

2023 SENATE JUDICIARY

SB 2199

2023 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Peace Garden Room, State Capitol

SB 2199
1/18/2023

A bill relating to gender usage in the North Dakota Century Code; and to provide a penalty.

10:14 AM Madam Chair Larson called the hearing to order.
Madam Chair Larson, Senator Myrdal, Luick, Estenson, Braunberger, Sickler, Paulson present.

Discussion Topics:

- Gender
- DNA tests
- Transgenderism
- Preferred Pronouns
- Suicide
- Sexual identity
- Discrimination
- Human rights
- Medical records

10:14 AM Senator Clemens introduced the bill and testified in favor. **#14289**

10:27 AM Emily Coler Hanson, Licensed Marriage and Family Therapist ND, testified. **#14034**

10:29 AM Christina Sambor, ND Human Rights Coalition, testified. **#14290**

10:36 AM Cody Schuler, Advocacy Manager ACLU of North Dakota, testified. **#14180**

10:42 AM Lisa Johnson, Vice Chancellor of Academic and Student Affairs NDUS, testified. **#14291**

10:48 AM Celeste McCash, verbally testified. (no written testimony)

10:52 AM Adam Miller, testified. **#14059**

10:57 AM Dan Cramer, Psychologist & Clinical Director ND Department of Health and Human Services, testified. **#14294**

11:05 AM Katrina Jo Kosterman, President -Tristate Transgender, testified. **#13477**

11:08 AM David Martin, testified. **#13997**

11:09 AM Reed Eliot Rahrich, testified. **#14138**

11:13 AM Joseph Larson, Pastor ST Mark's Lutheran Church Fargo, testified. **#14102**

11:18 AM Rev. Karen Van Fossen, Ordained Minister & Licensed Professional Counselor, testified. **#14172**

11:25 AM Andrew Alexis Varvel, provided personal testimony. **#14084**

11:28 AM Senator Braunberger motioned a **DO NOT PASS** on **SB2199**

11:29 AM Senator Larson seconded the motion.

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

Motion passed 7-0-0

Senator Myrdal will carry the bill.

Additional written testimony:

Angie Moser #13223
Rebecca Barnes #13287
Karen Kooren #13362
Noah McKay #13476
Shannon Smith #13508
Debra Hoffarth #13663
Ashley Rocketship #13680
Braeden Waege #13705
Alexa Workman #13707
Denise Ann Dykeman #13747
Leah Dykeman #13753
James Edmondson #13767
Dylan Morrison #13768
Caitlin O'Malley #13769
Danial Sturgill #13802
Karen Nitzkowski #13808
Brianne Huber #13820
Amanda Echron #13851
Elia Jay Scott #13854
Kathryn McGregor #13862
Holly Hassel #13870

Ryan Moser #13885
Christina Feldmann #13902
Debra Hoffarth #13931
Nathan Brown #13954
Neil Roesler #13957
Tim Baumann #13963
Taylor Smart #13966
Ashley Limesand #13983
Emily Miller #13984
Tanya Baity #13987
Zander Mueller #13995
Barbara Stanton #14000
Tim Blasl #14007
Alison M Grey #14015
Rev. Michelle Webber #14026
Damian Whitehorse #14030
Merie Kirby #14031
Matthew Mullins #14038
Sarah Piersol #14039
Ben Hanson #14040
Faye Seidler #14046
Casey Berberich #14048
Luis Casas #14051
Therese Hugg #14053
Aeon Axiom Carlson #14054
Christopher Gable #14055
Bree Langemo #14060
Nancy Jones #14063
Grace Morton # 14065
Lee Williamson #14066
Shane Thielges #14076
Heidi Echola Selzler #14077
Cindy Azucena Gomez-Schempp #14090
Nemo Siqueiros #14091
Naomi Franek #14096
Nicole Masaki #14097
Becky Craigo #14101
Cheryl Biller #14103
Seth Lumley #14104
Denise Dodd #14109
Jayce Branden #14112
Christopher Coen #14114
Aaron Thompson #14116
Tara Jensen #14118
Kara Gloe #14120
Adelyn Emter #14126
Ashelin Harbinger #14127
Rain A Larson #14128

Cheryl Schaeffe #14135
Charles Vondal #14136
Olivia Data #14137
Brittany Hagen #14139
Gabriela Balf #14143
Shannon Krueger #14155
Leah Dalton #14156
Jasmine Saldivar #14158
Kristin Rubbelke #14164
Kristie Miller #14166
Shannon Bacon #14171
Sarah Irizarry #14173
Mary Stromme #14174
Kory Wolter #14176
Dena M. Wanner-Perry #14179
Kurt Snyder #14219

11:47 AM Madam Chair Larson adjourned the meeting.

