cultural resources. My responsibility as a librarian is to make this happen with the financial resources I am allotted. I don't take this responsibility lightly, doing my best to make educated decisions about how we can spend our budget in the most wholistic way that serves the widest swath of our community, our whole community. Though materials intended for children and/or teens are placed in collections to make them readily available to those ages, there is no restriction on access. That is the nature and beauty of a public library; it is a microcosm of our broader world. We have patrons from across the political, religious, and philosophical spectrum using our public library. It is a rich and varied environment allowing all users the opportunity to be themselves and see themselves, together. Children who grow up using a public library are introduced to a broad spectrum of ideas, so they, along with their parents, can learn to make decisions for themselves and become educated citizens who contribute to the greater good of our society.

If this bill passes, it also appears that I would be subject to jail time for allowing a child to express his or her freedom to read if the material he or she chose to read was deemed unacceptable by a subjective, vague, and overreaching standard. This may be well-intentioned, an attempt to keep kids safe. But there is nothing safe about taking away the freedom to choose or the freedom to think or explore or be oneself. Passage of this bill could, and probably would, cause the people who help children learn to be forced out of their careers for fear of spending time in prison. That is a tragedy that must and can be avoided. There will always and should always be concern for children's welfare. But parents should be the decision-makers for what materials their children have access to. We have always encouraged and supported that paradigm in the library. The books we provide are for all people, from all walks of life. If patrons do not agree with concepts in a certain book, those patrons can choose not to check it out. It's that simple.

At Bismarck Veterans Memorial Public Library we have 43,611 items in our children's collection and 5401 items in our teen collection. Based on these amendments in HB 1205, in addition to limiting the resources available by making arbitrary decisions about what is acceptable for patrons, librarians would be expected to monitor the contents of every title in the collection and the age of every patron visiting the library. We have an average of 172,000 patrons visiting the library every year. This would simply not be feasible. This would simply not be right. Censorship, even well-intentioned, is still censorship. HB 1205 should not be passed.

Members of the House Judiciary Committee:

We need to pass HR 1205 to protect youth from pornographic and obscene materials in public libraries which can expose them to sexual images and ideas at an age when they are not mature enough to view, understand, or make decisions on these matters. HR 1205 would ban these materials from public library shelves rather than exempt libraries from a ban as the ND Century Code now does.

Let's Talk About It by Erika Moen and Matthew Nolan was such a book found in Valley City's public library. It has created a lot of controversy and a group has been organized locally and is spreading statewide to oppose books like this from being made available to children in our public libraries. This book is only one of many similar books that are making their way into public libraries. Some of this has to do with public libraries taking their book guidelines from the National Library Association. But we in North Dakota should determine our own standards. Parents have the right to expect that they can send their child to the public library on their own and not be exposed to porn.

Teachings about sexuality need to be coupled with moral values. Obscene books like this promote the idea that "if it feels good, do it" and that there is no right or wrong in sexual matters. This kind of thinking is at the root of a host of societal problems including sexually transmitted diseases, emotional and physical abuse and trauma, divorce, single parenthood, teen pregnancies, and abortion.

Please give HR1205 a DO PASS in committee.

January 16, 2023

Testimony re: HR Bill 1205
Lee Kruger, Resident of Valley City

Dear Honorable Judiciary Committee Members:

I write in opposition of proposed HR 1205 Bill “Relating to prohibiting public libraries from maintaining sexually explicit books,” and particularly to the amendments offered to 12.1-27.1-03.1 of the North Dakota Century Code “relating to objectionable materials and performances” as being unnecessary, misleading, and ill-conceived.

The proposed amendments are unnecessary since existing code deals sufficiently with issues of the display/availability of explicitly sexual content in public places, including venues supported by tax-payer dollars. By adding the section targeting public libraries, the bill would seem to suggest that libraries have an agenda in including sexually explicit material, which contrasts mightily with the aims of the vast majority—if not all—public librarians, who, as professionals committed to serve the public good, strive to make available professionally vetted and valued materials to their public. Should any librarian purposefully display/promote sexually explicit material for either pornographic or prurient purposes in a North Dakota public library, public reaction would be swift and universal.

Additionally, the number and content of the enumerated descriptors proposing to define ‘sexually explicit material’ in the bill seem to belong to a different purpose than that proposed. Obviously, not all depictions of “postpubertal human genitals” could or would be considered “sexually explicit” in any meaningful way, especially as compared to some of the other descriptors aligned as examples with it—sometimes a visual representation is just a visual representation, even outside the laundry list of ‘allowed’ usages. Further, how any—or at least the vast, vast majority of existing—depictions of anything qualifying as “Sex-based classifications,” “Sexual identity,” or “Gender identity,” would be deemed “sexually explicit” is perplexing; I’m not even sure what sort of depictions are actually being suggested. Many cultures have adopted clothing expectations for genders; that these could not be depicted would seem to defy sense. Since part of the public library’s existence, at least according to their primary benefactor, Andrew Carnegie, was to allow people to educate themselves and to “[acquire cultural knowledge](#)” of our country, removing depictions of the above three categories would seem to deny that America has changed, and suggest that discussions about and protections for any Americans who don’t identify as binary are not allowed to be visibly represented in a public library contrary to the initial expectations of its most prominent supporter.

Finally, the provision that any book must be removed from the shelves within a month upon a written request by any one person who “believes” a book is in violation of the amended language seems ill-conceived. Many public libraries have existing policy and processes that show much more concern for fairness and pragmatics than the language here, which suggests that existing law is sufficient to guide librarians and communities in case of a book challenge.

Thank you for reading my testimony.

Respectfully,

Lee Kruger

As a mom, I can look for a safe haven for my children, and the library is a place that should be just that. My children should be able to truly experience freedom in the library while browsing books, and I as a mom would like the freedom to relax without worry of my children stumbling upon pornography. A library should be free to be a safe place, free from sexually explicit material aimed at our children. Thank you for your support of HB 1205.

WRITTEN TESTIMONY IN OPPOSITION
TO HB 1205

Senate Judiciary Committee on House Bill 1205

Date of Hearing: January 18, 2023

Denise Ann Dykeman 1840 12th St SW, Minot, ND 58701

My name is Denise Ann Dykeman. I am a resident of North Dakota, a practicing attorney, and a Lutheran. I am also a member of the bar of the Supreme Court of the United States of America and avid reader of books.

This proposed bill would unlawfully censor public libraries.

The right to free speech belongs to every citizen of the State of North Dakota. Our Constitution states: “Every man may freely write, speak and publish his opinions on all subjects, being responsible for the abuse of that privilege.”¹ The First Amendment prohibits the abrogation of free speech. Any restriction of free speech must be reasonable, content-neutral, viewpoint-neutral, and narrowly tailored to satisfy a significant institutional interest.²

One of the ten amendments of the Bill of Rights, the First Amendment gives everyone residing in the United States the right to hear all sides of every issue and to make their own judgments about those issues without government interference or limitations. The First Amendment allows individuals to speak, publish, read and view what they wish, worship (or not worship) as they wish, associate with whomever they choose, and gather together to ask the government to make changes in the law or to correct the wrongs in society.

The right to speak and the right to publish under the First Amendment has been interpreted widely to protect individuals and society from government attempts to suppress ideas and information, and to forbid government censorship of books, magazines, and newspapers as well as art, film, music and materials on the internet. The Supreme Court and other courts have held conclusively that there is a First Amendment right to receive information as a corollary to the right to speak. Justice William Brennan elaborated on this point in 1965:

“The protection of the Bill of Rights goes beyond the specific guarantees to protect from Congressional abridgment those equally fundamental personal rights necessary to make the express guarantees fully meaningful. I think the right to receive publications is such a fundamental right. The dissemination of ideas can accomplish nothing if otherwise willing addressees are not free to receive and consider them. It would be a barren marketplace of ideas that had only sellers and no buyers.” *Lamont v. Postmaster General*, 381 U.S. 301 (1965).

The Supreme Court reaffirmed that the right to receive information is a fundamental right protected under the U.S. Constitution when it considered whether a local school board violated the Constitution by removing books from a school library. In that decision, the Supreme Court held that “the right to receive ideas is a necessary predicate to the recipient’s meaningful exercise of his own rights of speech, press, and political freedom.” *Board of Education v. Pico*, 457 U.S. 853 (1982).

Public schools and public libraries, as public institutions, have been the setting for legal battles about

¹ Constitution of North Dakota, Article I Section 4

² NDCC 15-10.4-01(1)

student access to books, the removal or retention of “offensive” material, regulation of patron behavior, and limitations on public access to the internet. Restrictions and censorship of materials in public institutions are most commonly prompted by public complaints about those materials and implemented by government officials mindful of the importance some of their constituents may place on religious values, moral sensibilities, and the desire to protect children from materials they deem to be offensive or inappropriate. Directly or indirectly, ordinary individuals are the driving force behind the challenges to the freedom to access information and ideas in the library.

The First Amendment prevents public institutions from compromising individuals' First Amendment freedoms by establishing a framework that defines critical rights and responsibilities regarding free expression and the freedom of belief. The First Amendment protects the right to exercise those freedoms, and it advocates respect for the right of others to do the same. Rather than engaging in censorship and repression to advance one's values and beliefs, Supreme Court Justice Louis Brandeis counsels persons living in the United States to resolve their differences in values and belief by resort to "more speech, not enforced silence."

By virtue of the Fourteenth Amendment, the First Amendment's constitutional right of free speech and intellectual freedom also applies to state and local governments. Government agencies and government officials are forbidden from regulating or restricting speech or other expression based on its content or viewpoint. Criticism of the government, political dissatisfaction, and advocacy of unpopular ideas that people may find distasteful or against public policy are nearly always protected by the First Amendment. Only that expression that is shown to belong to a few narrow categories of speech is not protected by the First Amendment. The categories of unprotected speech include obscenity, child pornography, defamatory speech, false advertising, true threats, and fighting words. Deciding what is and is not protected speech is reserved to courts of law.³

Please Oppose House Bill 1205

Denise A. Dykeman
1840 12th St SW
Minot, ND 58701

³ Much of this testimony quotes from "First Amendment and Censorship", American Library Association, June 13, 2008. <http://www.ala.org/advocacy/intfreedom/censorship> (Accessed January 16, 2023)

Mr. or Madam Chairman, and members of the committee, my name is Rozell Unruh from Dickinson. I wish I could be there in person to support HB1205 but due to the weather I am not able to attend. This bill is not about censorship it is about protecting our children from inappropriate material that their minds can not process, comprehend, or understand. This bill will help protect our children from the grooming that the books are promoting.

As far as people saying this bill is against free speech, it is not.

According to Cornell Law School:

Freedom of speech is the right to speak, write and share ideas and opinions without facing punishment from the government. The First Amendment protects this right by prohibiting Congress from making laws that would curtail freedom of speech.

Even though freedom of speech is protected from infringement by the government, the government is still free to restrict speech in certain circumstances. One of these circumstances is:

* Obscenity - Alliance for Community Media v. FCC, the Supreme Court found that obscenity and child pornography have no right to protection from the First Amendment, and as such, the government has the ability to ban this media altogether.

The book "Let's Talk About It" has such obscenity. During the Dickinson Public Library Board meeting in November that was televised, blown up pictures from this book were held up in front of the camera and the station would not air the pictures due to the obscenity and pornographic nature of these pictures.

It is our duty to protect all children under the age of 18 as much as we possibly can. Which this bill will do. Please vote due pass.

Thank you,
Rozell Unruh

Mr. Chairman, and Representatives of the House Judiciary Committee,

My name is Michelle Thompson from Dickinson. I am in favor of House Bill 1205. I want to thank Representative Lefor and Representative Steiner, and their team, on drafting a professionally written piece of legislation. I first off want to say that this matter is not a political matter. This is a matter of protecting our children's innocence plain and simple.

I am a homeschool mother and have great respect for our public library. My children have been taught that same respect. This is about adults who are using the library to attack and victimize our children. This is not a call to book ban or for censorship. None of us that are for this bill want either of those two things. The parents and citizens of my city that showed up to fight the gross attempt at sexualizing our children do not want that. Let this be clear. We simply want our children to be safe at our libraries once again. We want our children to be free to peruse the library shelves without the fear of their innocence being stolen by the mere glimpse of what these books have in them.

What concerns me about the content of this material being available to underage children, is the complete lack of respect for Federal as well as North Dakota State Law. In our state, the age of consent is 18. The law is premised on the assumption that minors are incapable of giving informed consent to a sexual act. So with that being the view of our state, and the Federal government, why would we need materials in our library that not only contradict that, but give step by step instructions on how to break the law?

Let us dive into one book that seems to be at the top of the list. Let's Talk About It. Self-proclaimed age range is fourteen and up. This book is rated a 4 out of 5, with 5 being rated as "abhorrent content" on Booklooks.org. An independent site run by parents that are frustrated by "the lack of resource material for content-based information regarding books accessible to children and young adults." They review each book regarding objectionable content, including nudity, profanity, and sexual content. They rate this book like I said above a 4, which is "not for minors." This book was the contentious book that citizens of various cities around the state fought to not have displayed and available to be checked out in their children's sections of their public libraries. This book depicts numerous illustrations that are sexually graphic and leave nothing to the imagination. Including, an ejaculating penis (page 77), a vagina with droplets in the midst of an orgasm with the words "Splurt!" and "Engorge!" (page 77) **On pages 147-153 it gives a step by step process on how to sext and edit the photo so you can be unrecognizable and have "no identifying features." Sexting is illegal for minors in our state(12.1.27.2).** So again, this book encourages illegal sexual behavior in minors. It also has illustrations and descriptions of various sexual positions. Not to mention the explanation of sexual terms. This book defines what a swinger is. What 14 year old needs to know what a swinger is? On page 132 two teens discuss "ditching the condoms" because she is on birth control, but that is only ok if they both get STI testing. I could go on and on about the gross, illegal, and pornographic content in this book. The point is Dickinson Library in particular has over 100 books that graphically depict sexual content and terms like this one quoted above already in their library alone. The other libraries in the state are experiencing the same problem. When we have a public, government funded entity like a library providing pornographic materials that encourage illegal activity in minors it opens up a whole can of litigation. Please vote Do Pass on this bill. We do not need to wait until a child gets injured and the libraries face lawsuits. These materials need to be removed from our Young Adult/Children's sections where they have been strategically placed and put where they can be available for those who are 18 years age and older only. Time to end the assault on North Dakota's innocent children. Thank you for your time and consideration.

January 16, 2023

To the House of Representatives of North Dakota,

I write to you in support of HB 1205. Forces of harm for children have been working through libraries to undercut minors' morality, and they must be stopped.

At the website dragstoryhour.org, an organization that uses libraries and other venues to pervert children, they make clear what their mission is: "DSH captures the imagination and play of the gender fluidity of childhood and gives kids glamorous, positive, and unabashedly queer role models."

Our children should not be subject to any kind of such performance indoctrination in our public libraries. As for books and other materials that can be accessed through the libraries:

Libraries will often say that they follow guidelines from the American Library Association. But this is sadly a very aggressively leftist organization that recently voted as president a woman who describes herself as a Marxist lesbian. In an americanfaith.com April 26, 2022, article, the following quotes from her, along with other information, are culled:

Emily Drabinski, president-elect of the ALA, has written: "In spaces like this, kids are able to see people who defy rigid gender restrictions and imagine a world where everyone can be their authentic selves!"

Drabinski's 2013 article "Queering the Catalog" is the work that has gotten the most citations of anything she has written. In it, she remarks that "the first program of ALA's Task Force on Gay Liberation was called Sex and the Single Cataloger, a session about the trouble with headings for gay and lesbian materials." One of her main professional "accomplishments" includes "queering the landscape of library publishing and scholarship."

She elsewhere declared: "We can equip our students with the capacity to wring what they need out of library structures, and wringing what you need out of systems that exclude you is a necessary life skill for survival and revolution." "And we can also help build a way of shaping students as agents of change both inside the library and out."

She writes: "Queerness includes the subversion of those kinds of normal family types." The article sums up the danger of Drabinski and other irresponsible shapers of our children: "Marxists are committed to overthrowing the West, including all of its organizing ideas and accomplishments. In addition to lies and deception, Marxists use sexual chaos as a deliberate strategy of cultural destruction. The 'queer theory' in which Drabinski specializes openly aims to destroy the West by destroying the natural family, natural sex, natural relationships between the sexes and the children those sexes produce only heterosexually, natural distinctions, natural hierarchies, and order itself."

Recently, the Valley City library board had by slim margins been upholding the appropriateness of the book Let's Talk About It to be in a youth section of the library, basically where junior high students and older went, though sometimes better and more precocious readers among elementary students. They claimed it was very appropriate, with one board member saying it would have been a good book for her to have had at that age.

However, just a couple weeks ago, after going through the extra hoops they require to get the book discussed in a public hearing, citizens both for and against the book testified. As for my four minutes allowed, I focused on the objectionable parts of the book, which were many, as regards minors being influenced. I said (and I will quote the majority of what I said, while adding a little extra I didn't have time to say):

I ask that you take the book Let's Talk About It out of its current location for the following reasons:

- *This book is inappropriately focused on minors...

 - *Kids with backpacks and lockers.

 - *Teen mentioned on the front cover.

 - *Comic book style

- *But it should only be available for adults in the library.

- *Inappropriate for minors to be introduced to:

 - *P. 16 Being tied up with ropes and dangled from the ceiling (for sexual gratification).

 - *p. 17 Rimming—Do we really want junior and senior high students to be encouraged to lick and penetrate someone's anus with their tongue and risk getting bacterial and parasitic infections or STI's that way?

 - *p. 18 Virginity is called a silly label, basically impossible to be because supposedly everyone has had sex in some way—forget about being a virgin—just do what feels right—bad advice. Aleister Crowley, the famous Satanist said, "Do what thou wilt." The author of the Book of Judges explained what the spiritual problem was in that time in Israel's history—"Everyone did what was right in his own eyes" (Judges 21:25).

 - *(34, 91) Polyamory, swinging, and hookups are presented as normal things to do and worth trying if kids wanted to.

 - *(112) You can't have sex in any satisfying way unless you are already masturbating, so if you aren't masturbating, then start.

 - *(115, 118) And get a sex toy and a butt plug to aid in masturbating.

 - *(114) Experimenting with others sexually is super normal.

 - *(133-134) STI's really aren't a big deal, so don't fret-just go to the doctor (but, know that your parents might find out through their insurance—found elsewhere in the book).

 - *And by the way, where are parents in this whole presentation? I saw "Mom" mentioned once in this book in an off-handed way. But the internet and teachers and doctors and counselors are mentioned as trusted sources to consult—but not parents. Why are parents left out of this book? This is a very common tactic with those who want to subvert the morals of our children.

*(151) You are lucky if someone sends you a sext. Sexting is exciting. It does thankfully warn minors not to, but are minors' brains fully developed to understand the repercussions, or are they just going to focus on the so-called "exciting" and "lucky" aspects of sexting? So many children's bodies are disseminated electronically against their will, no matter what the laws are.

*(164) Children are counseled to look at the internet to study kinky sexual behaviors. Find communities and reach out to them for advice on how to engage in kink and fetish.

*But who is going to protect these minors from adults in these communities, who take advantage of their naivete and might end up raping them, kidnapping them into sex slavery, or even killing them? Find a community?

*(164-165) Children are told that porn is a fun, sugary treat? It's a way to learn about kink and fetish? Many psychologists and researchers have sounded the alarm for decades now that pornography has a terrible effect on kids.

Dr. Victor Cline wrote:

"As a clinical psychologist, I have treated, over many years, approximately 300 sex addicts, sex offenders, or other individuals (96% male) with sexual illnesses. This includes many types of unwanted compulsive sexual acting out plus such things as child molestation, voyeurism, sadomasochism, fetishism, and rape. With only several exceptions, pornography has been a major or minor contributor or facilitator in the acquisition of their deviation or sexual addiction..."

And the American Bar Association says on a webpage:

"Pornography promotes negative attitudes and aggression toward women, normalizes sexual harm, and negatively affects the ability to have healthy intimate relationships."

There are many aggressive indoctrinators who are undermining the morals of children and grooming them to adopt their own unnatural lifestyles. Please pass HB 1205 to protect minors from obscenity in libraries.

Humbly submitted,

Rev. Dr. Nicholas A. Scotten, DEdMin
1252 10th St. SW
Valley City, ND 58072
701-840-1513

Written Testimony Against the Passing of HB1205

HB1205 is an unconstitutional infringement upon the rights of North Dakota citizens. Governmental censorship of publicly available books and materials directly violates the First Amendment right to free speech and the Fourteenth Amendment right to equal protection under the law (as decided by court cases such as Board of Education v. Pico, 1982; Counts v. Cedarville School District, 2003; Sund v. City of Wichita Falls, 2000).

HB1205 is a bill that infringes upon the Constitutional right to access materials in public libraries; spaces that are funded by the taxes every citizen pays. No one would dispute the choice of church leaders to create restrictions, based on what they deem is moral, upon what books are made available in their congregation's private library. But it is unconstitutional for those same people to create laws restricting what books are available in taxpayer funded public libraries.

The American Library Association says it best:

“Equity extends beyond equality... to create service delivery models that will make sure that community members have the resources they need. Often these needs are different not only as the result of race and ethnicity but also owing to religious beliefs, sexual orientation, gender identification, socioeconomic status, or physical ability.

Libraries are major sources of information for society, and they serve as guardians of the public's access to information... Core values of the library community such as equal access to information, intellectual freedom, and the objective stewardship and provision of information must be preserved and strengthened, now more than ever.

For intellectual freedom to flourish, opposition to censorship of materials is not enough. Access to materials, without prejudice, to every member of the community must also be assured. As one of the core values of librarianship, ‘Equality of access to recorded knowledge and information’ which involves ‘ensuring that all library resources are accessible to all overcoming technological and monetary barriers to access’ goes hand in hand with democracy and freedom.”

If this bill is passed, it will be faced with numerous legal challenges in the state and federal court systems. Similar laws in other states have been challenged and overturned on the grounds of violating the First and Fourteenth Amendments. If this bill passes, North Dakota's legal system will most surely be flooded with challenges, ultimately wasting time, resources, and taxpayer money.

The Unintended Consequences of HB1205

HB1205 is not only unconstitutional, but it will have disastrous and unintended consequences. The vague language and broad terminology used in this bill will lead to an unquantifiable number of book challenges in the library system. The bill states “public libraries [are] prohibited from maintaining or promoting certain books” containing “explicit sexual

material”, further defining that term as “any pictorial, three-dimensional, or visual depiction, including any photography, picture, or computer-generated image, showing:” “(11) Sexual identity; or (12) Gender identity”.

While it is clear this choice of words are Representatives Lefor and Steiner’s attempt to ban LGBTQIA+ centered literature from public libraries, what they failed to realize are the ways this language can be interpreted. Using this bill, one could challenge and remove any book containing photographs showing sexual or gender identity.

Encyclopedia Britannica defines gender identity as “an individual’s self-conception as a man or woman... or as someone outside those categories altogether.” Using this definition in conjunction with HB1205, one could request a book containing a photograph of any person with a caption containing gendered language (he, she, they) identifying the person pictured. This could be done even if the photo is not logically viewed as being sexually explicit because the language of HB1205 unintentionally classifies and legally redefines gender identity as being something that is sexually explicit.

Using this subsection of the proposed bill, one could submit a request that an illustrated children’s book about the story of Adam and Eve be removed from the public library. For example, the Dickinson Public Library contains a book called *My First Read and Learn Bible* (Moore). On a page showing an illustration of a naked Adam and Eve, the text reads “He made man and woman”; language that indicates the gender identities of those pictured.

Other types of “explicit sexual material” prohibited by HB1205 are images showing “(8) Sexual activity”. The bill does not define or clarify what constitutes as sexual activity, leaving this term open to interpretation. Due to this ambiguousness, one could argue, based on their own moral code, the sight of two adults kissing is a sexual activity. They could legally use this opinion as justification to submit a request to remove any book containing such an image. As public libraries also contain movies in their collections, any movie containing a kiss could be removed from libraries.

The “Anthropological Significance” Clause

HB1205 attempts to create a guideline for exemptions to the law. The bill reads: “‘explicit sexual material’ does not include works of art that, when taken as a whole, have serious artistic significance, or works of anthropological significance”. What this bill fails to do is create parameters for determining what artwork holds artistic and anthropological significance. How many individuals need to consider a book significant before it is exempt? One librarian, or a majority of library board members? We are left without a definitive answer.

Using the framework created by HB1205, one could argue a book containing information about sexual identities and gender identities is in fact anthropologically significant. As defined by National Geographic, “anthropology is the study of the origin and development of human

societies and cultures”. Being able to study the development of each and every human society is important. If HB1205 passes, it will effectively eliminate all literature involving the LGBTQIA+ community, preventing citizens and historians from studying that significant population of humankind.

Why am I giving this testimony?

I am a fourth generation North Dakotan. While growing up in Dickinson, I learned the truly North Dakotan values of kindness, generosity, honesty, and caring for my community. As the years have passed, I’ve become saddened to see other North Dakotans forgetting these core values.

On November 8th, 2022, I attended a library board meeting at Dickinson’s City Hall. Many community members had gathered to give public comment regarding the removal of a sexual education book written for teenagers and young adults. Hearing the words of support for the book from teens and adults alike brought me so much pride for my community. These were people willing to embrace, support, and love everyone in their community; even those who were different from them.

And then the words of the opposition filled the room. Hearing so much hatred and vitriol directed towards LGBTQIA+ community members present at this meeting reminded me of why I moved away from North Dakota in my early twenties. This is not a place where we feel safe and accepted. This is a sentiment shared by so many of my generation, as well as our future generations.

If North Dakotans wish for their neighbors, children, and grandchildren to stay in this state, they must support, respect, and love them, no matter who they are. When legislation infringes upon the rights of a minority group of citizens, the message is clear: “you do not belong here. You are not a member of our community”.

It is imperative our lawmakers protect the rights of all citizens. If we begin to allow our stories to be removed from public libraries, it will be a clear indication that North Dakota is not ready for true progress.

1/17/2023

To Whom it May Concern:

My name is Dr. Jacob Erickson, and I'm a constituent in rural Minot, North Dakota. I'm writing today to urge you to oppose House Bill 1205.

I write as a teacher and professor of Christian Theology and Ethics, who spends his professional time engaging undergraduate and graduate students on the thorny questions of morality, ethics, and the public good. I've been studying, teaching, and facilitating conversations on these aspects of public life for 20 years.

As a person of faith and as a professional ethicist, I find these Bills incredibly poorly worded, unclear, and harmful in their effect. These Bills, if made into law, would throw many--business owners, librarians, and those who read--into disarray on how to proceed. Indeed, it could be argued that many classic novels would not pass scrutiny in the ways the current bills are written.

But more: as a Christian and citizen, I find the whole intent of legislating morality in this way incredibly offensive to the ways I believe citizens are to embody their understanding of morality and faith in the public square. Bills such as these are detrimental to the ways we speak about morality and the common good in America. They contribute to animosity and bad faith, and usually have negative and unintended effects. Make no mistake, this Bill, if implemented, will have negative and unintended effects.

These Bills contribute to numerous harms to hard-working North Dakotans. I find these proposed Bills discriminatory towards women and LGBTQ+ people, for specifically targeting sexual identity and gender identity. As others have noted, Bills such as these criminalize librarians (both in demonizing public servants and in real legal impacts). These Bills infringe on the freedom and right to read as free speech. Bills such as these create expensive bureaucratic oversight and massive governmental overreach into the work of libraries and booksellers.

Proposed Bills like HB1205 and SB2123 serve as an incredible insult to hard-working librarians, public educators, and teachers--professionals who are *trained* to think through the ethical sensitivity of material in a morally ambiguous world, professionals who are trained to have and to facilitate serious conversations about the ethics of reading.

As an educator and citizen, I am incredibly disappointed to see these Bills proposed, and my deepest hope is that they would be defeated. Please oppose them.

My best wishes for your work, and thanks for your service,

A handwritten signature in black ink, appearing to read 'Jacob J. Erickson', with a stylized flourish at the end.

Dr. Jacob J. Erickson

Dr. Jacob J. Erickson (PhD, M.Div, BA)
Minot, ND 58701

HB 1205 Do Not Pass

Good morning. My name is Wendy Wendt and as a North Dakota citizen, a mother, a lifelong learner, and a library director, I am asking you to vote "Do not pass" on HB 1205.

Throughout my life, I have turned to the public library for information and entertainment. I was an awkward child and teenager who escaped into books for friendship and adventure with Nancy Drew and Laura Ingalls.

I was also full of lots of questions. I learned about the birds and the bees from library books, which my Mother encouraged me to check out from my public library. Yes, they were children's books and teen books that had graphic drawings of the male and female bodies and descriptions of how the sex act worked. My questions were answered and the books helped me prepare for adulthood.

I also learned about drugs, suicide, abuse, and much more through books. Books expanded my worldview and my street smarts. Go Ask Alice deeply moved me and made me aware of the dangers of drugs and the horrors of rape. Flowers in the Attic taught me about child abuse and incest. Real things that happen to real children who may think they are the only person in the world these things happen to. Children who may have no one they trust to talk to. Children who may come to believe that the only way out of the situation they're in is suicide.

Not every child comes from a supportive home where an adult can answer their questions. In your efforts to protect some children, this bill in turn endangers other children who may be unable to find books that answer their questions about themselves and about life.

Not only does this proposed bill limit children's and teen's access to information, it limits adult access to materials that adults have the right to access. Children have access to the entire library therefore this bill affects every area of the library. It takes away my freedom to read and view and it takes away your right. Needlessly. Please remember that freedom is no freedom if it is accorded only to the accepted and the inoffensive. Vote 'Do Not Pass" on HB 1205 for my freedom and yours.

Thank you for your time and attention.

Wendy Wendt

Testimony for HB 1205

Miranda Grafing

Valley City, North Dakota

For the majority of my almost 27 years, I have stayed away from politics and controversial issues. Over the last few years, I have observed an increasing amount of what are considered controversial issues. So many of us try to do our best to “be good people” and “be accepting and tolerant.” I too was a victim of that pressure from today’s society. I choose to no longer be a victim and instead to be an advocate. I am advocating to protect the innocence of the children and teens of North Dakota. I was born and raised here, and I had the luxury of growing up un-sexualized. I was allowed to be a kid and then I was allowed to be an awkward teen with a lot of questions about how everything works and how my body works. I never once thought to go to a library to try and find a book about it and I am an avid reader. My first thoughts were, I will ask my mom, or I will ask my health teacher. We have health teachers and sex ed classes for a reason. Everything you need to know as a teen you are taught in class. The idea that we need to expand adolescent minds into the realms of things such as butt plugs, casual sex, anal sex, rimming and many other things such as this, is unnecessary and harmful. These are not topics that teens or children should be learning about or have free access to. The advice that these books give, such as encouraging them to go online to explore their kinks because it’s a safe place, does the exact opposite of what everyone is taught about the internet. That its not a safe place, that we should be careful because you don’t know who’s on the other side of the screen so to speak. It is directing them right into the hands of predators. We already have a major issue with sex trafficking, and this just makes it that much easier to groom children. It also tells them to find their favorite kind of porn. Porn is not a healthy representation of what real life is or what real sexual relationships are. Children watching porn to learn what to do sets them up for an unrealistic idea of what reality is, and will be when they begin to experiment, and can cause real harm when they can’t achieve what they watch and believe to be real, and this will result in severe mental health issues such as anxiety and body image issues. Teens already have it hard enough trying to figure themselves out. Let’s not add to it by confusing them with unrealistic and pornographic books in our libraries that are targeted at a minority group. Please pass this bill and choose the innocence of the children and teens in North Dakota.

Thank you,

Miranda Grafing

House Judiciary Committee

HB1205

January 17, 2023

Chair Klemin, Vice Chair Karls, and members of the Committee:

On behalf of the ACLU of North Dakota, I submit testimony in opposition to HB1205.

Since its founding in 1920, the ACLU has opposed censorship in all its forms. From books and radio to film, television, and the Internet, we have consistently fought to make sure Americans have the right to say, think, read, and write whatever they want, without fear of reprisal. The First Amendment does not allow the government to get rid of or limit the use of books or ideas because they are controversial, unpopular, or offensive. The ACLU has always vigilantly defended the First Amendment and the right to free speech. Throughout our hundred-year history, we have worked to protect the right of individuals to access information, and to make up their own minds.



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Opposition to censorship is especially important in our public libraries, because citizens do not lose their constitutional rights at the front door of a public institution. Libraries have been the repositories of human thought, knowledge, and discourse since ancient civilization. Human sexuality is as much a part of the human experience as theology, sociology, science, art, and music and should be available as part of the discussion and debate which advances ideas among an educated citizenry.

Not everyone is going to agree on the merits of every book on a library's shelf. Some books will make people uncomfortable and question what they know. Some books will make people angry. There are some books people will think children shouldn't read or hope no one will read. But we are steadfast in our belief that we do not get to decide what others read – and neither should the government.

This bill is not only government censorship, it would impose an undue burden and restriction on public libraries, which are already underfunded and understaffed. Curating collections under this proposed law is next to impossible in scope, compliance, and enforcement. In addition, allowing individual complaints to drive removal of books and material without a review process would allow individuals to engage in censorship by imposing their thought or morality upon their wider community.

If someone does not like a book, then they should not read it. The First Amendment's guarantee of the freedom of speech and the right to access information has created a beautiful marketplace of ideas in our country. Each of us gets to choose what books we read and what information we access — but we don't get to choose for other people. Doing so is un-American and unconstitutional.

Nearly 50 years ago, the Supreme Court set the high constitutional bar that defines obscenity¹ — a narrow, well-defined category of unprotected speech that excludes any work with serious literary, artistic, political or scientific value. Since then, few if any books have been deemed obscene. And the standards for restraining a bookseller or library's ability to distribute a book are even more stringent.

¹ Miller v. California, 413 U.S. 15 (1973)

Today, you have the opportunity to affirm our shared belief in an educated North Dakotan citizenry and a society where ideas are openly disseminated, discussed, and debated. We urge the House Judiciary Committee to give HB1205 a “Do Not Pass” and the North Dakota House of Representatives to follow in defeating this bill.

Cody J. Schuler
Advocacy Manager
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516 2nd Ave SW Minot, ND 58701

January 16, 2023

Chairman Klemin
and Members of the House Judiciary Committee,

My name is Janet Anderson, and I am speaking to you today as the City Director for the Minot Public Library to urge you to vote against HB 1205.

I will not speak to you about how this bill goes against not only the First Amendment of the US constitution but also Article I, Section 1 of the ND Constitution, which allows the right of "pursuing and obtaining safety and happiness," and Section 3 which provides for religious freedom. Nor will I try to persuade you that this bill is steeped in discrimination and perpetrates the biases that cause so many North Dakotans to leave our state. I'm also not going to describe how public libraries and public librarians are bastions of freedom and democracy. You should each visit your local library and speak with the staff to learn this first-hand. I hope this would have been your first stop once you saw this bill.

No, I'm going to let my highly passionate, dedicated, and knowledgeable colleagues talk to you about these things. I want to address the simple fact that this bill will never succeed. Even if it passes the legislature and is signed by the governor, this bill will face countless challenges and will eventually be struck down as unconstitutional. There is very little doubt that this is not the case.

With that in mind, I see HB 1205 as a massive waste of time, effort, and money. Rather than you spending the time to push this through and us spending our valuable time fighting this, we, as North Dakotans, could be doing so much better.

You could be reviewing bills to help strengthen North Dakota's mental health and addiction services. If, as Representative VanWinkle said, protecting "our dearest and innocent population, our minors" is genuinely one of your goals – you would be focusing on eliminating the deaths of this "vulnerable population" from suicide and overdose rather than writing bills that cause harm.

You could strengthen our schools by providing more funding, supporting a focus on students' mental and emotional health, and finding ways to provide additional services

to struggling families. Perhaps more training for teachers on how to deal with suicidal students, students suffering abuse, and students who become violent? One middle school teacher shared that they often are told to refer these cases to the counselors, but with 800 students and 2.5 counselors, that doesn't meet the many needs of the students. This same school is down 11 Paraprofessionals (key staff who help support students directly) because these positions are not paid enough and often don't receive benefits. If the ND Legislature approved higher salaries and opened more benefits for these positions, teachers wouldn't be using their lunch hours and prep hours to pull double duty. A high school teacher asked me: "What's more important: that kids might read something which a minority of adults are offended by, or that we have a lower standard of learning for our children due to lack of resources?"

You could support our government employees, including police and fire, by finding ways to improve our retirement plans and provide better mental health support. Rather than looking for ways to decrease funding for emergency responders, public works, engineering, airports, etc., you could support existing mill levies and provide additional funding for infrastructure repair and emergency snow removal. Additionally, you could help attract and maintain government employees by avoiding conversations about not funding NDPERS instead of spending this valuable time defining what is meant by "Sex-based classifications."

