

2015 HOUSE EDUCATION

HB 1471

2015 HOUSE STANDING COMMITTEE MINUTES

Education Committee
Pioneer Room, State Capitol

HB 1471
2/17/2015
23987

- Subcommittee
 Conference Committee

Committee Clerk Signature

Donna Whetham

Explanation or reason for introduction of bill/resolution:

Relating to freedom of expression rights of students of public institutions of higher education and public schools.

Attachment # 1 pages 1-25.and Attachment #2-3.

Minutes:

Chairman Nathe: opened the hearing on HB 1471.

Rep. Looyen: District in (2:00-2:29) introduced HB 1471. He proposed an amendment to HB 1471 on Page 3 line 4 Subsection 4 of Section 2. This section should read it "does not" if we could add "not". (See Attachment #1 page 1).

Rep. Rohr: What is the process that exists now for the student journalists at the University of Jamestown?

Rep. Looyen: The current process is the head of the college or the advisor would have the ultimate say on what gets published. There can be some controversial issues.

Rep. Rohr: So the advisor has the authority on what gets published?

Rep. Looyen: That is my understanding and they can go above the advisor if the school board or someone else didn't like it. The University System does have some sort of rule that deals with this, but that is only a rule at state sponsored colleges.

Chairman Nathe: Is there some problem right now with some of the students with some of your views or stories being censored?

Rep. Looyen: Nationwide there are several incidences in a handout that a speaker coming up will address. I do know of one or two.

Chairman Nathe: Is any of this happening in North Dakota?

Rep. Looyen: I know of one individual that lost his job and had to get it back and there is local people affected by this also.

Rep. Mock: District 42. In support of HB 1471. (5:35- 8:15) I want to express my heart felt appreciation for those testifying in favor of the bill. The one thing I want to point out is you notice it is called the John Wall New Voices Act. Explained how the name came to be.

Steve Listopad: Assistant Professor of Journalism at Valley State University: (8:28-16:27). (See Attachment # 1, Page 2-4).

Rep. Meier: In the bill on Page 4 line 12 in the bill how would you interpret that section?

Steve Listopad: I would interpret that if the students work was restricted or censored took place outside of the Tinker standard, that meaning there was evidence then a lawsuit could take place. There have been zero successful against lawsuits against high schools in all these years under both Tinker or Hazelwood. All Hazelwood is doing is destroying journalism education. It is not saving anyone a dime.

Rep. Meier: Are you talking zero successful lawsuits are you talking about the whole United States?

Steve Listopad: Yes.

Rep. Olson: What is the Hazelwood situation could you explain this?

Steve Listopad: Hazelwood for example is a student walking down the hallway and wears a t-shirt with words or an American flag on it, they follow the Tinker standard. There has to be disruption for a teacher to have that student remove that t-shirt. As soon as the activity becomes curricular Hazelwood applies. You don't need disruption, all you need is a dislike, the teacher has control. The state is in charge. Let me make that clear. There is an imbalance. The student walking down the hallway has more freedom than student journalists. We can't teach in an authoritarian setting. We can't teach them to own their words if they don't own their words. Hazel wood strips them and undercuts the 1st amendment out from the students who need that to learn and practice and engage in what they are doing. Civic engagement isn't a light switch. As educators we need to start early and nurture their ideas and help form them into great members of our society.

Rep. Rohr: Would you say the number of students that enter that career path have decreased because of this?

Steve Listopad: I don't know that but the number of newsrooms have decreased. This is about the students are going to have important conversations in dark corners where there will be no input from us. This will give them a safe space in schools where those

conversations can happen in a friendly environment where important public debate can take place.

Frank D. LoMonte: Executive Director of Student Press Law Center, Washington DC: In support of HB 1471. The question of free speech always come down to this question, where do we draw the line? (24:00-34:56). (See Attachment # 1, page 5-6).

Rep. Rohr: The one thing you hear a lot today is professional ethics. Do you see that as adversarial to what we are doing today or is that something that needs to be addressed as well?

Frank LoMonte: When you ask about professional ethics, that hour in the journalism room, it is about the only time you can have a detailed discussion about the fact I can do this but should I? We know students need exposure to ethical decision making.

Chairman Nathe: How did we get to that point where the students are hesitant to retribution?

Frank LoMonte: There has always been a power or intimidation factor there. Hazelwood standard in 1988 really has accelerated that including the fact that it has put teachers in the spot of making sure nothing passes their threshold that puts the school in an unflattering light even if it is truthful.

Chairman Nathe: The teachers become a gatekeeper for the school?

Frank LoMonte: It puts the teachers in a terrible quandry.

Rep. Zubke: I notice in this bill we do allow the religious organizations to draw the line if it is not consistent with their religious beliefs and I always worry about the window we are opening and how far we are moving that line? I will just pick for example vulgarity, if the college is paying for this paper how far over that line are we going concerning vulgarity?

Frank LoMonte: That is what we want to address There is always a fail-safe where the school can stop the language if it has vulgarity or racist that could be stopped especially if they feel uncomfortable coming to school or cause violence.

Rep. Zubke: You mention uncomfortable that seems pretty broad. There are a lot of things that make me uncomfortable that might be different for someone else.

Frank LoMonte: When I mention uncomfortable the sponsors of the bill have incorporated Title 9 standard. If it is the kind of speech that is a harassing manner that is the kind of speech that could be stopped.

Rep. Olson: The bill states the section does not authorize to protect expression by a student that so incites students as to create a clear and present danger of the commission of an unlawful act. That is a bright line there as to how far the speech can go. But on page 3 subsection 6 of Section 2 line 7. It says "does not prohibit and institution from adopting

rules and policies that are designed to prevent hate violence from being directed at students in a manner that denies students full participation in the educational process". When I read that section it reminds me of pre-crime where if the school decides ahead of time they decide a certain type of speech because it might possibly cause people to be uncomfortable or insight a certain level of disruption. What are we trying to do here?

Frank LoMonte: There is some degree of uncertainty in every 1st amendment standard and when we talk about the Title 9 harassment and the Tinker standard there is always judgment calls needing to be made. The reason we incorporate their language is that rather than fashioning new terms that a court would have to interpret on a blank slate by using the same language you would bring along the precedent that tells us where that line is of the clear and present danger. They will not second guess a decision made by an administrator in an emergency situations where violence would be set off. The subset of language addressing matters of school where there is the public image control that concerns me. This is the subset of language that is not protected today.

Rep. Meier: Is this legislation part of an effort for all the United States to pass a law like this?

Frank LoMonte: A lot of states came up with statutes of this kind in alarm to what the Supreme Court had done. There is not an actual push to have a national campaign. You would be in a position of national leadership if this law was enacted.

Rep. Meier: Have any states passed legislation like this?

Frank LoMonte: 7 states have enacted statutes. 3 other states have rules. This expedites the resolutions of disputes because the student, the teacher and the principal can all sit down at the table and use this list to go over to see if there are reasons to stop the speech.

Rep. Meier: Those 7 states have rules not laws, correct?

Frank LoMonte: Those 7 states have statutes like this and 3 have rules.

Rep. Rohr: Is there any basis to for using privacy and confidentiality laws to hinder freedom of speech at the high school or collegiate level?

Frank LoMonte: The U. S. Department of Education which is the entity that enforces federal privacy law, has said they have a process by which they can interpret issues about FERPA. They have issued from the department speech by the student is not speech by the department.

Mary Beth Tinker: Participant of " Tinker v Des Moines Independent Community School District", (51:51-60: In support of HB 1471. (See Attachment #1 page 7-8).

Rep. Olson: I share you concern for civic discourse. If we are seeking to prepare students for journalism in the real world they would be held to a different standard by where they are hired. If they were employed by CNN, in that type of environment they would not

be able to publish what they wish. It is privately owned. How would this mirror if they could say anything they want.

Mary Beth Tinker: Students will not be able to say what they wanted to say under the John Wall New Voices Act there are very many limitations still as well as under the Tinker standard. The bill has limitations and there will be editorial review and editorial policy being made. There is a difference between public school and CNN. Schools are owned by the public and are not privately owned companies.

Steve Andrist: Executive Director, North Dakota Newspaper Association: (1:04:27-1:06:02). In support to HB 1471. (See Attachment #1 page 9).

Jeremy Murphy: West Fargo Public Schools Publication Advisor: In support of HB 1471. (1:06:35- 1:08:54). (See Attachment #1 pages 10-11).

Rep. Rohr: One of the frustrations I have with journalism today is you don't see a lot of debate or differing viewpoints in journalism today can you speak to that? Are they encouraged to speak to all viewpoints?

Jeremy Murphy: We do encourage our students to address both sides of the issue. In some environments there are persuasive strategies used to only speak to a single focus.

Chairman Nathe: How do you deal with bias?

Jeremy Murphy: We talk about objectivity every day. It is about developing those skills. We create a collaborative environment and we have that dialogue.

Chairman Nathe: Will this cause a bias in one way or another in the schools?

Jeremy Murphy: Currently, I have not seen that in our environment and I have seen other schools and advisors that they are worried about public image or school image.

Rep. Olson: It sounds like some schools have made wise use of their powers. What you are asking from this bill, is a distribution of power away from administration and given to the students? Is there anything presently that would be improved by this bill in your situation?

Jeremy Murphy: No. The environment we have is very forward thinking and thinking about creating productive people. I don't see it affecting West Fargo but talking with advisors around the state this would help them.

Rep. Schreiber Beck: How do you look at other schools or advisors how can this bill assure that those advisors have the same skills you possess and would continue that communication? We are seeing those that make it work, but there perhaps there is some that don't have your skills, yet we are going to give them the same opportunities. Could you comment please?

Jeremy Murphy: We provide professional development for STEM educators and it can be the same for Journalism. There are a lot of great resources that could guide teachers

through the process. Plus we have a great statewide organization to get feedback. Providing those opportunities and offering those resources.

Rep. Olson: In the law it state that it would not authorize or protect expression that incites clear and present danger or the commission of unlawful acts. Another part says it does not prohibit the institution from adopting rules and policies that are designed to prevent bad things from happening. It retains authority with the institution to basically decide they could create these policies. Is that something you are comfortable with in this language or do you see any problems with that?

Jeremy Murphy: I don't personally have an issue with that. Students are young adults and they come up with great ideas many times. They can surprise you and come to a decision that is ethically sound.

Rep. Kelsh: If you think something is controversial do you take it to a higher official?

Jeremy Murphy: It has channels and goes through student editors then I check it and I would let my administrators know if there is anything that seems unethical.

Emily Chadwick: Student of Journalism at West Fargo Public School (1:18:00-1:20:06) In support to HB 1471. (See Attachment #1 page 12).

Logan Ahern: Student of Journalism at West Fargo Public School(1:20:00- 1:22:50) In support of HB 1471. (See Attachment #1, Page 13).

Rep. Olson: Your newspaper is a self-funded newspaper that gives you freedoms you would not have. Would this bill give you any freedom you don't have currently?

Logan Ahern: I don't know.

Susan Skalicky: Bismarck Schools Journalism Educator: (1:23:52-1:28:11) In support of HB 1471. (See Attachment #1 page 14-15).

Rep. Rohr: Considering unbiased presentations, just as important as the student being taught those skills, it is as important to have the advisor who is advising in an unbiased fashion. What checks and balances are in place for that?

Susan Skalicky: We are all human and we are all biased so because of that as an advisor I daily go through the process of asking myself why am I thinking what I am thinking and to also to pass that on to my students . We have a lot of meetings about ethical decisions.

Rep. Olson: Why do students at Century presently enjoy the freedoms you describe?

Susan Skalicky: It is because we inherited the program from great advisors previously. Century has had an awesome journalism program since 1976. I don't keep things from my principal. We maintain a trusting relationship. The students

Kacey Peterson: Bismarck Public Schools Journalism Student: In Support of HB 1471. (1:32:00- 1:35:26) (See Attachment #1 page 16).

Carrie Sandstrom: University of North Dakota Journalism Student: (1:36:00- In support of HB 1471. (See Attachment #1 page 17-18).

Chairman Nathe: Did you ever have conversations with school authorities and did you have any pressure from above because they were worried about the schools image?

Carrie Sandstrom: Yes we had some instances. Gave example of an instance when serving at UND as editor of the student newspaper about pressure about not to run a story that may have impacted the Universities image. (1:43:00- 1:45:21).

Chairman Nathe: Was there any retribution for the story being run?

Carrie Sandstrom: No one was fired. We did have to justify our actions. (1:46:00- 1:47:38) Example of a story that upset alumni and administration. I am ok to justify our actions but there is fear there. There is fear because we are students and our whole point of being there is to graduate. We are afraid we could have our diploma held from us if you would anger the administration writing stories about what they are doing. The chance that there would be some academic retribution is much scarier for college journalists than the fact that we could lose our jobs.

Rep. Olson: It sounds like you had quite a bit of leeway. If this law would pass what additional authority or changes do you think would come about you don't already have?

Carrie Sandstrom: This bill makes all the difference for college journalists. We don't have much to point to for help. It is my word and my hope that the administration will see my side. Students need guarantees so that they can justify their actions, and do their jobs with confidence. It is hard enough for students to make decisions. Our structure right now is up in the air without strong student outlets and newspapers students. You don't know how to be a journalist until you have been one. Start with strong student newspapers and strong students outlets so they have a say to make strong future journalists. This bill makes all the difference.

Other Testimony in support of HB 1471 in absentia.(1:53:00). (See Attachment #1 pages 19-25.)

Rep. B. Koppelman: As I understand the bill Sections 1 and 2 deals with Higher Educational Institutions and Section 3 primarily deals with K-12 institutions. In Section 3 you used the time, place and manner concept of limitations of policy that school districts may have and in Higher Education it seems to be a broader limit on the institution from having a time, place and manner policy. That seems to be a different standard. Is that intentional? I am comparing that to page 4 line 17-19.

Carrie Sandstrom: I will defer that question to someone else.

Frank LoMonte: Yes. It is intentional. Page 4 is about public K-12 schools or government run institutions and page 3 is about private institutions which therefore not be governed by the 1st amendment standard about time, place and manner at all. There was an effort to not impose on them a requirement that doesn't already exist today.

Rep. B. Koppelman: If then Section 2 relates simply to private institutions. Then it would suggest Section 1 is the Section that deals with the public University. If that is true is it intentionally lacking an ability to have a policy to have a time, place and manner in it.

Frank LoMonte: The page 4 language which is something I have seen in other statutes like this in other states is really a more of a glass half full than a glass half empty. It is implicit that a public institution could do that already today, have a time, place and manner policy. In fact they will. This was to make certain that K-12 schools include in their publication policy that there is an opportunity to actually distribute the publication. An additional safe guard which was thought to be necessary fo K-12 and not necessary for college level.

Rep. Zubke: This bill seems refer to the freedom of speech. When I do research on the Tinker Standard and they identify some rights that schools have to restrict some free speech. Is there a conflict here? Would this bill supercede the Tinker and Fraser Standard?

Frank LoMonte: There are two categories of speech in school. The speech such as the t-shirt or baseball cap outside of the curricular setting. That speech today is governed by Tinker, Fraser, and the and the Morse case where it addresses pro drug speech. Then there is the Hazelwood standard of free speech which is the curricular speech, the school newspaper being the classic example of that. Nothing in the bill changes the Tinker standard what it touches is the curricular speech and brings that into line with the Tinker Standard.

Rep. Rohr: What if we added line 5 from page 4 to page 2 under the public universities and made that a line 5 as well for the higher education. It would be page 2 Section 1 Subsection 5.

Frank LoMonte: I don't see why that would do any harm on college campuses. I have not comprehensively researched your Higher Education Code though.

Rep. Olson: There is a principal in constitutional law that is called the government speech doctrine. If this law passes would that that type of denial by the faculty to let someone post a private thought on a bulletin board in the school be taken out of their hands and give this to an open forum system?

Frank LoMonte: Government speech doctrine exists as a creature of Supreme Court Case law as it regards to the speech of government employees. There is a classic Supreme court case which coined the idea when you are on the governments dime your speech is not your own you are under the government. But in cases like the teachers

want to use the bulletin board for personal speech they are under the government and cannot. The student is really a customer of the state and is not the same of employee speech.

Rep. Hunskor: How does this work in a school where the schools that do not have expertise in supervising students? I can see superintendents being fearful of this not having proper supervision.

Frank LoMonte: What I have heard from superintendents is they would like to stop speech of the nature where people are picking on students that they will be fearful of coming back and attending school. That is unprotected speech today and it will be unprotected speech tomorrow. We don't want people libeling each other or racial hate speech. The slice of the speak that is of concern to the folks in this room would become protected is that speech where a student is simply addressing a matter of public concern that the administrator for whatever reason believes is controversial or reflects critically on the school.

Aimee Copas: Executive Director at NDCEL.(2:07:40- In general support of HB 1471. With some suggestions to amend the bill in Section # 3 pertaining to the K-12 schools. In all methods of public expression newspaper media news TV, there are generally publishers of the content. That publisher helps identify the content that is considered appropriate for that entity. For example CNN we used earlier. Why are K-12 students held to a different standard in school under current law. This is because public schools are to protect students. The potential language to add to Section 3 Subsection 5 is to reflect more closely is" the school and the school officials responsibility to outline reasonable time place and manner restrictions on speech". This is an important addition. This generally means you can regulate but not eliminate protected speech. Amendment proposed by Rep. Mock: (See Attachment #2).

Chairman Nathe: You have it added to line 19 on subsection 5.

Aimee Copas: Yes. We feel this additional piece helps define the parameters for the public schools to create that policy and protection.

Vice Chairman Schatz: So you are not in favor of the bill as it stands?

Aimee Copas: We are generally in support of the bill with the amendment.

Rep. Olson: Do you know if hate speech is defined anywhere in North Dakota Century Code?

Aimee Copas: I am not sure.

Rep. Kelsh: If there wasn't that extra piece in that school they probably wouldn't have a newspaper, is that an accurate statement? There is no way you can stop a student from putting a letter to the editor or statement to any newspaper that would print it? Are there any schools that don't have journalism program that don't have the expertise of guiding students in journalism that would have a newspaper?

Aimee Copas: I am not sure if there is specificity with regard to a paper that exists without the professionalism in place. It's not that the teachers in those positions are not professional they just don't have the time as though it was a full time teaching assignment.

Rep. Hunsakor: Journalism advisors for students don't have the expertise in many of the schools to probably oversee the way it should be done?

Aimee Copas: Those positions could be offered to people even with a general level of interest. That t heightens the level of really good school policy.

Chairman Nathe: Any other support to HB 1471? Seeing none. Any Opposition to HB 1471?

Christopher T. Dodson: Executive Director of North Dakota Catholic Conference: (2:12:20- 2:16:00). In opposition to HB 1471. And suggested amendments attached. (See Attachment #3).

Chairman Nathe: Any other opposition to HB 1471? Seeing none. Closed the hearing on HB 1471.

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Attachment # 1-4.

Minutes:

Chairman Nathe: reopened the hearing on HB 1471. We have two amendments in front of us. I want to bring up the amendment that Representative Looyesen brought to us to add the word "not " to page 3 line 4 after the word does.

Rep. Koppelman: Motion to add the word "not " to page 3 line 4 after does on HB 1471.

Rep. Looyesen: seconded.

Voice Vote taken. Motion carried.

Rep. Mock: This amendment is the follow up with Dr. Aimee Copas testimony regarding Section 3 of HB 1471. (See Attachment # 1). (1:11-2:07) **I move to add this amendment on page 4 line 19 to HB 1471.**

Rep. Kelsh: seconded.

Vice Chairman Schatz: I would like to amend the amendment by getting rid of the word "lewd". This can be a problem word, I talked to a lawyer that thought it could cause a problem.

Rep. Koppelman : I would move to also remove the words " hate speech".

Vice Chairman Schatz: I withdraw my amendment then.

Rep. B. Koppelman: I will move to amend the amendment to remove the word "lewd, and or defined as hate speech."

Rep. Meier: seconded.

Rep. B. Koppelman: In terms of hate speech I don't think we should define that in code and it is clear by saying what is profane, harassing, threatening and intimidating. I don't think we need the term hate speech in the amendment.

Chairman Nathe: The clerk will take the roll on the amendment to the amendment to HB 1471.

A Roll Call Vote was taken. Yes: 12 No: 1 Absent: 0. Motion Carried.

Chairman Nathe: We have the amendment to the amendment. Any discussion on the amendment?

Rep. Olson: It seems all of those acts are protected in other parts of the code, we could amend all that language out. I feel I would resist the amendment in general.

Rep. Mock: If I am reading the bill correctly that language would be more permissive, because the way that section is that each school district would adopt a written student freedom of expression policy. Are you concerned and I don't necessarily disagree with you? I know the Council of Educational Leaders recommended this as an additional language. I don't think it is needed. Do you feel this is way too far?

Rep. Olson: I think it goes against the intention of the bill itself, without speaking to the bill itself.

Chairman Nathe: Any other discussion? Clerk will take the roll on the amended amendment to HB 1471.

A Roll Call Vote was taken. Yes: 7 No: 6 Absent: 0. Motion carried.