Patricia Wilkens, Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2199: Judiciary Committee (Sen. Larson, Chairman) recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2199 was placed on the Eleventh order on the calendar. This bill does not affect workforce development.

TESTIMONY

SB 2199

1-13-2023

Dear legislators,

It has come to my attention that there are several bills being introduced this legislative session that concern transgender rights. This bill, SB 2199, concerns me the most of all that are being considered. If this bill were to pass, my son would **no longer exist** in the state of North Dakota. Let me tell you more about my family to help you understand why I feel this bill should be a don't pass.

My husband and I were raised in Montana, but were drawn to Dickinson State University for their excellent teaching program in the early 90's. After college, we chose to stay in North Dakota to raise our family. As our children grew, our daughter realized that she was different from her classmates but was accepted in our community.

Upon entering college, our daughter made the decision to begin her transition. Again, the college community, her friends, and family both near and far have been very accepting. Recently, my now son began a new job traveling in North Dakota and other nearby states. When I visited with my son about this bill, he stated, "I just don't want to be here anymore. It makes me a coward to run, but if ND doesn't want me, I don't want it either." Strong words that break this mother's heart.

In conclusion, I want to re-address that my son would **no longer exist** in the state of North Dakota if this bill were to pass. I feel it's important that you know that we are very close to our children, so you would not only lose a productive young person from your state, but productive parents and sibling's family as well. Please don't let this be an unfortunate ending to a human just wanting to live their authentic life.

Sincerely,

Angie Moser

1-14-2023

Legislators,

I was disheartened when I learned of bill SB 2199, targeting the transgender and non-binary population in North Dakota. Two of my immediate family are transgender, so this bill directly affects them and our family. Not only that, but it directly affects those I work with every year.

How, in good conscience, can you say ND can uphold the Human Rights Act prohibiting discrimination on the basis of race, color, religion, **sex**, national origin, age, etc., when this bill tells me I can no longer refer to my family and friends with their preferred pronouns? Not only that, but that we will be fined in doing so? I watched my sibling struggle with gender dysphoria, depression, and suicidal tendencies for years. Now they are on the road to becoming a much happier human being, one who finally smiles and enjoys life. You cannot tell me that my sibling, who is hurting no one, is better off not existing.

As for testing based on “deoxyribonucleic acid” – DNA is not binary. Intersex and ambiguous physical traits exist. Biological sex is not as neat and tidy as Mendel’s pea experiments that are such common examples in Biology 101.

If you need a monetary illustration, I am employed by the State. I work and communicate with non-binary people daily. Our program actively tries to be as inclusive as possible, to make the opportunities we provide open to all. This bill would drive away many of the people that work with us every year. It is a slap in the face to those who joined us in years past, and will tarnish our program’s name in the industry moving forward.

I beseech you, please approach this community with love, respect, and understanding, rather than transphobic rhetoric, fear, and hatred. I love my family and friends. Please do not take them away from me, or me from them.

Sincerely,

Rebecca Barnes

I am opposed to this bill because it discriminates against transgender people.

Our state leaders should be concerned for all North Dakotans.

I have two friends who are transgender, and their lives have already been difficult because of feeling not accepted by people and systems in this state.

Also, as a Christian and a retired teacher, I believe it is important for teachers to establish a loving relationship with all students to foster best learning and to help our children be the best they can be. This bill wants us to judge transgender students as wrong instead of loving them.

These children need our love and support instead of judgment and feeling unaccepted.

Please help defeat this destructive and harmful bill.

There have been multiple cases in the past of women taking DNA tests and discovering that they have XY chromosomes. This is called Swyer syndrome. If this bill were to pass, and a woman with this condition was incorrectly assumed to be transgender, her coworkers and her boss would be forced to refer to her using he and him. Furthermore, this bill is unconstitutional. Does my first amendment right not include the right to refer to people with the pronouns that they request?