You could develop ways to fund our university systems better so we can attract more students, especially in fields that suffer so badly, such as school Paraprofessionals, STEM, and nursing. You could also choose to invest in old buildings to make them safer and accessible to all while protecting the salaries of university professors. Furthermore, you could help defray the cost of higher education to make North Dakota universities more affordable instead of focusing on the perceived negative impact of graphic novels.

Finally, you could help keep these students in our state by discussing ways to support Governor Burgum's Energize Our Communities plan. Legislators could be exploring funding for state parks, museums, art events, and other cultural activities and organizations, which will increase our state's quality of life and show others that they can find the good life in ND. Instead, we are here discussing a bill that embarrasses our great state, making us appear backwards, uninviting, and (far worse) willing to embrace a mindset that encourages others to cast some of our "most vulnerable" population as immoral degenerates.

Let's please work together more constructively to truly improve our state.

Respectfully Submitted,

Janet Anderson

Library Director

Minot Public Library

janet.anderson@minotnd.org

[701-852-1045](tel:701-852-1045)

LEGISLATIVE TESTIMONY BY ALLEN D. BLUME
IN RE: ND Legislative Assembly House Bill No. 1205
An Act Prohibiting Public Libraries from Maintaining Sexually Explicit Books
January 17, 2023
(703) 399-4884
adb8917@earthlink.net

Testimony by Valley City-Barnes County Public Library Board Vice President Allen D. Blume in re: House Bill 1205.

Mr. Chairman, Members of the House Judiciary Committee:

On Thursday, January 12th, in my capacity as a member of the Valley City-Barnes County Public Library Board I voted to retain the Young Adult Graphic Novel “Let’s Talk About It: The Teen’s Guide to Sex, Relationships, and Being a Human” where it is in the Young Adult section of our library collection, following our deliberations on recent requests from the community to reconsider the library’s addition of the book to our collection. I did so after receiving and reviewing public comments on the work, most recently during our public hearing on January 5th; but also, after having read thoughtful commentary provided by our library’s patrons and taxpayers. To say that we held a wide range of opinions on the work is an understatement, and my point of view did not prevail; but I believe the issue that evening was about something far more significant than a mostly under-utilized, illustrated sexual health reference book.

That decision and this measure now before you in the form of HB 1205 are examples of how our communities will respond to well-financed dark money assaults on the First Amendment of the US Constitution.

The Valley City attack on "Let's Talk About It..." led by a newcomer editor of our hometown paper - who has since departed North Dakota for other opportunities in Texas - was fully supported by his publisher. The attack on the book was not specific to Valley City but also occurred in Dickinson and is part of a far broader pattern by domestic arch-conservative and evangelical Christian interests to undermine our Constitution and Bill of Rights; rights that are seen by them and their deep pocket financiers as impediments to rank profitability, narrow theocratic rule, and historically stultified cultural values.

Ladies and gentlemen we are living in a time that is tumultuous, threatening, and dangerous, where our once infinite resources and unfenced horizons have shrunk about us like concertina wire; where our pied a Terre – our "foot of ground" – is tested by historical generations of human beings who claim agency and assert a vastly different worldview than those of this nation's founders two-hundred forty and more years ago; and where "bleeding edge" technologies transform our knowledge of reality at speeds beyond the mere blink of our eyes – and this is all happening while our planet hovers on the edge of having eight billion (8,000,000,000!) hungry – and angry - mouths insisting that they be fed, that they be heard.

In such cacophony it is supremely difficult to discern a rational way forward as individuals, but more particularly so as cohesive and supportive communities. Our lifeboat is small and overcrowded.

So, it is not unusual or surprising that communities of interests want to take strong steps to preserve themselves and their way of life by throwing up walls, and imposing top down, authoritarian measures that assert dominion over others who may not be like them. We can see this through our news feeds, internet blogs and chatrooms, conversations with loved ones and trusted others, and the drumbeats of war and virtually lethal competitive commerce that feeds those billions of appetites. Russia's illegal attempt to annex Ukraine, the recurrent agony of the displaced Rohingya and Kurds and poor LatinX's mobbing our southern border, the near extinction level events of California forest fires and atmospheric rivers of catastrophic destruction, murderous assaults by individuals and allied "gangs" on people of color or alternative sexual identity, and here in North Dakota our own virtually constant struggle with drought, winds, and still bitterly cold winters are made just that much more difficult with the incursions of newcomers, outsiders with "queer" ways, and social behaviors that shock our staid values. Under such assaults it almost seems reasonable to claim a moral high ground and hand down judgments about that which is "God-given" and "rightfully ours." Almost...

The United States of America is a complex and troubled place, founded on ancient ideals that have been imperfectly implemented by every generation since its beginning, yet it has been able to cobble together nominal solutions that have brought us to this place of amazing opportunity and life-threatening peril. Generationally we have responded to the challenges of building AND rebuilding our nation, and today is no different than it ever

was, and that's our challenge – to keep ourselves alert, thoughtful, and engaged with the winds of change that are blowing over us – and we can only do that as a collectively engaged people willing to meet and confer, to remain open to the onrushing future, and the people who are borne to us on those winds of change.

“Let's Talk About It...” is, for this old man, a tiresome and raucous book. It irritates my eyes with its crude art-work and glib invitation to wander in internet fields of “wine and roses.” But then I am well into my seventh decade and there is nothing between those covers that I have not seen or discovered, sometimes through misadventure, but particularly in libraries, and most notably where it began for me as a boy a full seven decades before.

During our hearing last week, I was impressed by two young, high school-aged men who spoke, particularly for their candor, but also for their quite mature understanding of what it means to be a new citizen of this world. They already know more about the intricacies of tomorrow than this “Boomer” can begin to conceive, and through their own words, they signal a willingness to engage with the future to shape it to theirs and humankind's wills. They give me hope, but they also leave me with the dead certain assurance that trying to withhold, censor, or create some artificial “age-specific/age appropriate” knowledge will only mean they will find it anyway and laugh at our feeble attempts to conceal it. And in that I

LEGISLATIVE TESTIMONY BY ALLEN D. BLUME
IN RE: ND Legislative Assembly House Bill No. 1205
An Act Prohibiting Public Libraries from Maintaining Sexually Explicit Books
January 17, 2023
(703) 399-4884
adb8917@earthlink.net

say to them and every person who will challenge the gatekeepers, “Go for it!”

I began this statement by citing what I believe to be an organized assault on our First Amendment rights by forces inimical to the free flow of knowledge and the growth and development of all human potential. I will close be reasserting that belief. Our shared global history of burned books, shattered glass, cattle cars, reservations and concentration camps, race-based massacres, crematoria, and genocide begins, first, with an assault on knowledge. One of our presenters last week captured that threat with her words: “A public library must never serve as a moral militia or the police. It is not the responsibility of any library - or state legislature - to censor or abridge anyone’s access to books, periodicals, recordings, movies, works of art, or other collections of human creativity for the purpose of upholding some ambiguous moral standard.” I agree with her wholeheartedly.

House Bill No. 1205 is a full-frontal assault on our Constitution and much cherished Bill of Rights. It must never become the law of our land.

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Testimony by Valley City-Barnes County Public Library Board Vice President Allen D. Blume in re: House Bill 1205.

Mr. Chairman, Members of the House Judiciary Committee:

On Thursday, January 12th, in my capacity as a member of the Valley City-Barnes County Public Library Board I voted to retain the Young Adult Graphic Novel “Let’s Talk About It: The Teen’s Guide to Sex, Relationships, and Being a Human” where it is in the Young Adult section of our library collection, following our deliberations on recent requests from the community to reconsider the library’s addition of the book to our collection. I did so after receiving and reviewing public comments on the work, most recently during our public hearing on January 5th; but also, after having read thoughtful commentary provided by our library’s patrons and taxpayers. To say that we held a wide range of opinions on the work is an understatement, and my point of view did not prevail; but I believe the issue that evening was about something far more significant than a mostly under-utilized, illustrated sexual health reference book.

That decision and this measure now before you in the form of HB 1205 are examples of how our communities will respond to well-financed dark money assaults on the First Amendment of the US Constitution.

The Valley City attack on "Let's Talk About It..." led by a newcomer editor of our hometown paper - who has since departed North Dakota for other opportunities in Texas - was fully supported by his publisher. The attack on the book was not specific to Valley City but also occurred in Dickinson and is part of a far broader pattern by domestic arch-conservative and evangelical Christian interests to undermine our Constitution and Bill of Rights; rights that are seen by them and their deep pocket financiers as impediments to rank profitability, narrow theocratic rule, and historically stultified cultural values.

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INTRODUCTION

Good Morning Chairman Klemin and members of the House Judiciary. Thank you for your time today and allowing me to speak. For the record, my name is Autumn Richard from Lefor, North Dakota and I am here to speak in favor of House Bill 1205.

This bill has become a necessity in our state; to preserve the integrity of our community and to uphold our values. I am here today to talk about the books that I've found within the Dickinson Public Library and to share some excerpts from a few books. It gives me no pleasure to say some of these words that are in these books and it makes me feel uncomfortable saying these words, but I want this committee to understand the gravity of the situation and why these books are objectionable to so many.

I feel like my job today is to help you understand why this bill is being presented, why there has been so much media on this topic, and why there are people willing to stand in opposition of these books.

BOOKS

The book, "Let's Talk About It, A Teen's Guide to Sex, Relationships, and Being a Human," is a graphic novel for children from the ages of fourteen and up. This book provides terminology such as: anal sex, mutual masturbation, and rimming. Graphic pictures of vaginas and penises are displayed being fondled as well as an entire page providing written and visual instruction to the insertion of anal plugs. There are cartoonish figures in all types of sexual positions, meant to sexually stimulate the reader.

On page 82, the books says, 'the anus is chock full of sensitive nerves, making it a primo erogenous zone for touching and penetrating.' Page 91 says 'reproduction aside, your genitals

exist to let you feel pleasure with yourself or others, no matter which genitals they may have.

Sexual intimacy is a powerful way to feel good and bond with another person, whether it's for a night or a lifetime.'

This book does talk about Sexually Transmitted Infections and a few things that are stated directly in the book are, "STI's are SUPER COMMON and you can be exposed to them even when you aren't being sexually active. Sometimes all it takes is a bit of fluid exchange." Page 133 states, "Turns out, the majority of STI's are treatable and if caught early, no biggie." "There are some scary infections out there, like HIV. But you know what? Even that can be treated with antivirals to the point where it becomes undetectable."

Page 149 through 153 are focused on the topic of sexting, and while it does say anyone below the age of 18 should not partake, the book is for fourteen year old, and says things like, "sending or getting a wanted saucy something from a partner can be the highlight of your day. It's thrilling, sexy, and fun."

Finally, this book has an entire chapter for kinks, fantasies, and porn, saying things like, "There's nothing wrong with enjoying some porn; it's a fun sugary treat!" (Page 165)

Another book in the library is called Sex is a Funny Word and the recommended reading age is 8-11. This book is full of sexually explicit graphics, including depictions of vaginas and penises, discusses gender identities, sex, and masturbation, all while using colorful and youthful imagery. One chapter in the book states, "Like other holes in the body, the anus is usually very sensitive, which means it can feel good to touch but can also hurt if we are rough with it." There is also a drawing on page 108 of a young girl sitting with her family at a picnic table, with her hand in her pants and a smile on her face, clearly stimulating herself.

Naked, Not Your Average Sex Encyclopedia is a book with a recommended reading age of twelve and older. This book provides detailed definitions to words such as: blow job, doggy style, fisting, glory hole, golden shower, queening, kinging, rim job, scissoring, threesome and tribbing. This book devotes entire pages to: anal sex (pg 8), climax (pg 40), cunnilingus (pg58), ejaculation (pg 73), erection (pg 77), fellatio (pg 87), foreplay (pg 93), friends with benefits or as the book says, 'fuck buddies,' (pg 94), masturbation (pg138), one night stands (pg 157), oral sex (pg 159), orgasm (pg 161), polyamory (pg 169), pornography (pg 170), sex (pg 187), sex games (pg 188), sex practices and positions (pg 189-191), sex toys (pg 192) and sexting on page 194 and 195. This book states that, "sexting is sending messages to flirt and seduce other people, which can be really fun and exciting." There are graphic and sexual pictures throughout this book, which are meant to stimulate the reader.

The takeaway is that while these books could possibly have some aspects that you agree could be beneficial knowledge such as information about contraceptives, body image, and abusive relationships, there are many sections within these books that provide information too mature for minors and are in fact, harmful. And it goes without saying you cannot dissect a book and only put a portion on the shelf.

House Bill 1205 clearly outlines what are objectionable materials for minors and presents a list that eliminates harmful visuals and vocabulary from juvenile books. This is not a breach on anyone's first amendment right; the first amendment does not protect any aspects of child pornography or obscenity. It is clearly stated that, "Obscenity is not protected under First Amendment rights to free speech" --Reno v. ACLU, 521 U.S. 844 (1998)

According to the Department of Justice, "Federal law strictly prohibits the distribution of obscene matter to minors. Any transfer or attempt to transfer such material to a minor under the age of 16,

including over the Internet, is punishable under federal law. It is also illegal to use misleading website domain names with intent to deceive a minor into viewing harmful or obscene material. For example, using a cartoon character or children's television program in the domain of a website that contains harmful or obscene material may be punishable under federal law.

In addition, visual representations, such as drawings, cartoons, or paintings that appear to depict minors engaged in sexual activity and are obscene are also illegal under federal law.

It is important to note that the standard for what is harmful to minors may be different than the standard for adults, and offenders convicted of obscenity crimes involving minors face harsher penalties than if the crimes involved only adults."

Our century code provides definitions for obscenity and promoting obscenity to minors; these books qualify under our century code, except for the clause at the end that is currently allowing libraries to purchase and provide these books. The explicit language that I've had to use today is unfortunate, but necessary, so that you can hear what is being deemed appropriate for children. We need to see a change because this is what's in our libraries today for our youth and I hope that this provides some clarity on what is out there; not just in my library but throughout the state.

STATE LAWS

The concern growing from these books has reached national news and has spurred other states to create bills in order to preserve the innocence of our youth. The following bills have passed in other states:

Tennessee House Bill 2454 and Senate Bill 2292 redefines "obscene" to include material that has educational value as well as changing internet policy to ensure that users cannot access certain obscene material.

Tennessee also passed the "Age Appropriate Materials Act of 2022" with **Senate Bill 2407**

Utah HB374 eliminates the dual standard between electronic and printed obscene content in Utah schools by enacting a protective policy that requires removal of this content from school settings for the health and safety of our children.

Missouri Senate Bill 775 provides that if a person commits the offense of providing explicit sexual material to a student and if such person is affiliated with a public or private elementary or secondary school in an official capacity and, knowing of its content and character, such person provides, assigns, supplies, distributes, loans, or coerces acceptance of or the approval of the providing of explicit sexual material to a student or possesses with the purpose of providing, assigning, supplying, distributing, loaning, or coercing acceptance of or the approval of the providing of explicit sexual material to a student is a Class A misdemeanor.

Florida House Bill 1467 has placed stringent rules for their school libraries requiring that book selections are to be free of pornography and prohibited materials harmful to minors, suited to student needs, and appropriate for the grade level and age group.

Oklahoma Senate Bill 3702 says that employees of school districts, charter schools, virtual charter schools, state agencies, public libraries, and universities shall not be exempt from prosecution for willful violations of state law prohibiting indecent exposure to obscene material or child pornography as provided in Section 1021 or Title 21 of the Oklahoma Statutes.

There is nationwide concern and a growing alarm as more and more books are being brought to the attention of the people. Because of this, laws are springing up all over the country; we are not the only state to feel the necessity of providing protective restrictions to certain material for minors. This is no different than current laws restricting minors from consuming alcohol or even entering an adult store; these are restrictions in place for a minor's mental health and well being.

-There are several bills that are currently being introduced throughout the country:

Minnesota House Bill 248 states that a library in a public school building must not contain any pornographic material. A library in a public elementary school must not contain any sexually explicit content.

Wyoming House Bill 0087 redefines "Child pornography to mean any visual depiction, including any photograph, film, video, picture, cartoon, drawing, computer or computer-generated image or picture, whether or not made or produced by electronic, mechanical or other means, or any other form of depiction of explicit sexual conduct.

CONCLUSION

The first time I went into the children's section of the Dickinson Library I brought home seven books that I was alarmed by. The second time, a group of ladies went with me and we found close to thirty books between the juvenile and small children's play area. I finally used the Odin library catalog and began a list of any book for minors in my library that were inappropriate. I amassed a list of 107 books. I also realized that other libraries in our state have books which have been removed in other regions of our nation. There is a reason this has become a nationwide concern and has received so much attention. There is a reason we are here today and I respectfully request a do pass recommendation from this committee.

Mr. Chairman and members of the committee, that concludes my testimony and while I didn't show any pictures, I did bring two of the books I've mentioned today and I would be happy to pass them out to you if you would like to see the graphics for yourselves as well as answer any questions you may have.



NORTH DAKOTA

Family Alliance LEGISLATIVE ACTION

Testimony Supporting House Bill 1205

Mark Jorritsma, Executive Director
North Dakota Family Alliance Legislative Action
January 17, 2023

Good morning Chairman Klemin and honorable members of the House Judiciary Committee. My name is Mark Jorritsma and I am the Executive Director of North Dakota Family Alliance Legislative Action. I am testifying on behalf of our organization in support of House Bill 1205 and respectfully request that you render a "DO PASS" on this bill.

Our organization and its constituents feel strongly about protecting minors from harmful materials that depict explicit sexual images. I have heard time and again from our constituents that they are deeply concerned about the type of content their children might be exposed to at their local libraries. It is not simply a matter of being exposed to this content by having their children wander the shelves and stumble upon a book. Many times it is related to libraries directly recommending and/or prominently displaying these books to children, often to the exclusion of other similar books which have less explicit content. It is very clear from American Library Association materials that their agenda for public libraries is to communicate and convince our children of the socially acceptable views of our day. This is one avenue for them to do that.

It has been expressed to us that librarians are concerned about the possibility of a class B misdemeanor, which is understandable. The section in this bill that addresses a penalty clearly states that anyone who subjects a minor to sexually explicit material would be penalized, and the bill goes to great length to define what it means by sexually explicit material. That said, we would recommend that the definitions in section 2-1, subsection a, be reviewed and have more specificity, in part to alleviate these types of concerns. This bill is not perfect, but it is a step in the right direction.

This has nothing to do with "book burning", banning books, censorship, or trampling Constitutional rights. It has everything to do with protecting children from having their innocence stolen from them by reading materials that are inappropriate for their age. Especially materials from a public library that may have been in a children's section and were supposedly already screened for appropriateness.

House Bill 1205 protects our children, but not from the realities of the world. We know that they will need to grow up in a pluralistic and multifaceted society, but let's introduce them to these concepts in a measured and age-appropriate manner. For these reasons, we respectfully ask that you render a "DO PASS" on House Bill 1205.

Thank you for the opportunity to testify, and I am happy to stand for any questions.

My name is Montana Ackman, I have been a proud citizen of North Dakota for all of my teenage and adult life, and I am writing to you today to urge you to **VOTE 'DO NOT PASS'** on House Bill No. 1205. This bill, if enacted, would be incredibly harmful to the God-given and US Constitutionally protected rights of the citizens of North Dakota to raise and parent their children as they see fit and opens this assemble up to a variety of negative legal actions for its violation of the 1st Amendment as it relates to intellectual freedom, Freedom to Read, and Freedom to View. It also opens the door for litigation for violation of civil rights of marginalized groups and from the groups who will suffer from taxation without representation should this bill pass.

In a free society, it is the right and responsibility of its **citizens** not its **governing body** to use their good judgement in deciding what they deem to be acceptable content to consume.

As this bill relates specifically to minors and the places that they frequent, I would remind this Assembly that it is the job of a parent/legal guardian to filter content for their wards until the minors are of an age where they can be taught to monitor and filter the content that they choose to consume for themselves.

Additionally, with the exception of establishments that cater specifically to adults over the age of 21, there is no feasible place in society wherein minors would not be found. The way this bill has been written any doctor's office, dentist, motor vehicle repair shop, or other business institution that would have or display items such as *1984* by George Orwell, *People Magazine*, or even something as mundane as the *New York Times* could be found to be in violation of this bill and subject to a class B misdemeanor.

Can you see how this approach is unnecessarily harsh and wrong and places responsibility for a minor's safety into the wrong hands?

Until a minor is of the majority and can make decisions for themselves, it should not be legislators and strangers who are charged with the protection of a child's innocence and (though I am loath to put it this way) maintaining their purity of thought. It should be the job of the parents and guardians who are entrusted with that minor's care to protect their innocence and educate them of the morals and values that lead to good judgement.

Additionally, public libraries that would be forced to comply with this bill are funded by both state and local tax dollars. This means that all citizens of the state of North Dakota contribute to the total amount of money that is used to purchase library books and materials. Many of the books and other materials that you would be forcing libraries to remove would books that many of the taxpayers of North Dakota would NOT wish to have removed. By this bill's definition books that would need to be removed would include award winning classics like George Orwell's *1984*, Judy Bloom's *Are you there, God? It's me, Margaret*, Christian romance, as well as most other critically acclaimed and award-winning books, audiobooks, magazine articles, newspaper articles, and movies and TV shows.

Additionally, the materials that you would be forcing libraries to remove from their collections disproportionately feature marginalized communities and people of color. This would include the stories of children of undocumented immigrants, stories of those who have experienced physical abuse in the home, stories of the survivors of sexual assault, stories of friends dealing with the death of a friend, classic works of literature, and so much more.

By choosing to remove these experiences from the narrative represented in the public libraries (that are funded by public tax dollars), you are telling the community members who have lived through and/or relate to the realities represented in the materials that would be removed that their experiences, culture, heritage, etc. is less worthy and that the rest of society must be protected from them but that their money is still good enough to line our government's pockets.

This flawed line of thinking not only puts some community members on a higher pedestal than others in that the library wants and needs that certain community members have will be funded and supported by all of our hardworking community members, but it also makes clear that the library wants and needs of other members of the community are subservient to those who are having their wants and needs met in that their tax dollars will still be taken and used, but their wants and needs will not be met or represented.

Can you see how this will not only create a division within our beloved communities but will also open this assembly to litigative action from the community members who are not properly being represented in our public libraries?

Please know that I understand the urge to protect minors who are not yet able to protect themselves; however, I would point out again that it is not the job of legislators and strangers to protect our state's citizens who are minors. It is the job of the parents and legal guardians of our state's minors to guide their children and safeguard their hearts and minds. If you don't want your minor to be consuming the types of materials outlined in this bill, then parent them! Have discussions about what materials are and are not acceptable in your household and why.

I was raised by parents who adhere to a strict moral code, my parents took the time to educate me on the morals and values that they wanted me to internalize within myself and apply to my life. To this day, I use the good judgement that they taught me to have whenever I am evaluating media and information that I wish to consume. An example of this is that, when I was growing up, my parents did not want me or my siblings to read Harry Potter as they were morally opposed to the idea of witches, wizards, ghosts, etc. My parents explained why we weren't allowed to read the books and while I could have still checked out the books from our public library and read them; I did not. In fact, I still have not read them to this day because I knew what was acceptable behavior in my parent's house and what was not because my parents took responsibility for my siblings and I, educated us on appropriate evaluation processes for viewing materials, and held us accountable for the decisions we did make. My parents prioritized educating their children on logical thought processes and conscious behaviors rather than simply censoring the materials available to us as they knew that we would one day be adults who would need to know how to reason through these decisions for ourselves.

What is and is not acceptable varies from person to person and family to family. What is acceptable to some is not acceptable to all. Every member of this state has their own limits and boundaries in this regard. Not only would enforcing this bill take away the Constitutionally protected right of freedom of expression which encompasses intellectual freedom, Freedom to Read, and Freedom to View, but it would also remove the right of each community member and parent to choose for themselves what is and is not acceptable within their home and family.

As for the legal action that this assembly is opening itself up to, I have attached the Merriam Webster Dictionary definition of **intellectual freedom** as well as **applied interpretations of the 1st Amendment** titled the Freedom to View Statement and the Freedom to Read Statement.

In light of this information, I would again urge you to **VOTE 'DO NOT PASS' on House Bill No. 1205**. House Bill No. 1205 goes against the freedoms protected in the 1st Amendment, places the responsibility for the protection of minors in the hands of strangers and legislators rather than in the hands that can properly protect them – those of parents and guardians, and the content that you would have your citizens heavily punished for displaying renting, and selling – while clearly defined- will be of varying levels of offence to different people. Additionally, the enforcing of this bill will cause certain members of society to be subjected to equal taxation with unequal representation.

I would urge you to consider all of this and count the cost when it comes time to vote!

Thank you for your time and consideration of this matter.

Respectfully,

Montana Ackman

Williston, ND

The Freedom to Read Statement

The freedom to read is essential to our democracy. It is continuously under attack. Private groups and public authorities in various parts of the country are working to remove or limit access to reading materials, to censor content in schools, to label "controversial" views, to distribute lists of "objectionable" books or authors, and to purge libraries. These actions apparently rise from a view that our national tradition of free expression is no longer valid; that censorship and suppression are needed to counter threats to safety or national security, as well as to avoid the subversion of politics and the corruption of morals. We, as individuals devoted to reading and as librarians and publishers responsible for disseminating ideas, wish to assert the public interest in the preservation of the freedom to read.

Most attempts at suppression rest on a denial of the fundamental premise of democracy: that the ordinary individual, by exercising critical judgment, will select the good and reject the bad. We trust Americans to recognize propaganda and misinformation, and to make their own decisions about what they read and believe. We do not believe they are prepared to sacrifice their heritage of a free press in order to be "protected" against what others think may be bad for them. We believe they still favor free enterprise in ideas and expression.

These efforts at suppression are related to a larger pattern of pressures being brought against education, the press, art and images, films, broadcast media, and the Internet. The problem is not only one of actual censorship. The shadow of fear cast by these pressures leads, we suspect, to an even larger voluntary curtailment of expression by those who seek to avoid controversy or unwelcome scrutiny by government officials.

Such pressure toward conformity is perhaps natural to a time of accelerated change. And yet suppression is never more dangerous than in such a time of social tension. Freedom has given the United States the elasticity to endure strain. Freedom keeps open the path of novel and creative solutions, and enables change to come by choice. Every silencing of a heresy, every enforcement of an orthodoxy, diminishes the toughness and resilience of our society and leaves it the less able to deal with controversy and difference.

Now as always in our history, reading is among our greatest freedoms. The freedom to read and write is almost the only means for making generally available ideas or manners of expression that can initially command only a small audience. The written word is the natural medium for the new idea and the untried voice from which come the original contributions to social growth. It is essential to the extended discussion that serious thought requires, and to the accumulation of knowledge and ideas into organized collections.

We believe that free communication is essential to the preservation of a free society and a creative culture. We believe that these pressures toward conformity present the danger of limiting the range and variety of inquiry and expression on which our democracy and our culture depend. We believe that every American community must jealously guard the freedom to publish and to circulate, in order to preserve its own freedom to read. We believe that publishers and librarians have a profound responsibility to give validity to that freedom to read by making it possible for the readers to choose freely from a variety of offerings.

The freedom to read is guaranteed by the Constitution. Those with faith in free people will stand firm on

these constitutional guarantees of essential rights and will exercise the responsibilities that accompany these rights.

We therefore affirm these propositions:

1. *It is in the public interest for publishers and librarians to make available the widest diversity of views and expressions, including those that are unorthodox, unpopular, or considered dangerous by the majority.*

Creative thought is by definition new, and what is new is different. The bearer of every new thought is a rebel until that idea is refined and tested. Totalitarian systems attempt to maintain themselves in power by the ruthless suppression of any concept that challenges the established orthodoxy. The power of a democratic system to adapt to change is vastly strengthened by the freedom of its citizens to choose widely from among conflicting opinions offered freely to them. To stifle every nonconformist idea at birth would mark the end of the democratic process. Furthermore, only through the constant activity of weighing and selecting can the democratic mind attain the strength demanded by times like these. We need to know not only what we believe but why we believe it.

2. *Publishers, librarians, and booksellers do not need to endorse every idea or presentation they make available. It would conflict with the public interest for them to establish their own political, moral, or aesthetic views as a standard for determining what should be published or circulated.*

Publishers and librarians serve the educational process by helping to make available knowledge and ideas required for the growth of the mind and the increase of learning. They do not foster education by imposing as mentors the patterns of their own thought. The people should have the freedom to read and consider a broader range of ideas than those that may be held by any single librarian or publisher or government or church. It is wrong that what one can read should be confined to what another thinks proper.

3. *It is contrary to the public interest for publishers or librarians to bar access to writings on the basis of the personal history or political affiliations of the author.*

No art or literature can flourish if it is to be measured by the political views or private lives of its creators. No society of free people can flourish that draws up lists of writers to whom it will not listen, whatever they may have to say.

4. *There is no place in our society for efforts to coerce the taste of others, to confine adults to the reading matter deemed suitable for adolescents, or to inhibit the efforts of writers to achieve artistic expression.*

To some, much of modern expression is shocking. But is not much of life itself shocking? We cut off literature at the source if we prevent writers from dealing with the stuff of life. Parents and teachers have a responsibility to prepare the young to meet the diversity of experiences in life to which they will be exposed, as they have a responsibility to help them learn to think critically for themselves. These are affirmative responsibilities, not to be discharged simply by preventing them from reading works for which they are not yet prepared. In these matters values differ, and values cannot be legislated; nor can machinery be devised that will suit the demands of one

group without limiting the freedom of others.

5. *It is not in the public interest to force a reader to accept the prejudgment of a label characterizing any expression or its author as subversive or dangerous.*

The ideal of labeling presupposes the existence of individuals or groups with wisdom to determine by authority what is good or bad for others. It presupposes that individuals must be directed in making up their minds about the ideas they examine. But Americans do not need others to do their thinking for them.

6. *It is the responsibility of publishers and librarians, as guardians of the people's freedom to read, to contest encroachments upon that freedom by individuals or groups seeking to impose their own standards or tastes upon the community at large; and by the government whenever it seeks to reduce or deny public access to public information.*

It is inevitable in the give and take of the democratic process that the political, the moral, or the aesthetic concepts of an individual or group will occasionally collide with those of another individual or group. In a free society individuals are free to determine for themselves what they wish to read, and each group is free to determine what it will recommend to its freely associated members. But no group has the right to take the law into its own hands, and to impose its own concept of politics or morality upon other members of a democratic society. Freedom is no freedom if it is accorded only to the accepted and the inoffensive. Further, democratic societies are more safe, free, and creative when the free flow of public information is not restricted by governmental prerogative or self-censorship.

7. *It is the responsibility of publishers and librarians to give full meaning to the freedom to read by providing books that enrich the quality and diversity of thought and expression. By the exercise of this affirmative responsibility, they can demonstrate that the answer to a "bad" book is a good one, the answer to a "bad" idea is a good one.*

The freedom to read is of little consequence when the reader cannot obtain matter fit for that reader's purpose. What is needed is not only the absence of restraint, but the positive provision of opportunity for the people to read the best that has been thought and said. Books are the major channel by which the intellectual inheritance is handed down, and the principal means of its testing and growth. The defense of the freedom to read requires of all publishers and librarians the utmost of their faculties, and deserves of all Americans the fullest of their support.

We state these propositions neither lightly nor as easy generalizations. We here stake out a lofty claim for the value of the written word. We do so because we believe that it is possessed of enormous variety and usefulness, worthy of cherishing and keeping free. We realize that the application of these propositions may mean the dissemination of ideas and manners of expression that are repugnant to many persons. We do not state these propositions in the comfortable belief that what people read is unimportant. We believe rather that what people read is deeply important; that ideas can be dangerous; but that the suppression of ideas is fatal to a democratic society. Freedom itself is a dangerous way of life, but it is ours.

This statement was originally issued in May of 1953 by the Westchester Conference of the American Library Association and the American Book Publishers Council, which in 1970 consolidated with the American Educational Publishers Institute to become the Association of American Publishers.

Adopted June 25, 1953, by the ALA Council and the AAP Freedom to Read Committee; amended January 28, 1972; January 16, 1991; July 12, 2000; June 30, 2004.

A Joint Statement by:

American Library Association (/)

Association of American Publishers (<http://www.publishers.org/>)

Subsequently endorsed by:

American Booksellers for Free Expression (<http://www.bookweb.org/abfe>)

The Association of American University Presses (<http://www.aaupnet.org/>)

The Children's Book Council (<http://www.cbcbooks.org/>)

Freedom to Read Foundation (<http://www.ftrf.org>)

National Association of College Stores (<http://www.nacs.org/>)

National Coalition Against Censorship (<http://www.ncac.org/>)

National Council of Teachers of English (<http://www.ncte.org/>)

The Thomas Jefferson Center for the Protection of Free Expression

Freedom to View Statement


The **FREEDOM TO VIEW**, along with the freedom to speak, to hear, and to read, is protected by the First Amendment to the Constitution of the United States. In a free society, there is no place for censorship of any medium of expression. Therefore these principles are affirmed:

1. To provide the broadest access to film, video, and other audiovisual materials because they are a means for the communication of ideas. Liberty of circulation is essential to insure the constitutional guarantee of freedom of expression.
2. To protect the confidentiality of all individuals and institutions using film, video, and other audiovisual materials.
3. To provide film, video, and other audiovisual materials which represent a diversity of views and expression. Selection of a work does not constitute or imply agreement with or approval of the content.
4. To provide a diversity of viewpoints without the constraint of labeling or prejudging film, video, or other audiovisual materials on the basis of the moral, religious, or political beliefs of the producer or filmmaker or on the basis of controversial content.
5. To contest vigorously, by all lawful means, every encroachment upon the public's freedom to view.

This statement was originally drafted by the Freedom to View Committee of the American Film and Video Association (formerly the Educational Film Library Association) and was adopted by the AFVA Board of Directors in February 1979. This statement was updated and approved by the AFVA Board of Directors in 1989.

Endorsed January 10, 1990, by the ALA Council

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intellectual freedom

idiom

: freedom that allows people to think about or study what they want
the library's commitment to *intellectual freedom*

Dictionary Entries Near *intellectual freedom*

[intellectual disability](#)


intellectual freedom

[intellectual history](#)

[See More Nearby Entries >](#)

Cite this Entry

Style

MLA 

“Intellectual freedom.” *Merriam-Webster.com Dictionary*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/intellectual%20freedom>. Accessed 16 Jan. 2023.

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HB1205

Vote NO on HB1205.

Libraries have policies in place for reconsideration of items on the shelf. Any patron can ask for an item to be reconsidered by going through the proper channels. It is the parent's responsibility to know that their children are reading and looking at. No staff member at a library will check out a book to a minor that is not approved by their parent. This bill is BAD policy and needs to be struck down and done a way with. It is total censorship of ALL material in libraries.

Libraries have collection management policies that are age appropriate. This policy is used when new books are ordered and when books are shelved. Some minors have no one to teach them the birds and bees so they used to turn to books. Many parents do not want to discuss the topic of sex with their children. That is the parents' responsibility but some think if we don't bring it up it will just not happen. This is the wrong mindset. Minors will find a way to get the information they want.

Minors see more on Prime Time TV then they every see in a book at the library. Are you going to go after the TV stations and fashion designers for what people on TV are not covering up? That is offering sex to minors every time they watch TV. What about their phones? Are you going to monitor the minor's phones and be sure that they are not accessing sex items on their phones?

There is no fiscal note attached to this bill. The financial responsibility is being thrown on the cities and counties! Who is going to pay for the extra employees that are going to be needed by EVERY library in order to be in compliance with this law in 9 months? It will take an estimated 288 extra employees to read all the books in every collection of every library to be sure that the library is in compliance with this bill. Who is going to pay for those 288 employees?

A report is required to be sent to the legislative management every year. Who is going to review these reports and what are they supposed to contain? Are you going to write job duties for every person in the state of North Dakota or just Library directors?

Testimony by Kara Geiger in OPPOSITION to HB 1205

(Though I am a current member of the Board of Trustees for the Morton Mandan Public Library, this is my personal testimony and is not necessarily the position of the MMPL, its trustees, or its staff. My comments are mine alone.)