Chairman Nathe: The Catholic Conference proposed amendment removes language in Section 2. I know one of the Private colleges would like to see that, and I know another that can live with it and would support us taking it out also. (See Attachment #2)

Rep. Mock: The proposed amendment in Section 2 it removes lines 1-3 on page 3. Is that correct? (See Attachment #2)

Rep. Hunskor: That is the request of the private schools. Within that arena they have different issues to deal with than in public schools. I would support their amendment.

Rep. Rohr: Moved amendment from Catholic Conferences to HB 1417.

Rep. B. Koppelman: seconded.

Rep. Zubke: Has someone spent some time on Section 4 on the religious and belief based organizations. Will you explain that?

Chairman Nathe: Christopher Dodson, would you come up and explain your amendment?

Christopher Dodson: North Dakota Catholic Conferences. Section 4 of the amendments is from another issue that has come up and is called an "all comers policy" which if you are going to be an official student organization you need to accept all members including for leadership even members that disagree with your organizations purpose. This was upheld by the U.S. Supreme Court a few years ago in a 5-4 decision. What it means for example Muslim organization would have to allow an atheist to become president or a Catholic organization would have to let an anti-Catholic to be president and it has lead to some schools having to not exist or move off campus as an official organization. If you want to address that issue since it deals with student rights. I contacted people that follow student organization rights and this is the language they recommended for clarification. If you don't want to address that issue you could take that part out of my amendment and you can deal with the other part. When I ran this by University of Mary and Student Organizations the issue was brought to my attention.

Rep. Zubke: My question is does this directly pertains to this bill or not? Is this amendment does not directly pertain to this bill that we are considering?

Chairman Nathe: Section 4 would be a new addition to the bill. I think it would be best if we withdraw the motion and remove section 4 and approve the upper half of the amendment.

Rep. Rohr: Withdrew the motion.

Rep. B. Koppelman: withdrew second.

Rep. B. Koppelman: I move we adopt the Catholic Conference amendment but remove the new Section 4 to HB 1471.

Rep. Rohr: seconded.

Chairman Nathe: (See Attachment #2) but remove Section 4 after line 19. Any questions on this amendment?

Voice vote taken: Motion carried.

Rep. Rohr: I have an amendment to HB 1471. I spoke with the bill sponsor and he was ok with it. It basically it would just include the same provision for public universities or institutions. (See Attachment #3). So on line 5. Instead of "school district" it would say "institution".

Rep. Rohr: Moved amendment to HB 1471.

Vice Chairman Schatz: seconded.

Rep. Zubke: We did add some language to page 4, did you include that in this amendment?

Chairman Nathe: No. Counsel will add that into the other amendment. So instead of school districts is will say institution Rep. Rohr?

Rep. Rohr: Correct.

Voice vote taken: All ayes. Motion carried.

Rep. Meier: (21:15) I handed out an Iowa Student Expression Law. On page 2 Subsection 3 we could take that section out and amend this language into that section. I think it is easy to understand and very good. (See Attachment #4).

Chairman Nathe: The reason to take out 2 and putting this in is?

Rep. Meier: Subsection 3. The reason is it is a little easier to understand and gives the school district a little more oversight over this piece of legislation. It protected the school districts more and has a little more detail with what we are trying to do.

Rep. Koppelman: One of the main differences is using the term of obscene, adding that into this section. The rest of the sections we talk about libelous and slanderous we have that in the language already. Where we talk about violates the law, it is already here and insights the students, that portion is similar to the language to cause the material and substantial disruption. Then with number 4 that is the section that we have been amending a few things. Then on the last part of our bill on page 4 which is where Representative Rohr just amended it into a different spot, is there something specific in this we are not touching on?

Rep. Meier: That is what I wanted to bring up to the committee for discussion. I wanted you to look at this Iowa law and see if we wanted to add something additional to this piece of legislation, to make it more detailed. We could certainly look at materials which are obscene and I think that would be the only thing.

Rep. Olson: With regards to what Rep. Meier is proposing here, I believe most of this is handled under the current language on page 2 Subsection 3 and on page 4 Subsection 3. Except for "there shall be no prior restraint of material prepared for official school publications except when the material violates this section. That would probably be good enabling language to guarantee exactly what this bill is seeking to do. This language might be helpful to add. What do you think Rep. Looyen?

Rep. Looyen: I think it already lays it out and I would rather not add that. It is the committees wish though.

Vice Chairman Schatz: This protects the official media of the school does it protect blogs?

Rep. Looyen: I believe this is official and blogs would be personal thing. You would be under the Tinker standard. Then Hazelwood would not apply to you.

Rep. Meier: Moved to add the language line 3 of Iowa law "there shall be no prior restraint of material prepared for official school publications except when the material violates this section" to page 2 subsection 3.

Chairman Nathe: Our intern Tell can help to make sure it is added to the right section if this passes. Is that a motion Rep. Meier?

Rep. Meier: It is a motion to adopt the amendment to HB 1471. Also to amend in to page 4 subsection 3.

Rep. Rohr: Seconded.

Rep. Olson: I am in favor of adding this language I think it makes the bill stronger. As I it stands if we don't remove lines 7-11 on page 3. Then the language we are adding here would be in conflict within the bill itself. This may direct hate violence toward students. The institutions then are going to be able to create prior restraint for language that doesn't specifically violate the sections that are already listed in Subsections 3 or Section 3 and Section 1.

Chairman Nathe: Let's take up the amendment by Representative Meier first and then we can do an amendment on that.

Rep. Mock: Just for the proper form I think Representative Meier language would need to be a new subsection. Can we defer to legislative counsel to insert that language to make sure it is in correct form and inserted in the correct sections.

Chairman Nathe: Yes. And our intern Tell will be doing that.

Voice Vote Taken. All Ayes. Motion Carried.

Rep. Olson: I move we amend HB 1471 on page 3 by deleting lines 7-11.

Rep. Meier: Seconded.

Rep. Olson: I think these lines establish a doctrine of prior restraint on rather shaky grounds. I don't think you can define the possibility of hate violence when it comes to measuring if a person's speech would encourage it. I think that the unlawful acts provisions are covered in Subsection 3 of Sections 3 and Section 1. It says it does not protect expression that would violate federal or state law, that would incite clear or present danger. I think we have that clear and it would be good to get rid of this ambiguous language.

Chairman Nathe: Any other discussion on the motion? Just so the committee knows with the amendments we have made on page 3 Lines 1-3 and 7-11 are amended out so the only language left in if this amendment passes is lines 4,5 and 6 and "not" in line 4.

Rep. Kelsh: I can see if we put " there shall be no prior restraint" in that it would be in conflict with what we are doing.

Rep. Mock: I was checking we have amended section 1 and 3 regarding the prior restraint. Section 2 is in a different section of century code but they both relate to postsecondary, Section 2 relates to requirements and standards whereas Section 1 of the bill is in the State Board of Higher Education. I don't see a reason to resist the amendment. As I read the language that we want to remove it does not prohibit an institution from adopting rules or policies. Have we adequately addressed their ability to create said rules?

Rep. Olson: This language simply says we do not prohibit so the question is have we taken away all authority in Section 2 from the institution to be able to adopt any rules? The ability in sub section 5 states it does not prohibit the imposition of discipline. So they do retain that power to administer discipline for any acts that involve threats or intimidation. I don't see that it prohibits after action review of student activity; We could add Subsection 3 or Section 1 to say that this Section does not authorize or protect expression by a student that is A, B, C or D. That may be sufficient to establish the authority of the institution or just to retain it specifically.

Rep. Mock: The part beginning on lines 9,10 and 11 does relate a little bit to the due process in establishing the standards that need to be met. I just want to make sure that there is no unintended consequences in us removing that language.

Rep. Kelsh: I think on page 2 lines 23 and 24 it at least implies that a postsecondary institution may not make or enforce any rules subjecting any student, it implies that they may make rules, it doesn't say they can't make rules. They just couldn't make rules subjecting a student to disciplinary sanctions solely on the basis of conduct of speech or other communication.

Rep. Koppelman: I think we are ok as well. There other just inherit ways to make rules.

Chairman Nathe: Any other discussion on this amendment?

Rep. Olson: Could we hold this tomorrow to further research.

Chairman Nathe: I would like to move on this. We can double check this. If we think there is a problem we can bring our concern to the Senate. Any other discussion? Seeing none.

Voice vote on the amendment. All ayes. Motion passes.

Rep. Koppelman: I would like to remove the lines 19 page one striking out " school sponsored " and doing the same thing on page 3 line 27 striking out " school sponsored". Because they are defining "student journalist which means a student of an institution, this means all the students under the supervision of the State Board of Higher Education. Who gathers, compiles, writes, edits, photographs, records, or prepares information for dissemination in school sponsored media " is how it reads now. What if a person was doing an independent newspaper but met all those other requirements. This bill is kind of a

bill of rights of sorts for the journalists. If we are narrowing it down by definition to school sponsored then it is suggesting if they had an independent paper would not necessarily have the same rights. Some people could say it is just implied because it is not school run that they have freedom of speech. But I do think if they were running something that looked similar and did the similar function of the school sponsored media but wasn't school sponsored the school could try to stop that effort. So I would like to remove those.

Chairman Nathe: But if it is not under the supervision of the school why wouldn't they be able to do it?

Rep. Koppelman: What we see on college campuses is many things if they are done at a private residence off of campus that are done differently than things that are governed by the campus rules. There is a suggestion that there is a stricter set of rules on campus for the student than for the same type of person operating off campus. I don't want to see the definition be used to suggest that they didn't enjoy the same privileges.

Rep. Koppelman: I misspoke earlier it should be line 24 on page 3 instead of line 27. I wanted to address the student journalist. So I move to amend HB 1471 on line 19 page 1 to strike out "school sponsored" and on page 3 line 24 to strike out "school sponsored".

Rep. Rohr: Seconded

Rep. Kelsh: We asked the question if the school pays for the newspaper or does someone else pay for it. Who else pays for the newspaper if it is in the school and does this affect that or is this for something else?

Rep. Koppelman: School sponsored is defined on line 24 page 1 where it says "school sponsored media regardless the media is supported financially by the institution or by use of facilities of the institution". So school sponsored is like a school sanctioned type of comment, not necessarily saying they actually give them the money.

Rep. Mock: I agree with what you are trying to accomplish but I have to resist your motion because school sponsored media is a very carefully defined term that is repeated throughout this bill. Page 1 line 9 and page 3 line 16 defines school sponsored media, and by removing the words "school sponsored" from the definition of school journalists you no longer fit the context of school sponsored. I think we need to look at the definition of what school sponsored is. I don't think your amendment is actually going to accomplish that goal. I think it will create more complication in the context of the bill.

Rep. Koppelman: I would be open to have a motion for an alternative here. I wanted to point out any student that is a journalist. Not necessarily a student journalist, that the school doesn't have any ability to sanction them in any way. When they would otherwise enjoy freedom off campus.

Rep. Schreiber Beck: Once you remove "school sponsored" there is no reason to have a student. You are a student in a school correct? Maybe we can change this someplace

else because this is not limiting anyone to write anything they wish that is published elsewhere.

Rep. Looyen: So we heard from a student journalist at UND and at the Grand Forks Herald. Are you suggesting they could censor the Grand Forks Herald for her writing against UND because she is a student? If you have your own private blog or school newspaper they can't legally censor you. They might be able to sue you if you are saying complete lies. If you are under proper journalism I don't see how they can sue you or withhold your diploma. They might be able to threaten it but I don't think legally they can do it.

Rep. Koppelman: I think of some of the things that institutions are able to do when you are staying at the dorm where someone put a message on your car, but the school just doesn't think it is appropriate. That is an example of institution control. Some suggest the language should say "an institution may not sanction a student who operates as an independent journalist while on campus". That might be a way to do it and not strike the words school sponsored, if that is more of what we would like to see I will withdraw the motion on the table and make a different one. **I withdraw the motion.**

Rep. Rohr: I withdraw my second.

Rep. Koppelman: I make a motion to insert on line 15 of page 1 after the word produced and on page 3 line 21 after the word produced insert the language "an institution may not sanction a student who operates as an independent journalist ."

Rep. Rohr: Seconded.

Rep. Olson: This might not be in the right place to insert this.

Rep. Koppelman: I would defer to counsel in both Section 1 and Section 3 if they need to reposition it in the wording of the bill.

Voice vote. All ayes. Motion carried.

Rep. Looyen: Moved a Do Pass as Amended on HB 1471.

Rep. Mock: seconded.

A Roll Call Vote was taken. Yes: 11 No: 2 Absent: 0. Motion carried.

Representative Rep. Meier: will carry the bill.

Proposed by Rep. Mock
February 17, 2015

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1471

Page 4, line 19, after the underscored period insert "The policy may also include limitations to language that could be defined as lewd, profane, harassing, threatening, intimidating, or defined as hate speech."

Renumber accordingly.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1471

Page 2, line 23, replace "a postsecondary educational institution" with "an institution under the supervision of the state board of higher education"

Page 2, line 29, replace "a postsecondary educational institution" with "an institution under the supervision of the state board of higher education"

Page 3, remove lines 1 through 3

Page 4, line 4, replace "4." with "3."

Page 4, line 5, replace "5." with "4."

Page 4, line 7, replace "6." with "5."

Page 4, after line 19, insert:

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

Religious and Belief-based organizations.

An institution under the supervision of the state board of higher education may not discriminate against a religious or belief-based student organization with respect to a benefit available to any other student organization, based on that organization's requirement that its leaders or voting members adhere to the organization's viewpoints or sincerely held beliefs or be committed to furthering the organization's beliefs or religious missions."

Renumber accordingly

Proposed by Rep. Rohr
February 17, 2015

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1471

Page 2, after line 19, insert:

- "5. Each school district shall adopt a written student freedom of expression policy in accordance with this section. The policy must include reasonable provisions for the time, place, and manner of student expression."

Renumber accordingly.

February 18, 2015

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2/18/15
1/2

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1471

Page 2, line 15, remove "A student enrolled in an institution under the supervision of the state board of higher"

Page 2, replace lines 16 through 19 with "An institution may not authorize any prior restraint of any school-sponsored media except when the media:

- a. Is libelous or slanderous;
- b. Constitutes an unwarranted invasion of privacy;
- c. Violates federal or state law; or
- d. So incites students as to create a clear and present danger of the commission of an unlawful act, the violation of institution or state board of higher education policies, or the material and substantial disruption of the orderly operation of the institution.

5. An institution may not sanction a student operating as an independent journalist.

6. Each institution shall adopt a written student freedom of expression policy in accordance with this section. The policy must include reasonable provisions for the time, place, and manner of student expression."

Page 2, line 23, remove "a postsecondary educational"

Page 2, line 24, replace "institution" with "an institution under the supervision of the state board of higher education"

Page 2, line 29, replace "a postsecondary institution" with "an institution under the supervision of the state board of higher education"

Page 3, line 1, remove "This section does not apply to any postsecondary educational institution that is"

Page 3, remove lines 2 and 3

Page 3, line 4, remove "4."

Page 3, line 4, after "does" insert "not"

Page 3, line 5, replace "5." with "4."

Page 3, remove lines 7 through 11

Page 4, line 12, remove "A student enrolled in a public school or the student's parent or guardian may"

Page 4, replace lines 13 through 16 with "A school may not authorize any prior restraint of any school-sponsored media except when the media:

- a. Is libelous or slanderous;

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- b. Constitutes an unwarranted invasion of privacy;
- c. Violates federal or state law; or
- d. So incites students as to create a clear and present danger of the commission of an unlawful act, the violation of institution or state board of higher education policies, or the material and substantial disruption of the orderly operation of the institution."

Page 4, line 17, after "5." insert "A school may not sanction a student operating as an independent journalist."

6."

Page 4, line 19, after the underscored period insert "The policy may also include limitations to language that may be defined as profane, harassing, threatening, or intimidating."

Renumber accordingly

Date: 2-17-15
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1471

House Education Committee

Subcommittee

Amendment LC# or Description: Page 3 line 4 to add the word "not" after does.

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Rep. Koppelman Seconded By Rep. Looyen

Representatives	Yes	No	Representatives	Yes	No
Chairman Nathe			Rep. Hunskor		
Vice Chairman Schatz			Rep. Kelsh		
Rep. Dennis Johnson			Rep. Mock		
Rep. B. Koppelman					
Rep. Looyen					
Rep. Meier					
Rep. Olson					
Rep. Rohr					
Rep. Schreiber Beck					
Rep. Zubke					

Voice Vote.
Motion carried.

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:
add word not to pg. 3 line 4 after does.
Motion passes.

Date: 2/17/15
 Roll Call Vote #: 2

**2015 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1471**

House Education Committee

Subcommittee

Amendment LC# or Description: remove "lewd" and "or defined as hate speech!"

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Rep Koppelman Seconded By Rep. Meier

Representatives	Yes	No	Representatives	Yes	No
Chairman Nathe	✓		Rep. Hunskor	✓	
Vice Chairman Schatz	✓		Rep. Kelsh		✓
Rep. Dennis Johnson	✓		Rep. Mock	✓	
Rep. B. Koppelman	✓				
Rep. Looyesen	✓				
Rep. Meier	✓				
Rep. Olson	✓				
Rep. Rohr	✓				
Rep. Schreiber Beck	✓				
Rep. Zubke	✓				

Total (Yes) 12 No 1

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:
"remove lewd and or defined as hate speech"
Motion passes

Date: 2/17/15
 Roll Call Vote #: 3

**2015 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. _____**

House Education Committee

Subcommittee

Amendment LC# or Description: amended - Mock amendment

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Rep Mock Seconded By Rep Kelsh

Representatives	Yes	No	Representatives	Yes	No
Chairman Nathe	✓		Rep. Hunskor	✓	
Vice Chairman Schatz	✓		Rep. Kelsh	✓	
Rep. Dennis Johnson	✓		Rep. Mock		✓
Rep. B. Koppelman		✓			
Rep. Looyesen	✓				
Rep. Meier	✓				
Rep. Olson		✓			
Rep. Rohr		✓			
Rep. Schreiber Beck		✓			
Rep. Zubke		✓			

Total (Yes) 7 No 6

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Motion passes

Date: 2/17/15
 Roll Call Vote #: 4

**2015 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1471**

House Education Committee

Subcommittee

Amendment LC# or Description: adopt catholic amendment but remove section 4

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Rep. Koppelman Seconded By Rep. Rohr

Representatives	Yes	No	Representatives	Yes	No
Chairman Nathe			Rep. Hunskor		
Vice Chairman Schatz			Rep. Kelsh		
Rep. Dennis Johnson			Rep. Mock		
Rep. B. Koppelman					
Rep. Looyesen					
Rep. Meier					
Rep. Olson					
Rep. Rohr					
Rep. Schreiber Beck					
Rep. Zubke					

*Voice Vote
 motion carried*

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

motion carried.

Date: 2/17/15
Roll Call Vote #: 5

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1471

House Education Committee

Subcommittee

Amendment LC# or Description: proposed by Rep Rohr; "change school district" to "institution!"

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Rep. Rohr Seconded By Rep. Schatz

Representatives	Yes	No	Representatives	Yes	No
Chairman Nathe			Rep. Hunskor		
Vice Chairman Schatz			Rep. Kelsh		
Rep. Dennis Johnson			Rep. Mock		
Rep. B. Koppelman					
Rep. Looyen					
Rep. Meier					
Rep. Olson					
Rep. Rohr					
Rep. Schreiber Beck					
Rep. Zubke					

Void Vote.

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Page 2 line 19

Motion passes.

Date: 2/17/15
 Roll Call Vote #: 6

**2015 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1471**

House Education Committee

Subcommittee

Amendment LC# or Description: add Fawa line 3 to Subsection 3 page 2 & Page 4

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Rep Meier Seconded By Rep. Rohr

Representatives	Yes	No	Representatives	Yes	No
Chairman Nathe			Rep. Hunskor		
Vice Chairman Schatz			Rep. Kelsh		
Rep. Dennis Johnson			Rep. Mock		
Rep. B. Koppelman					
Rep. Looyesen					
Rep. Meier					
Rep. Olson					
Rep. Rohr					
Rep. Schreiber Beck					
Rep. Zubke					

Vote Vote: Motion Passes

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

add to page 3+ 4 of HB 1471.

Motion passes.

Date: 2/17/15
 Roll Call Vote #: 7

**2015 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1471**

House Education Committee

Subcommittee

Amendment LC# or Description: remove line 7-11 on page 3

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Rep. Olson Seconded By Rep. Meier

Representatives	Yes	No	Representatives	Yes	No
Chairman Nathe			Rep. Hunskor		
Vice Chairman Schatz			Rep. Kelsh		
Rep. Dennis Johnson			Rep. Mock		
Rep. B. Koppelman					
Rep. Looyen					
Rep. Meier					
Rep. Olson					
Rep. Rohr					
Rep. Schreiber Beck					
Rep. Zubke					

Void Vote!
Motion Passed

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Motion Passed

Date: 2/17/15
 Roll Call Vote #: 8-

**2015 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1471**

House Education Committee

Subcommittee

Amendment LC# or Description: ^{Page 1;} line 15 after produce and p. 3 line 21 "a institution may not sanction a student who operates as an independent journalist."