Hello, my name is Katrina Jo Koesterman, President of Tristate Transgender, a support group serving North Dakota, South Dakota, and Minnesota along the Red River Valley. In my years serving in this capacity, I have had the honor of watching dozens of transgender and non-binary individuals come into their identities, and part of that process is identifying with their new gender and pronouns. It's often a long and arduous process that takes a lot of trial and error, but the spark of joy that erupts on a person's face when they are first addressed authentically by their true name and pronouns is one of the greatest things I have the privilege of witnessing.

This bill aims to undo that moment in every action in every day of a trans person's life. With this bill, when a trans person tries to assert their correct gender in any setting where the state is involved, not only will they be told they are wrong, they will be threatened with a \$1500 penalty. Furthermore, their allies won't be able to come to their defense lest they also be threatened by the same penalty. This bill attempts to erase an essential piece of the trans experience in North Dakota, and I can't seem to find a single reason why.

Furthermore, the bill makes absolutely no sense in its reference to a person's DNA. The bill states that a person's sex assigned at birth must be classified as male or female; however, there exist variables in chromosomes resulting in intersex conditions which this bill fails to address. Will intersex individuals be forced to be the only individuals using gender neutral pronouns, thus outing them as being part of a very rare portion of the population? This is a flagrant disregard for privacy and decency.

Finally, there appears to be no reason for this bill other than bigotry and hate. The only "problem" that the bill solves is preventing people from identifying as a gender other than the one assigned at birth. This bill specifically targets the transgender and non-binary population of North Dakota, and has no benefit to the state. It will only lead to further hate, increased suicidality among and violence towards our trans population, and will discourage members of the LGBTQ+ community from making this state their home. Please defeat this bill before it goes any further. I will gladly take questions.



1

Shannon Smith

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Fargo, ND 58103
(701)515-1147
ShannonBee2021@gmail.com

16th January 2023

ND Legislative Council

600 East Blvd
Bismarck, ND 58505

North Dakota Legislative Council Members:

SB2199 is a sneaky attempt by lawmakers to codify discrimination into state law without running it by the public they are supposed to serve. This is an attack on our freedom. As a lifelong North Dakotan, I am disappointed in you. I oppose SB2199.

Sincerely,

Shannon Smith

WRITTEN TESTIMONY IN OPPOSITION TO SB 2199

Senate Judiciary Committee on Senate Bill 2199

Date of Hearing: January 18, 2023

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

My name is Debra Hoffarth. I am a lifelong resident of North Dakota and an attorney. I am a lifelong resident of North Dakota and an attorney. I am also a proud mother of a transgender child. This written testimony is presented in opposition to SB 2199, which outright discriminates against the transgender and nonbinary communities and is a violation of every North Dakotans' right to free speech. It is an overreach of government authority into the private matters of its citizens.

The current North Dakota Century Code § 1-01-34 is not controversial and was last visited by the Legislature in 1967, when it was simply reenacted in order to have uniform interpretation of legal terms.¹ This longstanding codification of legal terms should remain as is and these proposed changes should be rejected.

North Dakota Constitution Article I, Section 1 states: "All individuals are by nature equally free and independent and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing and protecting property and reputation; pursuing and obtaining safety and happiness; and to keep and bear arms for the defense of their person, family, property, and the state, and for lawful hunting, recreational, and other lawful purposes, which shall not be infringed.

North Dakota law and federal law prohibit discrimination based upon sex. The North Dakota Human Rights Act prohibits discrimination based upon sex.² Title VII of the Civil Rights Act prohibits discrimination based upon sex, this includes gender identity.³ President Biden issued an executive order on Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation which states "all persons should receive equal treatment under the law, no matter their gender identity or sexual orientation."⁴ This law requires individuals to violate federal law.

Further, this bill violates several federal and state constitutional rights of its citizenry. The United States Constitution and the State Constitution take precedent over any legislative actions.