This bill changed a bit after I submitted my original opposition testimony to the House Judiciary Committee in January. After reviewing the version that passed the House, I am still opposed to HB 1205 for the following reasons:

- This bill tasks each public library in the state with reviewing its entire collection of materials, which places an undue burden on institutions that already do not receive enough funding to fully staff them or to provide all the programs and services that public libraries are expected to provide. This bill will especially hurt rural libraries, many of which have only one paid staff member. I fear that we will see a mass closing of public libraries in the communities that need them the most.
- I can't speak to every library in the state, but I do know that the ones in our largest communities already have policies and procedures in place for members of the public to challenge any material in a library's collection. Why is this not good enough? Why this attempt by the government to censor libraries?
- This bill, if passed, would set a very dangerous precedent. What category might be censored next? How about books that challenge Christianity or promote atheism? Considering the demographics of the current legislature, it seems entirely possible that something like that could be next, if this bill passes. Or perhaps next session our mostly male legislature decides that feminism and vaginas are far too dangerous or disgusting, so books that mention either of those end up on the chopping block. Where does it stop? It needs to stop here and now, by killing this bill.

Public libraries exist for the good of society. They are governed by volunteer trustees who help write the policies by which a library operates and ensures that those policies are followed. They are staff by professional librarians. Books and other materials are not added to a library's collection randomly or on a whim. A great deal of thought and research goes into it, along with public input. Any member of the public can challenge a book.

A bill like HB 1205 tells me that our government does not trust public libraries, their staff, or their trustees. If that is true – if you truly believe that public libraries in North Dakota are not operating with the best interests of our citizens in mind – then we have a much bigger problem than the scope of what this bill addresses. If I'm mistaken – if you DO trust libraries – then I respectfully ask you to back off and let libraries do their job. Encourage your constituents to work with their local library to address their concerns about materials they feel shouldn't be in the library. Encourage them to attend library board meetings, which are always open to the public, to ask questions, and to engage in productive dialogue.

The government should not have a say in what a public library should or should not have in its collection. That's censorship and its illegal. **Vote NO on HB 1205.**

As I said in my original testimony, history tells us that those who try to ban books are NEVER on the right side of history. Be on the right side and vote NO on this bill.

Thank you for your time.

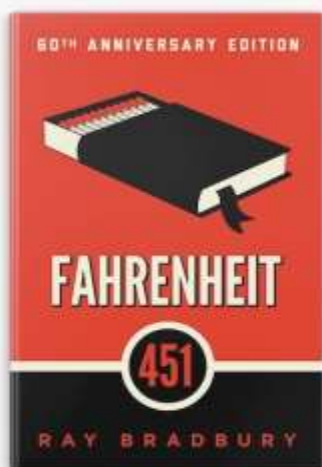
Kara L. Geiger
Mandan, ND

Fahrenheit 451 was written by Bradbury during the Second Red Scare and the McCarthy era, who was inspired by the book burnings in Nazi Germany and by ideological repression in the Soviet Union. This is not a textbook for lawmakers in need of inspiration of writing laws in 2023.

#ReadingIsNotACrime

#BansOffMyBooks

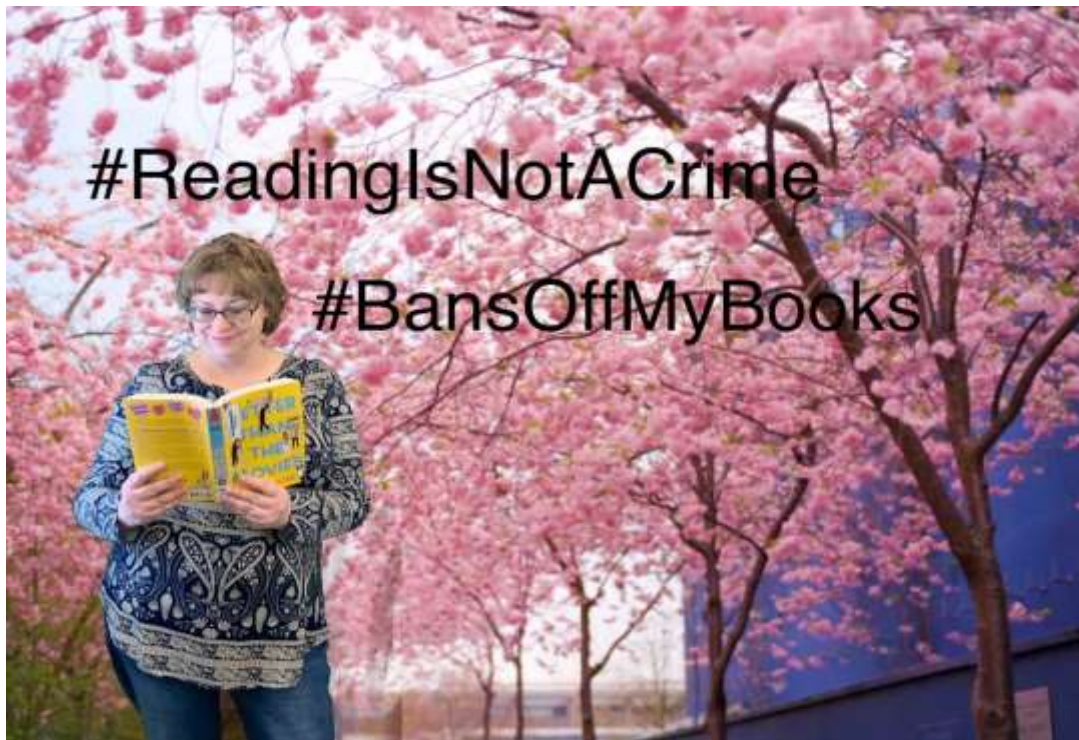
Attention
North Dakota
Law Makers



This is
NOT a
textbook!

A few months back, I was meandering around my Teen area, shelving a few books, generally tidying up when a young man appeared. "Casey" was very distressed after school. I asked him if he was ok. Sometimes, school is tough for a 9th grader. He told me that school was fine today but that his little sister was dying. I was immediately very concerned and said I was very sorry to hear that. I asked what was wrong as I had seen her just days ago and she had been fine. Casey told me "She's bleeding into the toilet and she can't walk properly." I said "I see, did your parents tell you she was unwell?" "No, they won't talk at all, just look sad and worry." I asked Casey if it was possible his sister was having a period and he looked at me blankly and said "What's that?" I found a teen puberty book to explain his sister's symptoms to him. The look of relief on his face was miraculous to see. This poor teenager had spent a whole weekend and a school day worried to death his little sister was DYING because his mom and dad were too embarrassed to explain a simple biological process to him! Appropriate puberty information for both sexes is crucial to teen development and family ties. Anguish over a loved one's demise is no way for a teen to spend a weekend or a school day and by supplying our teens with correct information, we make their lives better.

Pass HB 1205 and you will end up taking away sex education books because anyone can object to anything, leaving the library with no recourse. As we've seen above, even kids who attend public school might not understand everything they need to know about puberty WHEN they need it. Libraries provide trusted resources when our young people need them. Without well stocked libraries, teens will suffer, or turn to less reliable sources like their friends or dodgy Internet sites. This is not in North Dakota's best interests.



Pam Carswell, Teen Librarian, Mother, READER of books with WORDS!

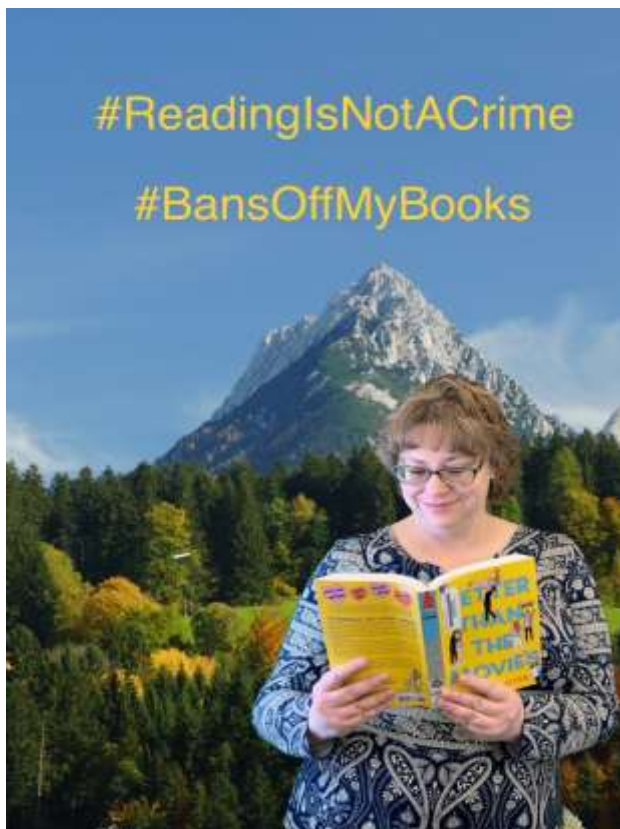
I am opposed to this bill. I do not want to live in a state that bans books. Don't take away parents rights and responsibilities.

I have heard a lot of “protecting children from filth.” It seems to be a pet phrase from some lawmakers. They seem to think people can access porn freely at public libraries. This is not the case. minors or adults can’t get to internet pornography at the library thanks to great filters from the North Dakota State Library! I was disappointed at the lack of knowledge my representatives show of libraries, books and proper grammar. I really begin to wonder if people in government actually read books.

Did you all know that public libraries already have a reconsideration form that citizens can fill out to object to a particular material? This seems a far better idea than large, sweeping legislation of what can and cannot be on a public library or bookstore shelf. What’s next? Are you going to be monitoring my Kindle account? My Audible subscription? Check my children’s accounts for naughty books? Fine me for books I already own? Where does this stop?

Further, this legislation treats a 15 year old like a 5 year old which is ridiculous and not getting our teens what they need. I would much rather a teen read a book about sex than experiment themselves in real life. It is better for teens to think about the consequences of their actions in a fictional world rather than face the costs of an unintended pregnancy in real life.

Want to impress me that you care about young people? Prosecute pedophiles, look at your former colleague Holmberg with more scrutiny, and stop allowing human traffickers to get off after abusing young people because they turned State’s evidence.



Pam Carswell

Veteran Spouse

Mother of Three

Reader of books with actual words

Members of the Senate Judiciary Committee:

My name is Rachel Kercher and I am the Youth Services librarian at the Leach Public Library in Wahpeton. I am writing to you today to ask that you vote "Do not pass" on bill 1205. This bill is vague, subjective, and contradictory, and its outcome will affect every library user in North Dakota.

This bill requires the removal and disposal of sexually explicit materials from libraries in order to develop collections that are consistent with the purpose of libraries. These materials are not being moved to another section of the library; they are being completely removed from the library based on a subjective list of topics. Certain types of content are not being censored; books are being banned. Censorship and book banning go directly against the purpose of the library. Public libraries provide information to meet the wants and needs of our patrons, regardless of whether we agree with that information or not. How are libraries supposed to serve their communities and fulfil their purpose if they are not allowed to collect all types of books?

This issue is larger than a handful of controversial books. This bill, if passed, will restrict the reading rights of all patrons, even if they are not minors or the parent of a minor child, based on a subjective list of topics. How is "deviant sexual intercourse" being defined? How are "sexual activity" and "sexual perversion" being defined? Where do those definitions come from and why were they chosen? Will libraries be given detailed and objective guidelines based on these definitions? Will we receive guidance from the legislature and state agencies to help us through the censorship process? How will the terms of this bill be enforced? If you cannot answer these questions, how can librarians be expected to? If you cannot answer these questions, you should vote "do not pass" on this bill.

March 10, 2023

Dear Senators and Representatives,

I'm writing to express my opposition to SB 2360 & HB 1205 based on the versions available March 3 (when I started this letter). Of the two, SB 2360 is much more problematic in terms of restricting patron access to materials, but I believe both bills are currently unconstitutional. I'm also going out on a limb to suggest a compromise, if anyone is interested and still awake by the end of this letter.

I'm Library Director of James River Valley Library System (Jamestown), and I'm a Christian, a conservative, and a father. These are my personal thoughts. I understand that some materials in a few ND libraries are highly objectionable to many North Dakotans. I honestly wouldn't want my teenage son reading some of the materials that have prompted concern across the state.

Difficult Balancing Act

While I understand the concerns many people have about certain materials, I'm a librarian fully committed to protecting our First Amendment rights and all the other rights enshrined in our Constitution. My role is to provide fair and equitable access to information for the benefit of my community. At the same time, I try to select items with community values in mind. I ask myself the following questions:

- Is this item needed in my community?
- Will this item be widely used in my community?
- Is this item age-appropriate by contemporary community standards in Stutsman County?
- If the item probably wouldn't be considered age-appropriate, is there a way I can provide the same type of information in a manner that is broadly acceptable, and to an age level that is broadly acceptable?

If a requested item isn't broadly acceptable to be included in our physical collection, I can and will provide it through interlibrary loan or possibly in a digital format. That is my commitment as a librarian.

Some of my fellow librarians might feel these questions amount to censorship, and that's simply not the case. These are simple questions of material selection. I am not the Librarian of Congress. Our library has space and financial limitations, so we select based on which items will likely be used (hopefully frequently) in Stutsman County.

I don't judge the collection decisions made by any other librarians. They have to know their communities and provide the information needed in those communities. I completely defend their right to do so. I only evaluate information as it relates to the needs and values of people in Stutsman County, and I hope my decisions are generally correct.

Obscenity/Pornography

Some of the rhetoric from both sides of the debate on these bills has been unhelpful. Concerned citizens, Senators, and Representatives shouldn't be compared to Nazi book-burners, and neither should librarians be classified as purveyors of pornography. There is no obscenity/pornography (as currently defined in ND law, Federal law, or U.S. jurisprudence) in any school or public library in North Dakota (see my letter to the editor, *Jamestown Sun*, Feb. 4, 2023).

In 1973, the Supreme Court established the Miller Test for obscenity, and pornography falls under the definition of obscenity. Here are the three prongs of the Miller Test:

- “whether the average person applying contemporary community standards would find the work, taken as a whole, appeals to the prurient interest;
- whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and
- whether the work, taken as a whole, lacks serious literary, artistic, political or scientific value.” <https://mtsu.edu/first-amendment/article/1585/the-miller-test>

A Case Study

Let's look at how the Miller Test may apply to *Let's Talk About It*, a teen book that has been widely and inaccurately described as pornographic or obscene in legislative hearings. *Let's Talk About It* contains pictures and text describing some sexual practices that I knew nothing about, and was most comfortable knowing nothing about, until this controversy erupted.

For *Let's Talk About It* to be considered obscene or pornographic, it must violate all points of the Miller Test. The first two points are judged using the perspective of the average person under contemporary community standards. The third prong is judged by a national standard (*Pope v. Illinois* 1987) so that strongly conservative communities can't unduly restrict circulation of materials acceptable in other communities. <https://mtsu.edu/first-amendment/article/1585/the-miller-test>

When judging *Let's Talk About It*, the work must be taken as a whole. What happens if there are some good features, such as the part about consent? The Miller Test specifies that when taken as a whole, the work “lacks serious literary, artistic, political, or scientific value.” The word *lacks* means the work does not have value when applying a national standard to the overall work. Even if the work contains 1% value, then it has some value.

So does *Let's Talk About It* have some literary value? Some of the information could be well-written, and thus arguably possess at least a little literary value. Is there artistic value? Some of the illustrations are non-sexual, so arguably there could be some artistic value. What about political value? Some folks, particularly from a national perspective, probably see political value in the work. And what about scientific value? There is some information about sexual health that is scientifically important and correct no matter one's view of the rest of the material.

So is *Let's Talk About It* legally obscene or pornographic? No, because there is some value in the work, when taken as a whole.

Is *Let's Talk About It* offensive—even highly offensive—to many people? Yes, it's offensive to many people, including to me personally (but not professionally). As a librarian, I defend the right of authors to publish their views, I defend the right of public libraries to carry the material if they so choose, and I defend the right of the adult public to read or view what they choose.

My library doesn't have *Let's Talk About It* because I believe the average person in Stutsman County would consider the book inappropriate for the age level for which it was written. They don't want their children to find this book on our library shelves. However, some residents of Stutsman County want their children to be able to access materials such as *Let's Talk About It*. So how do we meet their needs? We use interlibrary loan or electronic sources to provide potentially controversial resources to those who need these materials, and we never judge someone who wants or needs any information. We also look to provide applicable alternate materials that cover the topic in a manner that is age-appropriate according to the general values of our community.

Now let's look at the legislation that's on the table in North Dakota.

SB 2360

I believe the sponsors and those who voted in favor of SB 2360 mean well, but there are a few important problems, and many of these problems are issues affecting constitutionality:

- Current Century Code contains a close representation of the Supreme Court's 1973 Miller Test for obscenity. The Miller Test is based on the views of the "average person." SB 2360 changes the Century Code wording from "ordinary adults," which sticks close to Miller's "average person," to "reasonable adults" (page 1, line 19), which is a different standard. So SB 2360 changes the long-established First Amendment standard, significantly narrowing the definition of obscenity.
- SB 2360 changes "principally made up" to "contains" (page 2, line 13). According to the Miller Test, a challenged work must be taken as a whole. Evaluating a work on the basis that it may contain something objectionable to some people rolls back the constitutional protections we currently enjoy.
- The inclusion of "written descriptions" in the section covering objectionable materials (page 2, line 13) will censor a vast number of books that represent constitutionally protected speech, all because minors may come to our libraries (page 2, line 10).
- The inclusion of "sexual perversion" and "sex-based classifications" (page 2, lines 27 & 28) may trigger 14th Amendment questions if these terms single out LGBTQ people for particular disapprobation.
- The removal of protections for public libraries (page 3, line 6) is a huge constitutional problem. Libraries are designed as places where speech can thrive, even if the speech

offends some people. Where can the First Amendment operate if it's not protected in public libraries?

- The section on digital materials appears to be unconstitutional because it labels materials as “obscene” or “pornography” that are clearly not in violation of the Miller Test (page 3, lines 27 & 28). In addition, since large database companies will almost certainly not implement the filters envisioned by SB 2360, North Dakotans would lose access to eBooks because the bill prohibits libraries from making our payments. Surely that isn't constitutional.

HB 1205

HB 1205 has been improved from its first draft, and I appreciate that. As with SB 2360, I know the people who have voted for HB 1205 and those who support it are trying to do the right thing by protecting our children. However, constitutional issues remain:

- HB 1205 exempts “materials used in science courses, including biology, anatomy, physiology, or sexual education classes” (page 1, lines 11 & 12). What about materials that *could be* used in these classes? The Miller Test protects all materials of scientific value, but this bill significantly narrows the sexual information a public library may carry, limiting libraries to materials actually used in classes. Is the bill's wording constitutional? I don't think so.
- The bill bans materials depicting “sexual perversion” (page 1, line 22). The first draft of the legislation added several other categories particularly applicable to LGBTQ persons, and I'm happy to see these were deleted. However, I still question whether “sexual perversion” is a catch-all for banning some LGBTQ materials. If so, the 14th Amendment could be in play.
- The bill bans libraries from maintaining “books that contain explicit sexual material” (page 2, lines 4 & 5). The Miller Test says that materials must be taken as a whole. Therefore, a work could contain something explicit but still not be obscene. Works containing explicit sexual material are protected under our Constitution. Please also note that this bill bans materials in the adult collection because it makes no differentiation between adult and children's materials.

In addition to the constitutional issues in HB 1205, the periodic review requirement is unworkable (page 2, lines 16 & 17), particularly if SB 2360 passes with its banning of “written descriptions.” Librarians read reviews; we don't read all the books and periodicals in our libraries, watch all the movies, or listen to all the music. There simply isn't time. Please consider that HB 1205, like its Senate counterpart, is unconstitutional.

What Might Be Banned?

Both library bills would result in banning certain books and other materials that have long been considered appropriate for adults in our communities. I'm sorry if the words *banned* or *censored* offend, but that's what these bills currently do. Both bills prohibit materials that *contain*

materials deemed explicit. For instance, the wording from HB 1205 says, “A public library may not maintain in its inventory books that contain explicit sexual material.” There is no exception for materials that are written for adults. Here are a few examples of adult non-fiction books that are at risk:

- *I Cried to Dream Again*, by Sara Kruzan (memoir of a victim of child sex trafficking) – SB 2360
- Biographies of stars that contain nude pictures (e.g. Marilyn Monroe, John Lennon/Yoko Ono, Janis Joplin, Madonna) – both bills
- *Unmentionable: The Victorian Lady’s Guide to Sex, Marriage, and Manners*, by Therese Oneill (humorous study of old-time self-help guides, with pictures) – both bills
- Bible (story of Onan spilling his seed in Gen. 38, along with other stories) – SB 2360
- Shakespearean plays (full of sexual imagery) – SB 2360
- *Hot and Unbothered: How to Think about, Talk about, and Have the Sex You Really Want*, by Yana Tallon-Hicks – SB 2360
- *200 Words to Help You Talk about Sexuality & Gender*, by Kate Sloan – SB 2360
- *Anatomica’s Body Atlas* (banned if not used in a science class) – HB 1205
- *Digital Photography: The Complete Photographer*, by Tom Ang (section on nude photography) – both bills
- *In*, by Will McPhail (non-literal, artistic representation of sex) – both bills
- *Battle Angel Alita*, by Yukito Kishiro (naked image of a humanoid) – both bills
- *An American in Provence*, by Jamie Beck (a few naked pictures, but mostly a book about scenery and food in France) – both bills
- Books about Woodstock (yeah, we all know) – both bills
- *The Art of Horror Movies*, edited by Stephen Jones – both bills
- *Graphic Horror*, by John Edgar Browning (art) – both bills
- *Enchanted: A History of Fantasy Illustration*, by Jesse Kowalski – both bills
- *The Art of the LP*, by Johnny Morgan and Ben Wardle (some of those album covers, which most of us can remember from the “good old days” depict nudity or sex) – both bills
- *The Sex Bible for People Over Fifty: The Complete Guide to Sexual Love for Mature Couples*, by Laurie Betito (pictures....) – both bills

What about fiction books written for adults? I’m going to guess that about half of fiction books in our collection have some level of sexual activity, potentially violating SB 2360.

Here’s another question: What do we do with children’s books that are designed to help parents have “the talk” with their kids? These books feature pictures that are currently banned. Remember, HB 1205 exempts materials used in classes, but not other materials that could be equally valid. Incidentally, my library has had one of its sex education books for kids since 2000, and there have been no complaints.

The bottom line is that many books are potentially being banned by these bills, depending on the final wording and depending on the legal advice we may receive regarding how to apply that wording.

Is Compromise Possible?

The purpose of this letter is to suggest that there may be room for compromise. I believe we could compromise the question of what materials belong in school and public libraries by strengthening and standardizing local control over challenges.

I understand that I'm a bit like the (hopefully) apocryphal fellow who couldn't pick a side in the Civil War: He wore gray pants and a blue coat, and all the king's horses and all the king's men couldn't put him together again. Thus, in arguing for a compromise, I may displease some folks on both sides, but I hope a polite conversation can take place.

A Suggestion (Finally...)

Public library collections for adults can contain anything that is legal; therefore, materials for adults should not be removed. However, it seems most of the concerns prompting the library bills are actually concerns about age-appropriateness of children's and teens' materials.

Suppose an amended bill emerged that established a *process for fair and local challenges regarding the age-appropriateness of children's items in school and public libraries*? The bill wouldn't ban anything. It would simply empower local communities to address challenges in accordance with their values.

At this time, most libraries in North Dakota have material-challenge policies established by their boards, but the policies are all different. In some cases, people who bring challenges feel their concerns aren't heard by those in authority.

A bill standardizing age-appropriate challenges to children's materials could address the following questions:

- Who can challenge items? (limit the involvement of outside groups)
- When should a challenged item be removed from the shelf? (there should be no automatic removal)
- What does due process for each side look like?
- What opportunity does the public have to comment on challenges?
- Is there a role for a special committee to review the materials? What is the composition of the committee?
- Is the school board or library board the final arbiter?
- What vote margin should be required for a decision to remove or re-catalog an item? (simple majority; supermajority?)

In public libraries, successfully challenged materials should be allowed to be re-cataloged for a more mature group. In addition, there should be no threats of misdemeanors for librarians having potentially challengeable materials in the collection.

To be clear, I'm not promoting removing items from libraries. I just think there needs to be some way for communities to be heard and materials possibly moved to a more appropriate location. It would be tragic if librarians were jailed in North Dakota, if large numbers of items were banned, or if eBook services were lost, all because no compromise was explored.

Conclusion

If the ND legislature passes a bill that outlines how children's materials can be challenged for age-appropriateness, communities would be empowered to determine whether certain items meet local standards. Instead of banning books and other materials, library legislation could provide a roadmap for how disputes can be resolved.

Librarians are stuck between opposing views of what should be included in library collections. Some folks want to ban hate speech (as they define hate). Others want to ban misinformation, which really means opinions with which they disagree. Some people want to ban books they consider racist or insensitive (even Dr. Seuss and Roald Dahl!). Others want to ban material they believe is harmful to their children, while some parents want their children to explore those same materials. If we start banning materials, where do we stop? The answer is to defend everyone's freedom to speak, read, write, and view, but to provide a mechanism whereby viewpoints can be properly categorized for age-appropriateness according to contemporary community standards.

The First Amendment guarantees several of our most important freedoms. We must protect the freedoms of others in order to preserve those freedoms for ourselves.

Thank you kindly for your consideration, and for making it to the end of this letter.

Sincerely,



Joseph Rector
Jamestown

HB1205

Vote NO on HB1205.

Libraries have policies in place for reconsideration of items on the shelf. Any patron can ask for an item to be reconsidered by going through the proper channels. It is the parent's responsibility to know that their children are reading and looking at. No staff member at a library will check out a book to a minor that is not approved by their parent. This bill is BAD policy and needs to be struck down and done away with. It is total censorship of ALL material in libraries.

Libraries have collection management policies that are age appropriate. This policy is used when new books are ordered and when books are shelved. Some minors have no one to teach them the birds and bees so they used to turn to books. Many parents do not want to discuss the topic of sex with their children. That is the parents' responsibility but some think if we don't bring it up it will just not happen. This is the wrong mindset. Minors will find a way to get the information they want.

Minors see more on Prime Time TV then they every see in a book at the library. Are you going to go after the TV stations and fashion designers for what people on TV are not covering up? That is offering sex to minors every time they watch TV. What about their phones? Are you going to monitor the minor's phones and be sure that they are not accessing sex items on their phones?

There is no fiscal note attached to this bill. The financial responsibility is being thrown on the cities and counties! Who is going to pay for the extra employees that are going to be needed by EVERY library in order to be in compliance with this law in 9 months? It will take an estimated 288 extra employees to read all the books in every collection of every library to be sure that the library is in compliance with this bill. Who is going to pay for those 288 employees?

A report is required to be sent to the legislative management every year. Who is going to review these reports and what are they supposed to contain? Are you going to write job duties for every person in the state of North Dakota or just Library directors?

Respectfully submitted,

C

My name is Shawnda Schroeder and I am a resident of Grand Forks, District 17. I am a mother, professor, an avid reader, and a library card holder.

This bill recently passed the house and it is now your responsibility to right this wrong. At first reading, this bill had 11 individuals in favor while **65 state residents stood up and provided testimony in opposition. Those in opposition included librarians from rural and urban public libraries in North Dakota, directors of youth advocacy groups, community boards, and public educators, as well as parents.** They presented research and literature, support from medical and mental health associations, and data from national literacy groups. Those opposed were largely parents (not librarians) who can personally choose if they would like their kids to access the books of which they oppose. Nearly every one of those opposed all referred to one book (not a genre of books) and were clearly narrowly scoped in their testimony. However, the proposed bill is NOT narrow in scope and would prohibit youth and young adults from reading and learning pivotal topics in youth development.

HB 1205 is censorship of our public libraries which serve as a critical resource for North Dakota children and adults alike. The bill states that “a public library may not maintain in its inventory or promote books that make as their primary subject the study of sexual explicit material” and continues to describe “sexual explicit material” to include books that address “sexual identity” and “gender identity” – Reading literature to understand our own sexual identity (which includes heterosexuality) is imperative for healthy human development. The “study” or “gender identity” and “sexual identity” are not sexually explicit as the bill implies.

Regardless of the conceptualization and definition of “sexual explicit material” as proposed in the bill, at face value, the bill must be opposed. Not only is it censorship of content and knowledge that is pivotal in supporting marginalized children in our state, **BUT it places an undue burden, and restrictions, on our public libraries which are already underfunded and understaffed, not only in North Dakota, but nationally.**

I urge you to vote NO on HB 1205. No revision of this bill is acceptable.

Please feel free to connect with me if you have any questions about why I strongly oppose this bill. **Please consider reading the testimony of the dozens of public librarians and parents in our state who offered testimony in opposition of this bill at its first hearing.**

My name is John Schroeder and I am a resident of Grand Forks, District 17. I am a father, lawyer, and a library card holder.

This bill recently passed the house and it is now your responsibility to right this wrong. At first reading, this bill had 11 individuals in favor while **65 state residents stood up and provided testimony in opposition. Those in opposition included librarians from rural and urban public libraries in North Dakota, directors of youth advocacy groups, community boards, and public educators, as well as parents.** They presented research and literature, support from medical and mental health associations, and data from national literacy groups. Those opposed were largely parents (not librarians) who can personally choose if they would like their kids to access the books of which they oppose. Nearly every one of those opposed all referred to one book (not a genre of books) and were clearly narrowly scoped in their testimony. However, the proposed bill is NOT narrow in scope and would prohibit youth and young adults from reading and learning pivotal topics in youth development.

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Please feel free to connect with me if you have any questions about why I strongly oppose this bill. **Please consider reading the testimony of the dozens of public librarians and parents in our state who offered testimony in opposition of this bill at its first hearing.**

My name is Julie Reiten and I am a resident of Grand Forks, District 17. I am a mother, an avid reader, and a library card holder. I also have two children who will be of voting age within the next 4 years.

I am writing to express my strong opposition to the proposed legislative bill that seeks to prohibit public libraries from maintaining explicit sexual material. As an avid reader and supporter of public libraries, I believe this bill would be a grave mistake and would undermine the essential role that public libraries play in our communities.

First and foremost, this bill would be a direct attack on the principles of intellectual freedom and the First Amendment. Public libraries have long been recognized as bastions of free speech and expression, and to restrict access to certain materials based on their content would be a clear violation of these fundamental rights.

Furthermore, public libraries serve as important resources for individuals seeking information and education on a wide range of topics, including sexuality and sexual health. By prohibiting public libraries from maintaining "explicit" sexual material, this bill would limit access to critical resources and prevent individuals from making informed decisions about their own health and well-being.

Moreover, public libraries already have robust systems in place for managing access to materials that may be considered sensitive or controversial, including age restrictions and parental controls. Rather than imposing additional restrictions, we should be investing in these systems and ensuring that all individuals have equal access to the resources and information they need.

Finally, I am deeply concerned that this bill would have a disturbing effect on public libraries and would discourage them from acquiring and maintaining a wide range of materials that are essential to our communities. This would be a significant loss for all of us, and we must do everything in our power to ensure that our public libraries remain vibrant, dynamic, and inclusive spaces.

In light of these concerns, I urge you to oppose this bill in any upcoming votes or hearings. Thank you for your attention to this important matter.

My name is Troy Reiten and I am a resident of Grand Forks, District 17. I am a father, an avid reader, and a library card holder. I also have two children who will be of voting age within the next 4 years.

I am writing to express my strong opposition to the proposed legislative bill that seeks to prohibit public libraries from maintaining explicit sexual material. As a passionate reader and supporter of public libraries, I strongly believe that this bill would be a grave error and would undermine the critical role that public libraries play in our communities.

First and foremost, this bill would directly attack the principles of intellectual freedom and the First Amendment. Public libraries have long been recognized as guardians of free speech and expression, and any attempt to limit access to certain materials based on their content would be a blatant violation of these fundamental rights.

Additionally, public libraries are valuable resources for individuals seeking information and education on a broad range of topics, including sexuality and sexual health. By prohibiting public libraries from maintaining explicit sexual material, this bill would limit access to vital resources and prevent people from making informed decisions about their own well-being.

Furthermore, public libraries already have robust systems in place for managing access to materials that may be considered sensitive or controversial, such as age restrictions and parental controls. Rather than imposing additional restrictions, we should invest in these systems and ensure that everyone has equal access to the resources and information they require.

I am deeply concerned that this bill would also have a damaging effect on public libraries, discouraging them from acquiring and maintaining a wide range of materials essential to our communities. This would be a significant loss for everyone, and we must do everything possible to ensure that our public libraries remain vibrant, dynamic, and inclusive spaces.

In light of these concerns, I urge you to oppose this bill in any upcoming votes or hearings. Thank you for taking the time to read this letter and for your attention to this critical issue.

I am writing in opposition of HB1205. This bill violates our First Amendment rights. The First Amendment protects us against government limits on our freedom of expression. The First Amendment prevents government from keeping you from hearing or reading the words of others (even if you never speak out yourself, you have the right to receive information).

This proposed censorship of materials in public libraries will only provide less educational opportunities for people. Being exposed to materials that have the naked human body are opportunities to teach, learn and provoke conversation. As the bill reads and I interpret, this material would include human anatomy books, educational books about our bodies, books about natural processes with our bodies, etc. I remember learning about the human body, both male and female as early as 5th and 6th grades. I am not damaged by knowing about the human body from a young age and am thankful for the discussion and education. I can only imagine the message we send when we chose to ignore and censor the human body- should we be ashamed? Should we be fearful? Are we bad?

Many of these periodicals are not meant to be interpreted as pornography and the like. Exposure to this material comes down to parents being parents, educating and discussing these things with their children, teaching them to navigate society and the world. The legislature should not interfere with librarians/library board decisions about building collections based on each community's needs. Censorship in libraries will not "protect" our youth. When does the censorship stop? What about cell phones and access to the internet? Those devices and resources pose more of an issue than the books in the library. Maybe children under 18 should not be allowed to have cell phones. The internet is a more dangerous place than the library.

Concerned Citizen,

Sarah Mertz

I oppose HB1205. Our government complains of Communist China being oppressive with censorship. Any version of censorship is oppressing the First Amendment. Any government official that supports censorship is not conservative but rather communist.

I am a librarian, employed at the University of North Dakota. While my testimony is informed by my past experience as a librarian, teacher, and bookseller, it is offered as a private citizen and not as a representative of my employer, my professional organization, or my colleagues.

We have entered a very censorious age in the United States. Support for the First Amendment, however construed, is declining, especially amongst the younger generations. Online discourse is full of praise and condemnation of attempts to curb the written word and constrain readers. In recent weeks, we've seen a publisher bowdlerize the works of Roald Dahl to make them more palatable to a progressive readership, and Stanford University hauling in a student to account for himself for having been seen reading—not espousing—*Mein Kampf*, which is an important source for many historical researchers, who read it without ill effects as it is one of the least persuasive books ever written for anyone with the slightest moral sense.

When private publishers and educational institutions engage in this behavior, it may be laughable or a worrisome sign of the times, but they're certainly free to manage their affairs and intellectual property as they see fit, under the First Amendment (and private citizens may criticize them). What is actually threatening, and which inspires me to write this testimony opposed to this bill, is when this attitude is taken up by a government with the power to tax, the power to fine, and the power to imprison. This law goes far beyond the State's historic role regulating speech, the press, and thought; I believe it violates the First Amendment and I strongly suspect that the courts will be called on to decide the matter, at great expense to the State.

Common to all the censors—or, to themselves, the upholders of virtue—is an implicit belief that books are magic spells: Upon exposure to them, they work of their own accord, and compel the reader to adopt some political belief, convert to some religion, or live some sort of lifestyle. That this is untrue is self-evident to outside observers; indeed, none of the supporters of private or government censorship can claim to be protecting *themselves* from books, but some other, weaker, less intelligent, group that for whatever reason cannot speak for itself.

But we all know, since we see it every day, that children think for themselves, as do students, immigrants, or whoever else is supposed to need protection from these wicked

books—and the price of this “protection” is to place libraries, bookstores, and other public spaces under surveillance and threaten their staff with fines and prison.

That families have a role in choosing what and how their children read is self-evident; they do so no matter what libraries, bookstores, and the internet may offer, by teaching and discussing values, and with adults and children realizing that books can be read or not read, and agreed with or not agreed with.

Regarding the book—the one book—that has inspired all this legislative effort. Every family in the world believes that their children should be exposed to the variety of forms and shapes of human sexuality gradually and in certain ways. Every community is composed of families with a range of those opinions. The challenge for a good librarian is to make books available that appeal to that range; a librarian who ignores their most conservative *or* progressive patrons is not properly doing their job. But it is also a betrayal of the library to make it a weapon for one “wing” of its patron base to deny material to the other. To do so would be to infantilize a whole swath of the community, to pretend they are not intelligent or “good enough” families to read on their own.

I believe that the State of North Dakota has a role to play in strengthening and empowering North Dakota families. Improving access to childcare; credits for families with children; encouraging immigration for families from impoverished, war-torn, and authoritarian countries—all these would be an unmistakable signal to the world that North Dakota welcomes all families who wish to strengthen themselves and contribute to our state and communities.