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Rep. Koppelman Seconded By Rep. Rohr

Representatives	Yes	No	Representatives	Yes	No
Chairman Nathe			Rep. Hunsakor		
Vice Chairman Schatz			Rep. Kelsh		
Rep. Dennis Johnson			Rep. Mock		
Rep. B. Koppelman					
Rep. Looyen					
Rep. Meier					
Rep. Olson					
Rep. Rohr					
Rep. Schreiber Beck					
Rep. Zubke					

Vote *Vote*
motion carried.

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:
Motion carried.

Date: 2/17/15
Roll Call Vote #: 9

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1471

House Education Committee

Subcommittee

Amendment LC# or Description: 15.0825.01001

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Rep. Looyesen Seconded By Rep. Mock

Representatives	Yes	No	Representatives	Yes	No
Chairman Nathe	✓		Rep. Hunsakor		✓
Vice Chairman Schatz	✓		Rep. Kelsh	✓	
Rep. Dennis Johnson	✓		Rep. Mock	✓	
Rep. B. Koppelman	✓				
Rep. Looyesen	✓				
Rep. Meier	✓				
Rep. Olson	✓				
Rep. Rohr	✓				
Rep. Schreiber Beck	✓				
Rep. Zubke		✓			

Total (Yes) 11 No 2

Absent 0

Floor Assignment Rep. Meier

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1471: Education Committee (Rep. Nathe, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (11 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1471 was placed on the Sixth order on the calendar.

Page 2, line 15, remove "A student enrolled in an institution under the supervision of the state board of higher"

Page 2, replace lines 16 through 19 with "An institution may not authorize any prior restraint of any school-sponsored media except when the media:

- a. Is libelous or slanderous;
 - b. Constitutes an unwarranted invasion of privacy;
 - c. Violates federal or state law; or
 - d. So incites students as to create a clear and present danger of the commission of an unlawful act, the violation of institution or state board of higher education policies, or the material and substantial disruption of the orderly operation of the institution.
5. An institution may not sanction a student operating as an independent journalist.
6. Each institution shall adopt a written student freedom of expression policy in accordance with this section. The policy must include reasonable provisions for the time, place, and manner of student expression."

Page 2, line 23, remove "a postsecondary educational"

Page 2, line 24, replace "institution" with "an institution under the supervision of the state board of higher education"

Page 2, line 29, replace "a postsecondary institution" with "an institution under the supervision of the state board of higher education"

Page 3, line 1, remove "This section does not apply to any postsecondary educational institution that is"

Page 3, remove lines 2 and 3

Page 3, line 4, remove "4."

Page 3, line 4, after "does" insert "not"

Page 3, line 5, replace "5." with "4."

Page 3, remove lines 7 through 11

Page 4, line 12, remove "A student enrolled in a public school or the student's parent or guardian may"

Page 4, replace lines 13 through 16 with "A school may not authorize any prior restraint of any school-sponsored media except when the media:

- a. Is libelous or slanderous;
- b. Constitutes an unwarranted invasion of privacy;

- c. Violates federal or state law; or
- d. So incites students as to create a clear and present danger of the commission of an unlawful act, the violation of institution or state board of higher education policies, or the material and substantial disruption of the orderly operation of the institution."

Page 4, line 17, after "5." insert "A school may not sanction a student operating as an independent journalist.

6."

Page 4, line 19, after the underscored period insert "The policy may also include limitations to language that may be defined as profane, harassing, threatening, or intimidating."

Renumber accordingly

2015 SENATE EDUCATION

HB 1471

2015 SENATE STANDING COMMITTEE MINUTES

Education Committee
Missouri River Room, State Capitol

HB 1471
3/18/2015
Job # 25054 (1:13:12)

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

INITIAL HEARING

Relating to freedom of expression rights of students of public institutions of higher education and public schools

Minutes:

24 Attachments

Chairman Flakoll called the committee to order at 10:15am with all committee members present.

Alex Looyen, District 12 Representative (*see attachment #1*)

Representative Looyen: In the House Education Committee, we amended the bill about 8 times. Some things got overlooked and messed up but I do believe that these amendments are generally what the committee wanted (*see attachment #2*). They will be explained later.

Chairman Flakoll: I assume no one's grade depends upon the outcome of this bill?

Representative Looyen: No it will not.

(2:20) **Steve Listopad**, Assistant Professor of Journalism and Student Media Director at Valley City State University (*see attachment #3*)

Chairman Flakoll: What about community standards, like if they print something that wouldn't be printed in the Crosby Journal for instance?

Listopad: There was amended language from the House committee that was brought to us by the NDCEL that would address these concerns. We understand that high school is different than college. The Tinker review allows for acceptable prior review. Just like in our class, these types of things are addressed more directly than in a college environment. The bill says that each school board must mandate their own policy. We create a baseline

standard of first amendment protections for student and then school boards decide how that will be mitigated in their communities.

Chairman Flakoll: Are newspapers paid with student fees or general fund?

Listopad: Regardless of how the school is funded, if you have a newspaper or name something a public forum, that needs to follow the rules of a public forum in regards to the first amendment.

Chairman Flakoll: Would they still be able to do spoof editions?

Listopad: I would think so. The most important thing we want to protect is journalism.

(10:45) **Cathy Kuhlmeier**, of Hazelwood v. Kuhlmeier (see attachment #4)

Chairman Flakoll: how does the non-journalistic parts of advertising? They may have limits on what they may or may not print. It would stand to reason if that if you have a high school paper, the board or school administrator may say "we're not putting the specials at XYZ bar".

Kuhlmeier: There should be some limits to what's going on with it, but have that communication open with the students, don't just be the administration laying down the law. If you want to groom the students to be educated adults, let them have that opportunity.

(17) **Frank D. LoMonte**, Ex. Director of the Student Press Law Center (see attachment #5)

Chairman Flakoll: Please explain the amendments.

LoMonte: Almost every one of the amendments is a clerical clean up. For instance you will see on page 4 that there was a clarification from school policies to school district policies. It's the same with page 4 line 22 regarding higher institutions. That was just a mistake-page 4 always referred to K12 schools and it was just a glitch to have higher education institutions there.

The only thing substantive change is to remove an unintentional replication of some K12 language. We may have to amend the amendment.

If Representative Looyesen wants to restore the language that was struck, it would require an additional amendment that we will have to draft. It was an unintentional overwrite. It was not intended or discussed that that language be struck (see attachment #2.1)

LoMonte: Community standards is dealt with in the language that would provoke a substantial disruption of school events. Let's say a student were to show up wearing a T-shirt that had a gang symbol or racially hate language. They could exclude the student from school or make the student change clothing so as not to provoke a disruption of the school, that is a lawful act with or without this bill passing. That substantial disruption language as it's been interpreted over the years by the court, does include a community standard where the principal gets to make a judgment based on the conditions of the school.

Chairman Flakoll: You mentioned Benjamin Franklin and blogs versus the print. How can we ensure that there won't be a Silence Dogood situation? (Students using pen names)

LoMonte: It is my understanding that it is a standard practice in every student publication that when you get a letter to the editor or a column, you contact the person to verify the identity because people have been known to pull pranks like that.

Chairman Flakoll: but the bill is silent on that?

LoMonte: Correct, the bill wouldn't change that practice.

Chairman Flakoll: Does this affect our E-rates?

LoMonte: There is some distance between student publications versus the official curricular opinion of the school.

Chairman Flakoll: Right now a teacher in Bismarck can't use his or her Bismarck school district email to try to sway our opinions.

LoMonte: We do monitor cases across the country. It's never been a problem.

Senator Oban: What is your opinion on the House's removal of private institutions having to follow this same policy?

LoMonte: In an ideal world, you would have all institutions of higher education subject to the same standards. It was Steve's decision along with the sponsor's that because there are relatively few private state institutions, it wasn't a big sacrifice. Different states have taken different approaches. It's not the majority view of the states right now to cover the private institutions. I cannot make a compelling argument.

Senator Oban: As a graduate of University of Mary, I think they perhaps should take that seriously.

(36) **Steve Andrist**, Ex. Director of the ND newspaper Association (*see attachment #6*)

Andrist: To clarify some questions, speech is all governed by the same laws. The laws of the community standards that would be set by the school boards under this bill would still apply and the prohibition on provoking substantial disruption in the school system would remain, even if it is commercial speech. The opposition to the private schools provision in the House side came from the ND catholic conference. We feel that it would be a better law if it applied to private schools.

Chairman Flakoll: Do you have advice for these students perusing a career within the newspaper business?

Andrist: I had an opportunity to go to Century High School last week where some of the students were preparing testimony for this bill. Some of us from the industry pretended we were the members of the Senate Education Committee and asked them questions about their testimony. There are a lot of tremendous students in our state's school systems and our future is in good hands. I would tell them that you have the rights of the first amendment of the Constitution of the United States, but along with your rights come your responsibilities. Responsibility is equally important for all of the students to learn just as rights are.

(41:20) **Dr. Aimee Copas**, NDCEL (*see attachment #7*)

Copas: I noticed that two words in our amendment were removed, and I would highly recommend them being included back in amendment on page 4 lines 27-29. They were the words of "lewd" and language defined as hate speech. The precipice of this law is to define better for schools interpretations of previous U.S. Supreme Court cases. As we do that, there are court cases that greatly define how K12 schools manage school policy with regard to student expression and student freedom of rights. Those particular words are important because they reflect other U.S. Supreme Court ruling that help define how schools look at that. Since one court case in in question, I think it is important that in the school district policy we make sure not to forget those two words as well. They are

important for K12 schools. I ask that those two little phrases are returned to the amendment.

Chairman Flakoll: What would you recommend to any student who feels that they have been aggrieved by their school district in terms of their course of action?

Copas: They should follow the basic chain of command in expressing through their student journalist advisor and then through their principal and superintendent. If they don't receive the fair play, bring it to the local school board. If at that point you still don't feel like you're getting the fair treatment, they have do course of action through our U.S. legal system. I am confident that with the caliber of administrators and school board members that we have throughout the state, they would be managed appropriately within the system.

Copas: To address the E-rate concern, it would be appropriate for districts to include in their policy a recommendation for a disclaimer on any public, political pieces. Every media source would be considered the publisher of the content. A student piece of journalism still has a publisher and that publisher would be considered the school district. When we walk into things that could come into direct opposition with things such as E-rate, a disclaimer on those particular articles would be a critical piece to having that published. There is a fine line between personal opinion and opinion based on your role at work. That is where that piece of the disclaimer is important, not saying that that completely removes the school district's responsibility, but it does at least do due diligence and puts forth the right faith effort with regard to that publication.

(46:15) **Katie Winbauer**, Bismarck State College's newspaper (*see attachment #8*)

(48) **Baelee Butts**, general manager of the student media organization at Valley City State University (*see attachment #9*)

Chairman Flakoll: You have a different level of expectations when you are in the media. Often times because of social media, you will know information that is proprietary. As an example we hear someone who is killed in a car accident and you as a student may know the name before they release it. How would you view that in terms of your responsibility as a journalist?

Butts: At my last college, we had a student commit suicide. We all knew who he was before it was released. As a guideline, we would still do our duty and report it. We would never make that student sound poor, but I would still say to report like you are supposed to because news will get out ahead of you.

Chairman Flakoll: It is important about how people find out about those situations.

(52) **Jeremy Murphy**, Journalism adviser at West Fargo high school (*see attachment #10*)

(54:25) **Brittany Rheault**, Jamestown Sun newspaper (*see attachment #11*)

Chairman Flakoll: You work for the West Fargo paper up to the Jamestown Sun. I know a writer for the NDSU Spectrum and is also a writer for the Fargo Moorhead Forum. This bill only pertains to his work with the college paper and not the Forum, correct?

Rheault: Correct. This will bill will only affect the colleges and high schools. I am in the same situation as well. With this bill, it prepares us for that real-world experience.

(58:40) **Sue Skalicky**, High School journalism teacher (see attachment #12)

Chairman Flakoll: We seem to have focused mostly on print, but this applies to all media outlets, correct?

Skalicky: Correct, we also maintain news social media.

(1:03:15) **Faith Harron**, Century Star and Bismarck Tribune (see attachment #13)

Senator Oban: How would you feel going to a college that doesn't follow this policy coming from a high school that did?

Harron: That would be unfortunate. I would be disappointed but interested in pursuing a bill that would allow us to have those rights like this one and hopefully change that.

Chairman Flakoll: At one time the Bismarck Tribune had a policy for not printing any legislators' emails during sessions. If there was a hard-hitting article on a school board member, would they have recourse to submit a letter to the editor to give their positions of why they did something? Should that be mandatory?

Harron: With the Bismarck Tribune, you are allowed to send them editorials that will express your opinion. When I write an article, I try to interview people with different perspectives of the issue.

(1:08:25) **Murray Sagsveen**, Chief of Staff in the NDUS office for Chancellor Skogen

Sagsveen: There are 11 institutions and 11 student papers. The student publications use public resources to publish the papers particularly in print. During the months before the last general election, I received many inquiries concerning the ability of the student newspapers to publish anything having to do with the constitutional and initiated measures. I told them to be extremely careful because of the Corrupt Practices Act. There was a lot of attention particularly on measure 3 which had to do with the Board of Higher education and measure 7 which had to do with pharmacy related issues.

I was interested on page 2 line 19 that says "an institution may not authorize any prior restraint of any school sponsored media except when the media violates federal or state law. The Corrupt Practices Act says that "no person may use any property belonging to or leased by or any service which is provided to or carried on by either directly or indirectly the state or any agency" and so on and so forth. Political purpose specifically says to take a position in support of or in opposition to a measure- a state-wide initiated or referred measure, a constitutional amendment or so on. I want to bring it to your attention that there is one thing that student newspapers really cannot talk or publish about and that is the constitutional measures initiated or referred because it may violate the Corrupt Practices Act. If we want students in higher education to have robust discussions about these measures, you may want to look at the nexus between the Corrupt Practices Act and this bill. We have 48,000 students in the university system and they should be involved in constitutional measures.

Chairman Flakoll closed the hearing on engrossed HB 1471.

Further testimony in support of bill (see attachment #14 - #24)

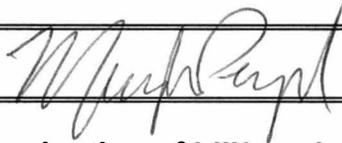
2015 SENATE STANDING COMMITTEE MINUTES

Education Committee
Missouri River Room, State Capitol

HB 1471
3/23/2015
Job # 25238 (6:47)

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

COMMITTEE WORK

Minutes:

2 Attachments

Chairman Flakoll called the committee to order at 10:30am

(see attachment #1)

Alex Looyen, District 12 Representative

Chairman Flakoll: Are you looking at those in conjunction with the amendments you handed out during the hearing?

Representative Looyen: Legislative Council incorporated my proposed amendments into this amendment. The only change I asked them to make was on page 2 lines 16-27. The reasoning for the added language was that we would have a law in the books that doesn't direct them or have any teeth as to what they can do if they are censored. It adds it in for the colleges and K12 public schools. The rest of the amendment had already been discussed and what Frank LaMont from Washington, DC had said.

Chairman Flakoll: You support both of them?

Representative Looyen: I support these amendments more so than the ones proposed during the hearing. This was the intent of what we actually wanted. We just overlooked the fact that the civil action was taken out. It was a jumbled mess when we did it in the House and I am not sure the House Education committee intended to take those out necessarily either.

Chairman Flakoll: They were in the original bill but stricken in the House? Was it accidentally included in an amendment?

Representative Looyen: It was the last bill of the first half and the Chairman wanted to ensure we got it out. We took it up right after the testimony and through that, there were seven different amendments proposed by different people. I'm not sure why they were taken out.

Chairman Flakoll: You don't think that there was consternation over this part it? Was this part of a stand-alone amendment?

Representative Looyen: I don't know when these were proposed to be taken out. I talked to Chairman Nathe and he didn't seem to have any issues with anything I was going to propose to bring back in. I don't think this was a hanging point on whether the bill would pass or not.

Chairman Flakoll: He wanted the private schools back in?

Representative Looyen: I don't believe so, no.

Testimony in opposition to potential amended language relating to "prohibiting a private postsecondary education institution from enacting policies concerning student speech" from **the North Dakota Catholic Conference** received (*see attachment #2*).

2015 SENATE STANDING COMMITTEE MINUTES

Education Committee
Missouri River Room, State Capitol

HB 1471
3/23/2015
Job # 25279 (20:48)

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

COMMITTEE DISCUSSION

Minutes:

2 Attachments

Chairman Flakoll called the committee to order at 2:10pm with all committee members present.

(see attachments #1 & #2)

Chairman Flakoll: I would be more inclined not to adopt the 2002 amendments. The 2001 amendments are included in the 2002 amendments, but the 2002 have the provision about civil action.

Vice Chairman Rust: 2001 is a clean-up. Was there any discussion about 4-6 being eliminated?

Chairman Flakoll: They would prefer that lines 15-27 would be removed.

Senator Oban: It is my understanding from the bill sponsor that the amendments he originally brought in were not correct, so he brought in 2002 which incorporates the changes that needed to be made in 2001 but also clarifies the confusion that was caused the way his original amendment was worded on page 2.

Vice Chairman Rust: If that is the case, then if you look at the difference between the two amendments with regard to pages 1-3, 2001 just removes the language completely on page 2 and 3 and on 2002, you are removing the language but reinserting civil action. 2001 removes it and does not have anything about civil action.

Chairman Flakoll: There are different sections that are involved to some extent between the two of them. Some of the discussion points had language that they were talking about removing on page 2 whereas the amendments provided with the 2002 version have removals on section 2 starting on page 2 continuing through half way down page 3 and then 1-14 which is the rest of it.

Vice Chairman Rust: 2001 does the same. Page 3 lines 1-14 are eliminated so that is the same on both. Page 2 lines 28-29 are the same on both. 16-27 is removed also with the exception of adding the portion of civil action. Line 15 removes that also. The difference

between 2001 and 2002 is that one removes it all and the other one inserts a statement on civil action as I see it.

Chairman Flakoll: Everyone seems to be in agreement with your analysis.

Vice Chairman Rust: Then it is repeated again at the bottom of 2002 with the civil action.

Chairman Flakoll: Right.

Vice Chairman Rust: If I am looking at this correctly, the difference between the two amendments is merely the insertion of penalty phases on page 2 and page 4.

Senator Schaible: I see it that way as well.

Vice Chairman Rust moves the adoption of the 2001 amendment.

Senator Schaible seconds the motion.

Vice Chairman Rust: I am not ready to get into the civil actions yet.

Senator Schaible: After the bill's sponsor gave us these, he said it didn't work.

Vice Chairman Rust: It seems like we are setting up the possibility of more than one court case if we adopt 2002.

Chairman Flakoll: Senator Schaible, is your concern with the portion on the civil liability or just the overall amendments?

Senator Schaible: The 2002 amendment is what the bill sponsor had in mind. Do we need to put language in there for someone to commit civil action? I don't think we do. I don't know what the amendments accomplish with or without it.

Vice Chairman Rust: Wasn't there some on page 4 that it was inaccurate to have state board of higher education, and is that why he wanted "school district" in there?

Chairman Flakoll: I believe so.

Senator Oban: It seems like the sponsor can't articulate to us why the civil action would be included. I can do some research, we need some clarification.

Chairman Flakoll: I would resist the amendment, but we do lack clarity. It seems like the committee seems unsure on what we may or may not wish to have.

Vice Chairman Rust: For 2002 the reason you would want civil action in there is to give the law more power. I would be willing to withdraw my motion.

Senator Schaible withdraws the second.

Vice Chairman Rust withdraws the motion to adopt the amendment.

Chairman Flakoll: Is there any interest in having the civil action provision?

Vice Chairman Rust: I am only interested in a reason as to why we would include it.

Senator Oban: I struggle to have an opinion on something I know nothing about.

Chairman Flakoll: In some cases, we put in language that is already in other sections of code. We will come back to this tomorrow.

Chairman Flakoll ends the discussion on HB 1471.

2015 SENATE STANDING COMMITTEE MINUTES

Education Committee
Missouri River Room, State Capitol

HB 1471
3/24/2015
Job # 25320 (16:42)

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

COMMITTEE ACTION

Minutes:

2 Attachments

John Bjornson, Legislative Council

(see attachment #2)

Chairman Flakoll: Do people have civil liability already without the language?

Bjornson: There certainly is the opportunity without this language to bring a civil action for a violation if a person believes they've had their first amendment or state constitutional rights violated. I assume this language is to make it absolutely clear with respect to this specific subject. Those rights are available to anybody regardless.

Chairman Flakoll: sometimes we are too redundant

Bjornson: Yes, we draft a lot of amendments that seem to be saying "and yes we mean it". I think that is what these amendments are saying.

Chairman Flakoll: When we go back and do a rewrite of the education sections in Title 15, those are the types of things that we snare out and determine that it is already covered somewhere else. We are reiterating something that they can do already?

Bjornson: Correct. It's harmless to add but probably unnecessary.

Chairman Flakoll: Do we just add those to prove that it was discussed to confirm legislative intent?