The right to free speech belongs to every citizen of the State of North Dakota. Our Constitution states: "Every man may freely write, speak and publish his opinions on all subjects, being responsible for the abuse of that privilege."⁵ The First Amendment prohibits the abrogation of free speech. Everyone has the right to speak freely, without repercussions, absent the language falling under hate speech, obscenity, child pornography, defamation, or incitement to violence and true threats of violence. Any restriction of free speech must be reasonable, content-neutral, viewpoint-neutral, and narrowly tailored to satisfy a significant institutional interest.⁶

¹ January 11, 1967 Judiciary Committee Minutes – 1967 SB 72 Legislative History from North Dakota Legislative Council.

² NDCC 14-02.4-01.

³ *Bostock v. Clayton Cty., Georgia*, 140 S. Ct. 1731, 207 L. Ed. 2d 218 (2020)

⁴ Executive Order on Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation | The White House- <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-preventing-and-combating-discrimination-on-basis-of-gender-identity-or-sexual-orientation/>

⁵ Constitution of North Dakota, Article I Section 4

⁶ NDCC 15-10.4-01(1)

This bill, by penalizing a person employed by or affiliated with any entity receiving state funding for simply using “words referring to an individual, person, employer, employee, contestant, participant, member, student, or juvenile” in ways that do not match the persons sex assigned at birth, is a clear violation of free speech. The bill is not narrowly tailored, and it is hard to see how such a bill furthers the interests of the citizens of North Dakota. Presumably, even a teacher giving a presentation who refers to a co-ed group as “you guys” would be subject to a \$1500 penalty.

Determining a dispute about someone’s gender identity also invokes the United States’ Fourth Amendment and the North Dakota’s Constitution protecting the right for any individual to be free from unwarranted searches and seizures⁷ and the Fifth Amendment protections of remaining silent. Although this legislation falls short of declaring use of preferred pronouns as a crime, the penalty involved is penal and punitive. Transgender and nonbinary individuals are not criminals, and their medical information is private. I fail to see how any entity can force an individual to take a test to establish an individual's deoxyribonucleic acid, absent a court order. Involvement of a court would force an individual to undertake an unwanted and unnecessary medical procedure.

This proposal also violates the privileges and immunities clause. North Dakota Constitution. Article I, Section 21 states: “No special privileges or immunities shall ever be granted which may not be altered, revoked or repealed by the legislative assembly; nor shall any citizen or class of citizens be granted privileges or immunities which upon the same terms shall not be granted to all citizens.” This law allows privileges for straight and binary individuals, which transgender and nonbinary individuals are not allowed – participation in state funded facilities.

It also denies children their right to a free and appropriate education as it would make being mis-gendered a condition of their education, which is discriminatory, harmful, and intolerable.⁸ Article VII, Section 1 of the North Dakota Constitution declares that a free education is necessary for all children of the State of North Dakota and must be “free from sectarian control.”⁹

There are already free speech laws on the books in North Dakota that would conflict with this proposed legislation.¹⁰ The State Board of Higher Education has a policy that allows students and faculty free speech.¹¹ Students cannot be sanctioned for speech unless “the speech or expression is unwelcome, targets the victim on a basis protected under federal, state, or local law, and is so severe, pervasive, and objectively offensive that a student effectively is denied equal access to educational opportunities or benefits provided by the institution.”¹² Higher education institutions are to promote “a welcoming, inclusive environment.”¹³ This legislation flies in the face of existing North Dakota legislation allowing students and faculty to have free speech at institutions of higher education, which of course receive state funding. It will require these institutions and their faculties to potentially violate other state laws. It also makes the jobs of teachers everywhere more difficult. Teachers need support, not more legislation on what they can and cannot teach.

Furhtermore, North Dakota Administrative Code 75.5-02-06.1 prevents social workers, many of whom are school counselors, or therapists from engaging in conversion therapy. This law could very well

⁷ Constitution of North Dakota, Article I Section 8

⁸ Constitution of North Dakota, Article VIII Section 1

⁹ Constitution of North Dakota, Article VIII Section 1

¹⁰ NDCC 15-10.4, *et. seq.*

¹¹ NDCC 15-10.4-02

¹² NDCC 15-10.4-02(4)(a)(1)

¹³ NDCC 15-10.4-02(4)(c)

cause social workers to violate their ethical duties as outlined in the administrative code.