On the other hand, if the State of North Dakota wishes to encourage and enrich First Amendment lawyers—a likely byproduct of this legislation—it might be better off to simply fund a few new positions at the University of North Dakota Law School.

I urge the state’s representatives in the legislature to turn away from this censorious moment, to treat their fellow citizens as an intelligent free people, and to learn how librarians actually select books, connect with their local communities, and try to welcome everyone to their institutions.

I write to OPPOSE HB1205 and ask you to vote NO!

I am a frequent user of the public library system. I travel a lot and use audio books through Libby to listen to while driving. I enjoy a wide variety of genres . . . mystery, romance, classical, self-help. Honestly, I would fall asleep on the road if I didn't have these audio books available to me.

As a pastor, I have seen how the Libby audio books are used by my parishioners in nursing home and assisted care facilities. Those with diminished eyesight particularly find a useful and enjoyable way to pass the long hours listening to books of their interests.

I believe that public libraries should have a wide variety of genres and topics to meet the needs of the public. I trust librarians to use their wisdom and education to choose what is best to put on the shelves. I do not believe that legislators have the knowledge or understanding to do this job.

I believe that what is offered in a public library should NOT be dictated by a particular conservative moral stance. As a person of faith, I hope that there are books available to the teenager who is struggling with his or her sexuality. I want books that share perspectives on the events of history from the oppressed or minority point of view. We need access to materials on how to better care for creation and natural resources. Children need books that express the colors and traditions and languages of the diverse, beautiful people of this world to learn to live peaceably with one another. People of any religious tradition should have access to writings from their and other traditions.

I urge legislators to move from an attitude and spirit of "exclusion" to one of inclusion and openness which truly reflects the diversity and spirit of the people of North Dakota!

Rev. Tammy Toepke-Floyd
Pastor, United Church of Christ
210 15th Ave. NE
Jamestown, ND 58401

Opposition Testimony to HB 1205

I am writing in opposition to HB 1205. As history has shown us, those who seek to ban books do not end up on the right side of history. Removing books that are defined as inappropriate for certain audiences (like children) are going against the basic role of libraries- to provide access to a wide variety of resources for patrons to learn, explore, wonder, and research. I also wonder who gets to define what is inappropriate or sexually explicit? I believe providing age appropriate resources are critical for youth who are learning about themselves and the world around them.

In addition, this bill places an unreasonable burden on libraries. Many likely do not have the staff or time to perform the review of their entire collections to meet this requirement. And it is unnecessary. We hire professional librarians to use their expertise in providing diverse and appropriate resources. Libraries have board that also provide input and oversight. Passing this bill sets a precedent for the future that we do not want in North Dakota. Please vote do not pass and keep our libraries safe and open resources for all.

Erin Power

Fargo, ND

Please Oppose HB1205 – Vote NO

Why is the ND Legislature wasting time and energy trying to restrict the sorts of books that Public Libraries have? Public Libraries' personnel use common sense in serving their patrons and especially children. Banning books like the Bible which has some passages of graphic sexual content is inane. I am a pastor and find this bill ridiculous and an undue incursion of government upon Free Speech as well as Religion.

Vote NO on HB1205

I am Pam Carswell, veteran spouse, mother of three. I have been a librarian for teens for over ten years.

This bill takes away great books from teens who need information and context about sex. Whether the teens wish to read a book in the fiction or nonfiction section, there are books that include this human subject in every well stocked library. Pass this bill and teens lose this access they desperately need to accurate information. That's quite unwise and a recipe for higher STD rates, unintentional pregnancies and a lot of poor decisions.

Adults who enjoy a romance novel lose out with this bill. Those who enjoy a Tom Clancy novel will lose out. Those who want to read the Bible will lose out. These books will disappear from our libraries as there is sexual content and not so pretty content in many cases in these books. The rape of Tamar in 2 Samuel is particularly abhorrent. I hope the bill's sponsors are willing to speak with every disappointed adult reader when they can't get the books they want to read! I don't fancy it personally. We have a lot of senior ladies who will be quite riled without their steamy paperbacks!

The irony of all of this is that if the Republican sponsors of this bill had followed their avowed commitments of smaller government and local control, they would have filled out a form for reconsideration for a material they questioned. All public libraries have this available. This form would have opened the door for a civil conversation about the placement of perhaps too mature materials or inaccurate information in the materials and this all could have been taken care of quickly and easily.

Now, they have attempted to make overreaching decisions for all readers in North Dakota which are NOT appropriate or appreciated. Rewriting how libraries operate over a few books you personally object to is not the way to run the government.

**CENSORSHIP REFLECTS A
SOCIETY'S LACK OF
CONFIDENCE IN ITSELF. IT IS A
HALLMARK OF AN
AUTHORITARIAN REGIME.**

#ReadingIsNotACrime

LIBERTAS BELLA

Potter Stewart

As a parent of a teen in North Dakota and a lifelong supporter of libraries, I'm writing in firm opposition of HB 1205. The library censorship bill is simply too broad and would effectively remove books with sexual content from a library whether it's a book read by a youth or an adult. Adults should be able to choose their reading content, and parents should be able to oversee what their children consume.

In addition, the financial implications of the staffing required to review all of the books in a library and determine if they violate this law or not is substantial. For example, ND State Library would need 71 temporary staff to review its fiction collection (which is 1/3 of its physical collection) plus 35 temps to review its e-book collection. Local public libraries would need +224 employees to review their collections.

This bill would criminalize librarians for conducting the duties of their job in good faith. There are already policies and procedures in place for addressing concerns about books and content. Let's let libraries continue to manage third materials without micromanagement by the state.

Please oppose HB 1205 as a bill that is too broad and results in overreach from the government.

I am writing to encourage you to **oppose House Bill 1205**. I oppose this bill because I am a parent of a young daughter and feel it is my right as her parent to decide what she can and cannot read. It is not the right of the North Dakota government to interfere with how I educate and share diverse information and experiences with my child.

I also feel this bill puts an unnecessary burden on our public libraries and their staff, who already have systems in place for reviewing items that some find objectionable.

This vague bill is about censorship. I strongly urge you to oppose HB 1205.

Thank you,
Derek Harnish
Fargo, ND

I am writing to encourage you to **oppose House Bill 1205**. I oppose this bill because I am a parent of a young daughter and feel it is my right as her parent to decide what she can and cannot read. It is not the right of the North Dakota government to interfere with how I educate and share diverse information and experiences with my child.

I also feel this bill puts an unnecessary burden on our public libraries and their staff, who already have systems in place for reviewing items that some find objectionable.

This vague bill is about censorship. I strongly urge you to oppose HB 1205.

Thank you,
Derek Harnish
Fargo, ND

I am writing to encourage you to **oppose House Bill 1205**. I oppose this bill because I am a grandparent to 9 wonderful grandchildren and feel it is the right of their parents to decide what they can and cannot read. It is not the right of the North Dakota government to interfere with how parents educate and share diverse information and experiences with their children.

I also feel this bill puts an unnecessary burden on our public libraries and their staff, who already have systems in place for reviewing items that some find objectionable.

This vague bill is about censorship. I strongly urge you to oppose HB 1205.

Thank you,
Mary Weiler
Fargo, ND

I am in great opposition to this. Library's already have parameters in place. If there is a specific library of concern deal with this individually, do not punish everyone.

Senate Judiciary Public Hearing
March 13th, 2023
HB 1205 - Testimony in Opposition

Chair Larson and members of the Senate Judiciary Committee, my name is Whitney Oxendahl, and I am writing in opposition of House Bill 1205. I oppose this bill because I am a parent of three small children, and this bill aims to limit what books and resources my public library can offer to my family, my children, and my community.

I am also a former member of the Fargo Public Library Board of Directors. The Fargo Public Library is run by an amazing staff of librarians who are professionals with advanced degrees in library science. The librarians overseeing and curating the collection of the hundreds of thousands of books and magazines are professionals, and this bill overrides their credentials.

The bill would also override the Fargo Public Library's policy: "The library will not restrict access to library materials under the assumption that certain materials may be 'harmful' to minors or in an effort to avoid controversy with parents... The library has a responsibility to ensure that young people have access to a wide range of informational and recreational materials and services to meet their diverse needs."

The Fargo Public Library also already has a Statement of Concern policy for reviewing items in the collection that individuals find concerning. A library committee reviews the statement, and the library board votes on the committee's recommendation.

Beyond this, the bill would create a tremendous, nearly impossible burden on North Dakota librarians to audit their entire collection for this type of content. "Explicit sexual material" is too broad to even define to implement removal of this content.

This bill is not about freedom and liberty, this is about placing restrictions on ideas and information. This bill is about censorship, and I urge you to give HB 1205 a Do Not Pass recommendation.

I'm sure you'll hear some passionate testimony today as we have a community that loves our public libraries. Thank you for the opportunity to share mine.

Reasons 1205 and 2360 are not necessary and are bad for communities:

- Libraries already have policies and procedures in place for adding and removing items from the collection
- Possibilities of Class B misdemeanor for library staff and employees at businesses that sell books, magazines and movies is an overreaction that is harmful to employees and business owners
- The definitions of “sexually explicit” are vague and could have a potentially overly broad impact
- Legislation controlling what people have access to is extreme government overreach and removes all pretense of local control
- While protecting youth is an admirable goal, resources could be better spent preventing suicide, violence, food insecurity, and much more
- Financial implications have not been considered, including a) the cost to pay staff to read EVERY book , b) the cost to remove supposedly “obscene” books, and c) the increase to liability insurance/legal fees if public employees face criminal charges
- Obscenity laws already exist in the NDCC
- Libraries DO. NOT. CARRY. PORNOGRAPHY.

It is the twentieth-first century, not time for book bans. Public libraries collect books for EVERYONE! What is right for person A might not be right for person B. Only person B (or parents) can make that decision.

Thank you.

Hello,

I am writing in opposition to HB 1205. This bill limits the access of information for children and adults. There are already ways to request a book be removed from a library. The bill is vague enough to include books such as the Bible and the majority of romance novels. I encourage you to vote do not pass on HB 1205.

Thank you,
Wesley Byzewski

March 13, 2023

To: Senate Judiciary Committee

Chairman Larson and Members of the Senate Judiciary Committee:

For the record my name is Christine Kujawa, Library Director at Bismarck Veterans Memorial Public Library and I oppose House Bill 1205.

We have a collection of over one million items, accounting for both print and digital material, and add 20,000 new items to the shelves annually, plus additional digital titles, all in the open and available to any age. Many of the items in our adult non-fiction collection, while neither textbooks nor used in science courses, are used for academic and intellectual pursuits for the average citizen. This includes books about childbirth, sexual intercourse, and other medical related subjects.

We also have other books in our collection that anyone could choose to label as "obscene" under the current bill based on their personal opinions. This could include romance novels, portions of encyclopedias, art books, fiction books, including many classics, movies, and even The Bible. While we do not necessarily promote and display all of these items they are in our collection should anyone want information on these subjects, free from judgment and stigma.

With an average of 187,000 visitors in the building every year, how would we ever monitor who is looking at these books? In the case of digital material, we cannot monitor what our patrons are accessing outside our building, nor would we want to remove these titles altogether.

Citizens should have the freedom to choose the information they want access to. In the case of minors, parents are responsible for this, not the government. Not in North Dakota, in the United States, a state and country so rightfully proud of a representative democracy. Censoring intellectual and academic freedom raises significant constitutional questions and issues and is bad public policy.

Both HB 1205 and SB 2360 violate the First Amendment. These bills interfere with librarians' ability to make decisions within our institutions per our policies and procedures, which have been approved by our Board of Directors, who have been approved by our City Commissions. This bill undermines our ability to build our collections that will interest and edify our diverse communities who are utilizing them.

Please choose "DO NOT PASS" on HB 1205. If SB 2360 comes across your desks in some form again, I ask that you choose "DO NOT PASS" for that bill, as well.

Sincerely,
Christine Kujawa
Library Director, Bismarck Veterans Memorial Public Library

I have been an avid user of public libraries since before I started first grade, and getting my own library card was the highpoint of the year I started second grade. No one forces anybody to read anything particular in a public library, but patrons are able to pursue their own interests. Being able to find information about a question or issue and read it privately can be very important. Censorship of reading materials is a slippery slope—what will be banned next?

Authors of this bill seem ignorant of what librarians do, such as “development of a book collection appropriate for the age and maturity levels of the individuals who may access the materials.” Legislation to tell them to do so is unnecessary. Librarians already also deal with complaints about books that are, or aren’t, in their collections, but no one library patron should be able to force the removal of a book.

This bill is critically vague about important terms such as “deviant sexual intercourse;” the word “deviant” is not defined, nor is “sexual perversion.” Is everything except the missionary position deviant or perverted?

Sexually explicit books can be devoid of pictures. It’s not clear how they are impacted by this bill. If mere words describing sex are also intended to be banned, then the Bible, Shakespeare, some classic works of literature, and many romance novels will also be banned.

I urge a NO vote on this bill.

Phyllis E. Johnson, PhD

Dear Senators,

Please oppose HB 1205 and vote "Do Not Pass" for three reasons:

First, the North Dakota Criminal Code already defines Obscenity Control, and this standard has been supported for decades and endorsed through various Supreme Court judgments. HB 1205 notes, "A public library may not contain **in its inventory** books that contain explicit sexual material. "Explicit sexual material" is defined in the first section of HB 1205 to include such generalizations as sexual activity and sexual intercourse. With these generalizations, citizens can apply any standard they choose, including their own instilled ideals, to define these terms.

Second, in the 1943 case of *Martin vs. the City of Struthers*, the Supreme Court Justices reasoned that the First Amendment protects both "the right to distribute literature" and "the right to receive it," and stated that literature is protected "even if it creates a nuisance for a community of cleaning litter from its streets." This opinion of the United States Supreme Court also states that while the distributors of literature (in HB 1205, the distributor is a library) may be either a nuisance or a cover for criminal activities, they also may be useful members of society (librarians) engaged in the dissemination of ideas in accordance with the best tradition of free discussion...

Martin vs. the City of Struthers doesn't control anything except the distribution of literature, so it substitutes the **judgment of the community** for the **individual judgment of the household**. This case also covered criminal punishment for distributors (libraries, librarians in HB 1205) for annoying the person on whom he calls, even though the recipient of the distributed literature is glad to receive it.

The Justices in *Martin vs. the City of Struthers* also stated that communities must solve problems for themselves with respect for the constitutional rights of those desiring to distribute literature and those desiring to receive it and those who choose to exclude such distributors from the home.

Third, to those who choose to exclude such distributors from the home, they cannot have their cake and eat it too. Taxpayers, or the public, fund the libraries so that every citizen in each community has access to information. Taxpayers also pay librarians to distribute this information. Citizens shouldn't be able to make, change, or destroy laws to fit a particular group or organization of citizens because they feel "annoyed" or "bothered" by another's ideals.

Librarians are also trained professionals that screen materials to ensure the safety of and access to information for all patrons. Because library materials don't contain a citizen's or group of citizens' viewpoints or lifestyles doesn't deem the material "dangerous" "unsafe," "pornographic," "sexually explicit," or "obscene." Libraries are places of knowledge provided to the community by the community for all members of that community.

As my own thought, in the United States' cities and towns, we have all different types of religions, Catholics, Lutherans, Presbyterians, Baptists, Seventh Day Adventists, Jews, Muslims, Jehovah Witnesses, etc. Why? Because we all don't agree about how to worship and what to value or honor. It's the same principle that applies to access to information. We all carry different ethics and values, but that doesn't mean that others must adopt those ethics and values. Each citizen, or household, follows their own path.

HB 1205 promotes censorship, promotes book banning, and denies citizens their First Amendment rights and patrons' rights to information. Judgment of individual households should not and cannot override the judgment of the community when it applies to the citizens' access to information.

Sincerely,
Martina Kranz
Mother, Grandmother, Veteran, Librarian,
and Citizen of Minot, North Dakota



March 12, 2023

Senate Judiciary Committee
Senator Diane Larson, Chair
HB 1205

RE: Testimony of the City of Fargo in OPPOSITION to HB 1205

Dear Chair Larson & Members of the Senate Judiciary Committee:

The Mayor for the City of Fargo and the Fargo Public Library Board urge the Senate Judiciary Committee to give a DO NOT PASS recommendation to HB 1205 relating to censoring various materials in public libraries. We believe there are significant issues with this potential legislation.

The current language of HB 1205 is broad and would affect the entire library service model, well beyond the intention of the bill. Significant portions of the collection – both classic and modern – would potentially be in question and subject to removal. The language of the bill disregards the rights of library users to make decisions for themselves and presupposes the appropriateness of individual titles. The first amendment needs to be considered as part of your deliberations.

We firmly believe that library collections and services must be allowed to reflect the communities that they serve. The curation of library collections are the responsibility of professional library staff within the established policies of the duly appointed library board. Sections 3 and 4 of HB 1205 usurp the long-established authority of local library boards and imposes state authority in regards to library collection decisions. We believe the state in the long run has neither the interest nor understanding to make decisions regarding local library collection curation.

The implementation of HB 1205 would be onerous, as it would require the vetting of the collection of over 316,000 items to ensure they conform to the broad language of the bill. Given the number of items affected in the collection, it would require the library to close for the vetting process to meet the timeline identified in the bill. This is an unacceptable unfunded mandate. The impact to library patrons is equally unacceptable.

Thank you for your diligent consideration in this regard. While the impacts of HB 1205 are significant to the Fargo Public Library and the Fargo Community at large, their impacts on the State of North Dakota need to be considered as well. We urge the Senate Judiciary Committee to be cognizant of the long-lasting and damaging impacts of HB 1205.

Senator Diane Larson, Chair
March 12, 2023
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Sincerely,

Dr. Timothy J. Mahoney, Mayor, City of Fargo
Dr. Carlos Hawley, President, Fargo Public Library Board
Ms. Amy Ouren, Vice President, Fargo Public Library Board
Ms. Kristen Schipper, Library Board Member, Fargo Public Library
Ms. Wanda Mengelkoch, Library Board Member, Fargo Public Library
Ms. Jenna Reno, Library Board Member, Fargo Public Library
Dr. Carrie Peterson, Library Board Member, Fargo Public Library
Ms. Hannah James, Library Board Member, Fargo Public Library
Timothy S. Dirks, MLIS, MPA, Director, Fargo Public Library


Re: House Bill 1205

Dear Chair Larson and the members of the Senate Judiciary Committee, I urge a "Do Not Pass" on HB 1205.

Libraries are already mandated and do have strong protections against internet pornography. The computer control mechanisms for this are quite effective. (In our own home use, the parental controls on our family computer were so effective that I could not order a bra online without my husband temporarily disabling the parental controls.) The books and examples that this bill names, do not fit the definition of pornography. Nudity is not pornography; information about one's body or information about sex is not pornography. If a youth is looking for information about sex, it would be far more desirable for them to be able to check out a library book that has been vetted using the library's official policies and standards, than going to the internet at a friend's house. And what kind of government overreach says that adults are no longer allowed to have access to the books that are described in the bill?

There are many dangers and hardships for children in ND today (hunger, lack of adequate childcare, prevalence of alcohol and fire arms), but going to a public library is not dangerous or harmful.

Janet Mathistad
Minot ND



TESTIMONY on HB 1205
from the
NATIONAL ASSOCIATION OF SOCIAL WORKERS—NORTH DAKOTA CHAPTER
to the
Senate Judiciary Committee
March 13, 2023

Chair Larson and members of the Senate Judiciary Committee:

The Advocacy Committee of the Board of Directors of the NASW-ND submits this testimony **in opposition to HB 1205.**

Book bans are undemocratic and are opposed by Americans of all political persuasions. Over 70% of voters oppose efforts to have books removed from their local public libraries, and more than 8 in 10 Americans don't think books should be banned from schools for discussing race and criticizing U.S. history, or for political ideas they disagree with.

The North Dakota Chapter of the National Association of Social Workers is strongly opposed to book bans and educational censorship. At local public libraries and in schools and universities, **librarians are professionals who understand their communities, the needs of their patrons, and the difference between pornography and valid educational materials.** They, not a small group of ideological activists and influences from outside the state, should determine what books all North Dakotans have access to.

Much of HB 1205's reference to "explicit sexual material" appears to reflect the notion that libraries should not allow anyone to have access to visual materials related to sexual activity. This is an extreme disservice to anyone, young or older, who seeks to understand and engage in healthy sexual activity, especially if someone has no other access to this information.

The NASW-ND is particularly concerned that this bill is aimed at censoring information about sexual activity that the bill's sponsors believe is not "traditional" and heterosexual in nature. NASW-ND affirms that sexual orientation, gender identity, and gender expression are real and irrefutable forms of identity, and NASW-ND stands strongly against any effort to deny these identities and to censor or ban information related to the healthy sexual activity of all North Dakota citizens.

Please vote Do Not Pass on HB 1205.

March 11, 2023

Senator Larson and Committee Members,

HB 1205 violates the First Amendment and is bad for North Dakota. I strongly urge a “Do NOT Pass” out of committee and “NO” votes on the floor for HB 1205.

I am a North Dakota resident and local church pastor. Two weeks ago, I and hundreds of others, including members of my church community stood for half an hour outside the Bismarck Public Library reading books. We read in the bitter cold to protest this bill because it restricts the rights of the people, bans the Bible from public access, removes knowledge of the human body from the public eye, and restricts the access of the homeless, the homebound, the hospitalized, and all North Dakotans.

The First Amendment protects the freedom of speech. This bill broadly and subjectively redefines “obscene” (a definition which was already legally established in 1973 in the *Miller v. California* case) and will remove from our libraries a wide spectrum of publications including medical texts with images of the human body, pregnancy books, parenting resources, history accounts, art books, fitness materials including workout videos, health magazines, and a large number of other non-fiction and fiction books and movies in *all* sections of our libraries. In addition, our state will lose access to on-the-go resources like Libby and Hoopla, which provide a way for residents to remotely borrow digital and audio books and watch movies while traveling, homebound, hospitalized, or too busy to physically stop at the library. Important medical resources, history accounts, commentaries on society, works of art, and entertainment will be banned by HB 1205. As a result, thousands of voices will be silenced throughout the state by this bill. This is a direct violation of our First Amendment rights.

The First Amendment also protects the freedom of religion. HB 1205 will unequally remove religious texts from our public libraries. As a Christian pastor, it alarms me that our legislators would restrict the religious freedoms of North Dakotans by banning the Bible and commentaries related to the Bible from our libraries. Other religious texts will also be banned by this bill, but the censorship will affect the variety of religions unequally.

Our libraries already have established policies for curating appropriate collections based on each community’s needs. The legislature should not infringe on the responsibilities of our library boards or school boards to make the best decisions for their local community or the right of parents to make the best decisions for their own children.

Not only is HB 1205 a direct violation of the First Amendment and an act of government overreach into the decision-making process of local communities, but it will also be expensive to implement. Tax dollars will need to be spent to hire readers for every book, article, and magazine currently in circulation in our libraries and schools. The curation of current and future collections will require additional staff. In addition, tax dollars will need to be spent on litigation as a result of this bill.

As a North Dakotan, I strongly urge a “Do NOT Pass” on HB 1205 and a “No” vote on all forms of HB 1205.

Sincerely, Rev. Gretchen Deeg

March 12, 2023

Senate Judiciary Committee Members,

For the record, my name is Andrea Placher and I am the Library Director of the Williston Community Library. Due to the blatant First Amendment violation of HB1205, among many other problematic issues, I am urging you to vote DO NOT PASS.

Our library board is made up of members from both Williams County and the City of Williston. These members are appointed by Williams County and City of Williston Commissioners. As you know, these Commissioners are elected by their respective constituents or as I like to refer to them, their community members. The responsibility of the policies, procedures, materials inventory and day to day business of the Williston Community Library lies with those mentioned above and the library director, as stated in the North Dakota Century Code. Our library currently has policies addressing materials collection and disposal, as well as materials reconsideration requests, and in my six years as director, not one material in our library has been challenged.

The financial and functional burden placed on our library, which will in turn affect Williams County, the City of Williston and its tax paying citizens, would be outrageous. Our library currently holds approximately 50,000 items in its inventory with an additional 2,000 materials added annually. The staff time needed to read every item by the proposed deadline would be literally impossible with current staff and budget. A rough estimate, puts us around 7.5 million dollars. Not to mention if we are tasked with reading every day until we made it through our entire inventory, how are we to run the library efficiently?

It is my opinion that HB1205 clearly violates the First Amendment, is unnecessary as local policies and procedure are already in place, and will place an immense financial and functional burden to North Dakota community members.

Respectfully,

Andrea Placher

Library Director | Williston Community Library

Williston, North Dakota

March 12, 2023

Senate Judiciary Committee Members,

For the record, my name is Andrea Placher and I live in District 2 in Williston, ND. I have raised two young adults, now 19 and 24 years old. The library was, and often still is, a place I turned to for tools and information to help me educate my children. Together, we sought out books and materials on puberty, sex, recreational drug use, mental health disorders, suicide, divorce, sexual abuse, bullying, abortion, LGBTQ+ and yes, we even read the ones with cartoon pictures. While my neighbor next door may think these materials are “pornographic” or “harmful to children”, it isn’t up to them to make that decision for my children. These materials helped me become a better parent by allowing my children to read, discover and ask questions about the world around them.

It is my opinion that HB1205 clearly violates my right as a parent to choose what my children have access to as well as violating my children’s right to be curious, educated and well-rounded citizens.

Respectfully,

Andrea Placher

Williston, North Dakota

North Dakota Policymakers, Greetings.

My name is Kevin R. Tengesdal from here in Bismarck. I am writing today to oppose this bill before the 2023 North Dakota Legislative Assembly. HB 1205 (relating to prohibiting public libraries from maintaining explicit sexual material) requires public libraries to remove sexually explicit books within 30 days of any request by anyone sensitive about a book to force it off the shelf for every other adult. As a citizen of North Dakota, I firmly request a unanimous DO NOT PASS on House Bill 1205 as presented or amended.

The American Library Association recorded 681 attempts in 2022 to ban or restrict library resources, with 1,651 book titles questioned, up from 1,597 in 2021. According to PEN America, a nonprofit organization that protects and celebrates free expression in the United States, books about queer characters or authored by queer writers were disproportionately challenged or banned during the 2021-2022 school year.

Missouri enacted legislation prohibiting student access to explicit sexual material. In turn, school districts within the state removed works about classical artists from the Renaissance era; Batman and X-Men comic books; graphical displays of Shakespearean work; and the Pulitzer Prize-winning graphic novel about the Holocaust, Maus. These prohibitions could include romance novels and their steamy covers, movies with sex scenes, and any books with images relating to sexual identity or gender identity on the covers or the pages therein.

These pro-censorship bills are vague and prohibit people of all ages from accessing information based on the subjective judgment of what is considered obscene. This censorship would affect every library collection and result in the disposal of thousands of books and movies. Will it include censoring the internet as well? In addition, these bills are so vague and broad in their censorship that the gathered writings of Scripture could be under scrutiny for the explicit sexual material (as initially enumerated by HB 1205):

01] HUMAN MASTURBATION Genesis 38:8-9 whenever he fucked his brothers widow he jacked his jizz on the ground so he wouldnt produce a child for his brother ;

02] DEVIANT SEXUAL INTERCOURSE Ezekiel 16:17 then you took all that fine jewelry I gave you, my gold and my silver, and made dildos of them for your bedrooms ;

03] SEXUAL INTERCOURSE (abundant passages) First Book of Kings 11 King Solomon was obsessed with women. He stole them from pagan nations of which God had clearly warned Solomon lusted with them anyway, refusing to give them up. He screwed a thousand women in all! And they seduced him away from God. As Solomon grew older, his wives beguiled him with their alien gods and he became unfaithfulhe didnt stay true to his God as his father David had done .;

04] DIRECT PHYSICAL STIMULATION OF GENITALS Deuteronomy 25:11-12 the wife of the one man, trying to rescue her husband, grabs the dick and balls of the man hitting him ;

05] SADOMASOCHISTIC ABUSE Ezekiel 23:3 they let their boobs be whipped, and there their supple nipples were twisted hard ; or, 1 Samuel 18: David was delighted to accept the offer. So, before the time limit expired, he and his men went out and killed two hundred Philistines and presented their foreskins to King Saul ;

06] POSTPUBERTAL HUMAN GENITALS Deuteronomy 23:1 No one who had a vasectomy or has his balls removed for any reason may enter any church

07] SEXUAL PREFERENCES (all throughout) First Book of Kings 11 King Solomon was obsessed with women. He stole them from pagan nations of which God had clearly warned Solomon lusted with them anyway, refusing to give them up ;

08] SEXUAL ACTIVITY (numerous passages) 1 Corinthians 7:3-4 The husband should give to his wife her right to sexual intercourse, and likewise, the wife to her husband. The wife does not have authority over her own sexual

activities, but the husband does; likewise, the husband does not have authority over his own sexual activities, but the wife does ;

09] SEXUAL PERVERSION (all of the above?) Genesis 2:25 the couple were both naked, neither of them was embarrassed or ashamed ;

10] SEX-BASED CLASSIFICATIONS Ephesians 5:22-24 women are to submit to mens leadership as you submit to the Lord. Men are in charge of women like Christ is in charge of the Church ;

11] SEXUAL IDENTITY Genesis 3:16 God said to the woman, Your sexual orientation will be to bear children in intense pain and suffering, and you shall desire your husbands lusts, and he shall be your master ;

12] GENDER IDENTITY Genesis 1:27 God created human beings in their image, they created them with dicks and balls and others with vulvas and uteruses .

In short, the bible includes hardcore sexual literature questionably appropriate for the age and maturity levels of the individuals who may access the materials. Even though no one gains any sexual morality from reading the bible, it is inherently used for condemning those who sin differently, those with differing loin stirrings.

However, we should be honest: it is not the bible, the internet, or The Birth of Venus these bills will target first it will be those books, novels, and movies with queer stories or by queer authors. Historically these materials have provided and should continue to provide queer youth with a lifeline when they need it most. Libraries are among the few welcome public spaces left for all people to congregate, share ideas, and collaborate without being forced to spend money. Libraries should be places where everyone finds welcome, no matter who they are, and where everyone can see themselves reflected in the material among the stacks. Laws like these make that a lot less likely.

These bills are written with such a thin veneer to attempt to safeguard children, yet one can understand they are targeting marginalized communities and those who advocate with them. North Dakota cannot let a small groups discomfort over any single book or movie become censorship for all. These unreasonable and unnecessary bills would open our institutions, workers, and boards to harassment and allegations under the criminal code. These bills will criminalize schools, colleges and universities, public libraries, and museums for books, ebooks, educational resources, and artwork in their care.

I urge North Dakota Legislators to vote down HB 1205 and for each North Dakota citizen to contact their representative to denounce censorship.

Yours sincerely,

Kevin R. Tengesdal, Bismarck

Sandi L. Bates, MLIS, private citizen, Bismarck, ND
ADAMANTLY OPPOSED HB1205 – VOTE DO NOT PASS

The First Amendment guarantees our freedom of speech and right to access information. Censoring intellectual and academic freedom raises significant constitutional questions and issues and is bad public policy. Censoring also deeply impacts librarians' ability to perform their duties as set forth by academic institutions, local library boards and city commissions. Decisions and oversight of library materials collections should be left to the communities they serve.

Libraries are the great equalizers. Libraries do not care if you are short or tall or medium; fat or skinny or just right; smart, not so smart or trying desperately to improve yourself in whatever manner. It does not matter the pigmentation of your skin or whom you choose to love.

Libraries are the great equalizer. You can learn to sew clothes; explore another land real or imaginary; craft a quilt; build a Lego structure; write computer code; build your business by learning accountancy; find self help where no one judges you; and even fix your toilet.

Libraries are the last bastions of altruism. EVERYONE IS WELCOME!

Your beliefs are not checked at the door and neither should anyone else's beliefs. You can read the Bible, the Koran or any other religious text. You can read romance novels, thrillers or murder mysteries. You can be excited, terrified and find love. Everyone should have the right to read books of interest to them. This includes youth who are trying to figure life out – whether it is gender identity or sex or just how a human body works. The truth about this bill is it isn't really about protecting children from pornography. It is about keeping children from being exposed to any thoughts of homosexuality and anything speaking to transgender humans. There should not be a "naughty book area or room" where the reader is subjected to shame for looking at "those" library materials. Everyone who enters the doors of a library should be accorded the respect to browse whatever collection.

Libraries are the great equalizer. Libraries have built nations. Libraries make people more intelligent in so many ways – they make you book smart and common sense smart. They allow anyone to learn to critically think by examining opinions and material contrary to their own beliefs. By exploring reading and browsing a library, bumping into some foreign concept, people learn compassion and sympathy. They begin to see all their neighbors as humans who are only trying to find happiness, just like them.

Why anyone thinks it is a good thing to suppress and censor library materials – yes, it is censorship when you take away people's ability to find information in the library – is beyond my comprehension. Libraries provided me with countless hours of entertainment and knowledge. After 25 years working in another industry, I returned to college to earn a master's degree in library and information science. Throughout my years, I was a detective with Nancy Drew and flew on a broom with Harry Potter and his friends. I fixed my toilet, sink and dryer vent all on my own. I have sewed quilts that were later donated to a charity to give someone warmth. Are all those books available for purchase by me? Yes, of course. Could I afford to explore all those topics if I had to buy all of these books? Not possible. That's the beauty of public libraries. Altruistic through and through. That's why I love them!

You have listened to inflammatory material read from ONE BOOK. How many of you have actually read any of the other books on the challenged book list deemed pornographic? I wonder how many of you actually are active library users – not just card holders but visit your library on a regular basis.

You already have made your decision about how you will vote today so I'm not sure exactly why we are all submitting testimony other than it is the formality of the process.

I adamantly oppose HB1205 – no matter how it is amended or changed. It remains censorship and I am even more adamantly opposed to that. VOTE DO NOT PASS!

House Bill #1205

68th Legislative Assembly

Representatives: Lefor and Steiner

Hello. I am writing this to oppose HB #1205. The State of North Dakota legislators should not censor the people who live in North Dakota by removing books which they deem as harmful because of how the human body or human experience is portrayed. As an adult, I believe I know what is and what isn't good for myself nor should the State Legislators think that they should invade a public institution or tell the institution how to display items that show or discuss the human body or human condition. What makes this legislative body think they need to protect the citizens from exposure to books and other items that display or discuss the human body? What are you afraid of? Clearly the adage of "knowledge is power" isn't being considered.

If you look back at history you all have to admit that some of the greatest pieces of art are filled with the human body and some of those pieces, which are valuable and on display in cathedrals or in museums, are pictures, paintings, sculptures of nude or partially nude people. Even today the depiction of Christ on the cross has His tortured body partially clothed. Under the guidelines of this bill, the State would be removing books, magazines, pamphlets including the Bible, would be removed or considered illegal. Just think of that impact, removing informative information such as medical books, science books, religious books, autobiographies, fiction and non-fiction books and documentaries. Again, I ask, what are you afraid of?

This bill is actually a bill that hurts people, let me share an example from my own life. I grew up in a Catholic/Methodist home. As a young girl entering puberty, my mom didn't educate me on what changes my body was starting and back then our school system didn't have sex ed or anything remotely close to it. I was clueless as to what my body was going through. An older sister pulled me aside and told me your body is changing and here is a book. Your going to get your period soon so this book will tell you what to do. That was it. My introduction to puberty given to me via a book. No parental help, my older sister told me she was giving me this book because our mom never told her a thing and my sister had to learn from friends about puberty when she was going through it. You see, some parents are uncomfortable about talking about the human body. Let's understand this, there is nothing wrong or shameful concerning the human body. As a parent, I made the choice to do what my mother didn't do. I educated my children with talks about the human body and I supplemented the discussions with books. The books helped me articulate information geared towards their age. The books helped educate me when I was young and had no one to talk to. I believe the lack of education from parents in my day was common, unfortunately. I refused to continue my mother's mindset and took control of my children's education concerning their bodies. Knowledge is power, I chose to empower my girls. Why are you trying to stifle and stunt the growth of knowledge for ND youth? Is it the fact that the legislators feel their own discomfort and embarrassment concerning the human body? That's what this bill smacks of; along with the resurgence of Hitler mentality. The removal of books and other media that educate people is completely and totally a Nazi move. Haven't you learned from the Nazi past that censorship is cruel and hurts people?