Bjornson: That is a fair statement. When it is printed in the law, it is even more verified.

Chairman Flakoll: As an example with clerks, they would go back and read the minutes and listen to the tape to uncover legislative intent?

Bjornson: Correct

(see attachment #1 & #2)

Senator Oban: In either amendment it removes lines 15-29 on page 2.

Bjornson: This comes from the result of a U.S. Supreme Court case that said that a high school principal could exercise prior restraint with respect to the publication of a student led

newspaper. There was question as to whether it applies to higher education. It was clear that prior restraint was authorized with respect to high school publications.

Chairman Flakoll: How would you define "prior restraint"?

Bjornson: It would be the government or school district denying publication in advanced.

Chairman Flakoll: The university system had some issues with the Corrupt Practices Act. If we adopt those changes with prior restraint, does that change that in any way?

Bjornson: The Corrupt Practices Act applies to the use of state resources for election related activities...

Chairman Flakoll: Case in point would be Measure 3 last fall.

Bjornson: The Act does not apply to editorials or opinion pieces.

(10:55) **Vice Chairman Rust:** He stated what I thought I was going to do yesterday. Those two statements are not necessary. I am inclined to go with amendment 2001.

**Vice Chairman Rust motions for the adoption of the 15.0825.02001 amendments.
Senator Schaible seconds the motion.**

Chairman Flakoll: Senator Oban, Are there any issues evident in the technical corrections during your discussions?

Senator Oban: No. in every discussion I had, it was the exact result that we just had with John Bjornson. Now I am comfortable with the 2001 amendments.

**A vote was taken: 5 yays, 0 nays, 1 absent
Senator Davison later votes "yes"
The motion carries 6-0.**

**Senator Schaible motions for a DO PASS for engrossed HB 1471 as amended.
Senator Oban seconds the motion.**

Chairman Flakoll: These are technical corrections that were forwarded by the bill's primary sponsor. I have visited with the Chair of House Education, and he doesn't seem to have any issues with this.

Senator Oban: I did look for the bill's sponsor this morning but was not able to find him.

**A vote was taken: 6 yays, 0 nays, 0 absent.
The motions carries 6-0.**

Senator Oban will carry the bill.

TD
3/24/15

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1471

Page 1, line 1, remove ", 15-18.1,"

Page 2, remove lines 15 through 29

Page 3, remove lines 1 through 14

Page 4, line 16, after "school" insert "district"

Page 4, line 22, replace "institution or state board of higher education" with "school district"

Page 4, line 24, replace "institution" with "school"

Page 4, line 25, after "school" insert "district"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1471, as engrossed: Education Committee (Sen. Flakoll, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1471 was placed on the Sixth order on the calendar.

Page 1, line 1, remove ", 15-18.1,"

Page 2, remove lines 15 through 29

Page 3, remove lines 1 through 14

Page 4, line 16, after "school" insert "district"

Page 4, line 22, replace "institution or state board of higher education" with "school district"

Page 4, line 24, replace "institution" with "school"

Page 4, line 25, after "school" insert "district"

Renumber accordingly

2015 TESTIMONY

HB 1471

#1
HB 1471
2/17/15

**Testimony of Rep. Alex Looyesen, D12
North Dakota House Education Committee
HB 1471, The John Wall New Voices Act
February 17, 2015**

Good morning Chairman Nathe and members of the House Education committee. For the record, my name is Alex Looyesen, representative of District 12 in Jamestown. House bill 1471 started as a class project at the University of Jamestown. The students researched current state and national laws affecting student journalists and created a rough draft of their findings. After that, several people, including some that will speak after me, continued their work and house bill 1471 is the result of all that hard work. In general, this is a bipartisan bill that addresses freedom of speech and press for student journalists and their advisors. I know there are several people here today to testify that have a lot more knowledge on this bill than I do, so in the interest of time Mr. Chairman I would ask that the committee hold their questions for those testifying after me.

Thank you.

Testimony of Steven Listopad
Assistant Professor/Student Media Director, Valley City State University
North Dakota House Education Committee
HB 1471, The John Wall New Voices Act
February 17, 2015

Thank you Rep. Looyesen, and thank you Chairman Nathe and members of the House Education Committee for hearing our testimony today.

I'm Steve Listopad, assistant professor of journalism and student media director at Valley City State University and previously at the University of Jamestown. Before my career as a journalism educator, I was a journalism student and student journalist at North Dakota State University and North Dakota State College of Science. And even before that, I was a student journalist at Wahpeton High School and reporter for The Daily News. From 1991 to 1995, I spent every day of school learning about the how's and why's of journalism from the most amazing teacher, mentor and coach I have ever known – John Wall.

It is such a great honor to be here today. To look around the room and see so many passionate and intelligent students, educators and professionals engaged in such a worthwhile civic activity is truly heartwarming. Just weeks after the House and Senate so overwhelmingly passed the mandatory civics test, to have this opportunity to turn civic knowledge into civic action with our students makes me believe that, no matter the outcome, these years of work have been worth it. This is truly a great moment for all us.

Today, you are going to hear from a variety of stakeholders in support of HB 1471 – The John Wall New Voices Act. You are going to hear from journalism advisers and their students. You are going to hear from professional journalists. You are going to hear from national leaders and experts on the subject. And the reason you're going to hear from us is because we can *speak* to you – that's the First Amendment in action. But not all North Dakota students are as lucky as those in this room. Not all students in this state are allowed to speak to you. Not more than three weeks ago, I called a high school newspaper adviser in our state to let them know about the John Wall New Voices Act. I had hopes that the adviser would be able to share the information with the students and that, at the very least, the students would be interested in doing a story on the bill. I barely got through the first sentence when I was cut off. The adviser told me the students working for that particular newspaper in that particular school district could not report on anything political. That could've been the end of the conversation. But I, and the rest of the supporters of the John Wall New Voices Act, will carry on that very important conversation right here, today. A conversation about the fundamental expression rights of our young people, about the failure of the Hazelwood Supreme Court decision as an educational standard

for student journalists, about the need for student journalists to be civically engaged – not just for them, but for all of us, and about how we can make North Dakota a better place for the new voices emerging everyday to learn, grow and engage.

The John Wall New Voices Act was conceived at the University of Jamestown as a class project in the spring of 2013. UJ is a private school yet President Robert Badal has supported his students, faculty and this bill from the very beginning. The UJ students that wrote this bill not only sought to codify their own expression rights into law, but to protect those rights for all students in our state. I am so proud of them, and I am honored to help carry the torch as they have moved into their careers.

The John Wall New Voices Act will do three things: It will Restore the Tinker Standard in our public high schools. It will Protect our public colleges from the encroachment of Hazelwood to higher education via the 2005 Hosty v. Carter decision. And it will Extend the First Amendment freedoms journalism and journalists need to private colleges, similar to California's Leonard Law. All of the background research leading to this bill, including similar bills passed in other states, can be found on the bill's website - www.newvoicesnd.com.

Gene Policinski, executive director of the Newseum and First Amendment Institute said, "We are creating a generation that takes no for an answer." With the John Wall New Voices Act, we have a chance to do something about it. I know that Mr. Wall followed the Tinker Standard, which says that there must be evidence of substantial disruption to justify censorship. I know because I lived his principles every day for four years of my life. I am so glad that Margaret Wall could be here today. Mr. Wall's students from his 30 years as a journalism educator will be carrying on his values and bringing his lessons to future generations. This bill is one more invaluable lesson from Mr. Wall. Hazelwood was only a few years old when I first met Mr. Wall. Even in the new Hazelwood environment, Mr. Wall allowed us to take on stories of corruption and embezzlement in our schools. And now at a high school in our state, 27 years after the Hazelwood decision, our students don't even have the right to report on this bill – a bill about them, for them, and by them. And that high school is certainly not alone. Hazelwood's deleterious effects can be felt all across the state at every level: school boards, principals and advisers pulling stories, cutting budgets, stopping the presses, firing advisers, and cutting whole programs just to exercise a measure of control that is both invasive and ineffective. The two high schools you'll hear from today, Bismarck Century and West Fargo, are in the minority. These high schools honor the values of journalism education and civic life by respecting their students' right to choose the stories that are important to them. The accolades, the scholarships, and the careers that come from this effective educational method are testimony to its efficacy. And the fact that this

room is full of those students is testimony to the civic responsibility that is ingrained in students that we allow to own their words.

This is truly a great day.

Next you're going to hear from Frank LoMonte, executive director of the Student Press Law Center, and one of the leading national experts on law pertaining to student journalists. Mr. LoMonte is one of the best people in the country to answer the questions concerning how this bill will work and how it will affect us.

But first I want to thank all the supporters of the John Wall New Voices Act, including, but not limited to: the bill's sponsors, representatives Looyesen, Haak, Mock, and Becker, and senators Grabinger and Luick. The North Dakota Newspaper Association and its membership. The Journalism Education Association and the Northern Interscholastic Press Association. President Badal and The University of Jamestown. Mary Beth Tinker, Cathy Kuhlmeier Frey, Frank LoMonte and the Student Press Law Center. The journalism department at Kent State University and College Media Association. All the national organizations that have passed resolutions to support bills just like this one. All the states that have tried and succeeded and tried and failed to pass bills just like this one. All the educators, administrators, and professionals in North Dakota and beyond who have reached out to us with advice and support. The six students that started all of this: Peter Odney, Masaki Ova, Dan Arens, Jessee Boyle, Ashley Domino and the late Josh Berg. Those six, and all the students you see in this room today, and all the students across this state are the New Voices. We need to teach them about civic facts, but we also need to teach them about civic engagement. We don't want the new voices in our world retreating to the dark recesses of the Internet to have important conversations. We want those conversations to happen in the light of day, where they can be cared for and nurtured - like Mr. Wall did for me and so many others. Our New Voices - We need to hear what they have to say - we need to hear what they ALL have to say. And only HB1471, the John Wall New Voices Act, can make that happen.

Thank you.

**Testimony of Frank D. LoMonte
Executive Director, Student Press Law Center
North Dakota House Education Committee
HB 1471, The John Wall New Voices Act
February 17, 2015**

It is a distinct honor to be invited to share information about the law governing the rights of student journalists with the Committee. Since 1974, the nonprofit Student Press Law Center has been the leading source of information about legal issues of importance to the student media. The attorneys of the SPLC publish the widely used reference text, *Law of the Student Press* (4th ed. 2013), recognized as the nation's most comprehensive compendium of legal research about student media. Our free attorney hotline receives some 2,000 requests for assistance every year from students and educators in all 50 states. The SPLC was established to assist students facing institutional roadblocks when they seek to gather information and share ideas.

Student journalism is essential to educated, civically aware communities

Student media is one of the most popular extracurricular activities in schools everywhere. While no comprehensive "census" of student journalism exists, researchers at Kent State University conducted an instructive survey of 4,000 public high schools across America in 2011 and found that 96 percent offered at least one student media outlet (print, online or broadcast). There are more than 11,000 student newspapers in public high schools alone, outnumbering professional newspapers by 3,000. By far, the majority of journalists in America work on school and college campuses, not in salaried professional positions.

Americans have never in their history been more dependent on students to bring them the news on which they rely. According to a July 2014 study published by the Pew Research Center, at least 14 percent of all of the journalists covering state Capitols are students, and in four states (Arizona, Kansas, Missouri and Nevada) student journalists actually outnumber salaried professionals. The Knight Foundation has called on college journalism programs to re-imagine themselves as "teaching hospitals," serving the basic information needs of their communities in the same way that medical schools use medical students to serve communities' health-care needs.

Coverage of education issue is especially reliant on the work of students, because the number of full-time education reporters has dwindled alarmingly. In a December 2009 study ("Invisible: 1.4 Percent for Education is Not Enough"), the Brookings Institution found that only 1.4 percent of mainstream news coverage (print, broadcast and online) is devoted to education, and most is crisis-driven (campus violence, disease outbreaks) and not about education policy issues. As part of the solution, the Brookings report called for an end to school censorship of student journalism: "Some school officials discourage student reporters from asking difficult questions or raising controversial issues. In fact, student journalism of this kind should be encouraged. Student newspapers often lead the media to important education stories."

The Supreme Court's *Hazelwood* ruling has damaged the quality of education

Every authoritative group involved in journalism education and training has gone on record condemning the level of school control contemplated by the Supreme Court's 1988 ruling in *Hazelwood School District v. Kuhlmeier* as educationally unsound. During 2013, the 25th anniversary of the *Hazelwood* decision, resolutions calling for schools and colleges to cease reliance on *Hazelwood* were unanimously enacted by the Society of Professional Journalists (SPJ), the Journalism Education Association (JEA), and the Association for Education in Journalism and Mass Communication (AEJMC). These are the largest organizations in the country representing, respectively, working professional journalists, high school journalism educators, and college journalism educators. The wording of the SPJ resolution exemplifies the sentiments: "[I]t is well-documented the *Hazelwood* censorship clause impedes an educator's ability to adequately instruct and train students in professional journalistic values and practices, including the right to question authority and investigate performances of governance."

Laws protecting student press freedom are proven to be safe and effective

The Constitution provides a floor, not a ceiling, on the rights that state and local governments may extend to their citizens. Seven states (Arkansas, California, Colorado, Iowa, Kansas, Massachusetts and Oregon) statutorily provide students enhanced press freedom above the minimum recognized by the Supreme Court in *Hazelwood*.¹ Three other jurisdictions – the District of Columbia, Pennsylvania and Washington – do so by way of State Board of Education regulation. The combined experience of these 10 states with legislatively mandated press freedom exceeds 175 years; in all of that time, there has not been a single reported case of a school or college being successfully sued over material published in a student news outlet. A study published in 2013 in the *Maine Law Review* could find only six instances – three in California, two in Massachusetts and one in Iowa – in which a student free-press statute had ever been raised in litigation. The experience of these states is that, by clarifying the bounds of school censorship authority, such statutes avoid more litigation than they enable.

Reversing the impact of the Supreme Court's 1988 *Hazelwood* ruling merely restores the sensible balance that existed before 1988 – the standard set by the Court in *Tinker v. Des Moines Independent Community School District* (1968). Under *Tinker*, the school may prevent or punish speech that threatens a "substantial disruption" of school activities – something more than just a strong exchange of differing opinions. *Tinker* is far from being an "anything goes" standard – in fact, it is the standard that applies today to students' T-shirts, hairstyles and other "non-curricular" forms of speech, to which schools have become accustomed over the last 47 years. Rolling back *Hazelwood* merely gives a student the same (limited) level of First Amendment protection on the editorial page that she has on the T-shirt she wears to school.

¹ Illinois protects only college and not high-school journalists. See 110 ILCS 13/1 ("the College Campus Press Act").

Testimony of Mary Beth Tinker to House Education Committee
Regarding John Wall Youth Voices Act

February 17, 2015

To Chairman Mike Nathe and the House Education Committee

Thank you for your interest in student journalism and for holding this hearing. At a time when schools across the country are searching for ways to engage students in civic action, you are giving the students of North Dakota a valuable civics lesson. And, at a time when many citizens, including students, question whether their voices will be heard, you have welcomed and encouraged the voices of young people.

The John Wall Youth Voices Act is fine example of civic action on the part of young people. Students themselves identified a problem, proposed a solution, and are seeking a change in public policy through the legislative process. I urge you to give your support for this bill and for the students of North Dakota.

In doing so, you will give a vote of confidence to students like Peter Odney, one of the journalism students at the University of Jamestown who developed and championed this bill. When I asked him why he had done that, he said that recently, as editor-in-chief of The Collegian, he wanted to include all opinions about the change in the school's name from Jamestown College to the University of Jamestown.

He knew that some of those opinions might not be popular, and that some might even be seen as controversial, but he didn't want to leave anyone out or censor anyone. So, he helped create the John Wall Youth Voices Act because "If you take away student voice, students don't have any incentive to take part in the democratic process. They feel that they're being told, 'we don't trust you to do what's right.'"

Peter is proud that the John Wall Youth Voices Act has gone from a small kernel of an idea to proposed legislation, saying "that's kind of the whole point of democracy, isn't it?" He follows updates on the bill on the facebook page that he and students created.

Peter's contribution and that of others is "kind of the whole idea of democracy." You, as policy makers, now have a chance to show students like Peter that you agree, and that you have faith in students to rise to the challenges of our democracy.

When I was young, I knew what it was like to be told not to have an opinion, not to use my voice, and not to take part in democracy because I was too young.

I grew up in Des Moines, Iowa, where I studied lessons at school, but also learned the values of my family and the Methodist church where my father was a minister. Christian ideals of peace, love, and brotherhood were deeply ingrained, and only became stronger when my family became involved with the Quakers.

The year I turned 13- 1965- was a sad time for me as and our country. That Christmas, my father read bible verses and lit the yule log, but on TV we saw the horror of the Vietnam war. Children ran from huts and soldiers lay in body bags. In our midwestern community, boys not much older than my brothers were being drafted for the war.

My siblings and a few friends decided to wear black armbands to school that Christmas to mourn the war dead and support a call for a Christmas truce. All we knew was that we wanted to express our feelings about the war.

But when the principals heard our plan, they passed a rule against armbands, saying that students who wore them would be suspended. We tried to change their minds, and talked with the principals, the superintendent, and the school board. Some school board members voted in our favor, but they were outnumbered and we were suspended.

In 1969, the U.S. Supreme Court had the final say. It ruled by 7-2 that students in public schools do have free speech rights, and that students- and teachers- do not “shed their constitutional rights to freedom of speech or expression at the school house gate.”

It was a landmark ruling, a vote of confidence in students everywhere. Some people predicted that the ruling would be a disaster, that students would abuse their rights and cause havoc in the schools. But no such thing happened. “Tinker v Des Moines Independent Community School District” became a precedent for student speech rights.

After the ruling, I grew up and became a pediatric nurse, working with teenagers in schools, clinics and hospitals. I learned that students do better, and are even healthier, when they have input into their schools and their lives. I learned that schools where students have a voice are schools where students succeed, and want to be.

No wonder students are more likely to graduate from such schools, with thriving journalism programs, student councils and student government. In such schools, students feel valued as members of their schools and the larger community.

With the John Walls New voices Act, you have a chance to send a vote of confidence to students, students like Faith Harron, a reporter for the Century Star at Century High School in Bismarck. Faith writes about military families, but also wrote about this bill for the Bismarck Tribune.

She said the bill is important because “Journalism helps us be informed and connected in the world... to tell important stories that otherwise people might not hear.”

Show Faith that her voice matters. Students are the future, but they are also the present, and they are asking for your support.

Thank you,
Mary Beth Tinker
Washington DC

**Testimony of Steve Andrist
Executive Director, North Dakota Newspaper Association
Before the North Dakota House Education Committee
re: HB 1471 -- The John Wall New Voices Act**

Mr. Chairman and members of the committee: My name is Steve Andrist, and as executive director of the North Dakota Newspaper Association I represent the 79 weekly and 10 daily newspapers in the state.

The NDNA Government Relations Committee and the NDNA Board of Directors have both adopted resolutions in support of HB 1471. Here's why.

Journalism, and newspapers in particular, are alive and well in North Dakota. We know from research conducted last year that more than 83 percent of North Dakota adults regularly read a local newspaper. Even three quarters of young adults, those who everyone says get their news in different ways these days, regularly read a newspaper. Some read it in print, some on a tablet or computer or mobile device. But whatever form they choose, they are reading content generated by journalists working for newspapers.

Like most industries, newspapers see our youth as our future. For that reason we have been putting more and more of our resources into educating both high school and college students about the role that journalism plays in maintaining vital communities and an informed electorate. We are providing paid internships, higher education scholarships, and even news fellowships in Washington, D.C.

It is important that students who may choose careers in journalism are educated using the same tools as those used by their professional counterparts. We certainly wouldn't teach journalism without giving students access to computers and mobile devices that assist in gathering and disseminating information and images. Nor should we teach journalism without giving students the same rights to free speech and government transparency as those afforded to professional journalists.

HB 1471 gives those tools to our students, to our state's future journalists, and therefore we respectfully request your support by voting favorably on it.

Testimony of Jeremy Murphy
West Fargo Public Schools publication adviser
North Dakota House Education Committee
HB 1471, The John Wall New Voices Act
February 17, 2015

First, thank you to the representatives for having me and allowing my students to be a part of this process. As a journalism adviser for the last 10 years and a professional journalist before that, I'm always looking for moments they can experience government in action and it doesn't get more valuable than this. I was thinking about them participating in this process and it reminded me of a quote I heard last week from political consultant David Axelrod. He said, "Government is the vehicle by which we make progress and make the world a better place."

This quote rings true to me because I have the same forward-thinking philosophy. I know there are numerous ways to evaluate the success of a teacher, but to me one of the most valuable is the success of that teacher's students after they leave the classroom.

For the last few years, I have been fortunate enough to work as a publications adviser in a district that values student journalism. Students have flourished in this environment, starting a new broadcast program, working with district officials during open records requests, starting a literary magazine, visiting top state officials, collaborating with local media and winning numerous state and national awards and scholarships. All of which has been student-directed.

It hasn't always been that way in West Fargo. The national and state recognition was still there, but the supportive district officials were not. As an adviser, I encouraged a collaborative, student-run environment no different than the one we have today, but I was removed from my position. That is why this bill is so important to publications programs around the state. It will provide all students with an opportunity to thrive and gain skills today's workforce deems necessary.

As a forward-focused adviser, I'm looking for ways to allow students to practice skills that will give them the best opportunity to be successful in their future endeavors. The National Association of Colleges and Employers says the top skills employers want in new hires includes: critical thinking, communication, collaboration, time management, data analysis, technical knowledge, writing, editing and marketing skills. I have also had the opportunity to visit with multiple employers in the Fargo-Moorhead area and they echo these results. If you visit any of the top publications rooms in the state, you will see students practicing these skills in a real-world, student run environment every single day. But currently, that environment is only possible in a supportive situation like we have in West Fargo today.

I have been on both sides of the spectrum, from a restrictive environment to an expressive one. If we really want students to attain these skills, and as a result, make the world a better place like Axelrod suggests, this bill is a necessary step in that direction.

**Testimony of Emily Chadwick
West Fargo Public Schools journalism student
North Dakota House Education Committee
HB 1471, The John Wall New Voices Act
February 17, 2015**

The past three years I have had the amazing opportunity to be a part of West Fargo High School's journalism program through which I have been able to flourish and openly express myself in the environment. The program has provided me with the skills that are necessary to be a professional journalist. I have been able to take on the responsibility to write and report about sensitive topics without the worry of administrative disapproval, because my school is not subject to prior review the opportunities for our news staff are endless. This has caused us to develop a state winning newspaper along with being nationally recognized. With this said I want the same opportunities for the other staffs in North Dakota.

I believe that if this bill is passed schools will have the opportunity to expand their journalistic views in order to properly train students in real world journalism. As a student journalist we want nothing more than to be treated professionally but if we are censored it becomes harder to report the stories that need to be told, thus discouraging our duties as reporters.

As a student it should be our right to know what is going on in our school and community. We are the future generation of this state, we should know what is going on around us and our voices should be heard.

Testimony of Logan Ahern
West Fargo Public Schools journalism student
North Dakota House Education Committee
HB 1471, The John Wall New Voices Act
February 17, 2015

First and foremost, I am a journalist who has a strong passion in reporting the most relevant news and information to the community. This journalist drive influenced me to apply for the Al Neuharth Free Spirit Scholarship to learn from professionals and better myself by hearing the perspectives of students from across the nation.

I was eventually awarded the scholarship and on my trip to Washington D.C., I was able to interact with students and to my surprise, I learned that each had dealt with issues regarding the first amendment in each of their schools. Student journalists were inhibited in their creativity and passion because of their first amendment rights taken away from them by the school. I heard stories of students having their stories stripped from their publications only because their administration believed it reflected badly on themselves.

In my publication at West Fargo High School, the Packer newspaper, we are completely self-funded so we do not have to go under any prior review from our administration. This gives us the ability to ethically report any events going on in our school respectfully delivering the most current and accurate news to our community. Without this benefit we may not have had the opportunity to report on the firing of a football coach or the freedom of expression being limited in music departments.

I am a strong believer in First Amendment rights and our generation cannot afford to be without them. As a Free Spirit alumni I have learned the importance of the freedom of speech, freedom of the press, freedom of religion, freedom of petition and freedom of assembly. These rights have allowed student journalists in the publications I am involved in and all over the country fight to never take no for an answer.

Testimony of Susan Skalicky
Bismarck Public Schools journalism educator
North Dakota House Education Committee
HB 1471, The John Wall New Voices Act
February 17, 2015

My name is Sue Skalicky. I am a journalist and have been one for over 25 years. I have been a high school journalism teacher at Century High School for almost ten years. But, one of the most rewarding things I have ever done professionally is to advise high school publications at Century. Over the past ten years, I have witnessed teenagers wrestle with making decisions in the classroom, decisions that will have a public impact. And, instead of telling them what to do, I've asked them to recall what they've learned about their First Amendment rights and the responsibilities that come with those rights. In the end, it has been thrilling to watch them wrestle with options, discuss the impact of each option, and decide how to move forward.

I've been privileged to offer advice, proud when students have applied responsibilities to their First Amendment rights, and amazed when they have far exceeded my expectations for a high school journalist. I have been the proud adviser of a Robert F. Kennedy award for adversity winner, five Free Spirit national award winners, and countless JEA/NSPA national individual and publication award winners. Because of the freedom to practice professional journalism in an educational setting, without prior review and censorship, my students have been able to not only fulfill, but clearly surpass, this year's staff-written mission: "*To inspire the Century High School community to engage in sustained partnerships in the greater Bismarck community, impact local business and government, and ignite positive community change and enhanced student learning.*" I have yet to meet any Century journalism students who have a desire to run amok with their First Amendment freedoms, abusing the privilege. But, I have met many young men and women who have wanted to make a difference by "seeking the truth and reporting it," and they have done just that - not just once, but over, and over, and over again.

Even the threat of censorship hinders student free speech and a free scholastic press, because the students aren't allowed to explore every possibility. Instead, they are spending their time and energy trying to contain their thoughts and ideas within the boundaries of a lesson, the only impact being that on their GPA. Students with First Amendment freedoms naturally collaborate, think critically, exercise creativity, and communicate professionally, because they are motivated to make a difference in matters important to them, their peers, and their community.

If the John Wall New Voices Act passes in the state of North Dakota, all journalism students in our state, both in high school and college, will be able to freely explore what matters to them and their peers, and make a difference by inspiring, impacting, and igniting their schools and larger communities with their words and voices.

Thank you for your consideration of this extremely important bill.

I have two students here with me today to share their experiences with First Amendment rights in a school setting, both high school (Kacey Peterson) and college (Carrie Sandstrom).

Testimony of Kacey Peterson
Bismarck Public Schools journalism student
North Dakota House Education Committee
HB 1471, The John Wall New Voices Act
February 17, 2015

My name is Kacey Peterson and I am the current Editor of the Century Star, the monthly newsmagazine at Century High School. I oversee the magazine staff from the day we brainstorm story ideas to the day we pass it on to our readers. Some months run smoothly and other months we face tough decisions about our content.

Our main focus this year has been community engagement. Our goal with community engagement is to start and maintain a conversation with the CHS student body and our community. In order for this conversation to be beneficial to both sides, we need to decide what our readers need to know.

Sometimes the decision about what to publish can be difficult. In that case, we start by consulting the staff and collecting ideas. Next, we consult our adviser. Advice from our adviser usually is a reminder of our First Amendment rights and of the responsibility we carry to uphold those rights. That responsibility plays a significant role in how we decide whether or not to publish certain stories. If we were a censored magazine, this advice may sound like, "Stay within the guidelines and don't upset anyone." We may not be able to publish stories about such things as teen pregnancy, eating disorders, or racism- all topics that have an impact on our student body.

When we, the Century Star staff, make our own decisions, it motivates us to do the most professional job possible. If our adviser, or an administrator, were to make all the decisions about what we could or could not print, we would only be motivated by a grade and we wouldn't be able to feel the same sense of pride we do now. Instead, we have the privilege of "Inspiring, Igniting, and Impacting" our peers at Century and the community with news we believe they need to hear.

Thank you for your consideration of the John Wall New Voices Act.

Testimony of Carrie Sandstrom
University of North Dakota journalism student
North Dakota House Education Committee
HB 1471, The John Wall New Voices Act
February 17, 2015

Hello, my name is Carrie Sandstrom and I am a junior at the University of North Dakota double majoring in communication and international studies. During my short journalism career, I have worked for a variety of publications — serving as assistant editor for the Century High School newspaper and editor-in-chief of UND's Dakota Student newspaper. I have also had the privilege of interning for the Bismarck Tribune during my senior year of high school and of working in the Grand Forks Herald's sports department.

At the various publications I have worked at, I have had the ability to learn from professionals in the field and from teachers and advisers who have taken it upon themselves to usher in the next generation of journalists. Through these experiences, I have been impressed both with the requirements of the job and the responsibility it carries with it. But for students, I have come to learn that one of the most important factors for telling the stories we encounter is the ability to print them freely. It is because I believe in the power of the press and the importance of protecting it that I am pleased to stand before you and urge you to pass the John Wall New Voices Act.

During my time at high school, as part of one of my first experiences with student journalism, I found myself caught up in a story. A story that, unlike many I had covered before, was not clear cut and did not offer the instant gratification of an easy piece. It started when I noticed that water bottles purchased through the school cafeteria cost 25 cents more than their school-run vending machine counterparts. The price discrepancy intrigued me, and I ended up spending over a month hunting down the cause. After speaking with school administrators, representatives from the water bottle provider and others, I wrote a short 200-word story outlining the price difference and just why students were paying more in the cafeteria. The piece ran in one of the last issues of the Century Star for the year, and when students returned to school following summer break, we were greeted with uniform water bottle prices throughout the school. This small change — measured literally in cents — provided me with a priceless lesson: Student journalists have the power to create meaningful change in our schools.

However, it was not until I began my collegiate newspaper career that I learned firsthand that student journalists have the power not only to impact their schools but the community at large, as well. Unfortunately, unlike my time at Century High School, I found college journalists, at least at UND, face much more

administrative pressure than I felt during my high school career. Perhaps it is because instead of a circulation of 1,500 students the "Dakota Student" reaches 15,000, perhaps it is because instead of coming out once a month, the "Dakota Student" came out twice a week, perhaps it's all just a fluke. Regardless, during my time as Editor-in-Chief of UND's only student newspaper, I found myself constantly on the defensive.

There was a period early in the fall of 2013 when several high-level pink slips were being handed out as quietly as possible. As one of the few means of holding administrators accountable for their actions, it was my obligation to assign and publish a series of articles documenting the firings. As a student and a student employee, I spent many long nights worried that I would be the next person told to pack up their desk.

The stories we wrote were valid. They were important. And they were necessary. And the fact that as journalists we were afraid we would be fired or have our academic careers threatened for writing stories that were valid, important and necessary simply because the journalists that wrote the stories were students is unacceptable.

We were lucky. The fear of being fired can never compare to the reality of my peers at other schools and in other states who have lost their jobs for doing their jobs. But luck cannot replace legal protection. Not with something so important. Not when lives and futures are the price of a change in fortune. Not when the truth and the ability to tell it is on the line.

The words we write matter.

They impact those who read them.

They create change.

But only if they are heard.

The freedom of student presses should not and cannot be contingent upon the moods of the administration. The stories we are telling are too important. Students have the ability to create change, but you have the power to protect it. I urge you to do so by passing this bill.

**Testimony of Cathy Kuhlmeier Frey (in absentia)
Hazelwood School District v. Kuhlmeier
North Dakota House Education Committee
HB 1471, The John Wall New Voices Act
February 17, 2015**

Our expectation of today's youth is to become well-educated and responsible adults so that they can become leaders for our future. It is our teachers' responsibility to teach these young people and to spark an interest in their lives, which can be accomplished in many different arenas.

My spark just so happened to have come in the area of journalism. Our teacher did his job of growing our minds and ambitions, leading us to want to help educate our student population to make wise decisions for their futures. Our principal was afraid of those facts presented before him about teen pregnancy and divorce, and made an uneducated decision to censor the student paper. Little did any of us know at that point in time in May of 1983 where that decision would lead us. It is hard to imagine that his decision thirty plus years ago would have snowballed into a landmark decision still affecting our students of all ages today.

It is troublesome for me as a parent of a high school journalist to hear my own son come home and tell me his paper is not allowed to cross a threshold of some topics because of the Hazelwood decision. I guess things have really come full circle to see this affecting my children today. It is my hope that more states will work towards passing anti-Hazelwood laws or student expression bills such as the case here so that we as a country can do a better job of educating our students in the future and giving them a clearer picture of real life issues and to put a stop to censorship.

**Testimony of Kent State University (in absentia)
Center for Scholastic Journalism
North Dakota House Education Committee
HB 1471, The John Wall New Voices Act
February 17, 2015**

The Center for Scholastic Journalism at Kent State University offers its support for the John Wall New Voices Act, proposed legislation intended to strengthen the free expression and free press rights of high school and college students in the state of North Dakota.

As a national clearinghouse with information for and about student journalists and their advisers, a research center on issues affecting scholastic media, an educator of journalism teachers and an advocate for student press freedom and the First Amendment, the Center understands the devastating impact censorship can have on young people's appreciation for fundamental First Amendment values. We believe this proposed legislation will help North Dakota schools produce more dedicated and ethical journalists as well as more engaged citizens.

The Center for Scholastic Journalism is a project of the School of Journalism and Mass Communication at Kent State University in Kent, Ohio. It is supported by an endowment from the John S. and James L. Knight Foundation.

Mark Goodman

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**Testimony of JEA Board of Directors (in absentia)
Journalism Education Association
North Dakota House Education Committee
HB 1471, The John Wall New Voices Act
February 17, 2015**

The Journalism Education Association, the largest organization in the country for journalism teachers and student media advisers, endorses the New Voices Act proposed by North Dakota educators for the 2015 legislative session. Such an endorsement reflects our mission and beliefs, including active defense of First Amendment freedoms and journalistic responsibilities. The Act's purpose — to restore and preserve student expression at both the secondary and collegiate levels — is an integral part of learning that must go on in our schools. Allowing students to make content decisions and be in charge of their own media lets them practice critical thinking, researching, interviewing, writing, editing and creating visuals while collaborating with other staffers to produce a product for an audience. Students also learn how a free and responsible press can improve their school communities by informing, entertaining and influencing their audience. They model civics in action so not only the student journalists see how democracy works, but also those who read and view their media. The New Voices Act has a sound educational foundation that will benefit North Dakota students far beyond their journalism newsrooms.

Education Week magazine just this morning published my column and a companion piece by censored Pennsylvania student editor Gillian McGoldrick, in case you are interested. I will paste the text of my column below.

<http://www.edweek.org/ew/articles/2015/02/18/dont-silence-young-journalists.html?qs=LoMonte>

<http://www.edweek.org/ew/articles/2015/02/18/my-high-school-mascot-is-offensive.html>

In Illinois, a student editor's plan to engage teens in the local school board election by hosting an online candidate forum on the website of the student newspaper is scuttled when her superintendent cancels the forum, explaining: "Too much could go wrong."

In New Jersey, a student editor is forbidden from publishing a story about multiple employee grievances filed against her district's superintendent, a fact publicly aired at a school board meeting covered only by high school reporters. The principal tells the editor that "personnel issues" are categorically off-limits for student publications.

In Wisconsin, a student editor is punished for a searingly candid magazine article interviewing survivors of sexual assault. It's an article hailed by experts in the field as sensitively done journalism of professional caliber, but which her superintendent considers "inappropriate" for teen readers.

These students share two qualities with Gillian McGoldrick, who has suffered withering attacks—up to and including a threat of criminal charges—from a school board bent on silencing her editorial crusade against her Pennsylvania high school's racially offensive mascot.

Related: "My High School Mascot Is Offensive," (2015)

These student journalists are all victims of a pervasive mentality elevating school image control over educational quality. And they're all women.



—iStockphoto

Censorship has always been with us. The Student Press Law Center was established in response to a groundbreaking study, "**Captive Voices**," which concluded 40 years ago that journalism students and teachers were being driven from the newsroom by administrative censorship—"the fundamental cause of the triviality, innocuousness, and uniformity that characterize the high school press."

But in recent years, K-12 school administrators have become unapologetically heavy-handed in retaliating for speech that may provoke controversy or reflect unfavorably on the school's image. Disproportionately, because student journalism is increasingly a female-dominated activity, those bearing the impact are young women—women like Kylie Sposato of Pemberton Township, N.J. When Ms. Sposato tried to publish a column decrying lax enforcement of her high school's anti-smoking policies, her principal vetoed the article, removed a journalism teacher with 20 years of professional newspaper experience, canceled the news-writing class, and ordered the students not to write about being censored.

When schools are challenged over the misuse of censorship authority, they invariably fall back on the same tired rationalization: The law allows it.

With narrow exceptions, that's probably true. In a 1988 ruling, *Hazelwood School District v. Kuhlmeier*, the U.S. Supreme Court divested students of meaningful First Amendment protection when they use a school-subsidized outlet to convey a message. But "it's legal" is not a justification. Schools hold students and teachers to a standard of optimal behavior, not minimally legally compliant behavior. Just ask the teachers who've been fired for griping about their supervisors or sharing racy photos on Facebook. "Poor judgment" is regularly regarded as a firing offense, except when you're a principal, and the "judgment" involves your students' rights.

Schools do not serve lunches with an eyedropper to make sure that no student receives one calorie more than the minimum to stave off starvation. Yet many apportion free-expression rights in exactly that way, enforcing policies cribbed straight from Justice Byron White's *Hazelwood* opinion, which sets the floor for the least protection the law allows. State school boards' associations even publish *Hazelwood*-based "model" policies, as if "barely legal" were an ideal to aspire to.

The public is entitled to expect schools to aim for a standard higher than "the worst thing we can do to kids and get away with it." Federal law allows employers to pay a **\$7.25 per hour minimum wage**, but we would not consider \$290 a week to be "model" compensation for teachers. We would regard it, accurately, as "one penny away from unlawful."

"How schools treat their young journalists matters because a news-literate public matters."

Debating whether censoring the discussion of controversial subjects is legal distracts from the question that really matters: whether it is educationally responsible.

During 2013, the 25th anniversary of the *Hazelwood* ruling, the nation's largest organizations of professional journalists, college journalism educators, and high school journalism advisers adopted resolutions condemning reliance on the *Hazelwood* standard to suppress the discussion of issues of public concern. **An August 2013 declaration from the Society of Professional Journalists** explains that "it is well-documented the *Hazelwood* censorship clause impedes an educator's ability to adequately instruct and train students in professional journalistic values and practices, including the right to question authority and investigate performances of governance."

It's tempting to say that principals and superintendents shouldn't be second-guessed because they have demanding jobs. But it is always "easier" for government officials to ignore individual rights. It would be "easier" to solve crimes if suspects could be beaten until they confessed. Respecting constitutional values means doing things the hard way because it is also the right way.

It can be tempting, too, to trivialize "high school journalism" as unworthy of adults' concern. But we wouldn't mistreat and miseducate students in geometry class and shrug it off as "just a bunch of high school math."

How schools treat their young journalists matters because a news-literate public matters. **The Pew Research Center reported in 2013** that news readership had fallen to historic lows, with two-thirds of Americans 34 and younger reporting they read no daily newspaper, about half the rate of their parents. Building healthy news-consumption habits must begin in schools, starting with news that's relevant and accessible to students' lives. It matters because students are the "embedded journalists" on which the entire community depends for reliable information about schools' shortcomings. Image-obsessed schools are making meaningful news coverage more difficult than ever for the dwindling ranks of newsroom professionals. **In a survey of 190 journalists**, released in March by the Education Writers Association, 71 percent said they'd been blocked by media-relations officers from interviewing school employees.

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It matters because journalism, alone among school activities, teaches the five competencies that, according to a **2010 survey of 450 executives by the U.S. Chamber of Commerce**, employers value most in new hires: ability to learn new skills, critical thinking and problem-solving, teamwork, interpersonal-communication skills, and "ability to analyze and synthesize information." This blueprint for a 21st-century-ready workforce reads like the syllabus for Journalism 101.

It matters more today than ever, because the precarious future of journalism depends on the leadership of the strong, opinionated young women whose voices schools are most determined to silence.

In September, Harvard's Nieman Foundation released "**Where Are the Women?**"—a dismal study of gender diversity in media—which reported that women represent just 35 percent of newspaper supervisors, 31 percent of TV news directors, and 23 percent of radio news directors. The report, coincidentally, followed the replacement of top female executives at *The New York Times* (executive editor Jill Abramson) and *The Washington Post* (publisher Katharine Weymouth) by men, giving the issue a sense of national urgency. Schools can't be solely faulted for a complex societal problem with many causes, but one of the most avoidable contributing factors undoubtedly is this one: Year after year, the female student in every high school who has been identified as having the greatest potential as a business leader, the female student most adept at motivating employees, managing a budget, meeting deadlines, and handling customer complaints is told by her administration that she is a troublemaker who should keep her worthless opinions to herself.

Frank D. LoMonte is a lawyer and the executive director of the Student Press Law Center, a Washington-based nonprofit advocate for the rights of student journalists.

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Please note our new address and phone number

The Student Press Law Center is an IRS 501(c)(3) nonprofit, and tax-deductible contributions to support the SPLC's work can be made through a secure online connection at www.splc.org/give/. The Student Press Law Center is a certified Combined Federal Campaign charity, No. 96157.

#2

HB 1471

2/17/15

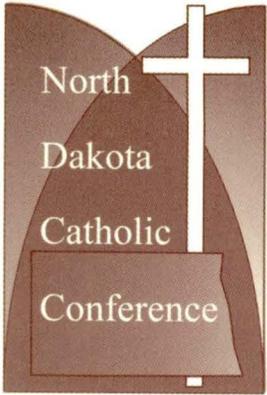
Proposed by Rep. Mock
February 17, 2015

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1471

Page 4, line 19, after the underscored period insert "The policy may also include limitations to language that could be defined as lewd, profane, harassing, threatening, intimidating, or defined as hate speech."