Kids in our schools need to be educated on their bodies and mental health. Why would you want to keep North Dakota kids ignorant? Schools are a place to learn and to keep a curriculum void of facts and information from the students is keeping North Dakota kids ignorant. Kids go to the library to do research for papers, to learn on their own about interests they have and unfortunately some have to use the library to find out what is going on in their life because they can't talk to a parent or guardian. Let's face it, NoDaks aren't the most open minded and free-thinking group of people. Is that the intended goal for North Dakota, to keep their youth ignorant of facts of life? What happens when our youth go to college outside of North Dakota? What a gut punch that experience would be for them, to learn that their state keeps facts of the human body out of their reach, to stunt the knowledge of our youth? Why would you want that for our kids.

This bill is designed to erase the rights of North Dakotans. This bill is constructed in a way in which the false belief of if we remove sexual condition from the public then we reduce instances of teen pregnancy, queer and transgender people in North Dakota is erased. That is a very narrow minded and ignorant mindset. The youth of North Dakota will go through puberty and their curious nature will lead our youth to search out the information in other ways. You all must have forgotten what it was like to be young and all the curiosity and exploring you did. This bill is causing problems it's not helping our youth.

You do understand the when society makes something taboo, society is making the issue exciting and therefore more intriguing to people? You get that right?

There is no reason to keep this material out of the hands of North Dakotans. Kids need to be educated on the human body and if I want to read something that has pictures of text that mentions nude bodies then it's my right to go to the local library and check it out. Book banning is ripped right from the Nazi handbook.

There are policies and procedures already in place that shield children from sexually explicit books and media. I thought the GOP party believes in less government; this is not following party lines. This bill steps into people's education and home life. This bill doesn't protect anyone.

If you don't want this type of books or magazines in your home fine, no one is making you read or look at what offends you. However, to impose your beliefs due to religious following or due to lack of being comfortable with the human body is overstepping your boundaries and again forcing your beliefs on others. We all right now enjoy having options, do not take away that right because of your fears or insecurities. When you remove your religious beliefs from this argument, you have to acknowledge that this bill harms our educating the youth of North Dakota. Separation of Church and State comes into play here.

My religious beliefs are not in line with yours. That doesn't mean your beliefs are correct and mine is wrong and vice versa. Whether someone is religious or not the fact is that this bill is censoring schools and homes which impacts education and lives of NoDaks. This bill is harmful and I encourage you to vote DO NOT PASS.

Thank you,
Kristie Miller

North Dakota Citizen and Parent

Chairman and Members of the Senate; thank you for your time today and allowing me to speak. For the record, my name is Autumn Richard and I am from Lefor, North Dakota. I am here today to respectfully ask for a do pass on HB1205.

North Dakota Century Code is in need of a change in order to adequately protect our minors from explicit and pornographic materials, whether it is on a computer, in a magazine, or on the shelves of our libraries and schools. By implementing this bill, we are doing our due diligence as guardians to our youth.

Pornographic and obscenity should not be considered subjective, and our laws need to clearly define these terms so that there is no confusion as to what is appropriate for minors.

There are ample studies to show that pornographic content can negatively affect a child's ability to engage in a healthy relationship, hinder their sexual development and cause long term addiction issues as it correlates to drug usage. This information should be persuasive enough that any reasonable adult would want to limit a minor's access to such material.

Our libraries acknowledge the need to limit a minor's access to explicit material on computers, but do not acknowledge the same necessity in literature. If a child cannot look up anal sex on a computer, they should not be allowed to read about it, either.

Current law prevents books, such as "Let's Talk About It" to be displayed at other businesses, but because of the caveat in our current law, there is an exclusion for libraries and schools. If Walmart cannot display books such as this, why is it considered acceptable for libraries? It is considered pornographic in either setting. This is not about targeting libraries or librarians; I understand there has been much concern about the penalty that is in place, a preexisting penalty of a class b misdemeanor. However, this bill is not about targeting librarians, but about being

fair on all levels; any entity that provides this material to minors should all face the same ramifications.

This has become a nationwide concern and North Dakota is not the only state that is instituting new laws or correcting old laws in order to better protect youth. The Department of Justice clearly states: Federal law strictly prohibits the distribution of obscene matter to minors. Any transfer or attempt to transfer such material to a minor under the age of 16, including over the Internet, is punishable under federal law. It is also illegal to use misleading website domain names with intent to deceive a minor into viewing harmful or obscene material. For example, using a cartoon character or children's television program in the domain of a website that contains harmful or obscene material may be punishable under federal law.

In addition, visual representations, such as drawings, cartoons, or paintings that appear to depict minors engaged in sexual activity and are obscene are also illegal under federal law.

It is important to note that the standard for what is harmful to minors may be different than the standard for adults, and offenders convicted of obscenity crimes involving minors face harsher penalties than if the crimes involved only adults .”

Our current federal law already attempts to protect minors from such material and our state needs to adhere to this, instead of omitting libraries and schools. By implementing these protective laws, there is no infringement of first amendment rights; obscenity and pornography are not protected by the first amendment.

Therefore, I respectfully request a do pass today for HB1205. Thank you for your time and effort.

University Senate

Twamley Hall, Room 201
264 Centennial Dr Stop 8382
Grand Forks, ND 58202-8382
[UND.edu/university-senate](https://www.und.edu/university-senate)

HB 1205

ND Senate Judiciary Committee

March 11, 2023

Chairman Larson and members of the Senate Judiciary committee:

My name is Robert Newman. I am a professor at the University of North Dakota and Chair of UND's University Senate. On behalf of the UND University Senate I submit this **testimony in opposition to HB 1205.**

The House received a substantial volume of testimony opposing this bill, which collectively laid out the reasons why the bill, should it become law:

- solves no problem that does not already have an accepted solution, and
- creates the impression that North Dakota is a state with state-sponsored censorship.

I do not believe that members of the legislature would willfully cast our state in a negative light, for no good reason and that leads me to hope that you will reconsider this ill-advised bill.

Please remember the purpose of public libraries. They are repositories of knowledge and the arts, they are gathering places and community centers that support education and shared experiences, and importantly, they are fundamental to democracy by allowing access to these valuable resources for everyone.

Censorship and book banning have no place in a democracy. They are incompatible with the First Amendment right to freedom of speech and expression. Moreover, you simply cannot ban any information anymore in our modern information age. The only impact will be that citizens will lose trust in the government because the government is conspicuously attempting to prevent people from accessing material that is readily available online.

As a practical matter, we do not and do not want to live in a society where authorities are monitoring our every move (have you read Orwell's 1984?). I think we would all agree that is un-American, or at least we would like

Today, the University of North Dakota rests on the ancestral lands of the Pembina and Red Lake Bands of Ojibwe and the Dakota Oyate — presently existing as composite parts of the Red Lake, Turtle Mountain, White Earth Bands, and the Dakota Tribes of Minnesota and North Dakota. We acknowledge the people who resided here for generations and recognize that the spirit of the Ojibwe and Oyate people permeates this land. As a university community, we will continue to build upon our relations with the First Nations of the State of North Dakota — the Mandan, Hidatsa, and Arikara Nation, Sisseton-Wahpeton Oyate Nation, Spirit Lake Nation, Standing Rock Sioux Tribe, and Turtle Mountain Band of Chippewa Indians.

to think so. Moreover, librarians are professional information facilitators. It is not their job to prevent people from accessing information, quite the opposite in fact. Read the testimony they have submitted.

As to the concerns raised in this bill, as other testimony has already noted, libraries already have policies about acceptable material, age-appropriate access, and opportunities for public participation in the process. A bill that seeks to ban sexually explicit material will either be too vague or internally inconsistent. For example, Section 1, 1.a. contradicts itself (lines 9-12 vs lines 12-22). In any case, policing libraries in this way is almost certainly unconstitutional.

Finally, you may question why the faculty at one of our universities is offering an opinion about this. Actually, I hope you are not questioning that because it should be obvious. The mission of colleges and universities is to foster learning and discovery for all members of society. But students of all ages most likely first encounter local public libraries and school libraries long before they arrive on a college campus. The knowledge and learning skills they develop at home, in schools, and, yes, through access to local libraries sets the stage for success in higher education. Our mission in higher education builds on that foundation.

Let libraries and librarians do their job! If anything they are doing was causing harm, we would all have already been harmed long ago. It did not happen and is extraordinarily unlikely ever to happen. This bill is not a solution to any problem. It will only make life difficult for library patrons, your constituents.

We urge the committee to oppose HB 1205 and vote Do Not Pass.

Respectfully,

Robert Newman, PhD. / Chair, University Senate, UND

Hello, I am Isabella Anderson, I am a Junior at Des Lacs Burlington high school, and I am here to oppose House Bill 1205. I strongly believe that there is nothing good to come out of the passing of this bill. Not only that, but I believe that it would be greatly harmful to all North Dakota citizens, especially the young people of our state. If this bill is passed, it will be taking away the First Amendment rights of all North Dakota citizens by taking away their right to access public information. As Americans, the First Amendment is one of the most important rights because it is a true show of the freedom this country is supposed to represent. This bill is taking away this freedom that our ancestors have fought for for generations.

This bill will not only affect children, but adults who should be allowed to check out a book from their library regardless of the content in said book, and parents should be given the liberty to make the choice for themselves if it is appropriate, as well as whether it is appropriate for their children

If parents are truly concerned about the content their child is reading, they can look into it themselves. Instead, this bill will force librarians from across the state to go through tens of thousands of books, costing them millions of dollars to do a job that should be the responsibility of a parent. Any parent supporting this bill is simply trying to disregard their parental responsibilities and give them to complete strangers.

Whatever you believe will be improved from this bill is wrong, whether that be stopping teens from having sex or slowing the rise of suicide rates.

When Representative Lefor introduced this bill they stated a statistic about how sexual books can be associated with the engagement of unprotected sex. However, without access to many of the books you are trying to ban from libraries, how do you expect teens to learn how to have protected sex. Many of these "sexual" books are purely informational, and without them what do teens do to learn about sex? They turn to the internet, turn to actual porn. Because, believe me when I tell you as a high school student, banning these books most certainly will not stop teens

from having sex, if that is truly your goal with this bill. It does not matter how they were raised or what values they may hold, it is simply human nature.

Representative Lefor also seemed very concerned about the rise of suicide rates in this country. And this is yet another thing that will not be helped by the passing of this bill. If anything, it will make it worse. Banning many of these books will take away the representation that teens so desperately need to feel accepted and a part of this society. Without this representation kids will feel like outcasts, like they don't belong, and like they are not worthy of representation. That is what makes kids kill themselves, not books.

When it comes down to it, this bill is not going to stop kids from having sex, it is not going to stop kids from killing themselves, and despite what we all know you are trying to do with this bill, it is not going to stop kids from being gay, and nothing you ever try to do will.

My name is Mike Fladeland. I'm a Bismarck resident and a member of the Board of Trustees of the Veterans Memorial Public Library (VMPL). I oppose HB 1205 for several reasons, including references to "maintaining or promoting certain books," pertaining to certain subjects listed under Section 2. However, my primary objection is to censorship of the collections of the state's public libraries.

The VMPL has a Collection Development Policy that includes sections addressing Principles of Selection and Reconsideration of Library Materials. As stated in our Principles, "The Library makes available, as the budget allows, a wide range of ideas and viewpoints in a variety of formats in support of an informed citizenry. It supports the individual choice and judgment of library users in seeking information and upholds the freedom of users to read, view, and listen, even though the content may be controversial, unorthodox, or unacceptable to others."

The Reconsideration section provides for "a process whereby opinions and/or complaints from Burleigh County citizens or individuals with current, non-resident Library cards regarding materials selection can be voiced," and acted upon.

That's how the VMPL approaches censorship as well as, more specifically, "book banning." On a broader level, the American Library Association affirms in the Library Bill of Rights, that "Libraries should challenge censorship in the fulfillment of their responsibility to provide information and enlightenment." Further, the Association, in a Freedom to Read Statement, states "**The freedom to read is essential to our democracy.**"

A recent article in the New Yorker magazine is entitled, "What are we Protecting Children from by Banning Books?," The author, Katy Waldman, sums up her article by stating, "A recent wave of bans comes as many Republicans, in their opposition to gun control, climate science, food stamps, public education, and other social services, work assiduously to render the lives of American children as unchildlike as possible. A number of grownups apparently feel emboldened to spend their lives playing peekaboo with reality. Their kids may not have that luxury."

Ms. Waldera accurately states there is a "wave of bans" nationwide this year in many states, including Texas, Florida, and North Dakota. It appears our legislators are bowing to a minority of vocal citizens who want to limit what is available for the majority of responsible citizens to read or observe. While we are concerned about the welfare

of our children, this is not the solution to what really is not a problem in our state's libraries. This bill represents an insidious and dangerous attempt to limit the people's freedom of choice, while hiding behind the guise of "protecting our children."

HB #1205

Representatives: Lefor and Steiner

I oppose HB #1205.

As an adult living in the State of North Dakota, what I find offensive, is that fact that a small group of people think that they know what is best for us adults and that we adults can not monitor what our children watch, read or come in contact with out in public so additional laws, regulations and oversight must be made to do what we as parents, businesses and organizations cannot do.

As a parent, I used books to help my kids with homework as well as help me explain all sorts of things in life. Now let's be honest, what I may not find offensive, you legislators may find offensive. It is NOT your place to tell me that my idea is wrong or offensive. That is an overreach of government and is not only imposing your beliefs but interfering with families and their way of educating their children.

We see commercials on TV and hear radio commercials talking about Viagra and about male erectile dysfunction. The commercials talk about how Viagra and other medications can help a male feel more like a young man in his prime and get his mojo back. Personally, I find that offensive. These commercials offend the ears and eyes of many on a daily basis yet I dare say those that drafted this bill didn't put one thought towards these commercials and why is that? It's simple, the target for this bill isn't to protect the youth of ND. That's just a cover and a way to gloss over the real intended target which is the LGBTQAI community.

I personally was educated on puberty by a book. My mother couldn't bring herself to tell me so my oldest sister grabbed a book and said here, read this. That was my education, a book. Your bill would make that book impossible for me to know in advance what changes my body had in store for me. So, how do you propose that a family who is too intimidated or uncomfortable to talk to their children about puberty or life issues educate their families? It is too easy for you to say parents must talk to their kids. That's not realistic and in my experience even in my own family, that doesn't happen. Your theory is flawed. You're hurting kids who have no guidance at home. You're hurting the parents who need a book or other media to help them talk about life to their kids.

The harm comes from keeping our youth ignorant to the facts of life because eventually those youth grow up and either learn by others or go into the world and then discover that they knew very little about the world outside of the North Dakota's borders. Our kids will not be as prepared to go into the world and live amongst others who do not fall into the same category as those, they lived next to or grew up with.

Since when did knowledge become the enemy? Book banning in our libraries and schools smack of Nazi like mentality. We live in a country where freedom is celebrated. Choice used to be a corner stone of our country but lately our state is looking more like a dictatorship rule and lacks any freedom in which the US was founded on.

I am offended by the very fact a small group of people think they know what is best for me and my family yet they don't know me. What this group IS DOING is imposing their own religious beliefs onto others. Separation of church and state is warranted here.

HB #1205

Kids have and will always continue to seek that which is forbidden. The things that are taboo are the very things which entices our youth to seek that which you denounce. You're not protecting anyone. If you really wanted to protect our youth you would be fighting for our schools to be educating our youth about their bodies, about LGBTQAQI community and about the facts that our country has marginalized people from its start and that includes North Dakota and it's interment camps, the taking of Native American children away from their families and communities and forcing religion onto them as well as mandating that they adopt a lifestyle that they deemed as barbaric and needed to be eliminated. When will this legislative body learn from history that to eliminate choice doesn't protect but in fact harms people.

Your prejudice and religious beliefs are the driving force behind this bill. Freedom to read, to educate, to explore is not your place to govern over. Not everyone holds your beliefs and your not the moral compass for me nor the State of North Dakota.

Stop being prudes. The legislators and supporters of this bill cannot say they have never told a dirty joke, watched a movie that had some form of nudity in it, had cursing in it or had some form of expression that is mentioned in this bill. This is a censorship bill, plain and simple.

Either we as parents are capable of taking care of our children and that includes monitoring what our children watch, read and are exposed to or we are capable to raise our children correctly, as we see fit. The GOP has proposed a bill, HB #1362, which enforces parental rights yet this bill dictates what we as citizens of North Dakota can be exposed to. Come on! Which is it?

Stop legislating our lives to death! No one is making anyone grab any material that they find offensive. Removing choice is wrong. There are best practices in place and if there is an issue, deal with that issue on a case by case basis.

You are not the moral police nor do you speak for every citizen of North Dakota.

Respectfully,
Kristie Miller



www.minotlibrary.org ♦ (701) 852-1045
516 2nd Ave SW Minot, ND 58701

March 12, 2023

Chairperson Larson and Members of the Senate Judiciary Committee,

Your dedication to protecting our youth is admirable, but I'm speaking to you today to share some concerns about how bills such as HB1205 may actually do the opposite and be harmful to youth of North Dakota.

Supporters of bills such as HB1205 (as well as SB2360) have repeatedly said that they intend to "protect" youth from "pornography," and they have brought in several people to testify about the adverse effects of pornography on children. However, none of these supporters have yet defined what "pornography" is *or* answered concerns about the unintended consequences of these bills (see the attached list of questions asked of bill sponsors).

Additionally, no one has discussed the harmful effects lack of information and a feeling of being unwelcome has on youth. A 2011 study noted that adolescents who identify as a sexual minority (i.e., gay/lesbian, bisexual, or other sexual orientation) were twice as likely to perform acts of self-harm. A study ten years later further noted the association between the experience of being identified as a sexual minority and the increased risk of self-harm.

Aside from self-harm, lack of representation in one's community leads to dehumanization of a person according to 2020 research by Mancini T. Ferrari. This dehumanization further contributes to the mental health decline in youth. An article published in 2022 surmised that making sure people from diverse backgrounds are represented in mental health education resources "is an important component to inclusive accessible care."

In the landmark 2018 case *Doe ex rel. Doe v. Boyertown Area School District*, testimony relied on the American Academy of Pediatrics' amicus brief reporting that "policies that exclude transgender individuals exacerbate the individual's risk of anxiety and depression, low self-esteem, engaging in self-injurious behaviors, suicide, and other adverse outcomes."

Closer to home, a Minot, ND Clinical Psychiatrist responded as follows when asked about the impact of bills such as HB1205 and SB2360 on North Dakota youth: "Even if we personally dislike something we see, or feel offended by it, a democratic and pluralistic society pretty much requires us to show tolerance and respect free speech. With children, things such as this are the proverbial "teaching moment", where we can share our views and help them develop their own critical viewing/listening/reading skills. The supposed motive, of "protecting" children, is often

just an excuse for censorship - the best protective factor is an ability to think critically and a set of strong personal values (not those imposed by others).”

A consultant with Fargo’s Harbor Health Initiative explained that bills like HB1205 are not operating in the best interest of people, but rather creating anxiety and fear. They said: “since these actions aren't well grounded, they're not going to result in better outcomes. Which means more destabilizations and more anxiety and fear from it. The story isn't about book bans or religious identity, the story is should the government have the power to do this.”

A primary goal of Harbor Health is to promote better mental health, and HB1205 and SB2360 do not support this goal. “You don't ever want a person thinking there is no option or place for themselves.” This person went on to say: “When we're looking at minority communities, a big thing for them is finding representation, because it can be extremely socially isolating to not see yourself represented in materials or stories. There are a lot of other factors to consider too when we think about shame and the narratives youth may have about themselves, their bodies, and even their desires when they're living in a society that actively stigmatizes them. So, having access to books with people who are like themselves, that can help them understand, relate, and contextualize their own experiences, is very important.”

However, in addition to the negative mental health impact HB1205 has on youth, this bill could be detrimental to our children’s physical health. While I would venture to guess that no parent wants their child having sex before adulthood, we would be naïve to believe this doesn’t happen. Additionally, I could make an educated guess that all of us want our children to be healthy. Unfortunately, when youth are not made aware of repercussions and/or ways to avoid unhealthy sexual decisions they cannot protect themselves. This has become an increasing problem in ND as demonstrated by a 2/10/2023 report on KXMC which reported that Sexually Transmitted Infections have been on the rise for the past five years based on a ND Department of Health report. “According to the report, from 2017 to 2021, cases of chlamydia have increased by 20%, syphilis rates have increased by 25%, and gonorrhea cases have soared by 78% in that same period of time.”

Harbor Health also shared that more than 30% of high school students have had sex and only about 52% used condoms. They found that the biggest emerging demographic of new HIV cases in ND was young men. Men who didn't live through the AIDS crisis or the fear with it. “It's young gay men who never think about protection, because pregnancy isn't a concern, so why bother?” said the consultant. “And it's these youth that I feel are failed by not having some access to better information.”

Finally, as someone who has been in the library field for over fourteen years, I think you would have difficulty finding library workers who think pornography is suitable for youth and should be readily available to children of all ages. Yet, this is what some legislators and others would like you to believe.

Libraries have well-vetted policies and procedures in place to manage which books are selected and to handle concerns presented by our patrons. Further, ND law already prevents us from allowing access to obscene materials. I know that some people do not agree with the current

standards for evaluating obscenity, but this legal definition has been in place for decades and ensures we view work as a whole, not simply pieces. I ask that you trust our skills, experience, and education; but I also ask that you visit our libraries and ask questions about our policies.

To state it simply: we do not carry pornography. I challenge anyone to visit the Minot Public Library and find pornography, especially in our children's section. If you do find something you consider pornographic, bring it to me. Let's talk about it. Let me share our process for selecting books, and give me a chance to listen to your concerns.

Thank you,

Janet Anderson,
Library Director
Minot Public Library
Janet.anderson@minotnd.org
(701) 852-1045

Resources

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O'Reilly LM, Pettersson E, Donahue K, et al. Sexual orientation and adolescent suicide attempt and self-harm: a co-twin control study. *Journal of Child Psychology & Psychiatry*. 2021;62(7):834-841. doi:10.1111/jcpp.13325

Ramos A, Moors AC, Dours NO, Jonathan N. Surface and complex representation of diverse intimate relationships: insights from a content analysis of marriage and family therapy resources. *Sexuality & Culture*. 2022;26(4):1510-1530. doi:10.1007/s12119-022-09956-8

Shirley Lin. Dehumanization “Because of Sex”: The Multiaxial Approach to the Rights of Sexual Minorities. *Lewis & Clark Law Review*. 2020;24(3):731-788. Accessed March 12, 2023. <https://search.ebscohost.com/login.aspx?direct=true&AuthType=cookie,ip,cpid&custid=minot&db=a9h&AN=145333520&authtype=cookie,cpid&custid=minot&site=ehost-live>

Questions about HB1205

Page 1

Lines 9-11: What standards are being used to decide if something is considered a “work of art” or “works of anthropological significance?” Who is deciding this?

Lines 12-14 indicate primarily visual depictions as opposed to written. Does this bill ONLY apply to pictures/images?

Line 15 could refer to books on fertility as related to the male aspect of this topic. What safeguards are in place to assure patrons that this would not be content to be removed?

Line 16: What is the definition of “deviant” in this section? Who decides this?

Line 17 does not specify human, yet at a committee hearing a Senator indicated these bills “obviously” apply to humans. Where is this specified? What protects books on animal husbandry?

Line 18 would impact books on puberty, especially since it doesn’t refer to stimulation by whom. What would protect these books from being removed?

Line 20 would impact materials on child-rearing as they are not specifically “materials used in... courses.” Parenting books on diaper rash and other maladies could be included. What would protect these books from being removed?

Line 21 is very vague and could include depictions of kissing. However, it would most certainly include books with bare-chested male models being caressed by scantily clad women on the cover. What is in place to allow adults to continue to check these items out of a library?

Line 22: What is the definition of “perversion” and who decides this?

Lines 5-22: Why was there a need to add this section as there are already existing obscenity laws?

Page 2

Lines 4-5 is especially concerning because during testimony it was repeatedly noted that these bills only pertain to children. As it currently reads, this would not allow certain materials in ANY portion of a library. Can you please clarify what is meant by “in its inventory?”

Line 9 would have quite a large financial impact as books purchased with taxpayer dollars would simply be thrown into landfills. Has this been taken into consideration?

Lines 10-17 are already done in libraries. Was this known at the time the bill was drafted and submitted.

In general, if lines 12-14 on page one would include written descriptions, what in this proposed bill would protect the Bible from being removed? Even if it does only refer to pictures, what would protect an illustrated Bible?

Fiscal Impact to Read All Books in a Collection

Data used to determine:

Average Adult Reading Speed: 200-300 WPM / 1 Hour = 40 pages

Average Grades 1-6 Reading Speed: 80-185 WPM

Average Teen Reading Speed: 195-204 WPM

Average # of pages / book: Fiction = 200-400 pages Nonfiction = 150-200

Average # of hours / book: Fiction = 5 – 10 Hours Nonfiction = 3.75 – 5 Hours

Average word count: adult = 90,000 YA = 50,000 – 80,000 Middle = 25,000-40,000

52 weeks in a year

Formulas

of pages . = # of collection items x 300 (average # of pages)

of hours read . = # of pages / 40 (average pages read per hour)

of days . = # of hours / 8 (hour work day)

of weeks . = # of days / 5 (days in a work week)

of years . = # of weeks / 52 (weeks in a year)

of employees . = # items / 260 (number of books read in a year)

of books read in a day = 1 (7.5 hours per day X 40 pages per hour) = 300 pages (average adult book)

#of books read in a work week = 5 (one book per day)

of books read in a year = 260 (5 books a week X 52 weeks)

Example

Total ND Public Library Collection (not including schools, special, academic, etc.):

Total Books = 4,925,631

Average amount per library = 59,345

How many staff required to read = 228

IF all of these staff work full-time and are paid minimum wage of \$7.25/hr (which is quite lower than what it would actually be) the salary impact would be \$3,438,240 (\$7.25 x 2080 hours per year x 228 employees)

Minot Public Library Financial Impact

First of all, to read every item in the collection, as had been suggested by some, would be incredibly time consuming. As an example, the Minot Public Library's collection includes 123,539 books as of 3/11/23, not including DVDs and video games which would probably have to be reviewed as well. Based on available data as shown [below](#), it is accurate to assume that this means there are 37,061,700 pages in the MPL collection. This would take 926,542.5 hours to read (this equates to 115,817.812 work days OR 23,163.5625 weeks OR 445.45 years) for one person to read. MPL has 25 staff (including our administrative and maintenance staff) so it would take 17.818 years for all 25 staff to read all items in our library's collection. The lowest paid position at MPL makes \$13.26/hour. If we decreased every employee's salary to this amount and paid them only to read materials (not perform any other tasks) it would cost \$689,520 per year to review the entire collection. The total cost would be \$11,721,840 for 17 years. However, if we use the AVERAGE hourly wage of MPL employees, \$20.99 per hour, these numbers change to \$1,091,480 for one year and \$18,555,160 over 17 years.

Additionally, if items need to be withdrawn based on claims of "obscenity" there will be additional costs. Even if just 20% of the MPL collection were deemed "unacceptable" 24,708 items would have to be withdrawn and thrown away. The average cost per item is \$35 which would mean \$864,780 of items would be put into the landfill (not including the staff cost to do the work needed).

For the first year alone, the potential fiscal impact of HB 1205 and/or SB 2360 would be \$1,956,260. For comparison, the Minot Public Library's TOTAL 2023 budget (including two major building projects) is \$2,182,213. Since this is simply not feasible, libraries throughout the state have policies and procedures in place to help ensure appropriate items are selected for a library's collection. For anyone interested in learning more about this process, a recording of the event many of you were invited to ("The Book Goes Where?!?" hosted by the Minot Public Library) is available online [here](#) and the slides are included below.

****These expenses do not include unfunded liability insurance for potential criminal charges****

The Book Goes Where?!?

UNDERSTANDING HOW ITEMS ARE
SELECTED FOR THE MINOT PUBLIC
LIBRARY



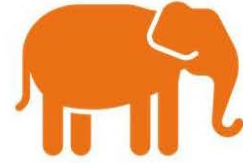
First: A few guidelines...

Today's presentation is intended to do the following:

- * Respectfully discuss how library staff select items to be added to the circulating collection
- * Share MPL policies and procedures which determine how selections are made in an analytical and open-minded manner
- * Show resources staff use in making these decisions
- * Inform attendees of existing protections in place on library computers

Please be respectful of our staff and one another.

The elephant in the room



Much of the controversy about book selection and placement surrounds the LGBTQIA+ community.

We will NOT be debating this topic.

If you are here to argue “right” or “wrong” on this subject matter, this will not be permitted.

Some Numbers

MINOT PUBLIC LIBRARY
CONNECT. ENRICH. INSPIRE

The Minot Public Library has 137,967 items in our circulating collection

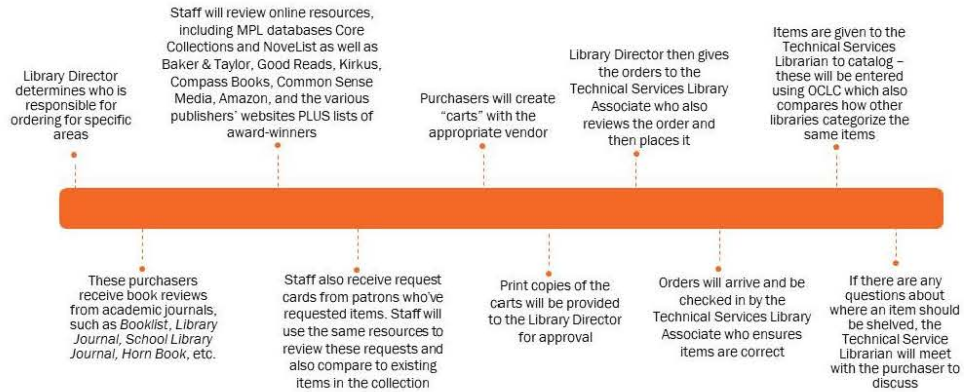
- 34,900 Children's
- 7,185 Teen

In 2022, MPL added 11,427 items to the circulating collection

In 2022, items were checked out 223,622 times

The #1 book checked out in 2022 was *Verity*, by Colleen Hoover checked out 33 times

The Process



MPL Collection Management Policy

- 13 pages
- Reviewed and Approved by the Library Board
- Filed with the ND State Library




This Photo by Unknown Author is licensed under [CC BY-SA](#)

Highlights from the policy

Intellectual Freedom

The Minot Public Library is committed to the principles of intellectual freedom and affirms the American Library Association's Freedom to Read statement [Appendix] and the Library Bill of Rights [Appendix]. As such, materials representing diverse viewpoints on topics, including controversial ones, are actively collected. Selection of an item does not indicate that the Library, its Board, or its Staff agrees with the ideas and viewpoints it presents.




Highlights from the policy

Diversity, Equity, and Inclusion

The Minot Public Library is committed to develop collections that support an equitable and inclusive approach to the community. We affirm that considering the needs of under-resourced groups is integral to collection development and management. We recognize the linguistic and cultural diversity of the communities we serve. As we purchase more e-resources, we advocate for the institution to provide technological solutions that make possible inclusive community-wide services to ensure equitable collection access for all.

We commit to regularly assessing the adequacy of existing collections to ensure they are reflective of the diversity of the library's populations. We review demographic trends for our user communities to inform our work. We advocate for inclusive cataloging that improves equity in access to materials.



Highlights from the policy

Access to Materials

The Library does not deny or abridge use of the Library because of an individual's actual or perceived race, color, religion, sex, pregnancy or parenthood status, political affiliation, domestic abuse victim status, sexual assault victim status, genetic information, sexual orientation, gender identity or expression, military or veteran status, national origin, age, mental or physical disability, and marital status.

The Library does not act in the place of a parent. Parents and/or legal guardians are responsible for children's and young people's information consumption, including, but not limited to, their reading, viewing, and listening.

The Library does not restrict access to Library materials in an effort to avoid controversy with parents. Young people have varied levels of intellectual development and families have differing backgrounds and child-rearing philosophies. Such significant factors are not accommodated by a uniform policy based on age. The Library has a responsibility to ensure that young people have access to a wide range of informational and recreational materials and services to meet their diverse needs.

The Library does restrict access to certain materials for the express purpose of the preservation of these materials in order to protect them from theft or mutilation.

Highlights from the policy

Objective

Materials selection aims at maintaining a collection of materials for meeting the information, reference, research, educational, and recreational needs of the Minot community. Budget limitations necessitate the choosing of materials relevant to these needs.

Because of the volume of publishing, as well as limitations of budget and space, the Library must have a selection policy with which to meet community interests and needs.

The collection management policy is used by the Library staff in the selection of materials and also serves to acquaint the general public with the principles of selection.

The Library Bill of Rights and The Freedom to Read Statement have been endorsed by the Minot Public Library Board of Trustees and are integral parts of the policy. Both of these documents can be found in the appendix.

The collection management policy, like all other policies, will be reviewed and/or revised as the need arises.

Highlights from the policy

Criteria: Materials for purchase are considered on the basis of:

1. Needs of the community, based on knowledge of the Library's mission and vision and the existing collection are given first consideration
2. Lasting value
3. Authoritativeness and/or standing and professional reputation of the author/artist/composer/ producer/publisher, etc.
4. Popularity
5. Format
6. Price and/or availability of funds
 - i. When considering out-of-print materials for purchase, purchasers will make every effort to select materials that are no more than double the original list price
7. Importance of subject matter
8. Contemporary significance: i.e. attention of critics, reviewers, and the public
9. Comprehensiveness and depth of treatment
10. Clarity, accuracy, and logic of presentation
11. Currency of information
12. Relationship to existing collections
13. Artistic merit
14. Trends in recent patron use
15. Requests from patrons are accepted while not every request is able to be fulfilled, requests provide valuable insight into what patrons would like to see in the collection.
16. Insight and/or perspective into human and social conditions
 - i. Topics including race, sexuality, disability, and other diversifying factors will be included in the Library's collection when they also meet the above criteria
 - ii. Controversial topics that affect patrons of all ages will be included in the collection when reliable, accurate, and objective materials are available with consideration for including multiple viewpoints
17. Availability elsewhere in the community, including in the Library's own collection
 - i. Duplication of items in the same format will generally be avoided except for high-demand materials

Highlights from the policy

Procedures for Selection

In selecting materials for purchase, the purchasing staff evaluates the existing collection and consults reputable, unbiased, professionally prepared selection aids.

In other areas, the purchasing staff follow these procedures:

1. Multiple items of outstanding and much in demand media are purchased as needed.
2. Sets of materials and materials acquired by subscription are examined and are purchased only to fill a definite need.
3. Duplication of materials available in special (medical, legal, etc.), school, and academic libraries will be avoided whenever possible.
4. The Library will endeavor always to balance special group interests with general demand, to present fairly and truthfully both sides of every controversial subject handled, and to maintain a true balance between its duty to present information on all aspects of public questions and its determination not to allow itself to be used as a propaganda vehicle.
5. The Library will not maintain a closed shelf collection of materials but will encourage individual and parental discrimination in the choice of materials.
6. In addition, the Board recognizes the duty of the Library to furnish materials outside the "mainstream of popular output" and to provide in its collection a substantial representation of the critical, provocative and experimental products as well as the classics.
7. All phases of the selection procedure will work toward the establishment of a representative collection of materials of high quality based on achievement or the services the Library is expected to perform.
8. Adult responsibility for children's reading rests with parents or legal guardians. Materials selection for the adult collection is intended for mature readers and will not be restricted by the possibility that children or young adults over eighth grade may obtain materials which their parents or legal guardian consider inappropriate. Separate collections are available for children in seventh grade and lower.
9. Materials unavailable at this Library but available through cooperative Library networks will be borrowed upon request of the user for a fee based on shipping costs.
10. Consideration is given to adequate availability of materials for those who cannot read regular print.

Highlights from the policy

1. Juvenile

The children's collections of the Minot Public Library serve children from birth through seventh grade, as well as their parents, teachers, caregivers, and other professionals working with children, by providing books and other media of the best available quality for recreational use, general information, and elementary school curriculum support. Literary excellence, accuracy, and timeliness of factual material, and high-quality art and illustrations are the standards met in materials selected for the Library's collection. The children's collection will not draw back from topics including race, sexuality, disability, and other diversifying factors. We intend to make our collection a composite of "windows, mirrors, and sliding glass doors." (Rudine Sims Bishop)

1. Teen

The Minot Public Library Young Adult collections are designed to address the recreational, developmental, and informational needs and interests, including those which are curriculum related, of youth in grades eight to twelve and to stimulate the interests of young people in reading and the world around them. These collections are intended to be browsing in nature, to contain current interest material, to be changing constantly and to be aesthetically appealing.