Renumber accordingly.

#3
HB 1471
2/17/15



*Representing the Diocese of Fargo
and the Diocese of Bismarck*

Christopher T. Dodson
Executive Director and
General Counsel

To: House Judiciary Committee
From: Christopher T. Dodson, Executive Director
Subject: House Bill 1471: Student Rights
Date: February 17, 2015

The North Dakota Catholic Conference opposes Section 2 of HB 1471 as written and would support an additional section to protect the rights of student clubs and organizations at the public institutions of higher education.

Unlike Sections 1 and 3 of the bill, Section 2 applies to both public and nonpublic institutions. Government should not unduly interfere with the policies and practices of private institutions. The bill has a subsection exempting institutions controlled by a religious organization “to the extent the application of this section would not be consistent with the religious tenets of the organization.” This exemption is not sufficient. First of all, all private institutions should be exempt from state interference for any reason, not just religious institutions for religious reasons. Secondly, the provision impermissibly invites courts to review the “religious tenets” of a religious organization — something that is outside a secular court’s competence.

For this reason, we propose amending Section 2 of the bill to limit its application to government institutions of higher education.

We also believe that while this body is considering protecting the rights of students at government-run institutions it should use the opportunity to protect the rights of religious and belief-based student organizations.

Throughout the country, colleges and universities are adopting “all-comers” policies. These policies state that a student organization cannot receive official recognition and, therefore, have access to campus facilities, assistance, and services, unless the organization accepts all students for membership and leadership regardless of the student’s agreement with the organization’s purpose. To put it another way, these policies require allowing, for example, a Muslim student association to admit atheists, an anti-Catholic to be president of a Catholic student group, or Klan members to take over an African-American student’s group. The use of these policies in state institutions was upheld by the U.S. Supreme Court with a 5-4 vote in *Christian Legal Society v. Martinez*, 561 U.S. 661 (2010). Since then, the implementation of these policies has proliferated, forcing religious organizations to leave campuses.

The rights of students to form associations on public colleges and universities based on shared beliefs is just as important as the rights of student journalists. The Legislative Assembly should take advantage of the opportunity presented by HB 1471 to secure this right at our state’s institutions of higher education.

We urge the committee to amend Section 2 of the bill and add an amendment to protect the rights of student organizations.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1471

Page 2, line 23, replace “a postsecondary educational institution” with “an institution under the supervision of the state board of higher education”

Page 2, line 29, replace “a postsecondary educational institution” with “an institution under the supervision of the state board of higher education”

Page 3, remove lines 1 through 3

Page 4, line 4, replace “4.” with “3.”

Page 4, line 5, replace “5.” with “4.”

Page 4, line 7, replace “6.” with “5.”

Page 4, after line 19, insert:

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

Religious and Belief-based organizations.

An institution under the supervision of the state board of higher education may not discriminate against a religious or belief-based student organization with respect to a benefit available to any other student organization, based on that organization’s requirement that its leaders or voting members adhere to the organization’s viewpoints or sincerely held beliefs or be committed to furthering the organization’s beliefs or religious missions.”

Renumber accordingly

#1 HB
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Proposed by Rep. Mock
February 17, 2015

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1471

Page 4, line 19, after the underscored period insert "The policy may also include limitations to language that could be defined as lewd, profane, harassing, threatening, intimidating, or defined as hate speech."

Renumber accordingly.

2
HB 1471
2/17/15

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1471

Page 2, line 23, replace "a postsecondary educational institution" with "an institution under the supervision of the state board of higher education"

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Renumber accordingly

3
HB 1471
2/17/15

Proposed by Rep. Rohr
February 17, 2015

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1471

Page 2, after line 19, insert:

- "5. Each school district shall adopt a written student freedom of expression policy in accordance with this section. The policy must include reasonable provisions for the time, place, and manner of student expression."

Renumber accordingly.

- 4
HB1471
2/17/15

Britney10's Blog

14
Oct
09

Iowa Student Free Expression Law

By [britney10](#) [Leave a Comment](#)

Categories: [Uncategorized](#)

Iowa Student Free Expression Law

Citation: Iowa Code Sec. 280.22

May 11, 1989

Summary: In addition to the First Amendment to the U.S. Constitution, states can provide additional free speech protection their own citizens by enacting state laws or regulations. The Iowa Student Free Expression Law is such a provision and provides student journalists attending Iowa public high schools with added protection against administrative censorship.

Section 280.22 — Student exercise of free expression

1. Except as limited by this section, students of the public schools have the right to exercise freedom of speech, including the right of expression in official school publications.
2. Students shall not express, publish, or distribute any of the following:
 - a. Materials which are obscene.
 - b. Materials which are libelous or slanderous under chapter 659.
 - c. Materials which encourage students to do any of the following:
 - (1) Commit unlawful acts.
 - (2) Violate lawful school regulations.
 - (3) Cause the material and substantial disruption of the orderly operation of the school.
3. There shall be no prior restraint of material prepared for official school publications except when the material violates this section.
4. Each board of directors of a public school shall adopt rules in the form of a written publications code, which shall include reasonable provisions for the time, place, and manner of conducting such activities within its jurisdiction. The board shall make the code available to the students and their parents.

5. Student editors of official school publications shall assign and edit the news, editorial, and feature content of their publications subject to the limitations of this section. Journalism advisers of students producing official school publications shall supervise the production of the student staff, to maintain professional standards of English and journalism, and to comply with this section.

6. Any expression made by students in the exercise of free speech, including student expression in official school publications, shall not be deemed to be an expression of school policy, and the public school district and school employees or officials shall not be liable in any civil or criminal action for any student expression made or published by students, unless the school employees or officials have interfered with or altered the content of the student speech or expression, and then only to the extent of the interference or alteration of the speech or expression.

7. "Official school publications" means material produced by students in the journalism, newspaper, yearbook, or writing classes and distributed to the student body either free or for a fee.

8. This section does not prohibit a board of directors of a public school from adopting otherwise valid rules relating to oral communications by students upon the premises of each school.

For More Information: Iowa secondary students should also see:

Iowa Dept. of Education's Model Student Publications Code (PDF File – 447K)(Requires Adobe Acrobat Reader). Also includes model policies for advertising acceptance and non-school-sponsored (underground) student-publication distribution.

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0 Responses to "Iowa Student Free Expression Law"

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#1
3/18/15
HB 1471

**Testimony of Rep. Alex Looyesen, D12
North Dakota Senate Education Committee
HB 1471, The John Wall New Voices Act
March 18, 2015**

Good morning Chairman Flakoll and members of the Senate Education Committee. For the record, my name is Alex Looyesen, representative of District 12 in Jamestown. House bill 1471 started as a class project at the University of Jamestown. The students researched current state and national laws affecting student journalists and created a rough draft of their findings. After that, several people, including some that will speak after me, continued their work and house bill 1471 is the result of all that hard work. In general, this is a bipartisan bill that addresses freedom of speech and press for student journalists and their advisors. I know there are several people here today to testify that have a lot more knowledge on this bill than I do, so in the interest of time Mr. Chairman I would ask that the committee hold their questions for those testifying after me.

Thank you.

#2
3/18/15

15.0825.02001
Title.

Prepared by the Legislative Council staff for
Representative Looyen
March 13, 2015

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1471

Page 1, line 1, remove ", 15-18.1,"

Page 2, remove lines 15 through 29

Page 3, remove lines 1 through 14

Page 4, line 16, after "school" insert "district"

Page 4, line 22, replace "institution or state board of higher education" with "school district"

Page 4, line 24, replace "institution" with "school"

Page 4, line 25, after "school" insert "district"

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1471

Page 1, line 1, remove ", 15-18.1,"

Page 2, line 15, remove "An institution may not authorize any prior restraint of any school-sponsored media"

Page 2, replace lines 16 through 27 with "A student enrolled in an institution under the supervision of the state board of higher education may commence a civil action to obtain damages under this section and appropriate injunctive or declaratory relief as determined by a court for a violation of subsection 2, the first amendment to the United States Constitution, or section 4 of article I of the Constitution of North Dakota."

Page 2, remove lines 28 and 29

Page 3, remove lines 1 through 14

Page 4, line 16, after "school" insert "district"

Page 4, line 22, replace "institution or state board of higher education" with "school district"

Page 4, line 24, replace "institution" with "school"

Page 4, line 25, after "school" insert "district"

Page 4, line 26, after "6." insert "A student enrolled in a public school or the student's parent or guardian may commence a civil action to obtain damages under this section and appropriate injunctive or declaratory relief as determined by a court for a violation of this section, the first amendment to the United States Constitution, or section 4 of article I of the Constitution of North Dakota."

7."

Renumber accordingly

Testimony of Steven Listopad
Assistant Professor/Student Media Director, Valley City State University
North Dakota Senate Education Committee
HB 1471, The John Wall New Voices Act
March 18, 2015

Thank you Rep. Looyesen, and thank you Chairman Flakoll and members of the Senate Education Committee for hearing our testimony today.

I'm Steve Listopad, assistant professor of journalism and student media director at Valley City State University. Previously I was at the University of Jamestown for 11 years. Before my career as a journalism educator, I was a journalism student and student journalist at North Dakota State University and North Dakota State College of Science. And even before that, I was a student journalist at Wahpeton High School and reporter for The Daily News. From 1991 to 1995, I spent every day of school learning about the how's and why's of journalism from the most amazing teacher, mentor and coach I have ever known – John Wall.

It is such a great honor to be here today. To look around the room and see so many passionate and intelligent students, educators and professionals engaged in such a worthwhile civic activity is truly heartwarming. Just over a month after the House and Senate so overwhelmingly passed the mandatory civics test, to have this opportunity to turn civic knowledge into civic action with our students makes me believe that, no matter the outcome, these years of work have been worth it. This is truly a great moment for all us.

Today, you are going to hear from a variety of stakeholders in support of HB 1471 – The John Wall New Voices Act. You are going to hear from journalism advisers and their students. You are going to hear from professional journalists. You are going to hear from national leaders and experts on the subject. And the reason you're going to hear from us is because we can *speak* to you – that's the First Amendment in action. But not all North Dakota students are as lucky as those in this room. Not all students in this state are allowed to speak to you. Just over a month ago, I called a high school newspaper adviser in our state to let them know about the John Wall New Voices Act. I had hopes that the adviser would be able to share the information with the students and that, at the very least, the students would be interested in doing a story on the bill. I barely got through the first sentence when I was cut off. The adviser told me the students working for that particular newspaper in that particular school district could not report on anything political. That could've been the end of the conversation. But I, and the rest of the supporters of the John Wall New Voices Act, will carry on that very important conversation right here, today. A conversation about the fundamental expression rights of our young people, about the failure of the Hazelwood Supreme Court decision as an educational standard for student

journalists, about the need for student journalists to be civically engaged – not just for them, but for all of us, and about how we can make North Dakota a better place for the new voices emerging everyday to learn, grow and engage.

The John Wall New Voices Act was conceived at the University of Jamestown as a class project in the spring of 2013. UJ is a private school yet President Robert Badal has supported his students, faculty and this bill from the very beginning. The UJ students that wrote this bill not only sought to codify their own expression rights into law, but to protect those rights for all students in our state. I am so proud of them, and I am honored to help carry the torch as they have moved into their careers.

The John Wall New Voices Act, as originally presented to the House, would do three things: It will Restore the Tinker Standard in our public high schools – negating the Hazelwood decision. It will Protect our public colleges from the encroachment of Hazelwood to higher education via the 2005 Hosty v. Carter decision. And it will Extend the First Amendment freedoms journalism and journalists need to private colleges, similar to California's Leonard Law. All of the background research leading to this bill, including similar bills passed in other states, can be found on the bill's website - www.newvoicesnd.com. It's important to note that the third goal related to private colleges has been amended out of the version you now hold.

Gene Policinski, executive director of the Newseum and First Amendment Institute said, "We are creating a generation that takes no for an answer." With the John Wall New Voices Act, we have a chance to do something about it. I know that Mr. Wall followed the Tinker Standard, which says that there must be evidence of substantial disruption to justify censorship. I know because I lived his principles every day for four years of my life. I am so glad that Margaret Wall could be here today. Mr. Wall's students from his 30 years as a journalism educator will be carrying on his values and bringing his lessons to future generations. This bill is one more invaluable lesson from Mr. Wall. Hazelwood was only a few years old when I first met Mr. Wall. Even in the new Hazelwood environment, Mr. Wall allowed us to take on stories of corruption and embezzlement in our schools. And now at a high school in our state, 27 years after the Hazelwood decision, our students don't even have the right to report on this bill – a bill about them, for them, and by them. And that high school is certainly not alone. Hazelwood's deleterious effects can be felt all across the state at every level: school boards, principals and advisers pulling stories, cutting budgets, stopping the presses, firing advisers, and cutting whole programs just to exercise a measure of control that is both invasive and ineffective. The two high schools you'll hear from today, Bismarck Century and West Fargo, are in the minority. These high schools honor the values of journalism education and civic life by respecting their students' right to choose the stories that are important to

them. The accolades, the scholarships, and the careers that come from this effective educational method are testimony to its efficacy. And the fact that this room is full of those students is testimony to the civic responsibility that is ingrained in students that we allow to own their words.

This is truly a great day.

Next you're going to hear from Frank LoMonte, executive director of the Student Press Law Center, and one of the leading national experts on law pertaining to student journalists. Mr. LoMonte is one of the best people in the country to answer the questions concerning how this bill will work and how it will affect us.

But first I want to thank all the supporters of the John Wall New Voices Act, including, but not limited to: the bill's sponsors, representatives Looyen, Haak, Mock, and Becker, and senators Grabinger and Luick. The North Dakota Council of Educational Leaders who came to the House Education Committee to oppose this bill, but stood up to support it instead. The School Boards of Bismarck and Jamestown who voted to support this bill. The North Dakota Newspaper Association and its membership. The Forum and The Tribune for writing editorial endorsements of the bill. The Journalism Education Association and the Northern Interscholastic Press Association. President Badal and The University of Jamestown. Mary Beth Tinker, Cathy Kuhlmeier Frey, Frank LoMonte and the Student Press Law Center. The journalism department at Kent State University and College Media Association. All the national organizations that have passed resolutions to support bills just like this one. All the states that have tried and succeeded and tried and failed to pass bills just like this one. All the educators, administrators, and professionals in North Dakota and beyond who have reached out to us with advice and support. The six students that started all of this: Peter Odney, Masaki Ova, Dan Arens, Jessee Boyle, Ashley Domino and the late Josh Berg. Those six, and all the students you see in this room today, and all the students across this state are the New Voices. We need to teach them about civic facts, but we also need to teach them about civic engagement. We don't want the new voices in our world retreating to the dark recesses of the Internet to have important conversations. We want those conversations to happen in the light of day, where they can be cared for and nurtured - like Mr. Wall did for me and so many others. Our New Voices - We need to hear what they have to say - we need to hear what they ALL have to say. And only HB1471, the John Wall New Voices Act, can make that happen.

Thank you.

**Testimony of Cathy Kuhlmeier Frey
Hazelwood v. Kuhlmeier
H.B. No. 1471-The John Wall New Voices Act
March 18, 2015**

Good morning, Senate Education Committee Members. My name is Cathy Kuhlmeier Frey. I am the Cathy Kuhlmeier of Hazelwood v. Kuhlmeier, and in a roundabout sort of way, the reason we are here today.

In the fall of 1982, I was a student at Hazelwood East HS in Journalism I, learning what it meant to be a journalist from a very dedicated teacher. He taught us about Tinker v. Des Moines and prior restraint. Little did I know how very important those things would become to me.

In the spring of 1983, I was the layout editor of the Spectrum, Hazelwood East's student produced newspaper publication. As a group we had decided to update some **previously produced story topics at East** about the problems of teenagers such as teen pregnancy, runaways, marriage and divorce, but under the direction of a different principal. In the pregnancy article, we interviewed three different girls out of a relatively large population of pregnant teens at my school. Mind you, Hazelwood East was a very large school in St. Louis. We got the girls different viewpoints of what it was like to be pregnant in high school. We got their parents' consent to run what the girls were saying, along with changing everyone's name so to protect their identities. In the divorce article, we talked to students whose parents were divorced, I being one of them and gave accounts of that. Again, we were taught by our advisor the key importance to accuracy and fair reporting. We had obtained the parents written consent of what the students were stating in this story also. If there was an objection to a statement, it could have been changed. The runaway story included hot line numbers for kids to call if they were considering running away. The articles were intended to be helpful to our student population to hopefully make informed decisions about sex or running away. We fully believed we were acting as responsible journalists.

During the spring of that year, our advisor left and another one stepped in from our sister school to help out with the final phase of publication. We found out after the fact that it was his practice to take the paper to the principal at his school for review. Our principal objected to some of the articles and did not allow them to be printed, without giving us any opportunity to make changes-or what I knew as prior restraint. We had just learned that this wasn't ok and that students do not shed their rights at the school house gate, the Tinker standard. We didn't understand why this happened.

We chose to take a stand against the decision and contacted the ACLU at the advice of our previous advisor. The ACLU was very interested in what was going on and took the case. We were contacted by all sources of media to speak and make appearances. On my return to school after one such appearance on a show that was broadcast nationally, I was called into the principal's office and told I was not to do that again, and if I did not personally ask his permission prior to missing school again, he could expel me. He then began to check up

on me regularly to make sure I wasn't skipping classes and was doing what I was supposed to do. I was never the "bad kid", I was in the honor society and involved in many extracurricular activities. I didn't deserve to be treated like this.

The case picked up speed and made its way to the US Supreme Court and we were represented by an attorney that I feel did not do our case justice and bring out important facts such as the story ideas had been previously published or that we had spoken with the parents for consent.

We weren't ever given the chance to learn what it's like to be a real journalist; instead we were told the stories were too mature for an immature audience by our principal. My response was if you're old enough to get pregnant, shouldn't you be old enough to read about it.

I had never expected that this would turn into everything that it has over the years and that I would be part of history. We weren't trying to change the world; we simply wanted to help produce stories to maybe help our friends at school to make educated decisions. The decision against us in January of 1988 took away the rights of student journalists stating that prior restraint does not apply to the publication of student operated school newspapers.

I had wanted to have a career in journalism, and through the process of this case, it gave me a very bad taste as to what it might be like as a professional journalist so the world is less one person who might have been a darn good one. How many others like me are out there because they felt the same way? Let's put a stop to this.

Please join me in your support of House Bill 1471 to restore student free speech and a free scholastic press. Cure Hazelwood.

Thank you for your time

Cathy Kuhlmeier Frey

Testimony of Frank D. LoMonte
Executive Director, Student Press Law Center
North Dakota Senate Education Committee
HB 1471, The John Wall New Voices Act
March 18, 2015

It is a distinct honor to be invited to share information about the law governing the rights of student journalists with the Committee. Since 1974, the nonprofit Student Press Law Center has been the leading source of information about legal issues of importance to the student media. The attorneys of the SPLC publish the widely used reference text, *Law of the Student Press* (4th ed. 2013), recognized as the nation's most comprehensive compendium of legal research about student media. Our free attorney hotline receives some 2,000 requests for assistance every year from students and educators in all 50 states. The SPLC was established to assist students facing institutional roadblocks when they seek to gather information and share ideas.

Student journalism is essential to educated, civically aware communities

Student media is one of the most popular extracurricular activities in schools everywhere. While no comprehensive "census" of student journalism exists, researchers at Kent State University conducted an instructive survey of 4,000 public high schools across America in 2011 and found that 96 percent offered at least one student media outlet (print, online or broadcast). There are more than 11,000 student newspapers in public high schools alone, outnumbering professional newspapers by 3,000. By far, the majority of journalists in America work on school and college campuses, not in salaried professional positions.

Americans have never in their history been more dependent on students to bring them the news on which they rely. According to a July 2014 study published by the Pew Research Center, at least 14 percent of all of the journalists covering state Capitols are students, and in four states (Arizona, Kansas, Missouri and Nevada) student journalists actually outnumber salaried professionals. The Knight Foundation has called on college journalism programs to re-imagine themselves as "teaching hospitals," serving the basic information needs of their communities in the same way that medical schools use medical students to serve communities' health-care needs.

Coverage of education issue is especially reliant on the work of students, because the number of full-time education reporters has dwindled alarmingly. In a December 2009 study ("Invisible: 1.4 Percent for Education is Not Enough"), the Brookings Institution found that only 1.4 percent of mainstream news coverage (print, broadcast and online) is devoted to education, and most is crisis-driven (campus violence, disease outbreaks) and not about education policy issues. As part of the solution, the Brookings report called for an end to school censorship of student journalism: "Some school officials discourage student reporters from asking difficult questions or raising controversial issues. In fact, student journalism of this kind should be encouraged. Student newspapers often lead the media to important education stories."