Highlights from the policy

Reconsiderations

1. The Board of Trustees recognizes the importance of providing a method whereby opinions from the public regarding materials selection can be voiced; therefore, it has established a procedure which will apply to all complaints including:
 - i. Those about materials represented in the collection
 - ii. Those about materials not represented in the collection.
2. To comply with this procedure, a complaint must be in writing. Forms are available at the Reference and Circulation Desks and, upon completion, may be mailed or delivered to the Library Director. Upon receipt of the signed form the Director will:
 - i. Examine the material in question, the issues raised and the circumstances involved.
 - ii. Make a decision to remove or retain the material in question.
 - iii. Respond in writing to the complainant within one week of receipt.
 - iv. Provide the complainant with a copy of this policy and inform the individual of the availability of a Board Hearing.
 - v. Should the complainant feel that the decision of the Director is not supported by the policy, the complainant may request a Library Board hearing by notifying the Director who will make the necessary arrangements. Following the hearing, the decision of the Board will be final.
 - vi. Above all, the Library Board has as its concern the fairness of such a hearing so as to protect the rights of all persons who are involved.

MPL has had 4 Requests for Reconsideration forms filed in eight years

But, WAIT!
How do
you
determine
WHERE
these
items go?!?

Generally, this is pretty cut and dry, but...

There can be a fine line between Children's/Juvenile and Teen
AND Teen and Adult



MPL Procedure implemented 4/26/2021

- a. The purchaser will use available resources to check the intended audience age. Resources include:
 - i. Baker & Taylor
 - ii. NoveList
 - iii. Good Reads
 - iv. Kirkus
 - v. Compass Books
 - vi. Common Sense Media
 - vii. Amazon
 - viii. The publisher's site
- b. If the purchaser is still unsure, they will pass it to their counterpart for input
- c. If the two purchasers still aren't sure, one of them should put the item into their cart and leave a note for Veronica that they want to see it before it is cataloged
- d. If an item ends up being cataloged and then needs to be changed that is ok, but we want to avoid this as much as possible



Twin Cities by Jose Pimienta

Publisher's Weekly: Ages 8-12

Kirkus: Ages 8-12

[Baker & Taylor](#): Ages 9-11

Amazon: Ages 8-12

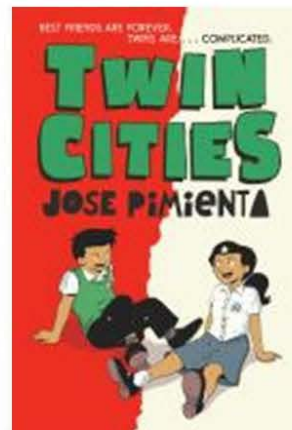
Publisher (Penguin Random House): Children's Middle Grade

[NoveList](#): Ages 9-11

Kirkus: Ages 8-12

Barnes & Noble: Ages 8-12

Also to consider: main characters are 13,
with another who is approximately 15



Last Apprentice Series

13-book series

Book 1 = NoveList grades 5-8 / Baker & Taylor 7-9/ Booklist 5-8 / School Library Journal 5-8 / Publishers Weekly ages 9-12 / Kirkus ages 11-13/Common Sense Media ages 11+

Book 2 = NoveList 5-7/Baker & Taylor 7-9/ Booklist 6-9 / School Library Journal 5-7/ Kirkus ages 11-13

Book 3 = NoveList 6-9 / Baker & Taylor 4-6

Book 4 = NoveList 7-9 /Baker & Taylor 4-6

Book 5 = NoveList 4-6/ Baker & Taylor 4-6

Books 6, 8, 10, 11, 12 = NoveList 7-9 / Baker & Taylor 7-9

Book 7 = NoveList 4-6 /Baker & Taylor 7-9

Book 9 = NoveList 7-10 / Baker & Taylor 7-9 / Kirkus age 11-15

Book 13 = NoveList 4-6 / Baker Taylor 7-9



The policy & procedure in action

1/24/2023: PATRON EXPRESSED CONCERNS ABOUT TWIN CITIES WHICH IS IN THE CHILDREN'S LIBRARY

- No Request for Reconsideration completed
- Director & Children's Librarian read book
- Director & Children's Librarian discussed merits of having book in Juvenile versus Teen

2/16/2023: CHILDREN'S LIBRARIAN RECEIVES REQUEST FOR FINAL BOOK IN "LAST APPRENTICE" SERIES

- Some existing copies in Juvenile, some in Teen, and some in both
- Children's Librarian read reviews and recommended ages
- Children's Librarian & Teen Librarian found that the books currently in the Juvenile (Children's) section were circulating better and decided to move all to this area

Also: "Sea Breeze" series by Abbi Glines Request for Reconsideration January, 2021

Balance

637 books on cats

Subject: Republican Party
(U.S.) = 43 books

149 books featuring Barack
Obama

◦ 14 biographies

Christianity = 872 books



761 books on dogs

Subject: Democratic Party
(U.S.) = 35 books

143 books featuring Donald
Trump

◦ 23 biographies

Islam = 219 books



Technology

MPL Internet Guidelines

The Minot Public Library complies with the 2015 Child Internet Protection Act (CIPA), requiring all public libraries to have a filter on their public computers if they receive public funds. **The library does provide filters on all library-owned computers and other library Internet devices used in-house,** however, they do not prohibit all information that one may find offensive or inappropriate. Filters are also not 100% effective and may not block all content that it should. The filters are more restrictive in the Children's Library than the Adult Floor. The Children's Library also does restrict some additional content that staff finds necessary, if children would like to access this content they would need to use the computers on the Adult Floor. In accordance with CIPA, if someone 17 years of age or older requests a blocked site to be unblocked, staff will provide access to that website in a timely manner if that website does not break other guidelines laid out in this internet policy.

Children's Internet Protection Act

CIPA specifically requires public libraries and schools seeking e-rate discounts for internet connections to install technology protection measures, i.e., content filters, to block two categories of visual images that are unprotected by the First Amendment: obscene images and images of child pornography. These are categories of images the Supreme Court has consistently ruled outside the constitutional protection of the First Amendment.



Cassie Usage Agreement



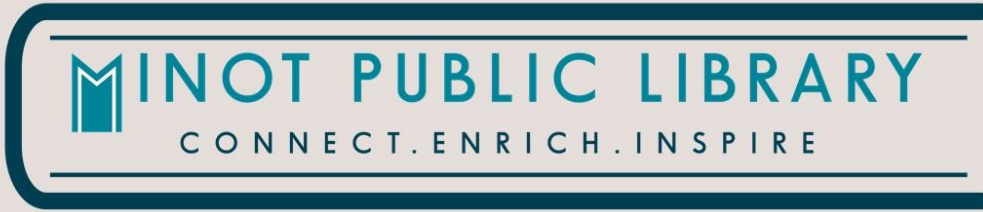
Internet User Responsibilities: All users of the Internet are expected to use this resource in a responsible and courteous manner, consistent with the purposes for which it is provided, and to follow all Internet-related rules, regulations and procedures established for its use including, but not limited to, those of the library.

Responsible, courteous use of the Internet includes:

- Recognizing that the Internet must be shared and used in a manner which respects the rights of others and refrain from activity that prevents others from using it.
- Using the resource for cultural, educational, informational and recreational purposes only.
- Using the Internet in a responsible, ethical, and legal manner or having privileges suspended.

The Library reserves the right to take further action, if necessary.

- Respecting intellectual property right by making only authorized copies of copyrighted, licensed, or otherwise-controlled data residing on the Internet



Questions?

Janet Anderson

janet.Anderson@minotnd.org

701-420-4540



Scan for more information about SB2360 and HB1205

Chair Larson and members of the Senate Judiciary Committee,

I urge a 'DO NOT PASS' on HB 1205. I am quite concerned about this bill and the consequences of it passing in its current form. I am a mother of two and I am also beginning my second term as a board of trustees member for Carnegie Regional Library in Grafton.

HB 1205 has been advertised as a bill that is aiming to protect children. I agree with that aim, but after reading this bill, listening to testimony and listening to the House Judiciary Committee work on this bill, I can see that it goes past protecting children and into the arena of censorship. I do not agree with censorship of materials accessible for adults in the public library and other settings. I do not feel that it is the responsibility of the Legislature or Libraries to decide if adults may access materials that may contain something some people find objectionable. There are ideas in materials in our library that I personally object to, but I do not get to decide if other citizens may access those ideas. I will defend the right of others to have access to those ideas.

I feel there are less restrictive ways to go about protecting children from sexually explicit material. I see that allowing this sort of broad restrictions is a slippery slope to someday restricting other topics and ideas that some deem objectionable. Further the language of this bill is a bit broad and subjective: who gets to decide which "works of art that, when taken as a whole, have serious artistic significance, or works of anthropological significance," what constitutes sexual "perversion," or what kind of intercourse is considered "deviant"? My experience tells me that many people will have different opinions on these terms.

Libraries already have policies in place to develop collections that are appropriate and useful for their patrons. Not everyone will agree on every book, but the First Amendment guarantees freedom of speech and the right of citizens to access information.

It is my job as a parent to know what my children are accessing at the library, online, etc. That is not a responsibility I want to hand over to the State. It is my right, and the right of all adults in this country to access the materials of their choice as long as they are not illegal. I do not want that right taken away from anyone, even if I do not agree with the ideas they choose to consume. I fervently hope to see this bill marked 'DO NOT PASS' and see it defeated in the North Dakota Senate.

Thanks for your time and consideration.

Testimony in opposition of HB 1205

Relating to prohibiting public libraries from maintaining explicit sexual material; to provide for a legislative management report; and to provide for application.

Senate Judiciary Committee March 13, 2023

Senator Larson and committee members. My name is Stephen McDonough. I am providing testimony in opposition to HB1205.

I am a board certified pediatrician who worked in North Dakota for forty years, from 1980 to 2020 and continue to reside in Bismarck.

This bill is not needed as North Dakota libraries are currently doing an excellent job and providing appropriate books in their collections.

The North Dakota Legislature should not be imposing state sponsored censorship on our residents. HB 1205 needs to be defeated.

Stephen McDonough MD

March 12, 2023

To: Chairperson Larson and Members of the Senate Judiciary Committee,

My name is Mariah Ralston Deragon and I oppose House Bill 1205.

I am a fourth generation North Dakotan, which for the tribal nations of our state, means my family is still new to this area. Nonetheless, I feel a strong connection to the cultural, geographic, and social landscape of North Dakota.

I am distantly related to the woman the Edna Ralston Public library was named for in Larimore, ND. My father, Tim Ralston, was a North Dakotan poet. I myself am a librarian.

I'm also an ally to LGBTQIA+ individuals. That stands for Lesbian, Gay, Bisexual, Transgender, Queer/Questioning, Intersex, Asexual, and + holds space for other identities not included in that acronym, such as Two Spirit, which is an identity particular to certain Indigenous nations.

A little girl in my family, whose identity I will not disclose due to the increasingly hostile place North Dakota has become for queer individuals, told her parents a couple of years ago that she thought she was bisexual. She was 9 years old at that time. I do not accept that if HB1205 is passed, there's a version of North Dakota in 2024 where books portraying same sex relationships in her age group will be hidden away from her in a "special" section of the library- or maybe removed altogether. If libraries are forced to separate books, which according to the language of this bill could be targeted as "prurient interests," then it is that much more likely she won't seek out those books for fear of being outed, or because she may be made to feel unsafe by her peers for drawing extra attention to sexuality.

That is why it is a first amendment right for parents with queer children to be able to have access to those materials specifically in children's collections. Making the choice to remove the items to adult sections directly affects and potentially endangers another parent's child. It removes their access to representation in our libraries.

I am a librarian, and I am an ally to LGBTQIA+ individuals. I am not a groomer. How that term is currently being manipulated in homophobic ways online and in testimony during this 68th Legislative Session is truly disturbing, and speaks to the fact that our state needs comprehensive sex education for adults and children, now more than ever.

I support sex education. To be clear, books about sex education are not obscene, they are not the same as pornography. According to the Guttmacher Institute, which is a leading research and policy organization committed to advancing sexual and reproductive health worldwide,

"All young people should have access to comprehensive sexual and reproductive health information that is medically accurate, LGBTQ inclusive, and culturally and age appropriate so that they can make informed decisions about their sexual behavior, relationships and reproductive choices. Sex is already part of [many adolescents' lives](#), and they deserve to receive high-quality information to inform their decision-making. Unfortunately, just [30 states and the District of Columbia](#) require sex education to be taught in schools, and fewer states require that the school curricula include key sex education topics or even medically accurate information."

(<https://www.gutmacher.org/fact-sheet/sex-education>)

For the proponents of this bill who think that librarians in this state are out of touch with North Dakota values, I truly ask you consider this in good faith...Maybe it is North Dakota falling short on the values whereby we support ALL of our citizens, regardless of creed, race, sex, gender, or sexual orientation?

I would also like to add...Each time I've come to the Capitol to testify on these library bills this session, the bills have been amended drastically. It makes it rather difficult to provide testimony addressing the specificity of those changes. I think that in itself demonstrates the fact that these bills are not conceptually sound. This is evidenced by the constant substantial edits being done to the major tenets of the bills.

Even with this amended version of HB1205, the language is still overly broad, which will likely lead to all manner of materials being challenged and purged from libraries. Regardless of the specific language used in this bill, it continues to be at its core, an unconstitutional bill.

In addition to being unconstitutional, the bill puts an unsustainable financial burden on counties, cities, libraries and staff to re-review the entirety of their collections, a task that will require countless hours and additional payroll. Who is paying for that? And what are libraries supposed to do with the now "obscene" materials that they cannot sell or give away?

In closing, I support the freedom to read, the freedom for parents and individuals to have open access to the constitutionally protected materials, which they are afforded rights to under the First Amendment.

I ask you to VOTE NO on HB1205.

Sincerely,
Mariah Ralston Deragon

Legislative Review for HB 1205 Hearing

Dear Chair Larson and the members of the Senate Judiciary Committee, I urge a “Do Not Pass” on HB 1205.

The weight of the testimony during the house hearing is overwhelmingly against this bill from experts working within the field. The individuals in favor are largely upset with one book and mistake pornography with age appropriate sexual content. Individuals in favor are also unaware of how library systems govern, the innumerable constitutional rights involved with this, the unintended consequences of enacting it, and are proposing a solution that far exceeds the problem they are supposedly trying to stop.

Each link below goes to testimony submitted during HB 1205’s public hearing. Understand this to be a broad generalization of the data. All data present is from written testimony or what is available with the ND Legislation website at time of analysis - 3/11/23.

Thank you,
Faye Seidler

In Favor

1. [Let’s Talk about](#)
2. [Drag queen story time](#)
3. [Porn is dangerous to kids](#)
4. [Sextortion](#)

Opposition

Major Themes

1. [Diminish Libraries as repositories of information](#)
 - a. [This is censorship](#)
 - b. [Infringes on first amendment](#)
 - c. [Infringes on choice of Americans](#)
 - d. [Infringes on North Dakota Constitution](#)
2. [Bill is a response to an overblown moral panic](#)
 - a. [Libraries have a challenge process already](#)
 - b. [Parents already have control over children’s reading](#)
 - c. [The internet poses much greater risk](#)
 - d. [Easier solutions like 18+ section](#)
 - e. [Language is overly broad](#)
 - f. [The bill cannot solve the problem it purports to have](#)
 - g. [It would ban the bible](#)
3. [Unintended Complications](#)
4. [No fiscal Note](#)
5. [Data on parents views of sex, education, and materials in libraries](#)

House Hearing Stats

Written Testimony	In Favor	In Opposition
Word Count	7300	21,000
Citizen	9	43
Stakeholder/Qualified	1	27
Legal/political	2	2
Total 85	13	72
	15.29%	84.71%
In person testimony Mins	27	31
Total 58 Minutes	46.55%	53.45%
Committee Vote	Do pass	Don't pass
Total 13	10	3
	76.92%	23.08%
Floor Vote	Yay	Nay
Total 94	65	28
	69.15%	29.79%



NORTH DAKOTA

Family Alliance LEGISLATIVE ACTION

Testimony Supporting House Bill 1205

Mark Jorritsma, Executive Director
North Dakota Family Alliance Legislative Action
March 13, 2023

Dear Madam Chair Larson and honorable members of the Senate Judiciary Committee,

My name is Mark Jorritsma and I am the Executive Director of North Dakota Family Alliance Legislative Action. I am testifying on behalf of our organization in support of House Bill 1205 and respectfully request that you render a "DO PASS" on this bill.

Our organization and its constituents feel strongly about eliminating obscene and pornographic materials from public libraries, and in particular, protecting minors from explicit sexual content. I have heard time and again that people feel they cannot send their children to the public library anymore because of the content that is found in books which are promoted by their neighborhood libraries.

That being said, I would like to address some of the concerns expressed about this bill.

1. We should not get to decide what others read and see. We decide what people can read and see all the time. This includes restricting children from watching R-rated movies, the public from seeing the covers of pornographic magazines in stores, deleting phishing scam emails at the server level before they ever reach your inbox, or even stopping threats to public safety such as shutting down internet sites that contain detailed plans on terrorist training. We also already restrict what can be seen on public library computers, in compliance with federal COPPA requirements. We (and our government) are able to, and in certain cases are morally obligated to, restrict what others can see or read.
2. Individual complaints should never drive the removal of books without a review process. There is a detailed review process required by HB 1205 described in section 1, subsections 3 and 4 of the bill.
3. If someone does not like a book, then they should simply not read it. First, you don't know if you like a book until you've started reading it, and given the natural curiosity of children, the likelihood of them putting the book down and stopping reading it is staggeringly low. Second, a child might like a book that shows nothing but pictures of WWII war atrocities, but their desire to see those pictures has nothing to do with

whether they should be reading it. They are simply not old enough to make that decision.

4. It is the job of a parent/legal guardian to filter content for their child. We agree, however, children can be exposed to books their parents wouldn't approve of before the parents discover what their child is reading. In other words, you can't opt out your child from reading a book if you don't know about it, and public libraries have no compulsion nor incentive to inform parents of this information. Is the local public library committing to calling every parent before allowing their child to check out a book classified as inappropriate for their age? Further, if Bobby checks out an obscene book, it is very likely that he will at some point share that content with his best friend Charlie and perhaps others his age. In fact, experience and an understanding of child social dynamics suggests that the more enticing the subject matter, the higher the likelihood it will be shared.

This bill has nothing to do with book burning or banning, trampling constitutional rights, or trying to have our children grow up in a bubble. These characterizations of the bill are simply sensationalism. It may sell newspapers or boost internet traffic to a media website, but that doesn't make it true.

This bill has everything to do with eliminating obscenity from taxpayer-funded public libraries and protecting our children from having their innocence stolen from them by inappropriate materials. If we cannot show the images from a children's book on television, a minor should not be able to check it out.

House Bill 1205 is common sense and applies obscenity boundaries to public libraries, which is as it should be. It is something that we at North Dakota Family Alliance Legislative Action agree with wholeheartedly. Because of this reason, we ask that you render a "DO PASS" on House Bill 1205.

Thank you for the opportunity to testify and please feel free to reach out to us with any questions you may have.

Sincerely,



Mark Jorritsma
Executive Director

Senators,

Thank you for taking the time to read testimony about bills laid before you this session. I hope you are taking to heart the vast amount of comments and evidence surrounding the impact so many of the proposed bills will have on the citizens of our state. In North Dakota we have always prided ourselves as friendly and welcoming. Unfortunately, many bills this session run contrary to these thoughts.

I feel it is my duty as a citizen of this state to voice my objection, in this instance specifically to HB 1205 and to SB 2360. I have spoken to and heard from many North Dakotans on both sides of the political spectrum who agree these bills are at best a waste of time, and at worst are critically destructive. I understand it is your wish to protect the children of North Dakota, and I applaud that wish. However, these bills do not protect anybody. Instead, what these bills do is give unprecedented power to individuals to control what others have access to. For centuries public libraries have been troves of information, resources, and yes, entertainment, and they continue to be just that. They are not dens of pornography, and to those who claim otherwise I say shame on you. What I have access to at my library should be limited only to what I wish to access, and to what trained librarians have determined should be on the shelves. What others wish to have access to is up to them; I have no intention on imposing my beliefs on what they read. For example, I have absolutely no desire to read "50 Shades of Grey," but I also have no right to prevent another from checking that book out at the library. I have two teenaged children who have grown up in public libraries. What they have access to should be limited only to what they wish to access as influenced by the way my wife and I have chosen to raise them. We participate in the lives of our children. We are responsible for teaching them values. And we have the right to decide what is or is not appropriate. To claim the legislature has a duty to make these decisions for every library patron, every family, is the very height of hubris.

Individual freedoms have been high on the priority list for many of you. We have seen this in action during the pandemic especially. You fought for a parent's right to choose whether or not their children should mask and whether or not to vaccinate their children. These bills do not protect our children. Instead they harm our children by showing them how easy it is for government to step in and tell them and their parents what is right. Continue your fight for individual freedom and protection of our children by allowing us, the people and parents of North Dakota, to make those decisions on our own. I urge you to present a "do not pass" on these destructive bills, and to vote no when they are presented for a floor vote. Thank you.

Dear Legislators and Committee Members,

My testimony is to ask that you give this bill a Do Not Pass.

I am a public school educator and a 29 year resident of North Dakota. This bill actively harms members of community.

Thank you for your time and consideration.

Sincerely,

Christopher Brown

Thank you, Madame Chair and members of the Judiciary committee for the opportunity to testify **in favor of HB 1205**. My name is Ruth Heley and I have been a resident of Dickinson, ND since 1994. I was an instructor of music for 22 years and am a current home school mother of a 13 year-old. I have extensive experience with working with teenagers and young adults and feel that their healthy development is of paramount concern to the future of the people of North Dakota.

I would like to clarify some of the discussion around this bill and what it is trying to solve for. I feel like the focus has occasionally been skewed so that we start to forget that **this bill is directed at the protection of minors**. Historically, state and national governments have passed numerous laws and concomitant regulations to ensure that this vulnerable population is protected. Minors are treated differently than adults by the law. I would note, just to name a few, that minors are not allowed to vote, own property, enter contracts, buy cigarettes, join the military, drink alcohol, are limited in how many hours they work, are generally tried in Juvenal court and may not have consensual sex (generally until age 16-18 depending on the state). Radio, television, and newspapers are all regulated to conform to decency standards in regards to obscenity for the public.

Why do we do this as a society? We do it because our children are a vulnerable population. They have incomplete reasoning skills and a lack of experience. Their minds and emotional maturity continue to develop into young adulthood. According to Psychology Today,

“In teen brains, gray matter in the cortex thins considerably. The number of synapses between neurons in the cortex is scaled back. This process of selective pruning is affected by the environment and helps make adolescence a time of particular susceptibility to outside influence....The prefrontal cortex, involved in planning and other executive functions, is still developing into early adulthood (with changes such as synaptic pruning), later than a number of other brain areas.”

As you can see, teens and children can be easily influenced by what is in their environment. We protect them as a society from certain choices because those choices can have irreversible consequences that harm them and others around them.

What kind of harm do these sexually explicit books present in our libraries? The sexually explicit books that we are seeing in North Dakota are available with unrestricted access in the libraries. Some advocate gender exploration to pubescent children and teens, a population that is only just getting to understand who they are and make sense of their body changes. Some advocate illegal or risky behaviors—under-age sex, sexting, pornography for sexual education and entertainment, and anal toys. **What are the possible consequences?** STI/STDs, pregnancy, physical injury, sextortion, permanent sterility and emotional trauma.

This bill is not really about “the right to read”, censorship or LGBTQ issues. Adults are free to make such choices for themselves. Our goal as parents and educators should be to prepare our children for that eventuality, but at the same time to preserve as much as we can their opportunities to develop and grow in a healthy way without skewed influences. A child has the right to not have their person and healthy development encroached upon. I respectfully urge a **do pass for HB 1205**.

Senate Judiciary Committee
HB 1205
March 13, 2023

Dear Chairman Larson and members of the Senate Judiciary Committee. I would like to express my opposition to HB 1205. I am writing as a parent to 4 children, a physician, and a citizen of this state. The libraries within the state already have processes in place to ensure age appropriate content is available and books are available in different sections of libraries based on the target audience. The language in this bill is much too broad to actually be enforceable. Who will define the prohibited types of content in this bill? From my perspective both as a parent and a physician, our society could use additional education on human sexuality in all forms considering the high rates of unplanned pregnancy, teen pregnancy, and sexually transmitted infections. These laws would prohibit even educational information on these topics not to mention the ability of adults to consume content at their choosing in the name of "protecting children. "

My last point is to say that as a parent to 4 children, it is my responsibility to ensure my children are consuming age appropriate content. With the plethora of information at our children's fingertips between smart phones, internet, and TV programs, books in libraries across the state are the least of my concern and ultimately is the responsibility of the parent. Not the government.

I strongly oppose HB 1205.

Ana Tobiasz
Physician and parent
Mandan, ND

Members of the Senate Judiciary Committee,

My name is Lisa Pulkrabek and I live just outside of Mandan in District 31. I am the mother of six children and I take them to the local libraries often. I generally look over and approve the books they check out. However I feel that a taxpayer funded library should not have sexually perverted material in the children's and teen's sections. Kids should not be subjected to that kind of material at the library. It should be a safe environment for them.

I am writing this letter to you regarding BH 1205 Relating to prohibiting public libraries from maintaining explicit sexual material; to provide for a legislative management report; and to provide for application. I am in favor of this bill. Please render a Do Pass recommendation.

I am not against students learning about the human body from an appropriate textbook nor am I against the freedoms of the 1st Amendment. But this bill does not go against those common sense issues. It simply says that explicit content should not be displayed in public in the common view and presentation to children and teenagers. It gives citizens the authority to ask library staff to remove such materials or display them in a place and manner where children are not likely to see them. Remember video stores? Movies were rated and kids were not allowed to rent R rated movies without an adult and they were sure not allowed to go back behind the curtain and rent X rated films. Why can't we simply protect the kiddos from explicit material in written form at the library? This doesn't sound like it should be such a controversial subject.

There is so much porn on the internet - for that there are filters, blocks and limits that parents have the responsibility to put on their children's devices. Why can't we have a safe place- free of porn, sex talk, perversion and grooming for our kids at the library?

Can I count on you to vote YES on this bill? I sure hope so. Thanks kindly! Lisa Pulkrabek

RE: HB 1205

Dear Members of the Senate Judiciary Committee,

I am writing to express strong opposition to HB 1205 and urge you to please recommend a DO NOT PASS.

I have spent the last 19 years raising my family in North Dakota. Nearly every week, my family visits the public library. We have enjoyed the many resources it offers, including books, media materials, artwork, periodicals, and the expertise of the staff. Our public library one of the key reasons we choose to remain in this community.

At no point in time have I felt concerned about my four children being exposed to any of the materials in a public library. Nor do I believe that is a legislative responsibility to determine which materials exist in public libraries, or to override parental responsibility.

Furthermore, the language of HB 1205 is so broad and diffuse that it will ultimately result in highly subjective and potentially destructive choices. Who will decide whether a work of art has "serious artistic significance" or "anthropological significance"? This should be a determination made by individuals who are able to openly view materials. Why should one community member have the power to restrict the ability of other library patrons to access materials and information? HB 1205 includes a clause indicating that public libraries must consider individual requests to remove materials. Do librarians really need to be spending their time fielding such requests? Should my neighbor be the one to decide what I can read, or the works of art I can view with my children?

HB 1205 amounts to a violation of First Amendment rights by enacting censorship.

I urge you, DO NOT PASS HB 1205.

Thank you for your consideration.

Daphne Pedersen, Grand Forks, ND

March 13, 2023

Dear Chair Larson and the members of the Senate Judiciary Committee,

I urge a "Do Not Pass" on HB 1205. As a mother, an educator, a person of color, and a life-long resident of North Dakota, I can speak to the importance of library materials for all children. When children see themselves and their interests reflected in the media, the positive effects are endless. Diversity is key to our understanding of our place in the world. My children were able to participate in story times, poetry contests, lego club meetings, and find materials that complemented their unique interests. Without the wonderful variety the library offers, our children would be subject to the Christian, whitewashed, heteronormative agenda perpetuated by many conservative members of our legislature. HB 1205 serves to push an discriminatory agenda that hurts all our children.

Sincerely,
Shannon Krueger
223 Souris Drive
Minot, ND 58701

Brian Kopp
HB1205 – 3-13-23 Testimony - Timeline

10-4-22 Dickinson Press Article is published: “Dickinson Public Library to offer controversial teen sex book”

<https://www.thedickinsonpress.com/news/dickinson-public-library-to-offer-controversial-teen-sex-book>

In this article we have the start of the commentary on images that depict anything sexual in nature as pornography. This will be a theme and the lie that starts the uproar over a sex education book that leads to the book banning bill we are discussing.

Excerpt from the article:

“The book includes an illustration in the pornography chapter of “Let’s talk about it,” on page 165, ...”

This lie started what became this bill.

10-7-22 and onward. Many Facebook/Social Media/Press discussions/articles on censorship vs protection vs parental rights. **Many are good information, but those supporting the view of anything they do not like is pornography or obscene becomes commonplace.** One of those people is the former representative Luke Simons who also accuses me committing a crime.


The screenshot shows a Facebook message thread. At the top, there is a small profile picture of Luke Simons with a red 'Expanded' label. The message is from 'Author Luke Simons for North Dakota Brian Kopp' and says: 'Yes I'm very much deflecting, I believe showing pornography to children is wrong!'. Below the message are the options '1d Like Reply'. The second message is from 'Brian Kopp' and says: 'Luke Simons for North Dakota You worry education will show them something you don't want them to understand. Denial of what they see and hear in school doesn't change what they see and hear in school. You are also welcome to parent and not allow your children in the library if you don't want them to have access to the book or any book for that matter.' Below this message are the options '1d Like Reply'.





Luke Simons for North Dakota

Brian Kopp

It's public taxpayers money that pays for that library, to put child pornography in a facility that is tax paid for is not good policy.

Now Mr. Kopp  if you would like to open up a private library and offer children's pornography that's your business.

The fact is is you're promoting child pornography.  

22h Like Reply



Brian Kopp

Luke Simons for North Dakota you just called it child pornography.

Another thing libraries have are dictionaries. 1. Nothing in the books depicts those under 18 in any sexual way.

<https://www.merriam-webster.com/dictionary/pornography>

Definition of pornography

1: the depiction of erotic behavior (as in pictures or writing) intended to cause sexual excitement

10-11-22 Dickinson Area Public Library Board Meeting, Dickinson Area Public Library

50 Plus members of the community attend the board meeting both in support and opposition of the Book "Let's Talk About It - teen's guide to sex, relationships and being a human" written by Erika Moen and Matthew Nolan. The majority are in opposition and the meeting is not orderly once public comment is allowed. There is much yelling and talking over each other with many contradictory comments about parental rights and freedoms. Folks are for the first amendment but claim we need to protect the innocence of children, then the same folks reject that their parental responsibility for their minor children allows for protection of their

perception or belief of innocence. **There is also the claim this is porn being given to kids, even though it's in the young adult section and does not contain pornography**

Obscenity is defined and the majority of the group in attendance has decided the book and others are obscene and contain pornography. However, these terms have meanings in legal terms as follows:

The Miller Test is the primary legal test for determining whether expression constitutes obscenity. It is named after the U.S. Supreme Court's decision in *Miller v. California* (1973). <https://www.mtsu.edu/first-amendment/article/1585/miller-test>

In his majority opinion, Chief Justice Warren Burger outlined what he called "guidelines" for jurors in obscenity cases. These guidelines are the three prongs of the Miller test. They are:

- (1) whether the average person applying contemporary community standards would find the work, taken as a whole, appeals to the prurient interest;
- (2) whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and
- (3) whether the work, taken as a whole, lacks serious literary, artistic, political or scientific value.

In *Pope v. Illinois* (1987), the Court held that the trier of fact should apply a national standard to the third prong.

One man even hands out printed copies of pages of the book in an attempt to shock and force agreement with the groups statements. Citizens are allowed to bring up issues with a book and follow the book reconsideration form to bring attention to an issue they have and to have it addressed by the library director and after the director responds it can be escalated to the library board if the submitter so chooses.

11-2-22 Southwest Patriot's Meeting – St. Anthony Club Dickinson ND

Available on Facebook (recording): <https://www.facebook.com/SWNDPatriotsCoalition>

I attended the meeting where the book "Let's Talk about It" and others were discussed and a slide show displayed. There was copious amounts of misinformation. And it was operated more like a pep rally than an in good faith informational event.

Suicide rates are tied to groups, not to the cause of suicide or lack of support by one speaker. One of the lies about suicide rates implied that books like this cause suicides when studies show people who feel supported and have resources (mental health, abuse/harassment, education (like the library provides)) have a lower rate of suicide.

"Research is helping improve our ability to identify people at risk for suicide and to develop and improve effective treatments. NIMH researchers continue to study suicide and how to best implement suicide prevention and intervention programs in different settings, including health care, community, school, and the justice system."

<https://www.nimh.nih.gov/health/topics/suicide-prevention>

There are comments about the percentage of a county (Stark) that is Christian, most people claim the book is porn, others speak about the need to protect children, but never suggest how children are negatively impacted by the books. Again, against all research showing that support reduces abuse and harm and religion isn't allowed to dictate what others read in the library since we have the first Amendment for both freedom of speech and freedom of religion.

One speaker who goes on for a much longer duration of time than most speakers discusses third hand stories about the abuse happening due to the type of social services being provided by the county/state. Claiming to know from people who work as social workers telling them. If this were true then everyone in the stories could be complicit since these employees would be mandatory reporters of child abuse and neglect.

Comments were made in regard to other libraries keeping controversial books behind lock and key/inaccessible to the general public. This was researched by the state library and found to be false. The Bismarck Public Library was cited as one of those locations and staff at the Bismarck Public library confirmed they do not have any books that are separated from the public due to controversial content.

The commentary about protecting kids and young adults goes against all research. If the goal is to protect people of all ages then access to accurate information has been proven to lower suicide, sexual violence, dating violence, harassment and abuse. However, this bill would actually do the opposite as it would remove educational opportunities from our state.
<https://info.primarycare.hms.harvard.edu/review/sexual-education-violence-prevention>

Local legislators Lefor and Steiner speak at this meeting. They vow to protect children, again not mentioning how or what harm they are experiencing, nor did anyone at the meeting ever provide any actual harm or potential harm to children from the books in the library

St. Anthony Club was told this group would be a small group of people gathering to discuss current local issues. The group was too political for the setting, they were asked to not use a microphone after (St. Anthony) member complaints of them being too loud, but used it at this meeting anyway. The coordinator for the Patriots was informed over the phone of no longer being able to hold their meetings at the St. Anthony Club, the staff apologized for the inconvenience, and then the staff explained that he "flipped" and told staff "that they needed to learn to do their job better and be more professional." He eventually had to be hung up on as he started questioning their motives and asking if they sided with supporters of the book, but with different language. This information came from talking with the staff at the St. Anthony Club.

11-8-22 Dickinson Are Public Library Board Meeting, Dickinson City Hall

This meeting should be available by request of Dickinson City Hall as it was recorded.

This meeting was held for public testimony on the book "Let's Talk About It". Testimony was heard from both those who want the book removed or restricted. The testimony

in favor of the book being available came from a teen who commented on information in the book being relevant to her age group and valuable information, social workers with masters degrees, emotional testimony from one woman who wished she would have had the information in this book available to her when she was a teen as maybe some of the pain in her life could have been avoided, and the general consensus that access to accurate information is a benefit to the community and if someone doesn't want to read a book or have their kids read a specific book that's fine, as parents have the ability and obligation to parent and adults have no obligation to read any book in the library.

The opposition had a few calm and coherent testimonies centering on their belief that these types of books shouldn't be in the library as kids might see them or that they simply didn't think the information was of value to the community. **There was much yelling and many accusations of having pornography in the library**, outbursts that the librarian should be fired for what she is doing, and an overall tense situation which I was glad we had law enforcement present for. Everyone was given 3 minutes to speak and the same number of people spoke for each side of the argument.