The Supreme Court's *Hazelwood* ruling has damaged the quality of education

Every authoritative group involved in journalism education and training has gone on record condemning the level of school control contemplated by the Supreme Court's 1988 ruling in *Hazelwood School District v. Kuhlmeier* as educationally unsound. During 2013, the 25th anniversary of the *Hazelwood* decision, resolutions calling for schools and colleges to cease reliance on *Hazelwood* were unanimously enacted by the Society of Professional Journalists (SPJ), the Journalism Education Association (JEA), and the Association for Education in Journalism and Mass Communication (AEJMC). These are the largest organizations in the country representing, respectively, working professional journalists, high school journalism educators, and college journalism educators. The wording of the SPJ resolution exemplifies the sentiments: "[I]t is well-documented the *Hazelwood* censorship clause impedes an educator's ability to adequately instruct and train students in professional journalistic values and practices, including the right to question authority and investigate performances of governance."

Laws protecting student press freedom are proven to be safe and effective

The Constitution provides a floor, not a ceiling, on the rights that state and local governments may extend to their citizens. Seven states (Arkansas, California, Colorado, Iowa, Kansas, Massachusetts and Oregon) statutorily provide students enhanced press freedom above the minimum recognized by the Supreme Court in *Hazelwood*.¹ Three other jurisdictions – the District of Columbia, Pennsylvania and Washington – do so by way of State Board of Education regulation. The combined experience of these 10 states with legislatively mandated press freedom exceeds 175 years; in all of that time, there has not been a single reported case of a school or college being successfully sued over material published in a student news outlet. A study published in 2013 in the *Maine Law Review* could find only six instances – three in California, two in Massachusetts and one in Iowa – in which a student free-press statute had ever been raised in litigation. The experience of these states is that, by clarifying the bounds of school censorship authority, such statutes avoid more litigation than they enable.

Reversing the impact of the Supreme Court's 1988 *Hazelwood* ruling merely restores the sensible balance that existed before 1988 – the standard set by the Court in *Tinker v. Des Moines Independent Community School District* (1968). Under *Tinker*, the school may prevent or punish speech that threatens a "substantial disruption" of school activities – something more than just a strong exchange of differing opinions. *Tinker* is far from being an "anything goes" standard – in fact, it is the standard that applies today to students' T-shirts, hairstyles and other "non-curricular" forms of speech, to which schools have become accustomed over the last 47 years. Rolling back *Hazelwood* merely gives a student the same (limited) level of First Amendment protection on the editorial page that she has on the T-shirt she wears to school.

¹ Illinois protects only college and not high-school journalists. See 110 ILCS 13/1 ("the College Campus Press Act").

#6
3/18/15



**Testimony of Steve Andrist
Executive Director, North Dakota Newspaper Association
Before the North Dakota Senate Education Committee
re: HB 1471 -- The John Wall New Voices Act**

Chairman Flakoll and members of the committee: My name is Steve Andrist, and as executive director of the North Dakota Newspaper Association I represent the 79 weekly and 10 daily newspapers in the state.

The NDNA Government Relations Committee and the NDNA Board of Directors have both adopted resolutions in support of HB 1471, and this week the National Newspaper Association, meeting in Washington will do likewise. Here's why.

Journalism, and newspapers in particular, is alive and well, especially in North Dakota. We know from research conducted last year that more than 83 percent of North Dakota adults regularly read a local newspaper. Whether in print or on a device, they are reading content generated by journalists working for newspapers.

Like most industries, newspapers see our youth as our future. For that reason we have been putting more and more of our resources into educating both high school and college journalists through scholarships, internships and fellowships.

We certainly wouldn't teach journalism without giving students access to computers and mobile devices. Nor should we teach journalism without giving students the same rights to free speech and government transparency as those afforded to professional journalists.

HB 1471 gives those tools to our students, to our state's future journalists, and therefore we respectfully request your favorable vote.

Thank you.

HB 1471 Testimony – Senate Education Committee

3/18/2015

Chairman Flakoll and members of the Senate Education Committee for the record, my name is Dr. Aimee Copas and I serve as the Executive Director for the North Dakota Council of Educational Leaders. I come to you today with support for the amended version of the bill you have before you today 15.0825.02000. The amendment important to K-12 schools is in section 3. In all methods of public expression (newspaper, media, news TV) there are generally “publishers” to the content. That “publisher” helps to identify the content that is considered appropriate for that entity (example – Fox News vs. CNN). **Why are students held to a different standard in school under current law? This is because public schools are required to protect all students at the school. This job for schools to protect all students still exists.**

** Needed language
 "new", defined
 as hate speech
 # Page 4
 Lines 27-29*

General Background for Suggestion:

All people in the United States are guaranteed the right of freedom of expression as written in the United States Constitution.

Please allow me to share with you some provisions in accordance with Education Law that are important to keep in place to protect all who realm within the confines of a K-12 school:

The First Amendment to the US Constitution allows you the freedom to speak, write and meet freely with others. And your First Amendment rights to freely express yourself follow you into public school. There are limits on First Amendment rights at school, and an array of settings where the scope of these rights come up.

Supreme Court and the First Amendment at School US Supreme Court decisions define the scope of the First Amendment in public school settings. Public schools must have a valid basis to limit free speech rights, and can't act on an undifferentiated fear or apprehension. Schools can:

- Limit speech based on a **reasonable expectation** that it will cause a **material and substantial disruption** of school activities or invade the rights of others
- Prohibit obscene or vulgar language

Schools can also limit speech if it's in the form of a threat. Not just any expression is a threat, though. Threats must:

- Be perceived as a threat by others
- Be clear and convincing, causing others to believe it will be carried out
- Cause other students to fear for their safety

Why are students held to a different standard in school? This is because public schools are required to protect all students at the school. The major aspects of this right are speech and dress. Both the right to speech and dress are not absolute in public high schools. According to the American Civil Liberties Union: "You (students) have a right to express your opinions as long as you do so in a way that doesn't 'materially and substantially' disrupt classes or other school activities. If you hold a protest on the school steps and block the entrance to the building, school officials can stop you.

In 1986, the Supreme Court decided *Bethel School District No. 403 v. Fraser*, affirming the school district's right to punish a student who gave a lewd, vulgar political speech at a school assembly. The court reasoned that "it is a highly appropriate function of public school education to prohibit the use of vulgar and offensive terms in public discourse."

Public schools can also restrict student dress. In 1987 in *Harper v. Edgewood Board of Education* the court upheld "a dress regulation that required students to 'dress in conformity with the accepted standards of the community'". This means that schools can restrict clothing with vulgarities and such, but they cannot restrict religious clothing: "School officials must accommodate student's religious beliefs by permitting the wearing of religious clothing when such clothing must be worn during the school day as a part of the student's religious practice".

Public schools can restrict language in school publications. Students are allowed to hand out an independently-produced newspaper or leaflet in school, as long as it isn't indecent and doesn't materially and substantially disrupt school activities. Schools can limit the time, place and manner of distribution.

Further - Schools have greater power to censure speech in official school papers. School officials can censure content that is inappropriate or harmful; they don't have to show it's obscene or disruptive. Reference: *Hazelwood School District v. Kuhlmeier*, a watershed case that lets school districts remove articles from student newspapers and otherwise control activities that are curriculum-related. HB1271 with the amendment helps to define that and actively engages the district in creating and implementing policy that is appropriate for that school and community.

This topic has been discussed in the US for decades. Again and again the courts rule in favor of public schools ability to protect the overall wellbeing and learning environment of the school. Administrators have shared with me local examples of publications and speeches that they have prohibited. We must entrust our schools now with establishing appropriate policy that defines the balance between freedom and protection that is appropriate for the age group of student we work with. Ladies and gentleman, we recommend ensuring this amendment continues to be in place in the bill if passed and allow school officials to do their due diligence under the current law to provide a level of protection for all students in a public school setting.

**Testimony of Katie Winbauer
Editor for Bismarck State College's The Mystician
H.B. No. 1471-The John Wall New Voices Act
March 18, 2015**

Good morning chairman and committee,

My name is Katie Winbauer and I'm an editor of Bismarck State College's newspaper, The Mystician. I was an editor of my high school newspaper and was an intern at the Bismarck Tribune during my senior year of high school. Since the day I heard about this bill, I've been very interested in it and where it has the capabilities to go.

I started to love journalism and what it could do for others when I was in the fourth grade and constructed my own classroom newspaper with the help of a couple friends. Then, in high school, I learned how to use my talent in the journalism classes that were offered. In the first journalism class I took, I learned about court cases like Tinker vs. Des Moines, which assured students that First Amendment rights don't end at the school gate, and Hazelwood vs. Kuhlmeier, which granted a high school principal the right to censor two articles set to be published in the school newspaper.

Hazelwood v. Kuhlmeier interested me because I didn't understand why a principal would want to limit journalism or why student journalism wasn't taken as seriously. It wasn't until two years after I learned about these cases, that I would be censored three separate times by the administration at the high school I attended. With this bill, that wouldn't have been able to happen.

House Bill 1471 enables student journalists to have the same rights as all other journalists. The skills that are developed for this make better adults in our communities. Without giving students the right to report in a valid outlet, they will use social media where things can happen anonymously and with no ethical standard.

If I could go back a couple years to when I had valid stories be shut down by the administration, I wish I would have fought just a little harder. I wish I could have convinced them to understand the importance of student journalism like I did.

I encourage you to look at who this bill will hurt, which is no one, and to look at whom it will help, which is all student journalists in the state of North Dakota. Please don't let our rights end at the school gate.

#9

**Testimony of Baelee Zayde Butts
General Manager of VCSU's Student Media Organization
Valley City State University, Valley City, North Dakota
H.B. No. 1471-The John Wall New Voices Act
March 18, 2015**

First off I would like to thank you all for allowing me and many other well qualified and inspiring student journalists, journalism educators and supporters to speak on behalf of those not allowed to.

My name is Baelee Butts and I am a senior, professional communications and media concentration major and the general manager of the student media organization at Valley City State University, Valley City, North Dakota. I also wrote for a college newspaper prior to VCSU at Augustana College in South Dakota.

I have heard and witnessed numerous stories about censorship concerning college papers and what they are allowed to print in accordance with their school policies. While I understand that schools have a certain prestigious standard to uphold, what about upholding professional journalism standards and doing student journalists in our state justice by allowing them to report the truth?

In one instance a student paper was fearful about running a story involving a college cheerleader who broke her back while in practice. The coach of the squad was an alumna. While the paper was not going to run the story to defame the name of the school, coach, or squad they did, however, want to exhibit honest reporting and have the community be aware of the dangers that accompany cheerleading. Once the article ran they were in full defense mode waiting to hear backlash for lack of censorship. Sitting in apprehension should not be something student journalists should have to do for simply reporting the truth.

It is a common misconception that journalism is a dying art. Many are losing their jobs while the market changes and adapts to new technologies, but I am here to tell you that I have met more students in the past week willing to fight for journalism than you or I could have imagined. I attended a College Media Association convention in New York City last week where 1500 students from around the nation gathered to discuss the obstacles we have run into with certain forms of censorship. Objective journalism is something younger generations won't have the pleasure of experiencing if we continue to push student journalism to the fringes and shadows of the Internet. Why are we taking the pleasure of the morning paper with a cup of coffee away from them? Want us to read more books and get off our phones? Help us keep journalism alive by helping us speak the truth even if it isn't pretty. There are laws, rules and guidelines already set in place and by teaching us to follow them in the light of day, educators can make sure students learn the difference between truth and libel. It is all a process and that process can be impacted immensely through your support.

1/2

By not allowing student journalists the opportunity to publish what they have researched, we are not only taking from them their first amendment rights, but we are not allowing them precious work and civic experience. The best way to turn a student or employee off from their dreams is by breaking their spirits. Now, in some cases being told 'no, you cannot print this' only fuels the fires but in others it destroys their motivation and they move on. At VCSU, we are building a new student media program from scratch and we plan to incorporate freedom of speech and the press to allow students the right to their voice and to do their civic duties as journalists. Your support of this bill will strengthen these ideals in new and growing programs like the one at VCSU.

Thank you for your time and support of this bill - future journalists will honor your decision here today by upholding the highest standards of journalism and reporting. Thank you again.

Testimony of Jeremy Murphy
West Fargo High School Publications Adviser
North Dakota Senate Education Committee
H.B. No. 1471 - The John Wall New Voices Act
March 18, 2015

First, thank you to the chairman and committee members for allowing me to be a part of this process. I have been a journalism adviser for the last 10 years and a professional journalist before that.

In my time in the classroom, I have witnessed students reach extraordinary goals because they strive to show their community members the unbelievable stories existing around them. Students have covered presidential candidates, national figures, popular bands, controversy, heartache, successes and everything in between. They have covered these events because they are passionate about providing readers with important stories – an opportunity that more students around the state would have with the passing of the John Wall New Voices Act.

For the last few years, I have been fortunate enough to work as a publications adviser in a district that values student journalism. Students have flourished in this environment, starting a new broadcast program, working with district officials during open records requests, starting a literary magazine, visiting top state officials, collaborating with local media and winning numerous state and national awards and scholarships. All of which has been student-directed.

It hasn't always been that way in West Fargo. The national and state recognition was still there, but the supportive district officials were not. As an adviser, I encouraged a collaborative, student-run environment no different than the one we have today, but I was removed from my position. That is why this bill is so important to publications programs around the state. It will provide all students with an opportunity to thrive and gain skills today's workforce deems necessary.

As a forward-focused adviser, I'm looking for ways to allow students to practice skills that will give them the best opportunity to be successful in their future endeavors. The National Association of Colleges and Employers says the top skills employers want in new hires includes: critical thinking, communication, collaboration, time management, data analysis, technical knowledge, writing, editing and marketing skills. I have also had the opportunity to visit with multiple employers in the Fargo-Moorhead area and they echo these results. If you visit any of the top publications rooms in the state, you will see students practicing these skills in a real-world, student run environment every single day. But currently, that environment is only possible in a supportive situation like we have in West Fargo.

I have been on both sides of the spectrum, from a restrictive environment to an expressive one. If we really want students to attain these skills and tell great stories, this bill is a necessary step in that direction.

**Testimony of Brittany Rheault
University of Jamestown/West Fargo High School student journalist
North Dakota Senate Education Committee
H.B. No. 1471 - The John Wall New Voices Act
March 18, 2015**

Good morning and thank you for taking the time today to hear testimony in support of the John Wall New Voices Act in House Bill 1471. My name is Brittany Rheault and I am the former Head Editor of The Packer newspaper at West Fargo High School, staff member of The Collegian at the University of Jamestown, and current employee of the Jamestown Sun newspaper. I am here as a representation of all North Dakota student journalists required to learn under the censorship laws that limit students in their reporting and writing experience.

As a West Fargo High School alumni I had the privilege to head a student-run newspaper who did not practice censorship. This meant that as the Head Editor I needed to show my staff members how to be responsible journalists who could report inspiring stories with integrity and professionalism. Last year Jim Jonas, a Packer football coach, was fired from his coaching position. The West Fargo High School and community was in an uproar of rallies and social media discussions concerning the reasoning behind his release. There was an abundance of information being released to try and justify the situation. Another student and I took on the story with the sole purpose of uncovering only the facts. Because we are not censored at West Fargo, we had the freedom to pursue this story without constraint, allowing us to file for open records requests, set up interviews with the superintendent and even Jonas himself. With this freedom, we learned how to be professional journalists, were treated as such, and reported with the integrity and responsibly of professional journalists. Through this experience and many others similar to it, I was prepared entering into college journalism and the professional journalism setting at the Jamestown Sun. One thing I have learned is that when you enter college you are expected to present yourself professionally and are treated as such. If you do not act as a professional, you will not be taken seriously. I am grateful I had the professional environment in high school to learn these skills so I could find success in college. This type of censorship-free environment provided me with the opportunities to learn how to conduct an in-depth interview, present myself as a professional, talk to people of great authority and deal with sensitive issues in a respectful way. I can assure you that if we were censored I would not have been nearly as confident to express my opinions in the college setting, as well as interview for a job in the professional journalism setting at the Jamestown Sun.

I want all North Dakota students to have the type of learning environment that I had the privilege to experience. Censorship produces sub-par journalists who can write a simple news article. Freedom from censorship produces journalists who are passionate in reporting a story that inspires its readers through sharing the experiences and words of others. Therefore, the passing of the New Voices Act will provide a slew of opportunities to better prepare the youth in developing responsible reporting skills, and once given the freedom, help them to understand the importance of reporting with integrity and professionalism. The passing of this bill will push students to further understand in-depth journalism and

responsible reporting. Therefore, I urge the committee to support the New Voices Act. It will surely make a positive educational difference in the lives of student journalists, and the future reporters of our generation.

Testimony of Sue Skalicky
Bismarck Public Schools journalism educator
North Dakota Senate Education Committee
H.B. No. 1471 - The John Wall New Voices Act
March 18, 2015

Good morning chairman and members of the committee. My name is Sue Skalicky and I am a journalist, and have been one for over 25 years. I have been a high school journalism teacher for almost ten years. But, one of the most rewarding things I have ever done professionally is to advise high school publications. Over the past ten years, I have witnessed teenagers wrestle with making decisions in the classroom, decisions that will have a public impact. And, instead of telling them what to do, I've asked them to recall what they've learned about their First Amendment rights and the responsibilities that come with those rights. In the end, it has been thrilling to watch them wrestle with options, discuss the impact of each option, and decide how to move forward.

I believe the best place to find a high school student with a love for learning, top-notch critical thinking skills, an innate interest in humanity, a burden to seek out the truth and inform the masses, a desire to affect positive change in the world, a habit of working above and beyond what is expected, and a knack for working collaboratively on fast-paced, multi-faceted projects would be in the high school newsroom. These students, who WILL change the world, won't necessarily pursue a post-secondary degree or career in journalism. That's because they aren't being groomed for the field of journalism. They are being encouraged, equipped and empowered to be world changers in myriad fields and trades by high school journalism advisers who use the production and publication of newspapers and yearbooks to hone critical thinking, collaboration, communication and creativity - 21st Century skills. But, in order to do that, these students need to have the freedom to do so.

Even the threat of censorship hinders student free speech and a free scholastic press, because the students aren't allowed to explore every possibility. Instead, they are spending their time and energy trying to contain their thoughts and ideas within the boundaries of a lesson, the only impact being that on their GPA. Students with First Amendment freedoms naturally collaborate, think critically, exercise creativity, and communicate professionally, because they are motivated to make a difference in matters important to them, their peers, and their community.

I ask you today to invest in the future of these students by voting for the John Wall New Voices Act.

Thank you!
Sue Skalicky

Testimony of Faith Harron
Bismarck Public Schools student journalist
North Dakota Senate Education Committee
H.B. No. 1471 - The John Wall New Voices Act
March 18, 2015

Good morning, Senate Education Committee Members. My name is Faith Harron, and I am a sophomore at Century High School. There, I work on the staff of the *Century Star*, our school newspaper. In addition, I am a reporter with the Bismarck Tribune, writing both articles and briefs. As a student, this bill affects me as well as my peers around the state.

The First Amendment gives us five rights: peaceful assembly, press, speech, religion, and the right to petition the government. According to the 1969 case of *Tinker v. Des Moines*, "Students do not shed their First Amendment rights at the schoolhouse gate." However, that ruling was overturned in the 1988 case of *Hazelwood v. Kuhlmeier*, when it was established that administrators have the ability to censor student writing. Unfortunately, this violates a student's First Amendment rights.

First Amendment rights are essential. Imagine if the government told you what religion to follow. With fewer freedoms, North Dakota would begin to resemble a dictatorship. Or if the right to peaceably assemble was revoked—this meeting here would be illegal. If free press weren't included, events the government wanted to hide could easily be masked, such as the censored Internet searches in China.

For the past few months, I have worked at the Bismarck Tribune, the city's paper. There, I have all my First Amendment rights. At the Tribune, I would never be censored. Fortunately, I belong to the Bismarck Public School District, where the practice of administrator censorship, or *prior restraint*, does not exist. The content of our publication, the *Century Star*, is not censored. But this is not a guarantee. If the administration shifted and a new superintendent wanted to employ prior restraint, we would have to comply. The John Wall New Voices Act is here to prevent this.

The bill will not just let students do "whatever they want." It includes accepted guidelines for free student speech, restricting slander, obscenity and lewdness, among others.

The freedom of speech and First Amendment rights allow us, as student journalists, to practice what teachers like to term "workforce readiness skills," which include leadership, responsibility, and decision-making. Yes, it is inevitable that mistakes will be made. Nobody's perfect. But mistakes are how we learn. If we are expected to step into a job without real-life practice, the results will not be up to par with those who have practiced. The more experience we have

practicing the skills we need, the more prepared we will be to join the workforce. That would benefit everyone.

I am here to ask you to vote to pass House Bill 1471. I love to write with my full First Amendment rights. I really enjoy my job and my school and my newspaper. But there are some students in North Dakota that don't get these full rights.

This bill may seem like a little thing. It's not groundbreaking and it won't solve the world's hunger problems...but these rights matter to me, and to my peers—and to the readers of the articles I write.

And who knows?

Sometimes the little things are the ones that change the world.

Sincerely,

Faith Harron

**Testimony of Carrie Sandstrom (in absentia)
University of North Dakota journalism student
North Dakota Senate Education Committee
HB 1471, The John Wall New Voices Act
March 18, 2015**

Hello, my name is Carrie Sandstrom and I am a junior at the University of North Dakota double majoring in communication and international studies. During my short journalism career, I have worked for a variety of publications — serving as assistant editor for the Century High School newspaper and editor-in-chief of UND's Dakota Student newspaper. I have also had the privilege of interning for the Bismarck Tribune during my senior year of high school and of working in the Grand Forks Herald's sports department.

At the various publications I have worked at, I have had the ability to learn from professionals in the field and from teachers and advisers who have taken it upon themselves to usher in the next generation of journalists. Through these experiences, I have been impressed both with the requirements of the job and the responsibility it carries with it. But for students, I have come to learn that one of the most important factors for telling the stories we encounter is the ability to print them freely. It is because I believe in the power of the press and the importance of protecting it that I am pleased to stand before you and urge you to pass the John Wall New Voices Act.

During my time at high school, as part of one of my first experiences with student journalism, I found myself caught up in a story. A story that, unlike many I had covered before, was not clear cut and did not offer the instant gratification of an easy piece. It started when I noticed that water bottles purchased through the school cafeteria cost 25 cents more than their school-run vending machine counterparts. The price discrepancy intrigued me, and I ended up spending over a month hunting down the cause. After speaking with school administrators, representatives from the water bottle provider and others, I wrote a short 200-word story outlining the price difference and just why students were paying more in the cafeteria. The piece ran in one of the last issues of the Century Star for the year, and when students returned to school following summer break, we were greeted with uniform water bottle prices throughout the school. This small change — measured literally in cents — provided me with a priceless lesson: Student journalists have the power to create meaningful change in our schools.

However, it was not until I began my collegiate newspaper career that I learned firsthand that student journalists have the power not only to impact their schools but the community at large, as well. Unfortunately, unlike my time at Century High School, I found college journalists, at least at UND, face much more administrative pressure than I felt during my high school career. Perhaps it is

because instead of a circulation of 1,500 students the "Dakota Student" reaches 15,000, perhaps it is because instead of coming out once a month, the "Dakota Student" came out twice a week, perhaps it's all just a fluke. Regardless, during my time as Editor-in-Chief of UND's only student newspaper, I found myself constantly on the defensive.

There was a period early in the fall of 2013 when several high-level pink slips were being handed out as quietly as possible. As one of the few means of holding administrators accountable for their actions, it was my obligation to assign and publish a series of articles documenting the firings. As a student and a student employee, I spent many long nights worried that I would be the next person told to pack up their desk.

The stories we wrote were valid. They were important. And they were necessary. And the fact that as journalists we were afraid we would be fired or have our academic careers threatened for writing stories that were valid, important and necessary simply because the journalists that wrote the stories were students is unacceptable.

We were lucky. The fear of being fired can never compare to the reality of my peers at other schools and in other states who have lost their jobs for doing their jobs. But luck cannot replace legal protection. Not with something so important. Not when lives and futures are the price of a change in fortune. Not when the truth and the ability to tell it is on the line.

The words we write matter.

They impact those who read them.

They create change.

But only if they are heard.

The freedom of student presses should not and cannot be contingent upon the moods of the administration. The stories we are telling are too important. Students have the ability to create change, but you have the power to protect it. I urge you to do so by passing this bill.

#15
HB 1471
3/18/15

Testimony of Mary Beth Tinker to House Education Committee
Regarding John Wall Youth Voices Act

February 17, 2015

To Chairman Mike Nathe and the House Education Committee

Thank you for your interest in student journalism and for holding this hearing. At a time when schools across the country are searching for ways to engage students in civic action, you are giving the students of North Dakota a valuable civics lesson. And, at a time when many citizens, including students, question whether their voices will be heard, you have welcomed and encouraged the voices of young people.

The John Wall Youth Voices Act is fine example of civic action on the part of young people. Students themselves identified a problem, proposed a solution, and are seeking a change in public policy through the legislative process. I urge you to give your support for this bill and for the students of North Dakota.

In doing so, you will give a vote of confidence to students like Peter Odney, one of the journalism students at the University of Jamestown who developed and championed this bill. When I asked him why he had done that, he said that recently, as editor-in-chief of The Collegian, he wanted to include all opinions about the change in the school's name from Jamestown College to the University of Jamestown.

He knew that some of those opinions might not be popular, and that some might even be seen as controversial, but he didn't want to leave anyone out or censor anyone. So, he helped create the John Wall Youth Voices Act because "If you take away student voice, students don't have any incentive to take part in the democratic process. They feel that they're being told, 'we don't trust you to do what's right.'"

Peter is proud that the John Wall Youth Voices Act has gone from a small kernel of an idea to proposed legislation, saying "that's kind of the whole point of democracy, isn't it?" He follows updates on the bill on the facebook page that he and students created.

Peter's contribution and that of others is "kind of the whole idea of democracy." You, as policy makers, now have a chance to show students like Peter that you agree, and that you have faith in students to rise to the challenges of our democracy.

When I was young, I knew what it was like to be told not to have an opinion, not to use my voice, and not to take part in democracy because I was too young.

I grew up in Des Moines, Iowa, where I studied lessons at school, but also learned the values of my family and the Methodist church where my father was a minister. Christian ideals of peace, love, and brotherhood were deeply ingrained, and only became stronger when my family became involved with the Quakers.

The year I turned 13- 1965- was a sad time for me as and our country. That Christmas, my father read bible verses and lit the yule log, but on TV we saw the horror of the Vietnam war. Children ran from huts and soldiers lay in body bags. In our midwestern community, boys not much older than my brothers were being drafted for the war.

My siblings and a few friends decided to wear black armbands to school that Christmas to mourn the war dead and support a call for a Christmas truce. All we knew was that we wanted to express our feelings about the war.

But when the principals heard our plan, they passed a rule against armbands, saying that students who wore them would be suspended. We tried to change their minds, and talked with the principals, the superintendent, and the school board. Some school board members voted in our favor, but they were outnumbered and we were suspended.

In 1969, the U.S. Supreme Court had the final say. It ruled by 7-2 that students in public schools do have free speech rights, and that students- and teachers- do not "shed their constitutional rights to freedom of speech or expression at the school house gate."

It was a landmark ruling, a vote of confidence in students everywhere. Some people predicted that the ruling would be a disaster, that students would abuse their rights and cause havoc in the schools. But no such thing happened. "Tinker v Des Moines Independent Community School District" became a precedent for student speech rights.

After the ruling, I grew up and became a pediatric nurse, working with teenagers in schools, clinics and hospitals. I learned that students do better, and are even healthier, when they have input into their schools and their lives. I learned that schools where students have a voice are schools where students succeed, and want to be.

No wonder students are more likely to graduate from such schools, with thriving journalism programs, student councils and student government. In such schools, students feel valued as members of their schools and the larger community.

With the John Walls New voices Act, you have a chance to send a vote of confidence to students, students like Faith Harron, a reporter for the Century Star at Century High School in Bismarck. Faith writes about military families, but also wrote about this bill for the Bismarck Tribune.

She said the bill is important because "Journalism helps us be informed and connected in the world... to tell important stories that otherwise people might not hear."

Show Faith that her voice matters. Students are the future, but they are also the present, and they are asking for your support.

Thank you,
Mary Beth Tinker
Washington DC

#16
HB 1471
3/18/15

Honorable Alex Looyen
State Representative
P.O. Box 1305
Jamestown, ND 58401

Dear Representative Looyen:

I understand that the John Wall New Voices Act will be discussed before the Senate Education Committee this week. I am sorry that I cannot be in attendance due to an out-of-town commitment, but I hope that you can convey, on my behalf, my support for the Bill. Those of us in the field of education must hold high expectations for our students, and at the University of Jamestown character-based education is a top priority. When our students researched and developed the language for this Bill, I was impressed by their seriousness of purpose. Freedom of the press is a fundamental right, and students should be entitled to express their legitimate views without fear of censorship.

The Bill does provide language that protects against hate speech and other forms of irresponsible behavior. That is an important protection. I have felt that providing an education in the field of journalism—where students are preparing for the real world—requires freedom of expression in the policies of the University's media. How else are these young journalists to prepare themselves for the responsibilities of the press in later life if they do not begin in college? We have a University motto of "light and truth"; it is not possible for me as President to think that I, and I alone, know the truth that is fit to print. Even if we dislike or disagree with students' opinions, we must stand in defense of their rights to freedom of the press in schools.

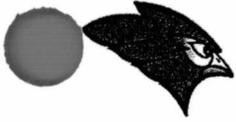
I ask that you add my support to the chorus behind this important bill.

Sincerely,



Robert S. Badal, President
University of Jamestown

RSB:ek



Joe Hegland
Curriculum and Professional Development

Jamestown Public Schools

ROBERT LECH, SUPERINTENDENT
207 Second Avenue Southeast
Jamestown, North Dakota 58401
(701) 252-1950 Fax (701) 251-2011



SALLY OST
Business Manager
Human Resources Director

#17
3/18/15

March 12, 2015

Steve Listopad
Assistant Professor
Student Media Director, VCSU
101 College St. SW
Valley City, ND 58072

Dear Mr. Listopad:

Thank you for your presentation to the School Board on March 2, 2015, wherein you asked the Board to officially support HB 1471, the John Wall New Voices Act. Please note at the March 2, 2015 meeting, the School Board members voted unanimously to support the bill.

Sincerely,

Robert Lech
Superintendent

The mission of the Jamestown Public School is Learning For All

The Jamestown Public School District does not discriminate on the basis of race, color, national origin, age, sex, or handicap in its employment policies/practices.

#18
3/18/15



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DR. BENJAMIN J. JOHNSON
ASSISTANT SUPERINTENDENT
SECONDARY SCHOOLS

DARIN M. SCHERR, P.E.
BUSINESS AND OPERATIONS MANAGER

LISA J. KUDELKA
HUMAN RESOURCES MANAGER

March 10, 2015

Susan Skalicky
Century Journalism Advisor
Legacy Journalism Advisor

Dear Ms. Skalicky:

Thank you for your presentation to the School Board on February 23, 2015, wherein you asked the Board to officially support HB 1471, the John Wall New Voices Act. Please note at the March 9, 2015 meeting, the School Board members present, four of five, voted unanimously to support the bill.

Sincerely yours,


Tamara J. Uselman, Superintendent

**Testimony of Emily Chadwick (in absentia)
West Fargo Public Schools journalism student
North Dakota Senate Education Committee
HB 1471, The John Wall New Voices Act
March 18, 2015**

The past three years I have had the amazing opportunity to be a part of West Fargo High School's journalism program through which I have been able to flourish and openly express myself in the environment. The program has provided me with the skills that are necessary to be a professional journalist. I have been able to take on the responsibility to write and report about sensitive topics without the worry of administrative disapproval, because my school is not subject to prior review the opportunities for our news staff are endless. This has caused us to develop a state winning newspaper along with being nationally recognized. With this said I want the same opportunities for the other staffs in North Dakota.

I believe that if this bill is passed schools will have the opportunity to expand their journalistic views in order to properly train students in real world journalism. As a student journalist we want nothing more than to be treated professionally but if we are censored it becomes harder to report the stories that need to be told, thus discouraging our duties as reporters.

As a student it should be our right to know what is going on in our school and community. We are the future generation of this state, we should know what is going on around us and our voices should be heard.

**Testimony of Logan Ahern (in absentia)
West Fargo Public Schools journalism student
North Dakota Senate Education Committee
HB 1471, The John Wall New Voices Act
March 18, 2015**

First and foremost, I am a journalist who has a strong passion in reporting the most relevant news and information to the community. This journalist drive influenced me to apply for the Al Neuharth Free Spirit Scholarship to learn from professionals and better myself by hearing the perspectives of students from across the nation.

I was eventually awarded the scholarship and on my trip to Washington D.C., I was able to interact with students and to my surprise, I learned that each had dealt with issues regarding the first amendment in each of their schools. Student journalists were inhibited in their creativity and passion because of their first amendment rights taken away from them by the school. I heard stories of students having their stories stripped from their publications only because their administration believed it reflected badly on themselves.

In my publication at West Fargo High School, the Packer newspaper, we are completely self-funded so we do not have to go under any prior review from our administration. This gives us the ability to ethically report any events going on in our school respectfully delivering the most current and accurate news to our community. Without this benefit we may not have had the opportunity to report on the firing of a football coach or the freedom of expression being limited in music departments.

I am a strong believer in First Amendment rights and our generation cannot afford to be without them. As a Free Spirit alumni I have learned the importance of the freedom of speech, freedom of the press, freedom of religion, freedom of petition and freedom of assembly. These rights have allowed student journalists in the publications I am involved in and all over the country fight to never take no for an answer.

**Testimony of Kacey Peterson (in absentia)
Bismarck Public Schools journalism student
North Dakota Senate Education Committee
HB 1471, The John Wall New Voices Act
March 18, 2015**

My name is Kacey Peterson and I am the current Editor of the Century Star, the monthly newsmagazine at Century High School. I oversee the magazine staff from the day we brainstorm story ideas to the day we pass it on to our readers. Some months run smoothly and other months we face tough decisions about our content.

Our main focus this year has been community engagement. Our goal with community engagement is to start and maintain a conversation with the CHS student body and our community. In order for this conversation to be beneficial to both sides, we need to decide what our readers need to know.

Sometimes the decision about what to publish can be difficult. In that case, we start by consulting the staff and collecting ideas. Next, we consult our adviser. Advice from our adviser usually is a reminder of our First Amendment rights and of the responsibility we carry to uphold those rights. That responsibility plays a significant role in how we decide whether or not to publish certain stories. If we were a censored magazine, this advice may sound like, "Stay within the guidelines and don't upset anyone." We may not be able to publish stories about such things as teen pregnancy, eating disorders, or racism- all topics that have an impact on our student body.

When we, the Century Star staff, make our own decisions, it motivates us to do the most professional job possible. If our adviser, or an administrator, were to make all the decisions about what we could or could not print, we would only be motivated by a grade and we wouldn't be able to feel the same sense of pride we do now. Instead, we have the privilege of "Inspiring, Igniting, and Impacting" our peers at Century and the community with news we believe they need to hear.

Thank you for your consideration of the John Wall New Voices Act.

#22
3/18/15
HB1471

CHUCK KLOSTERMAN

March 17, 2015

Chuck Klosterman

88 Wyckoff St.
Apt. 3-F
Brooklyn, NY 11201
cklosterman@gmail.com

Members of the Senate:

My name is Chuck Klosterman. I am a 1990 graduate of Wyndmere High School (where I wrote for the school newspaper) and a 1994 graduate of the University of North Dakota (where I was a reporter and editor at the *Dakota Student*). Since then, I have written for *The Forum* of Fargo-Moorhead, the *Akron Beacon Journal*, *The New York Times*, *SPIN* magazine, *Esquire*, *GQ*, *The Washington Post*, *The Guardian*, and ESPN. I have also published eight books and served as "The Ethicist" for *The New York Times Magazine*.

I am writing this letter in support of the New Voices Act, a bill that recently passed the House unanimously. Passage of this bill is important for at least two reasons. The first is self-evident: Freedom of the Press is an essential component to any free society, and the tenants of that principle should not be threatened or controlled by any institutional power. The age of the journalist is irrelevant, and it's hypocritical to teach the value of Freedom of Expression within any school that does extend that policy to its own students. The second reason is symbolic: Expediting this bill into law would illustrate North Dakota's aggressive commitment to personal freedom and constitutional adherence to the rest of the nation. It is my hope that the New Voices Act moves through the Senate as successfully as it traversed the House of Representatives.

Sincerely,



Chuck Klosterman



**Testimony of Kent State University (in absentia)
Center for Scholastic Journalism
North Dakota Senate Education Committee
HB 1471, The John Wall New Voices Act
March 18, 2015**

The Center for Scholastic Journalism at Kent State University offers its support for the John Wall New Voices Act, proposed legislation intended to strengthen the free expression and free press rights of high school and college students in the state of North Dakota.

As a national clearinghouse with information for and about student journalists and their advisers, a research center on issues affecting scholastic media, an educator of journalism teachers and an advocate for student press freedom and the First Amendment, the Center understands the devastating impact censorship can have on young people's appreciation for fundamental First Amendment values. We believe this proposed legislation will help North Dakota schools produce more dedicated and ethical journalists as well as more engaged citizens.

The Center for Scholastic Journalism is a project of the School of Journalism and Mass Communication at Kent State University in Kent, Ohio. It is supported by an endowment from the John S. and James L. Knight Foundation.

Mark Goodman

Professor and Knight Chair in Scholastic Journalism
Center for Scholastic Journalism

E-mail: mgoodm10@kent.edu

Office: 330-672-6239

Center for Scholastic Journalism

School of Journalism and Mass Communication

Kent State University

201D Franklin Hall

P.O. Box 5190, 550 Hilltop Drive

Kent, OH 44242-0001

<http://www.kent.edu/jmc>

**Testimony of JEA Board of Directors (in absentia)
Journalism Education Association
North Dakota Senate Education Committee
HB 1471, The John Wall New Voices Act
March 18, 2015**

The Journalism Education Association, the largest organization in the country for journalism teachers and student media advisers, endorses the New Voices Act proposed by North Dakota educators for the 2015 legislative session. Such an endorsement reflects our mission and beliefs, including active defense of First Amendment freedoms and journalistic responsibilities. The Act's purpose — to restore and preserve student expression at both the secondary and collegiate levels — is an integral part of learning that must go on in our schools. Allowing students to make content decisions and be in charge of their own media lets them practice critical thinking, researching, interviewing, writing, editing and creating visuals while collaborating with other staffers to produce a product for an audience. Students also learn how a free and responsible press can improve their school communities by informing, entertaining and influencing their audience. They model civics in action so not only the student journalists see how democracy works, but also those who read and view their media. The New Voices Act has a sound educational foundation that will benefit North Dakota students far beyond their journalism newsrooms.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1471

Page 1, line 1, remove ", 15-18.1,"

Page 2, line 15, remove "An institution may not authorize any prior restraint of any school-sponsored media"

Page 2, replace lines 16 through 27 with "A student enrolled in an institution under the supervision of the state board of higher education may commence a civil action to obtain damages under this section and appropriate injunctive or declaratory relief as determined by a court for a violation of subsection 2, the first amendment to the United States Constitution, or section 4 of article I of the Constitution of North Dakota."

Page 2, remove lines 28 and 29

Page 3, remove lines 1 through 14

Page 4, line 16, after "school" insert "district"

Page 4, line 22, replace "institution or state board of higher education" with "school district"

Page 4, line 24, replace "institution" with "school"

Page 4, line 25, after "school" insert "district"

Page 4, line 26, after "6." insert "A student enrolled in a public school or the student's parent or guardian may commence a civil action to obtain damages under this section and appropriate injunctive or declaratory relief as determined by a court for a violation of this section, the first amendment to the United States Constitution, or section 4 of article I of the Constitution of North Dakota."

7."

Renumber accordingly

2

3/23/15

To: Senate Education Committee
From: Christopher T. Dodson, Executive Director
Subject: HB 1471
Date: March 19, 2015

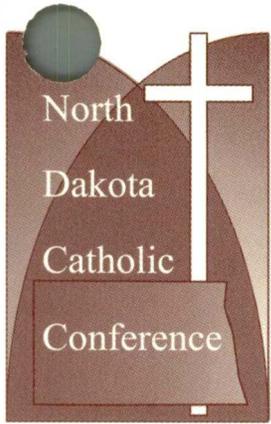
It is our understanding the committee was requested to amend HB 1471 to reinsert language that would prohibit a private postsecondary education institution from enacting policies concerning student speech. The North Dakota Catholic Conference opposed this section of the original bill for several reasons.

First, it is broader in scope than the rest of the bill. The rest of the bill, in its original and amended form, addresses the rights of student journalists. The section of the original bill concerning private colleges and universities extended to all student speech and communication, whether or not the speech or communication was part of a journalistic endeavor.

Second, we believe that government should not unduly interfere with the policies and practices of private institutions. There are some situations, such as when the private institution accepts state funds, when some restrictions might be warranted. This is not one of them. The original bill, without justification, dictates to private college or university what it cannot include in its policies.

Third, the original bill had a subsection exempting institutions controlled by a religious organization “to the extent the application of this section would not be consistent with the religious tenets of the organization.” This exemption, while well-intentioned, is problematic. First of all, all private institutions should be exempt from undue state interference for any reason, not just religious institutions for religious reasons. Secondly, the provision impermissibly invites courts to review the “religious tenets” of a religious organization — something that is outside a secular court’s competence, in addition to being unconstitutional.

For these reasons, we ask the committee to not reinsert Section 2 of the original bill into Engrossed HB 1471.



*Representing the Diocese of Fargo
and the Diocese of Bismarck*

Christopher T. Dodson
Executive Director and
General Counsel

11

15.0825.02001
Title.

Prepared by the Legislative Council staff for
Representative Looyen
March 13, 2015

#1
3/23/15

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1471

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Re-number accordingly

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Renumber accordingly

15.0825.02001
Title.

Prepared by the Legislative Council staff for
Representative Looyesen
March 13, 2015

1
3/24/15

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