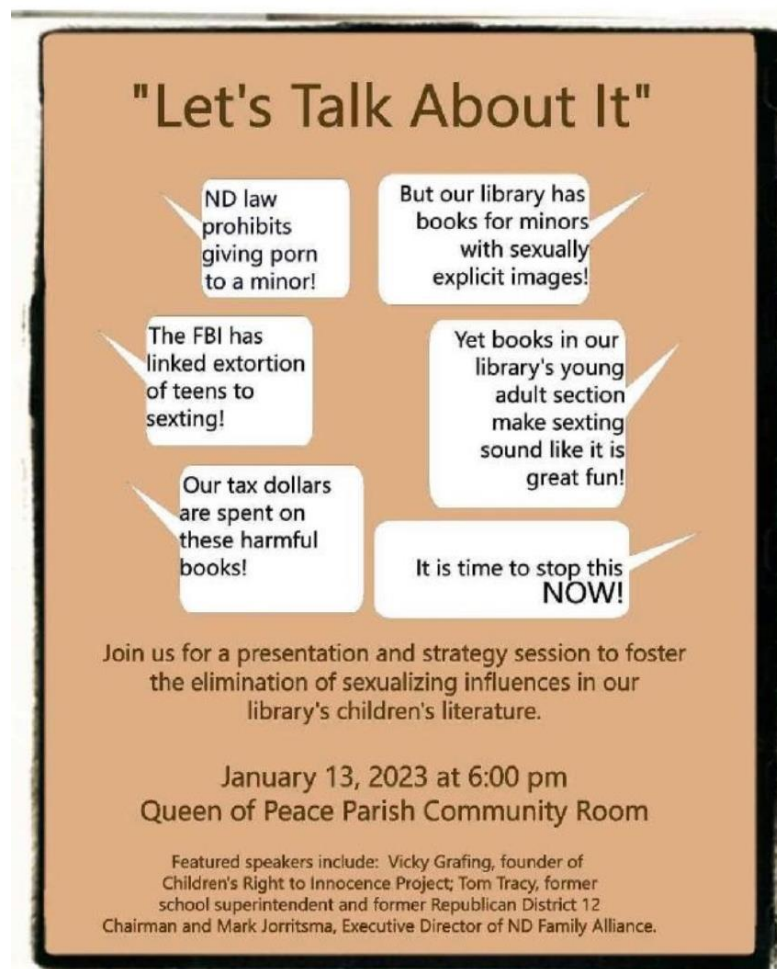
When one person asks the audience, from the presentation mic, who has read the book? The majority of the folks who are in favor of book in question raise their hands. Two or three people in the room in opposition to the book raise their hand. So the book is being opposed by a vast majority of people who haven't read the book.

1-6-23 Scheduled meeting of the Southwest Patriots, 1-13-23 Cancelled after flier is published

◀ Southwest Patriots Coali... 🗨️ 🔍

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There will be a seminar "Let's Talk About It" on the Dickinson Library's book selections on Jan 13th at 6:00pm at the Queen of Peace Parish Community Room.



Again, the flier states there is pornography.

The group did not tell Queen of Peace Church that they would be having speakers and that it would be a political event. They described it as a small group gathering to discuss the book. The event was moved to a local hotel after this.

The book by chapter:
What is ... this book? 1
What is ... first? 9
What is ... a relationship? 25
What are ... gender and sexuality? 41
What is ... body image? 57
What is ... your body? 71
Where do you ... start? 93
What is ... masturbation? 107
What is ... safe sex? 125
What is ... climax? 137
What is ... sexting? 147
What are ... kinks, fantasies, and porn? 155
What is ... aftercare? 169
Where are ... friends in all this? 177
What is ... jealousy? 185
What is ... rejection? 197
What is ... next? 219
Further reading 228
Authors' note 230
Index 231

When looking at the above flier and then the chapters of the book it becomes clear that misinformation is being used. I've read the book and it focuses on facts, current issues with relationships, of all kinds, and sure, there are parts that don't align with my faith, but I'm not obligated to go out and do anything I learned because I read it. I have the knowledge of my own morals and also can be a better person as I can empathize with situations in the book that I had never been presented with before.

You might also see that these topics are the same topics you would expect to find in sex education class in high school. Which makes sense as this book is targeted for teens. These are all items a teenager is likely to deal with and as I discussed prior, knowledge is power, and that knowledge prevents abuse. There is information in the sexting chapter about how it is illegal for minors to take and send nude images of themselves. There are multiple pages that discuss what different types of abuse are and some information on how to know if you are abused or if you might in fact be an abuser and not even know it. Multiple pages of resources and places to get help are listed. Kids and young adults who have the knowledge of their bodies and are taught what is and isn't appropriate along with how to stand up for themselves by saying no, and how to get help if they are being abused.

What makes this so difficult to understand is how a small group of people, motivated by a press article that incorrectly calls a book pornography, escalates to local legislators writing a bill to ban books without the small group nor the legislators reading the books or coming to the library board meetings to learn or discuss what is happening. It's also odd that I went to the same high school as the children of Representative Lefor and Representative Steiner and I do not recall any backlash that our class materials were porn. Having had a comprehensive sex education that was similar, though less detailed and useful than the book in question, it doesn't seem to be about protection of children, but rather misinformation snowballing all the way to my

recounting my experiences over the last five plus months to simply state facts and that the definitions of words matter while being accused of crimes and being yelled at in public meetings.

There is already a procedure for materials that a patron may not like. I have attached it below. In short this bill would harm public education, reduce access to accurate and scientifically backed research with vast historical data backing it up, violate free speech, step on the rights of parents to have access to accurate sex education information if they so choose, and it would do exactly what the proponents claim the book does, prevent access to information that could reduce harm to young adults by keeping them ignorant and more susceptible to sexual violence, abuse, and depression.

Dickinson Area Public Library:

RECONSIDERATION OF LIBRARY MATERIALS POLICY

The choice of library materials by a library user is an individual matter. While a person may reject certain materials for themselves or their dependents, they may not restrict access to those materials by other library users.

The Dickinson Area Public Library Board of Directors recognizes that some materials may be controversial or offensive to some library users. The Board recognizes the importance of providing a method whereby opinions and/or complaints regarding materials selection can be voiced. The procedures enumerated below have been developed to ensure that requests of those who disagree with materials represented in the collection or about materials not represented in the collection may be handled in a consistent manner.

Individuals living in the library's service area may request a selection decision be reconsidered by submitting a written Request for Reconsideration of Material form. This form is available at the Circulation Desk and will be added to the library's website. Upon completion, the form may be mailed or delivered electronically to the Library Director.

Upon receipt of the signed form the Library Director will:

1. Review the material in question as soon as possible after the material is returned to the library.
2. Examine the material in question, the issues raised, and the circumstances involved.
3. Consult with the library staff including the librarian who made the selection and the Assistant Director.
4. Make a decision to remove from the collections, reclassify to a different collection, or retain in the original collection the material in question.
5. Respond in writing to the complainant within fifteen business days of review.
6. Provide the complainant with a copy of this policy and inform the individual of the availability of an appeal to the Library Board.

Should the complainant feel that the decision of the Director is not supported by the policy, the complainant may appeal to the Library Board of directors by notifying the Library Director in writing. The Library Director shall include the complaint on the agenda of the next Library Board meeting. The Library Board will reconsider the decision based on whether it conforms to the Materials Selection Policy. The board may, at its discretion, appoint a committee or independent advisory board to review the material and the complaint and make a recommendation to the board. The decision of the Library Board will be final and will remain in effect for three years.

During the review process, the library will take appropriate action to ensure that the material continues to be available.

Dear Senator,

My name is Alida Arnegard. I reside in District 26. I respectfully urge you to pass HB 1205 because it will protect minors from stumbling across pornographic or obscene materials in the library. This is a needed and no nonsense bill.

Thank you for your thoughtful consideration,

Alida Arnegard

Senate Judiciary Committee

House Bill 1205

Andrew Alexis Varvel

North Dakota State Capitol

March 13, 2023

Peace Garden Room

10:00AM

Madame Chairman Larson and Members of the Senate Judiciary Committee:

My name is Andrew Alexis Varvel. I live in Bismarck.

I oppose House Bill 1205 for five reasons.

Reason #1 – The Legislature should not be in the business of censoring books. North Dakota does not need a bonfire of the vanities.

Reason #2 – As written, the definitions found in this bill are so vague and convoluted that they wouldn't actually censor anything. Even the much talked about "Let's Talk About It" could be kept if it is used as a textbook in a sexual education class, or as an anthropological reference, albeit a queer anthropological reference, to understand the ideological self-justification of LGBTQ+ subcultures in North America. Alex Comfort's "The Joy of Sex" could be kept as an anthropological reference about the counterculture in western countries during the 1970's. "Serious artistic significance" is a similarly vague concept. Would a picture of Michelangelo's naked statue of David count as "serious artistic significance"? Girolamo Savonarola may have disagreed.

The definition of "explicit sexual material" found in House Bill 1205 conflicts with how SB 2360 defines the same concept. Yet, if the much broader definition in SB 2360 dominates, major pieces of literature would get purged from our public libraries.

And yes, that would include the Holy Bible.

Reason #3 – This bill would – at best – create a massive deluge of paperwork.

Do legislators actually plan to read through every single procedural report and every single compliance report that each public library in North Dakota would be mandated to send to Legislative Management? Where is the money supposed to come from to deal with this deluge of red tape? Are our libraries supposed to drastically reduce hours for patrons so that librarians can focus on satisfying these legislative mandates?

And that's the best case scenario.

If House Bill 1205 gets passed in concert with SB 2360, the effect would be to massively reduce the books available for adults to read. Librarians and booksellers don't generally read every book they manage. Expecting them to do so would vastly reduce the stocks of books they could realistically make available. Either libraries would need to hire an army of censors to give each book a rating, or we find ourselves put into a situation where artificial intelligence tells humans what books we get allowed to read.

The concept of ChatGPT telling me what books I can't read does not appeal to me.

Reason #4 – Why should our state government be telling public libraries to get rid of pornography at all, if adult patrons want it to borrow it? I checked with various libraries, and they just don't have video pornography in stock. I can't borrow “Debbie Does Dallas” from any public library in North Dakota. But I can buy it on Amazon.

And then there is Reason #5 – if legislators were truly serious about keeping pornography away from children, they would simply ban children from using smart phones. Full stop. Children with smart phones can access pornography on the internet, and even when there are parental controls, children can often bypass them.

Yet, this legislation targets libraries. And this leaves me to wonder whether the principal motivation for this bill has nothing to do with pornography at all, but is rather using pornography as a pretext to shut down public libraries all over North Dakota. And by extension, to destroy any semblance of community that we may have left.

I am well aware of how this legislation has become a litmus test for a major internal power struggle within the Republican Party. And it can be tempting it may be show annoying opinion columnists who is boss. This temptation should be resisted.

I urge the Senate Judiciary Committee to recommend DO NOT PASS on House Bill 1205.

Thank you. I am open to questions from the committee.

Andrew Alexis Varvel
2630 Commons Avenue
Bismarck, ND 58503
701-255-6639
mr.a.alexis.varvel@gmail.com

Chairperson, members of the Senate Judiciary Committee, here on behalf of the Fargo Human Rights Commission to testify regarding HB 1256, and I urge you to vote do not pass on this bill.

The Fargo Human Rights Commission consists of [eleven volunteer members](#) who are nominated by the Mayor and appointed by the City Commission. Each serves a three-year term. The Human Rights Commissioners represent a broad range of racial, religious, ethnic, social, economic, political and professional groups.

Our mission is: The Fargo Human Rights Commission provides leadership and education in areas of civil rights, to eliminate discrimination against persons because of color, creed, religion, national origin, age, sex, sexual orientation, gender identity, disability, or marital status. It encourages adherence to civil rights through education, conciliation, and mediation. It identifies human and civil rights-related concerns of the public and recommends policies to the board of city commissioners that protect and preserve individual rights.

At its February, 2023 commission meeting, the assembled commission members voted unanimously on a resolution standing in opposition to the numerous bills targeting our Transgender community.

HB 1205 does not specifically address books or material regarding LGBTQ individuals. It is, however, within the larger context of the number of bills that seek to restrict rights of, to even attempt to erase the existence of members of the LGB and particularly members of the Transgender community, that the broad and vague language of this bill could disproportionately be used to remove books with an LGBTQ theme from our public libraries.

Further, PEN America, a literary and free expression organization, identified in a report released on Monday at least 50 groups at the national, state or local level that have advocated for book bans in recent months.

Many of these efforts seek to pull books with LGBTQ characters or themes – think Maia Kobabe’s “Gender Queer” or George M. Johnson’s “All Boys Aren’t Blue” – and are part of a broader, conservative-led movement to chisel away at the rights and status of LGBTQ Americans.

In the 1970s in particular, there was a major movement from social conservatives to keep gay and lesbian teachers out of classrooms. There was a major statewide initiative in California. There was, of course, Anita Bryant in Florida.

The animus that was driving those campaigns was, *We need to keep gays and lesbians out of classrooms precisely because they’re an inherent danger to our children. They’re predatory. They’re recruiting.*

In many respects, what’s happening now isn’t a new invention.

How Book Banning Impacts Students. Those who are affected the most by book banning are the students in the classroom. When books are banned or challenged, the footing of the curriculum becomes unstable. By opening children up to places, people, and different cultures, books help children develop empathy for others. Oct 14, 2022

Books that are explicitly about LGBTQ topics, or have LGBTQ protagonists or prominent characters have been disproportionately targeted during the last nine months of bans, PEN

America found. Thirty three percent of all banned books—or 379 books—contained LGBTQ themes, including a subset of 84 titles that deal with transgender characters and topics.
Education Week, April 2022

Unfortunately, real experiences describe experiences in which this is not the case. Our YRBS suggests that many LGBTQ students feel unsafe at home (only 10% of LGBTQ youth speak to parents when feeling sad, hopeless, empty or angry); fortunately, many LGBTQ students look to school personnel for support (half of LGBTQ+ students turn to teachers or adults at school if they have a problem); data from homelessness find that a disproportionate number of homeless youth are LGBTQ who have been kicked out or who have run away from non-supportive families (20% of Trans high school youth reported being kicked, ran away, or abandoned).

Thank you,

Cody Severson

Fargo Human Rights Commission Chair

Senate Judiciary Committee

HB1205

March 13, 2023

Chair Larson, Vice Chair Paulson, and members of the Committee:

On behalf of the ACLU of North Dakota, I submit testimony in opposition to HB1205.

Since its founding in 1920, the ACLU has opposed censorship in all its forms. From books and radio to film, television, and the Internet, we have consistently fought to make sure Americans have the right to say, think, read, and write whatever they want, without fear of reprisal. The First Amendment does not allow the government to get rid of or limit the use of books or ideas because they are controversial, unpopular, or offensive. The ACLU has always vigilantly defended the First Amendment and the right to free speech. Throughout our hundred-year history, we have worked to protect the right of individuals to access information, and to make up their own minds.



AMERICAN CIVIL LIBERTIES UNION

North Dakota

P.O. Box 1190

Fargo, ND 58107

701-404-7269

northdakota@aclu.org

aclund.org

Opposition to censorship is especially important in our public libraries, because citizens do not lose their constitutional rights at the front door of a public institution. Libraries have been the repositories of human thought, knowledge, and discourse since ancient civilization. Human sexuality is as much a part of the human experience as theology, sociology, science, art, and music and should be available as part of the discussion and debate which advances ideas among an educated citizenry.

Not everyone is going to agree on the merits of every book on a library's shelf. Some books will make people uncomfortable and question what they know. Some books will make people angry. There are some books people will think children shouldn't read or hope no one will read. But we are steadfast in our belief that we do not get to decide what others read – and neither should the government.

This bill is not only government censorship, it would impose an undue burden and restriction on public libraries, which are already underfunded and understaffed. Curating collections under this proposed law is next to impossible in scope, compliance, and enforcement. In addition, such a state mandate interferes with the local governance of libraries.

If someone does not like a book, then they should not read it. If there is a concern about age appropriateness, libraries already have processes in place to respond to those matters. Not every community across the state is the same and each community is capable of deciding what material is in their public libraries through their trained hired staff and their local democratically elected (or appointed) officials who have been given governing responsibilities by the people. It is not the responsibility of this committee or the North Dakota Senate to make those decisions for local leaders or for individual citizens and parents.

The First Amendment's guarantee of the freedom of speech and the right to access information has created a beautiful marketplace of ideas in our country. Each of us gets to choose what books we read and what information we access — but we don't get to choose for other people. Doing so is un-American and unconstitutional.

Nearly 50 years ago, the Supreme Court set the high constitutional bar that defines obscenity¹ — a narrow, well-defined category of unprotected speech that excludes any work with serious literary, artistic, political or scientific value. And the standards for restraining a bookseller or library’s ability to distribute a book are even more stringent.

Today, you have the opportunity to affirm our shared belief in an educated North Dakotan citizenry and a society where ideas are openly disseminated, discussed, and debated. We urge the Senate Judiciary Committee to give HB1205 a “Do Not Pass” and the North Dakota Senate to follow in defeating this bill.



AMERICAN CIVIL LIBERTIES UNION

North Dakota

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Cody J. Schuler
Advocacy Manager
ACLU of North Dakota
cschuler@aclu.org

¹ Miller v. California, 413 U.S. 15 (1973)

Ms. Maggie Oakland
Valley City, ND
58072

March 13, 2023

Dear Members of the Senate Judiciary Committee:

I am writing you as a North Dakota citizen, a parent of a minor, a tax payer, and a therapist, regarding House Bill 1205. I urge you to please support this bill.

Every day, librarians in North Dakota make decisions about which books will be included in, and excluded from, their collections. They take into account considerations including cultural significance, merit, relevance, appropriateness, and cost. Removal of books that are no longer appropriate to maintain in a library's collection is a routine task of librarians, having nothing to do with First Amendment Rights and everything to do with maintaining the inherent value of libraries for the communities they serve.

Historically, ordinary citizens have trusted librarians to avoid purchasing and promoting materials that would be construed by a reasonable person as being unduly harmful to youth. However, in recent years, a breakdown has occurred such that materials of a sexually explicit nature, reasonably construed as being unduly harmful to youth, are being promoted by publishers, book reviewers, and librarians across the country and within our State. Although I understand there are other examples of such media currently in circulation both within and outside North Dakota libraries, the example that has come to my attention is a book entitled "Let's Talk About It" by Erika Moen and Matthew Nolan. This paperback is available for sale via numerous vendors for between five and twenty dollars per copy. Three copies of it have also been made available for browsing and/ or check-out by patrons of any age at my local public library in Valley City, ND. I note that the bill at hand does not indicate an attempt to legislate a prohibition of this book and others like it from the general public marketplace, which would amount to government censorship, but simply intends to curtail unrestricted youth access by removing these books from the shelves of public libraries, in light of the unjustified reluctance of our public libraries to apply appropriate discernment and remove the books themselves.

The Moen/ Nolan book specifically addresses a teen audience, is written to be engaging and entertaining, and is full of highly graphic cartoon images and explicit verbal descriptions of a wide expanse of sexual activities. Whether the book itself is "pornographic" is a matter of opinion, as its authors assert that it's purpose is to educate rather than to sexually stimulate the reader. In any event, the book encourages teen readers to research pornography on the Internet (p. 164-165), indicating that whether or not it is pornographic in itself, it explicitly promotes pornography use. As others have noted, the book similarly promotes "sexting," i.e., the digital sharing of sexually explicit pictures of oneself, and other activities that are generally understood to be harmful to youth.

I have worked in the mental health field for eighteen years and have been a Licensed Counselor for the past eight years. As such, I am acutely aware of the problems inherent in encouraging

youth to seek out novel sexual experiences. Adolescents at age thirteen or fifteen don't have the physical neural networks to be able to consent to sexual activity in the same way that they could in adulthood. This is the biological, factual basis upon which laws that do not recognize a capacity to consent to sexual activity prior to age eighteen are predicated, and they are facts that do not change to keep up with changing times or a changing culture.

Empirical research on the effects of sexually explicit material on minors is limited because, unsurprisingly, it is not legal, and it is not considered ethical, to provide sexually explicit materials to minors in the United States, for research purposes or otherwise. However enough research exists to reasonably substantiate what many parents intuitively suspect as follows: (1) that there is a robust association between adolescent pornography use and permissive sexual attitudes (Peter & Valkenburg, 2016); (2) that the probability of teens engaging in sexual intercourse increases with the frequency of their consumption of sexually explicit material (Bekele et al., 2011; Bogale & Seme, 2014; Brown & L'Engle, 2009; Hald et al., 2013; Manaf et al., 2014; and Cheng, Ma, and Missari, 2014); (3) that consumption of sexually explicit material in adolescents is associated with initiating sexual activities at younger ages (Kraus & Russell, 2008; Morgan, 2011); and (4) that there is evidence to suggest the consumption of sexually explicit material by adolescents is associated with both sexual aggression (Brown and L'Engle, 2009) and sexual victimization (Bekele, Van Aken, & Dubas, 2011). At least one study has examined the effects of sexually explicit comic books in particular, along with a variety of other sexually explicit media, and has shown statistically significant associations between the use of these materials by young people entering early adolescence and early sexual debut, unsafe sexual practices, and multiple sexual partners (Lin et al., 2020).

Mental health professionals can tell you it is unwise to enable unrestricted access to a book like "Let's Talk About it," for children as well as for many adolescents. At this point in time, numerous public libraries in our State are either unaware of the risks, or are choosing to ignore the risks, of promoting sexually explicit materials and facilitating direct access to the same for youth. In light of the deliberate inaction of these institutions, whose purpose is to serve the public, legislative action has become necessary and appropriate.

While I fully support HB 1205 for the reasons stated above, I have also noted that my local public library has indicated confusion over the proposed laws HB 1205 and/ or SB 2360 and has publicly suggested that this legislation may be construed to apply to a wide variety of texts and media including the Bible, drawing books, the Art of Walt Disney, and the Diary of Anne Frank. Although the language of HB 1205 appears quite clear to me in targeting sexually explicit material that is reasonably construed as being harmful to youth, these concerns raised by the proposed law's opposition indicate that there may still be a need for further clarification in regard to what the bill prohibits and what it doesn't. For this reason, I would encourage the committee to review the bill carefully and to amend it if needed, to eliminate ambiguity.

Thank you for your time, attention, and service.

Sincerely,

M.A. Oakland, LPCC, NCG

Maggie Oakland

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Faith Wahl | UND Student Body President
Faith.wahl@und.edu | 701.426.9123

Chairwoman Larson and members of the Senate Judiciary Committee,

My name is Faith Wahl, and I serve as the Student Body President at the University of North Dakota (UND). I am providing testimony opposing HB 1205, relating to prohibiting public libraries from maintaining explicit sexual material.

HB 1205 could have a significant impact on higher education students and their learning opportunities if it were to be enacted. In Section 1, subsection B, “public library” is defined as “a library containing collections of books or periodicals for the general population to read, borrow, or refer to which is supported by funds derived from taxation.” This definition is somewhat unclear and may include libraries at institutions of higher education. This inclusion has potentially devastating consequences for higher education students, as HB 1205 would limit the access to information and critical material necessary to learn. While Section 1, Section A attempts to create exceptions for material that must not be removed, the list does not include all disciplines that may need access to literature and other related materials in order to have a comprehensive education. HB 1205 has the potential to not only limit access to materials, but to deter students from across the country who may be considering North Dakota institutions for their post-secondary career.

Beyond the negative implications around recruitment and retention in North Dakota, HB 1205 has strong implications of censorship and infringements on the constitutional right to free speech. If citizens are not able to access certain materials at public libraries, they are being deprived of the right to see all sides of an issue, ask questions, and make evidence-based conclusions on an issue. Passing HB 1205 would also set a dangerous precedent for the future of North Dakota. While the bill is intended to protect children from material that is not appropriate for their age level, it has unintended consequences that would prohibit adults from accessing materials outlined in Section 1, subsection A of HB 1205. Removing these materials from shelves would be detrimental to higher education students and their rights to free speech. The

66th Assembly of the North Dakota Legislature has already affirmed their commitment to free speech on college campuses by the passage of HB 1503 in 2021. Passing HB 1205 contradicts this action and places higher education students in a confusing and contradictory position.

Chairwoman Larson and members of the Senate Judiciary committee, I respectfully request a **DO NOT PASS on HB 1205**. Thank you for your time, and I am available to answer any questions that you might have.

Respectfully submitted,

Faith Wahl

UND Student Body President

March 13, 2023
Senate Judiciary Committee
In Opposition of HB1205

I am writing to express my opposition to HB1205 and urge you to vote NO on HB1205. The passing of this bill would result in First Amendment violation by removing free access to information. Those who do not want to read certain subjects are under no requirement to do so. It is a choice. It is a freedom protected by the First Amendment. Please vote NO.

Sincerely,
Renee Newton
Dickinson ND

Madame Chairperson and committee members,

My name is Anita Tulp and I am the Director of the Valley City Barnes County Public Library. As a librarian I am definitely concerned about how HB 1205 will affect not only our library, but the school and public libraries across our state. However, today I would like to speak from mostly a personal point of view as a voice that I believe you have not heard yet. I speak today as the voice of a survivor. A survivor of both child abuse and sexual abuse. This is a story not easily told so I will keep it as short as possible.

I came to know my father as what I call an equal opportunity abuser. My mother, siblings, and I were all victims of his abuse. It didn't matter if he was drunk, angry, or even happy, he would always find a way to justify his actions. Anything could set him off. If he didn't think we worked hard enough, or were too noisy, or were too quiet, or even too happy, are just a few examples of the reasons he used to abuse us verbally, mentally, and physically. I will not go into the sordid details of those years, yet I will say that they were full of pain, bruises, blood, and mostly fear. Instead, I will focus on my journey of survival.

That journey began in the public library. There I found *The Little House on the Prairie* books and the Nancy Drew mysteries. They provided me times of escape from my real world into a world where families were happy and adventurous, and where fathers were loving and supportive. As I grew older, I found books on romance and I dreamed that someday someone would come to rescue me and show me a life very different from the one I knew. Of course, those were only dreams. I didn't know that those types of "normal" lives even existed.

At the end of my junior year in high school, my father moved us to North Dakota. I continued to read and ventured into books of a more realistic and true story nature such as *Alive* and *The Other Side of the Mountain*. After graduating from high school and moving on to college, I found friends that supported me who kept telling me that my life could be different. What I experienced as a child was not a normal childhood. I tried to believe that yet with the threats of violence and the psychological chains that lasted well into my marriage, I still feared my father.

The library continued to be a part of my journey of healing. I was now an adult yet found books I really connected with like *A Child Called It*, *Go Ask Alice*, and *A Million Little Pieces* that were stories of abuse and the struggle to survive and heal. I didn't feel alone anymore. Those books and others I found made it easier to talk about, dispelled some of the fear, and helped me build more confidence in myself. My journey continued as I went back to college, earned a teaching degree and became a school librarian.

I know that you have heard a lot of scientific facts about the effects that pornographic and obscene material can have on a child that is not ready to see it. The trauma and possible addiction that a child can experience is horrible. I cannot dispute those facts yet from all the testimony I listened to and read, I did not hear any confirmed facts that this is happening in the library.

From my own experience, I know that healing does take place from materials found in a public library. I know that I could not afford to buy a lot of the books I read nor could I afford counseling, so the library became an important resource for my own journey to healing. I firmly believe that if the library had some of these books when I was a child, I might have realized much sooner that my life was not normal, that I could do something to stop the abuse, and that I might have started my journey to healing much sooner. It saddens me to know that children and teens are still experiencing child abuse, sexual abuse, and quite often neglect in a world that should cherish our children. I pray that they can break their silence, and break the cycle. If the library can help them do that, it needs to have the information in it to do so.

I will always defend the library and the rights of people to read and view the materials they wish to find. Our first amendment rights guarantee us freedom of speech whether it is verbal, written, or pictorial. This bill may lead to the silencing of many authors that choose to tell their stories through words or drawings. It will discriminate against those that want to and perhaps need to read or view them.

Our library, as well as most if not all others, already has policies in place to ensure that items meet the criteria and placement requirements set out in the collection policy and a policy and reconsideration procedure to allow any person to challenge a material they are concerned with. These policies work and allow the community to be a part of the process where their voices can be heard.

I thank God for the libraries I encountered throughout my journey and the many voices within them that spoke to me in ways that I needed to hear. I also thank God for my husband who for the last 45 years has been my protector and biggest supporter through the many years of fear and struggle to heal. I know that without either, I would not be the wife, mother, grandmother, and the educated professional person I am today.

Please vote "Do Not Pass" on HB 1205.

Thank you for your time and consideration.

Anita Tulp, VCBC Public Library Director



Great Public Schools

Great Public Service

Testimony Before the Senate Judiciary Committee
HB 1205
March 13, 2023

Chairwoman Larson and members of the Committee, for the record, my name is Nick Archuleta, and I am the president of North Dakota United. ND United is a union of 11,500 members dedicated to public service. On their behalf, I urge the Committee to urge a do not pass recommendation for HB 1205.

North Dakota United has no doubt that the intentions of the sponsors of this bill are honorable. Our members unanimously agree that all children should be shielded from negative influences like pornographic and violent themed materials that are not appropriate for specific age groups (I'll note here that this bill is silent on the issue of violence). We also believe, however, that the state should not be dictating what adults can read, or what they can research.

Madam Chair and member of the Committee, HB 1205 serves as a vehicle to circumvent policies that are already in place in communities across North Dakota designed to remove books from, or add books to, library collections. These policies are in place to look at issues as they arise. In contrast, HB 1205 initiates a sweeping overreach that usurps the carefully considered and crafted policies created at the local level. In our view, and in the view of North Dakotans of every political stripe who believe in local control, the state should respect the decisions made closest to the people who must live by them.

Public libraries have historically been American institutions at which we and our fellow citizens have read, researched, and relaxed. Public libraries have served as safe places for Americans to explore the world around them through the written word, computerized code, and visually through film and movies. In short, libraries-be they public, school, or university-have allowed all citizens of ND to expand their horizons and continue their education, be it formally or informally. Our outstanding and beloved librarians have dedicated their lives to spreading the love of reading and lifetime learning.



Great Public Schools

Great Public Service

Chair Larson and members of the Committee, legislation like that before you today, usurps the authority of local librarians and their boards to administer their community libraries and, intentionally or not, devalues their important work. Though HB 1205 may have come from a place of good intention, it ultimately undermines local control and should be defeated. To that end, I respectfully urge a do not pass recommendation for HB 1205.

Chair and members of the committee,

My name is Alexis Whitehorn. I am many things. I am a citizen of the United States and a resident of Bismarck, North Dakota. I am a Master's degree holder in Educational Leadership and a bachelor's degree holder in English. I am an educator, a mentor, a daughter, a sister, and my favorite - a mom.

I am also a widow. So when my son started asking questions that should have been answered by his father, I turned to the thing that taught me about life - books.

This book - the one that has caused the most uproar in this session, was my go-to resource. When the book arrived, my son and I sat down and read it together. It is because of this book that I was able to have a conversation about our human bodies and its functions. We talked about what and how it might look for other people and how **people believe different things**. We talked about the values we have as a family and how others might not view sex and reproductive rights the same as we do. We also talked about how important it is to respect the rights of others.

This bill started because a few people found that book in their library and because of their values as an individual person, viewed it as "obscene." There is a simple solution to this that doesn't need a bill to rectify it. If you find the book obscene, DON'T CHECK IT OUT. It's that simple. You don't want your child to have access to it? GO WITH YOUR CHILD TO THE LIBRARY.

This bill is infringing on the first amendment rights of North Dakota citizens. North Dakotans deserve the right to check out any book that suits their interest and needs. It is not the government's job to tell us what we can and cannot read. Period. Other people's belief systems do not get to dictate what is in our local and public libraries. This bill is a gross overreach of government control and separation of church and state.

I urge you to allow people to use their own belief and value system to make their own decisions. VOTE DO NOT PASSfor HB 1205.

Thank you,
Alexis Whitehorn
Bismarck, ND

March 13th, 2023

From: Gabriela Balf, MD, MPH

Re: In Opposition to HB 1205

Esteemed Madam Chair Larson, Committee Members

My name is Gabriela Balf, MD, MPH, I am a parent and a psychiatrist in Bismarck. I am an immigrant from a communist country, who came to America to have access to the best education in the world.

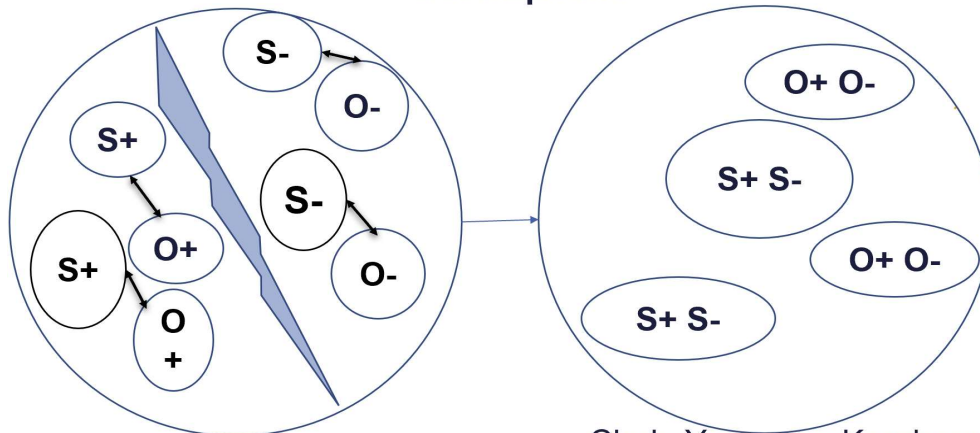
I am speaking for maintaining the children’s book section carefully curated as it is now by the librarian specialists, and the adults’ section rich with information for parents so they can educate their children.

Parents need the information to prepare their children for an increasingly complicated life. Banning certain subjects from open discussions keeps a population undeveloped psychologically. And, as history shows, outside policing does not work. The goal of education is to move the policeman from outside, inside. To bring in kids’ minds and hearts the ability to control their impulses, empathize with others’ pleas, and better understand and thus mindfully influence our community, our world.

How can one bring all these topics into their children’s upbringing, when, in our busy lives, we don’t have time for deep discussions every day? By ensuring they socialize with others, read, spend quality time on their screens, etc. Educating our children is not simple. One-liners don’t cut it. The closest I can think of is “Love thy neighbor,” but even the book containing this line will be banned from libraries should this bill pass.

We are born and wired to think in black and white. And it is our duty as humans to evolve. That process is called getting wise, becoming psychologically mature.

Personality Organization Development



Clark, Yeomans, Kernberg

As we evolve, we realize that we (self S) have good parts (+) and bad parts (-), and others (other O) have good parts and bad parts. And we can tolerate and work with that.

Historically, books have been the way to understand and be kind to ourselves and others. That's why authoritarian regimes ban those perceived to counter their ideology. We all need to evolve from the fairy tale stage to finding out and dealing with the fact that we have flaws, and others too. Stories are a safe way to learn that: it is not about us; it is all happening in a fictional realm where the characters learn difficult lessons.

We cannot shield our kids from life. The treatment for anxiety is NOT protection from all triggers. Wars, tragedies, and traumas happen every day. Books that tell these stories teach us ways to prepare and be resilient. And it is our duty as parents to prepare our children to be mature and resilient.

Thank you for listening, and I stand for questions.

A handwritten signature in black ink that reads "Balf" followed by a stylized arrow pointing to the right.

Gabriela Balf, MD, MPH
Clin Assoc Prof - UND Dept of Psychiatry and Behavioral Science
Narrative Medicine Program Student - Columbia Univ
ND Psychiatric Society Past-President
Diplomate, American Board of Internal Medicine
Diplomate, American Board of Psychiatry and Neurology



March 12, 2023

Chair Larson and the Members of the Judiciary Committee,

My name is Kerrienne Boetcher and I am writing as the President of the North Dakota Library Association (NDLA) to voice my opposition to HB 1205.

There are several areas of concern that NDLA has with the bill. Section One as it is currently written is incredibly vague without any determining factor on who decides what these terms mean. Also, the definition of public library has already been determined by the North Dakota Century Code and does not need a new definition here. There is also the risk of exposure to potential first amendment lawsuits. Section C states that libraries are to "receive, evaluate, and respond to a request from an individual", but nowhere are libraries given the option to keep and move the material.

Section Two states that any book inventory or library collection maintained by a public library after March 31, 2024. The fiscal impact of our libraries trying to review every book in their current collection as well as any new purchases would be tremendous. For example, two of our medium to large sized libraries would need to add 162 and 182 staff members respectively to meet the deadline.

Most of our public libraries have a collection development or collection management policy as approved by their Library Board of Trustees. These policies lay out the procedures that a library follows when evaluating materials for their collection. These policies include examining reviews from multiple peer journals, the analysis of the current collection, and a work as a whole. Many of them also include a process for the reconsideration of materials should a patron have concerns over a particular material while still remembering that a work must be evaluated as a whole and not a single scene or comic panel.

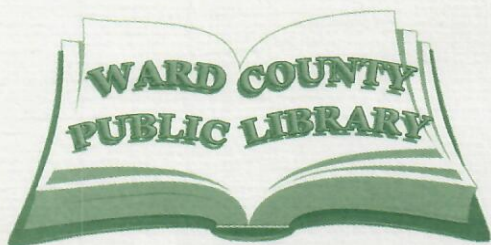
Libraries exist to level the playing field and provide equitable and authentic access for everyone. We provide no cost access to technology and more to help alleviate information poverty.

The North Dakota Library Association is asking the committee for a do not pass recommendation on this bill.

Sincerely,

A handwritten signature in black ink that reads "Kerrienne Boetcher". The signature is written in a cursive, flowing style.

Kerrienne Boetcher
President of the North Dakota Library Association
president@ndla.info



Phone 701-852-5388
Toll Free 1-800-932-8932
PO Box 5005
Minot, ND 58702
225 3rd St. SE
Minot, ND 58701

March 12, 2023

Chairwoman Larson
And the Members of the Judiciary Committee,

I am writing to voice my opposition to the proposed changes presented in HB 1205.

I have several areas of concern as this bill is currently written. Section One is incredibly vague without any determining factor as to whom decides what these terms mean. Also, the definition of public library has already been determined by the North Dakota Century Code and does not need a new definition here. There is also the risk of exposure to potential first amendment lawsuits. Section C states that libraries are to "receive, evaluate, and respond to a request from an individual", but nowhere are libraries given the option to keep and to move the material.

Section Two states that this "applies to any book inventory or library collection maintained by a public library after March 31, 2024". The fiscal impact of our libraries trying to review every book in their current collection as well as any new purchases has the potential to reach into the millions.

My library already has a collection development policy as approved by the Ward County Public Library Board of Trustees that lays out the procedures that I must follow when evaluating books for our collection whether it be a book that we are purchasing or one that is donated by a taxpayer to the library. It also includes a process for the reconsideration of materials should a patron have concerns over a particular material while still remembering that a work must be evaluated as a whole and not a single scene or comic panel.

I firmly believe my beliefs and viewpoints should not dictate what another person may or may not want to read. The decision of whether or not a minor should have access to reading a particular subject is one that is best left up to their parents and/or guardians and is not one that should be left to an outside entity with no knowledge of the minor and their development.

The proposed changes are a violation of the rights of individuals to select for themselves what they would like to read. I am gravely concerned with the legality of this bill and the level of control that it is taking away from the individual and their first amendment right to choose what they and their family read.

I urge you to consider voting against this bill and I thank you for your time and consideration.

Respectfully,

A handwritten signature in black ink that reads "Kerrienne Boetcher".

Kerrienne Boetcher
Library Director
Ward County Public Library
kerrienne.boetcher@co.ward.nd.us
701-857-6471

March 12, 2023

Dear Chair Larson and Members of the Senate Judiciary Committee,

My name is Rev. Karen Van Fossan, and I urge you to vote Do Not Pass on HB 1205. Like many other people testifying in opposition to this bill, I am gravely concerned about implications for First Amendment rights, costs to taxpayers in the face of inevitable legal challenges, criminalization of librarians for doing the work of librarianship, and the long-term cultural and educational effects of legislated book banning. There are many voices addressing these particular issues today.

As a religious leader and ordained minister, I would like to focus my remarks on the reality the Bible itself would be subject to banning if this legislation were to pass.

Most commonly known is the Song of Solomon, which celebrates God's gift of human sensuality in very clear, if poetic, terms. Yet there are numerous biblical passages that are not so celebratory—and that would clearly fall within the parameters of this bill:

In Genesis 19:33-36, both of Lot's daughters conceive children with him.

In Genesis 35:22, Reuben has intercourse with Bilhah, his father's concubine.

In Genesis 38:2, Judah has intercourse with Shuah, and it is unclear whether the union is consensual.

In Judges 16:1, Samuel hires the services of a sex worker.

In 2 Samuel 13, Amnon rapes Tamar, his half-sister.

In Isaiah 13-15, there is talk of widespread gang rapes.

In Ezekiel 23:3, the language is so explicit, I don't even feel comfortable citing it in my testimony.

And that's not even all.

The Holy Bible doesn't only speak about God; the Bible also speaks about people—who are not perfect, who make mistakes, and who sometimes behave in ways that are contrary to God's direction. The book remains sacred to Christians like myself, not because every human being behaves in exemplary ways, but because there is much to learn about God from human stories. As human beings, we need human stories, including those found in Genesis 19:33-36, Judges 16:1, and then some. How else are we to learn how—and how not—to be fully human?

Please protect our access to human stories, such as those found in the Bible and many other materials in our public libraries. Thank you.

I write in strong opposition to HB 1205.

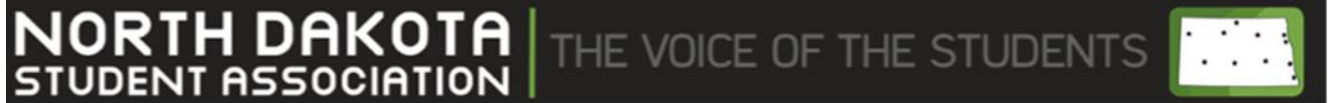
I have lived in ND almost my entire life; I am recently retired from a professional career, and raised two children in this state. I believe in limited government and the strength of the family. I am not, nor ever have been, officially affiliated with any library. I believe in economic growth for this state.

For these reasons I oppose HB 1205. It thrusts the arm of government where it does not belong. Its undefinable terms attempt to legislate morality and take the place of true parenting. This censorship bill would put this state on a very slippery slope and send an unwelcoming message to potential newcomers.

If a citizen is upset about a book in their local library, they may contact the librarian and the library board, write a letter to the editor, campaign against the book on social media, etc. There are many routes for one to pursue if they are upset about a book. Do NOT attempt to legislate the solution.

Thank you.

Mona Tedford Rindy
14129 1st St NE
Portland, ND 58274



HB 1205

March 12th, 2023

Jason Fincel, North Dakota Student Association

(605) 290-2722 | jasonfincel@ndus.edu

Chair Larson and Members of the Committee: My name is Jason Fincel and I am the Chief Administrator of the North Dakota Student Association. I am writing to you on behalf of our organization in opposition to House Bill No. 1205.

The North Dakota Student Association is a student organization established in 1969 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 institutions, meeting monthly to engage students in ND Higher Education policy. Our mission is to empower students, create collaboration between the student bodies of the North Dakota public universities, and to give a student perspective on higher education policy.

The North Dakota Student Association serves as a means for students to speak as a unified and collective body on matters that pertain to them. In pursuit of that objective, the NDSA passed a resolution on Saturday, January 29th, 2022, [NDSA-09-2122](#): A Resolution to Oppose the Banning of Critical Race theory (CRT) in North Dakota Higher Education. This resolution was premised on the notion that banning certain topics, such as Critical Race Theory, from being discussed during class would violate free speech and academic freedom and that state policies that interfere in academic affairs set a dangerous precedent for censorship. The NDSA also passed [NDSA-17-2223](#): A Resolution in Opposition of SB 2247: Relating to Divisive Concepts in Higher Education. This resolution was passed to further support academic freedom among staff, faculty, administration, and students and to oppose the state attempting to regulate what can and cannot be taught or discussed in higher education classrooms. The NDSA also passed

NDSA-18-2223: A Resolution in Opposition to HB 1446 to support the academic freedom of faculty to teach and conduct research and to oppose state interference in academic affairs in such a way that it undermines the authority of the State Board of Higher Education and the individual institutions.

As evidenced by these resolutions, the NDSA takes academic freedom and independence from the state incredibly seriously. As an organization, the NDSA is firmly opposed to any efforts by the state to encroach on academic freedom. The North Dakota University System, its eleven institutions and their respective staff, faculty, administration, and students know best what makes for a quality education experience and it is in their prerogative, not the state's, to determine what material is most conducive to achieving that end. House Bill No. 1205 is an overreach by the state and harms the independence and autonomy of the schools in the North Dakota University System. On behalf of the North Dakota Student Association, I urge the committee to provide a DO NOT PASS recommendation on HB 1205.

I stand in opposition to HB 1205. I will defer to Cody Schuler, ACLU, testimony because I was compelled by these facts, agree with this position, and they are worth repeating.

“Since its founding in 1920, the ACLU has opposed censorship in all its forms. From books and radio to film, television, and the Internet, we have consistently fought to make sure Americans have the right to say, think, read, and write whatever they want, without fear of reprisal. The First Amendment does not allow the government to get rid of or limit the use of books or ideas because they are controversial, unpopular, or offensive. The ACLU has always vigilantly defended the First Amendment and the right to free speech. Throughout our hundred-year history, we have worked to protect the right of individuals to access information, and to make up their own minds. Opposition to censorship is especially important in our public libraries, because citizens do not lose their constitutional rights at the front door of a public institution. Libraries have been the repositories of human thought, knowledge, and discourse since ancient civilization. Human sexuality is as much a part of the human experience as theology, sociology, science, art, and music and should be available as part of the discussion and debate which advances ideas among an educated citizenry. Not everyone is going to agree on the merits of every book on a library’s shelf. Some books will make people uncomfortable and question what they know. Some books will make people angry. There are some books people will think children shouldn’t read or hope no one will read. But we are steadfast in our belief that we do not get to decide what others read – and neither should the government. This bill is not only government censorship, it would impose an undue burden and restriction on public libraries, which are already underfunded and understaffed. Curating collections under this proposed law is next to impossible in scope, compliance, and enforcement. In addition, allowing individual complaints to drive removal of books and material without a review process would allow individuals to engage in censorship by imposing their thought or morality upon their wider community. If someone does not like a book, then they should not read it. The First Amendment’s guarantee of the freedom of speech and the right to access information has created a beautiful marketplace of ideas in our country. Each of us gets to choose what books we read and what information we access — but we don’t get to choose for other people. Doing so is un-American and unconstitutional. Nearly 50 years ago, the Supreme Court set the high constitutional bar that defines obscenity¹ — a narrow, well-defined category of unprotected speech that excludes any work with serious literary, artistic, political or scientific value. Since then, few if any books have been deemed obscene. And the standards for restraining a bookseller or library’s ability to distribute a book are even more stringent. 1 Miller v. California, 413 U.S. 15 (1973) House Judiciary Committee HB1205 January 17, 2023 Page 2 of 2 P.O. Box 1190 Fargo, ND 58107 701-404-7269 northdakota@aclu.org aclund.org Today, you have the opportunity to affirm our shared belief in an educated North Dakotan citizenry and a society where ideas are openly disseminated, discussed, and debated. We urge the House Judiciary Committee to give HB1205 a “Do Not Pass” and the North Dakota House of Representatives to follow in defeating this bill. “

Gina Sandgren, Fargo

My name is Jodi Plecity and I am in support of HB 1205. We need to stop sexualizing our children and remove and hide these things in our public libraries that are openly available to them. It is immoral and wrong and society needs to be responsible and protect the children from corruption.

Thank you

Hello - My name is Traci Juhala, and I am the Head of Youth Services at Bismarck Veterans Memorial Public Library. I am writing in opposition to HB1205 and urge a do not pass. Since the crossover and amendments to HB1205, I am submitting further testimony to address remaining concerns. Amendments to this bill could be seen as moving in the right direction, and I'm personally relieved that prison time for those in my profession is no longer being considered. I also still believe that many who have voted for passage of this bill have done so out of concern for children. I, too, am concerned about the welfare of children, which is why I have spent the last 15 years of my career working with and for them. This bill is not the way to keep children safe; this bill is not needed at all, and actually it can potentially harm children by keeping vital information from them. Libraries do not collect pornography for their libraries, and they do not collect sexually explicit materials for children. They do collect materials to represent the variety of perspectives of their communities. And libraries across the state have policies in place to address local concerns about particular books. It is true that the majority of challenged books have not been removed from shelves, but that should be seen as a positive, not a negative. Books that are challenged are looked at by many sets of eyes with many perspectives at play. That is the point of local library policies. It allows individuals in a community to address concerns at the local level, and it allows for addressing individual titles, not general categories of books. This allows librarians and their library boards to take a critical look at particular titles and apply the guidelines they have developed to determine if the titles are properly placed in their libraries. House Bill 1205 is overreaching in that it tries to supplant library boards and their policies by creating a broad stroke of control. So many individuals providing testimony in support have referenced one particular book title, or a sampling of book titles taken out of the context of their collections. That's what library policies are meant to address. Legislation should not be used to remove a particular book. The Century Code that exists is already sufficient to handle these issues. If this bill passes, it will result in confusion and therefore removal of many materials crucially needed by local residents. And this will result in community imbalance. My viewpoint is different from every other person in my community, and that's why I purchase materials for our library based on collection development policy guidelines, not my own personal opinion. If I selected materials on my opinion alone, the library would be imbalanced. It takes all of our opinions and viewpoints to make up our communities, and that's what our libraries need to reflect - the whole community.

March 12, 2023

Dear Chairman Larson and members of the Senate Judiciary Committee,

We write to you as members of the Executive Committee of UND United, the local of ND United (AFT Local #6942) which represents faculty and staff at UND, to express our **opposition to HB 1205**. We have many concerns about HB 1205 and ask your committee to give it a “do NOT pass” recommendation and vote NO on this bill.

Supporters of this bill argue it is needed to protect children. While we agree it is important to protect children, we believe this bill is unnecessary, and as written is likely to have impacts beyond its stated purpose. Collection policies already exist that make libraries accountable to the public and provide ways to challenge the holding of particular materials. Our librarians already work very hard to cultivate age appropriate materials for their patrons. It has not been demonstrated that existing policies are inadequate for reviewing or challenging potentially problematic materials. If someone finds a holding concerning, we would encourage them to utilize existing processes for evaluating and challenging library materials.

While amendments to the bill appear to create exceptions for certain types of educational materials, these materials are limited to a few specific courses and types of classes and thus could be used to censor the holding of materials used in other courses not listed. For this reason, we are particularly concerned about the impact of this bill on our university libraries. In addition, the language of the bill defines public libraries in such a way that would likely have impacts on university libraries because they too are open to members of the general public. As a result, we believe this legislation may have implications beyond its stated intent.

Finally, the bill requires libraries to review library collections and generate a compliance report. Our university libraries are extensive and this requirement would place a substantial burden on our library employees, diverting their time from their primary tasks and creating barriers to retaining library staff. Our campus and community librarians are exceptionally responsive to the needs and concerns of the public they serve and more than willing to work with patrons. Legislation like this is simply unnecessary and creates burdens that may lead our librarians to seek employment elsewhere.

As a result, we respectfully ask your committee to give **HB 1205 a “do NOT pass”** recommendation and encourage committee members to vote NO on this legislation.

Sincerely,

UND United Executive Committee members
Liz Legerski, UND United President
Daphne Pedersen, Secretary-Treasurer
Kristin Borysewicz, Member-at-Large

Good morning, chair Larson and members of the Senate Judiciary Committee, for the record, my name is Mike Lefor and I represent District 37 – Dickinson in the House. Today, I bring HB 1205 for your consideration. Over the past few weeks, I have heard concerns regarding HB 1205 and some unintended consequences of the bill in front of you. As a result of those conversations, I had legislative council prepare an amendment to address these concerns and provide clarity to what was the original intent of my bringing this legislation forward.

If the committee would indulge me on this, I would like to provide testimony on version 3002 and I have brought many copies for everyone. When I was growing up we had three channels on our television, we got a color television when I was in sixth grade. We had our newspaper come to us every morning. We sat down every night at supper as a family and discussing the issues of the day. We had prayer sessions as a family.

We grew together. Less anxious and less stressful times. Fast forward many years later, we live in a world where social media has grown, Facebook, Instagram, Twitter and many other outlets which create a lot more stress and anxiety in our young people today.

Generation Z are currently the most stressed demographic group of people. The American Psychological association reports that 90% of General Z experienced psychological or physical symptoms of as a result of stress last year. 90%! This generation is also significantly more likely to seek professional help for mental health issues.

The suicide rate for people aged 10 to 24 increased by 56% between 2007 and 2017 according to data from the CDC. For children aged 10 to 14, the suicide rate tripled between the same time frame after years of decline. Suicide also increased for the millennial generation but the data suggests Gen Z might be more at risk for mental illness.

Why do I cite these statistics? Because we need to change the way we approach important issues facing our young people today. I cannot imagine growing up in this world with 24-hour media, social media and changing morals.

House 1205 was brought forward on behalf of constituents who alerted me to what has been going on in some of our libraries across the state. This bill attempts to discontinue having public libraries maintain or promoting certain books which contains explicit sexual material. If you look at version 3002, I will go through the sections of the bill. First, on page 1, line 9, it simply takes the wording down to “explicit sexual material” which on line 16, taken as a whole, the average person applying contemporary community standards would find appeals to a prurient interest.

On line 19, it states “depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law and taken as a whole, lacks serious literary, artistic, political or scientific value.”

The definition of public library is not changed in this amendment and it provides existing code for the definition. For me, one of the most important components of this version is on page 2, lines 7 and 8. "A public library may not maintain in its children's collection inventory books that contain explicit sexual material."

The rest of the bill gives guidance to public libraries as to the duties needed to address this issue. By January 1, 2024 each public library shall develop a policy and a process for reviewing their library collections to ensure conformance. The policy must include procedures for:

1. Removal or relocation of this material.
2. The development of a book collection that is appropriate for the age and maturity levels of the individuals who may access the materials.
3. For the library to receive, evaluate, and respond to a request from an individual regarding the removal or relocation of books.
4. To periodically review the library collection to ensure does not contain explicit sexual material in the children's collection.

To provide a compliance report to legislative management before May 1, 2024.

What inspired this legislation was a book titled "Lets talk about it." This book and others like it, contain drawings of explicit sexual material that for decorum purposes I will not describe. The exposure to explicit sexual material has been associated with addiction, poor self-esteem, devalued intimacy, it affects their well-being, sexual practices, attitudes and social relationships.

According to topic matter expert names Christopher Rufo, he states and I quote, the books we are talking about today are sexually explicit and pornographic books, often with very graphic depictions of sexual activity. This is just not appropriate, and it certainly not a book ban to say we don't want pornography targeting our young children in elementary schools. End quote.

We have movie ratings for a reason to make sure movies are age appropriate. There is a reason pornographic magazines, are not available for purchase by young children why shouldn't books in our public libraries be held to the same standard? If we don't stand up for your children, who will? That concludes my testimony, I would request a do pass recommendation from the committee and I would be happy to answer any questions.

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1205

Introduced by

Representatives Lefor, Steiner

1 A BILL for an Act to create and enact a new section to chapter 12.1-27.1 of the North Dakota
2 Century Code, relating to prohibiting public libraries from maintaining explicit sexual material; to
3 provide for a legislative management report; and to provide for application.

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

5 **SECTION 1.** A new section to chapter 12.1-27.1 of the North Dakota Century Code is
6 created and enacted as follows:

7 **Public libraries prohibited from maintaining explicit sexual material - Report.**

8 1. As used in this section:

9 a. ~~"Explicit sexual material" does not include works of art that, when taken as a~~
10 ~~whole, have serious artistic significance, or works of anthropological significance,~~
11 ~~or materials used in science courses, including materials used in biology,~~
12 ~~anatomy, physiology, or sexual education classes. The term means any pictorial,~~
13 ~~three-dimensional, or visual depiction, including any photography, picture,~~
14 ~~computer video, or computer-generated image, showing means any material~~
15 ~~which:~~

16 (1) ~~Human masturbation~~ Taken as a whole, the average person applying
17 contemporary community standards would find appeals to a prurient
18 interest;

19 (2) ~~Deviant sexual intercourse~~ Depicts or describes, in a patently offensive way,
20 sexual conduct specifically defined by the applicable state law; and

21 (3) ~~Sexual intercourse;~~

22 ~~Direct physical stimulation of genitals;~~

23 ~~Sadomasochistic abuse;~~

24 ~~Postpubertal human genitals;~~

- 1 ~~(7) Sexual activity; or~~
2 ~~(8) Sexual perversion~~ Taken as a whole, lacks serious literary, artistic, political,
3 ~~or scientific value.~~
- 4 b. ~~"Public library" means a library containing collections of books or periodicals for~~
5 ~~the general population to read, borrow, or refer to which is supported with funds~~
6 ~~derived from taxation established under chapter 40-38.~~
- 7 2. ~~A public library may not maintain in its children's collection inventory books that~~
8 ~~contain explicit sexual material.~~
- 9 3. ~~By January 1, 2024, each public library shall develop a policy and process for~~
10 ~~reviewing library collections to ensure conformance with the requirements of this~~
11 ~~section. The policy must include a procedure:~~
- 12 a. ~~For the removal and disposal or relocation of explicit sexual material from the~~
13 ~~public library;~~
- 14 b. ~~For the development of a book collection that is appropriate for the age and~~
15 ~~maturity levels of the individuals who may access the materials, and which is~~
16 ~~suitable for, and consistent with, the purpose of the library;~~
- 17 c. ~~For the public library to receive, evaluate, and respond to a request from an~~
18 ~~individual regarding the removal or relocation of one or more of the books or~~
19 ~~other materials in the library collection containing explicit sexual material; and~~
- 20 d. ~~To periodically review the library collection to ensure the library collection does~~
21 ~~not contain explicit sexual material in the children's collection.~~
- 22 4. ~~Each public library shall provide a compliance report to the legislative management~~
23 ~~before May 1, 2024, on the implementation of a policy and process for reviewing~~
24 ~~library collections collection development and relocation of materials policies as~~
25 ~~required by this section and to ensure sufficient compliance with this section.~~

26 **SECTION 2. APPLICATION.** This Act applies to any children's book inventory ~~or library-~~
27 ~~collection-maintained~~ by a public library after March 31, 2024.

23.0407.03003
Title.

Prepared by the Legislative Council staff for
Senator Sickler
March 13, 2023

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1205

Page 1, line 9, remove "does not include works of art that, when taken as a"

Page 1, remove lines 10 through 13

Page 1, line 14, replace "computer video, or computer-generated image, showing" with "means any material which"

Page 1, line 15, replace "Human masturbation" with "Taken as a whole, appeals to the prurient interest of minors"

Page 1, line 16, replace "Deviant sexual intercourse" with "Is patently offensive to prevailing standards in the adult community in North Dakota as a whole with respect to what is suitable material for minors"

Page 1, line 16, after the underscored semicolon insert "and"

Page 1, line 17, remove "Sexual intercourse:"

Page 1, remove lines 18 through 21

Page 1, line 22, replace "(8) Sexual perversion" with "Taken as a whole, lacks serious literary, artistic, political, or scientific value for minors"

Page 2, line 1, remove "containing collections of books or periodicals for"

Page 2, remove line 2

Page 2, line 3, replace "derived from taxation" with "established under chapter 40-38"

Page 2, line 4, after "its" insert "children's collection"

Page 2, line 9, replace "and disposal" with "or relocation"

Page 2, line 9, replace "from" with "in"

Page 2, line 14, after "removal" insert "or relocation"

Page 2, line 17, after "material" insert "in the children's collection"

Page 2, line 19, remove "a policy and process for reviewing"

Page 2, line 20, replace "library collections" with "collection development and relocation of materials policies"

Page 2, line 22, after "any" insert "children's"

Page 2, line 22, remove "or library collection"

Re-number accordingly

23.0407.03003

FIRST ENGROSSMENT

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1205

Introduced by

Representatives Lefor, Steiner

1 A BILL for an Act to create and enact a new section to chapter 12.1-27.1 of the North Dakota
2 Century Code, relating to prohibiting public libraries from maintaining explicit sexual material; to
3 provide for a legislative management report; and to provide for application.

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

5 **SECTION 1.** A new section to chapter 12.1-27.1 of the North Dakota Century Code is
6 created and enacted as follows:

7 **Public libraries prohibited from maintaining explicit sexual material - Report.**

8 1. As used in this section:

9 a. ~~"Explicit sexual material" does not include works of art that, when taken as a~~
10 ~~whole, have serious artistic significance, or works of anthropological significance,~~
11 ~~or materials used in science courses, including materials used in biology,~~
12 ~~anatomy, physiology, or sexual education classes. The term means any pictorial,~~
13 ~~three-dimensional, or visual depiction, including any photography, picture,~~
14 ~~computer video, or computer-generated image, showing~~ means any material
15 which:

- 16 (1) ~~Human masturbation~~ Taken as a whole, appeals to the prurient interest of
17 minors;
- 18 (2) ~~Deviant sexual intercourse~~ is patently offensive to prevailing standards in the
19 adult community in North Dakota as a whole with respect to what is suitable
20 material for minors; and
- 21 (3) ~~Sexual intercourse;~~
- 22 ~~(4) Direct physical stimulation of genitals;~~
- 23 ~~(5) Sadomasochistic abuse;~~
- 24 ~~(6) Postpubertal human genitals;~~

1 ~~(7) Sexual activity; or~~
2 ~~(8) Sexual perversion~~ Taken as a whole, lacks serious literary, artistic, political,
3 or scientific value for minors.

4 b. "Public library" means a library ~~containing collections of books or periodicals for~~
5 ~~the general population to read, borrow, or refer to which is supported with funds~~
6 ~~derived from taxation~~ established under chapter 40-38.

7 2. A public library may not maintain in its children's collection inventory books that
8 contain explicit sexual material.

9 3. By January 1, 2024, each public library shall develop a policy and process for
10 reviewing library collections to ensure conformance with the requirements of this
11 section. The policy must include a procedure:

12 a. For the removal ~~and disposal~~ or relocation of explicit sexual material ~~from~~ the
13 public library;

14 b. For the development of a book collection that is appropriate for the age and
15 maturity levels of the individuals who may access the materials, and which is
16 suitable for, and consistent with, the purpose of the library;

17 c. For the public library to receive, evaluate, and respond to a request from an
18 individual regarding the removal or relocation of one or more of the books or
19 other materials in the library collection containing explicit sexual material; and

20 d. To periodically review the library collection to ensure the library collection does
21 not contain explicit sexual material in the children's collection.

22 4. Each public library shall provide a compliance report to the legislative management
23 before May 1, 2024, on the implementation of ~~a policy and process for reviewing~~
24 ~~library collections~~ collection development and relocation of materials policies as
25 required by this section and to ensure sufficient compliance with this section.

26 **SECTION 2. APPLICATION.** This Act applies to any children's book inventory ~~or library-~~
27 ~~collection~~ maintained by a public library after March 31, 2024.

Judiciary hearing testimony on HB1205 – Senator Keith Boehm

House bill 1205 in its amended form is a bill to protect minors from exposure to Obscenity and Pornography in a public library. The purpose of this legislation is to protect minors from pornography. The area the legislation focuses on are libraries where minors frequent. *Our culture has become a culture where there are ^{few} no bounds on pornographic material. Most of us have heard of the process to kill a frog without it knowing that it is being killed. You put it on a heating element, slowly raise the temperature and in a short while the frog is dead, and it did not even know it. The same thing is happening to our society with pornography and our minors.*

It used to be that libraries and schools were safe zones for minors in our towns and communities. This is no longer the case. At this point our schools and libraries are the safe zones for Activists, Groomers and pedophiles as the original language in code protects their ability to disseminate their doctrine and perversion on minors. A real event that happened in western North Dakota. There was a city council public hearing held due to pornography being disseminated in a public library and the opponents could not show or read the material from the books designed for minors as it was Obscene, yet it was in the local library and any activist, groomer or pedophile could get the book and either read it to a child or show it on site or off site to a child. I hear many defenses of free speech from those that are in opposition to this legislation. Our team has found open pornography/obscenity in no less than 40 North Dakota libraries, and they are not all large libraries. We have a list of those books; they are not all in every library investigated. We have time stamp material to validate this in case after this it has been pulled. I have said this before Pornography is not free speech in our minor accessible institutions. Do our schools and libraries have the usual blatant adult pornography in them. No, course not, is that book banning and censorship according to the opposition to this legislation yes, it is. So, we will ban/censor what the opponents of this legislation deem necessary but not obvious obscenity and pornography.

The following is from the US constitution

Article I Section 2. All political power is inherent in the people. Government is instituted for the protection, security and benefit of the people, and they have a right to alter or reform the same whenever the public good may require.

This is from the US constitution. Pornography is being used to harm our children.

This legislation is a protection measure that can be used to protect our greatest resource which determines our societies entire future and we must protect them.

Judiciary hearing testimony on HB1205 – Senator Keith Boehm

I stand for questions.

“prurient interest” means a voyeuristic, lascivious, degrading, shameful, or morbid interest in nudity, sex, or excretion that goes substantially beyond customary limits of candor in description or representation of those matters

From: Alexis Varvel <mr.a.alexis.varvel@gmail.com>

Sent: Monday, March 13, 2023 1:22 PM

To: Larson, Diane K. <dlarson@ndlegis.gov>; Paulson, Bob L. <bpaulson@ndlegis.gov>; Sickler, Jonathan <jsickler@ndlegis.gov>; Braunberger, Ryan <rbraunberger@ndlegis.gov>; Estenson, Judy <jestenson@ndlegis.gov>; Luick, Larry E. <lluick@ndlegis.gov>; Myrdal, Janne <jmyrdal@ndlegis.gov>; NDLA, S JUD <sjud@ndlegis.gov>

Subject: HB 1205 [23.0407.03003]

Madame Chairman Larson, Vice Chairman Paulson, Vice Chairman Sickler, and Members of the Senate Judiciary Committee:

My name is Andrew Alexis Varvel. I live in Bismarck, District 47.

First of all, please add this email to the Senate Judiciary Committee onto the online record of testimony for the sake of transparency.

Second of all, I would like to express my appreciation to Representative Lefor and Senator Sickler for improving the language of HB 1205. I still don't like it, but it isn't as bad as what I had previously addressed.

Now, to my commentary.

I object to the use of "adult community in North Dakota as a whole" in Section 1, Subsection 1, Subsubsection 2. This language concentrates too much power in the State of North Dakota, while limiting local authority over local community standards. Let's not presume that the local community standards would be the same for Fargo and Velva.

I also object to Section 1 Subsections 3 & 4, because they vastly increase the red tape that already overburdened librarians would need to deal with. It would create a massive regulatory burden for Legislative Management on matters that should not be of its concern. It likely would also create a need for hiring additional staff at the State Library for the purpose of developing model policies for libraries in this state.

In line with this objection to Section 1 Subsections 3 & 4, the best way to implement the Miller test would be to replace this language with a referral mechanism to allow the local adult community to decide on whether a book would be kept at the local library or not. Let's put it to a vote. If a book is patently offensive, and neither the library nor library board is willing to discard such a book – or even put it into an adults-only section – petitioners should have an opportunity to get signatures to put disposal of that book onto the ballot for the next local election.

Such a book referral mechanism has its advantages in a Judeo-Christian community. Objectively speaking, the language "appeals to the prurient interest of minors" would apply to the Song of Songs in the Bible. (Song of Songs, 4:12-16, 5:4, 5:15) From my point of view, teaching healthy sex – and sexual technique – is precisely why this book exists in the Bible. Likewise, the language "patently offensive to prevailing standards" would likely apply to 2 Samuel 6:20-23 and Ezekiel 23:20.

In the case of Genesis 19:30-38, I regard this story to be a raucous satirical commentary on contemporary stories in Mesopotamia about Ishtar getting her uncle Enki drunk, as well as a commentary on the prevalence of premarital temple prostitution in Moab and Ammon. And of

course it's offensive! I think making unflattering remarks about what the neighbors were doing was precisely what this story was about!

On the other hand, if keeping the Bible in the stacks were put to a local referendum, it would be very unlikely that any community would ban it.

Ostracism is a custom that goes back to the very origins of democracy. This proposed amendment would apply ostracism to books. If we truly believe in enforcing the Miller test, then by all means let's enforce it on local libraries by putting it to a vote by the local adult community.

So –

Page 1, line 19, replace “adult community in North Dakota as a whole” with “local adult community”

Replace page 2, lines 9-25, with [language for referral mechanism]

Please note that I am not proposing specific language for a referral mechanism, principally because I think that the Legislative Council would do a better job than I would. My focus in this letter is on getting the basic idea out there so that the Legislative Council can flesh it out.

If this change that I am recommending gets made to House Bill 1205, the committee may wish to consider holding another hearing so people would have an opportunity to express their opinions on this version.

Again, as a matter of transparency, I would like this communication to be made part of the official record of testimony on House Bill 1205.

Thank you, and I am open for any questions that committee members may wish to ask on this subject.

Sincerely,

Andrew Alexis Varvel
2630 Commons Avenue
Bismarck, ND 58503
701-255-6639
mr.a.alexis.varvel@gmail.com

23.0407.02003

Sixty-eighth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1205

Introduced by

Representatives Lefor, Steiner

1 A BILL for an Act to create and enact a new section to chapter 12.1-27.1 of the North Dakota
2 Century Code, relating to prohibiting public libraries from maintaining ~~sexually explicit books; to~~
3 ~~amend and reenact section 12.1-27.1-03.1 of the North Dakota Century Code, relating to~~
4 ~~objectionable materials or performances~~explicit sexual material; to provide for a legislative
5 management report; and to provide for application.

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

7 ~~SECTION 1. AMENDMENT.~~ Section ~~12.1-27.1-03.1~~ of the North Dakota Century Code is
8 amended and reenacted as follows:

9 ~~12.1-27.1-03.1. Objectionable materials or performance - Display to minors -~~

10 ~~Definitions - Penalty.~~

11 ~~1. A person is guilty of a class B misdemeanor if he willfully displays at newsstands or~~
12 ~~any other business establishment frequented by minors, or where minors are or may~~
13 ~~be invited as a part of the general public, any photograph, book, paperback book,~~
14 ~~pamphlet, or magazine, the exposed cover or available content of which exploits, is~~
15 ~~devoted to, or is principally made up of depictions of nude or partially denuded human~~
16 ~~figures posed or presented in a manner to exploit sex, lust, or perversion for~~
17 ~~commercial gain.~~

18 ~~2. As used in this section:~~

19 ~~a. "Nude or partially denuded human figures" means less than completely and~~
20 ~~opaquely covered human genitals, pubic regions, female breasts or a female~~
21 ~~breast, if the breast or breasts are exposed below a point immediately above the~~
22 ~~top of the areola, or human buttocks; and includes human male genitals in a~~
23 ~~discernibly turgid state even if completely and opaquely covered.~~

1 ~~_____ b. "Where minors are or may be invited as a part of the general public" includes any~~
2 ~~public roadway or public walkway.~~

3 ~~_____ c. The above shall may not be construed to include a bona fide school,~~
4 ~~college, university, museum, public library, or art gallery.~~

5 **SECTION 1.** A new section to chapter 12.1-27.1 of the North Dakota Century Code is
6 created and enacted as follows:

7 **Public libraries prohibited from maintaining ~~or promoting certain books~~ explicit**
8 **sexual material - Report.**

9 1. As used in this section:

10 a. "Explicit sexual material" does not include works of art that, when taken as a
11 whole, have serious artistic significance, or works of anthropological significance,
12 or materials used in science courses, including materials used in biology,
13 anatomy, physiology, or sexual education classes. The term means any pictorial,
14 three-dimensional, or visual depiction, including any photography, picture,
15 computer video, or computer-generated image, showing:

16 (1) Human masturbation;

17 (2) Deviant sexual intercourse;

18 (3) Sexual intercourse;

19 (4) Direct physical stimulation of genitals;

20 (5) Sadomasochistic abuse;

21 (6) Postpubertal human genitals;

22 (7) ~~Sexual preferences;~~

23 ~~(8) Sexual activity; or~~

24 ~~(9)(8) Sexual perversion;~~

25 ~~(10) Sex-based classifications;~~

26 ~~(11) Sexual identity; or~~

27 ~~(12) Gender identity.~~

28 b. "Public library" means a library containing collections of books or periodicals for
29 the general population to read, borrow, or refer to which is supported with funds
30 derived from taxation.

- 1 2. A public library may not maintain in its inventory ~~or promote~~ books that ~~make as their~~
2 ~~primary subject the study of~~ contain explicit sexual material.
- 3 3. ~~An individual who believes a public library is maintaining a book in violation of~~
4 ~~subsection 2 may submit a written request to the public library to remove the book~~
5 ~~from its inventory.~~
- 6 ~~4. A public library shall remove the book requested for removal within thirty days of~~
7 ~~receiving the request.~~
- 8 ~~5. By January 1, 2024, each public library shall develop a policy and process for~~
9 ~~reviewing library collections to ensure conformance with the requirements of this~~
10 ~~section. The policy must include a procedure:~~
- 11 a. For the removal and disposal of explicit sexual material from the public library;
12 b. For the development of a book collection that is appropriate for the age and
13 maturity levels of the individuals who may access the materials, and which is
14 suitable for, and consistent with, the purpose of the library;
- 15 ~~b.c.~~ For the public library to receive ~~and~~ evaluate, and respond to a request from an
16 individual regarding the removal of one or more of the books or other materials in
17 the library collection containing explicit sexual material; and
- 18 ~~e.d.~~ To periodically review the library collection to ensure the library collection does
19 not contain explicit sexual material.
- 20 4. Each public library shall provide a compliance report to the legislative management
21 before May 1, 2024, on the implementation of a policy and process for reviewing
22 library collections as required by this section and to ensure sufficient compliance with
23 this section.

24 **SECTION 2. APPLICATION.** This Act applies to any book inventory or library collection
25 maintained by a public library after March 31, 2024.