There is no clear purpose for this legislation, other than to harass and further terrorize the transgender and nonbinary community in North Dakota, a community that already suffers from higher rates of suicide and harassment. Affirming individual's preferred pronouns lowers the risk of suicide and self-harming. This legislation will further marginalize transgender and nonbinary individuals, putting their mental and physical health at risk.

Transgender and nonbinary individuals need compassion and inclusion, not hatred and exclusion. You cannot erase the existence of transgender and nonbinary individuals via legislation. They have and will always exist. All people within the State of North Dakota deserve dignity and respect and to have their constitutional rights intact.

Please oppose SB2199.

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

All opinions of personal gender identification aside, bills like this create unaccounted expense and bureaucratic difficulties for the people in positions of enforcement. How will testing be paid for? How will enforcement staff be paid for? Will the state provide staff across North Dakota to ferret out businesses to penalize? Where does that funding come from? Will testing for job applicants be covered by the state? Will that be taken from tax payer dollars? Will enforcement be based on complaints submitted or through other means? Who will pay for the staff to review those complaints? And the testing to confirm or deny them? Is any of this a cogent and efficient use of tax payer dollars?

A bill like this makes people less free and places undue cost and burden on businesses and organizations already struggling to stay afloat and recruit and retain employees across North Dakota.

Dear Legislators,

I'm confused as to why you think that this bill needs to exist. What exactly is its purpose? Do you refuse to believe that transgender individuals are sane? Are they not able to have autonomy and live their life as they see fit? I have so many questions.

It's upsetting to see this bill even introduced as a concept in 2023 and yet here we are. Who is this witch hunt against trans people saving? Not only is this an extreme invasion of privacy, but it just straight up disregards the fact that trans people would just love to live a normal life. Do you have a sliver of understanding about how detrimental this bill would be if it's passed? By redefining one word you could literally ruin people's lives. So what if someone was born male, but now lives as female? Who is that person hurting? There are many proud, born and raised North Dakotans that would lose everything just because for some reason a group of people are weirdly obsessed with what's in between their legs and not with who they are as people. If genitals are all we are in this world then we really haven't made much process as a species.

Trans people pay taxes, trans people work, trans people raise families, trans people lift up their communities, trans people are HUMAN. It's cool that you all get to wake up in the morning and dress yourself the way you want to and are acknowledged in a way that makes you feel comfortable. Identity is important to you right? So why are you even thinking of taking that same sense of identity from someone else? Because YOU want control how SOMEONE ELSE lives and then fine them? I find that unsettling.

If you can't tell, I'm in opposition of this bill. Trans individuals just want to live their lives without a target on their backs. I agree with a fellow testimony from Katrina Jo Koesterman in saying "This bill specifically targets the transgender and non-binary population of North Dakota, and has no benefit to the state. It will only lead to further hate, increased suicidality among and violence towards our trans population, and will discourage members of the LGBTQ+ community from making this state their home."

Sincerely,
Braeden Waege

Dear Legislators,

I am incredibly appalled that a bill such as SB 2199 is even being considered as a worthwhile or acceptable bill to pass. It is abhorrent that the State even consider dictating how a person should be referred to by self or others. It is not only a breach of personal freedom and autonomy, it also simply does not make sense scientifically.

We as humans are not born with pronouns ascribed in our DNA, as it is purported by this bill. Pronouns are a piece of grammar used to indicate a subject of a sentence, not a chromosome in a genetic sequence. DNA is immensely complex and is not only what is learned in grade school biology. There are many instances across the scope of existence where XX and XY are not the only chromosomal combinations found in humans.

Regardless of such, it is preposterous that if an individual who's "*sex, gender, gender identity, or gender expression is contested*" be subjected to a DNA test to determine their assigned gender at birth. It is **invasive** and in complete disregard for individual privacy in the wake of something as benign as an individual's personal identity. It is **based purely on semantics**. In what way does this sound reasonable? In what way does demanding an individual be referred to in a certain manner ***specifically to disrespect and undermine their existence*** deserve to see the light of day as a state law?

Most transgender people have spent their entire lives fighting to accept who they are, and fighting for the respect they so rightly deserve from others. This bill could severely harm that. This proposed bill exists only to promote hatred and bigotry and serves, quite literally, no other purpose at a state or individual level.

And I will not stand for it.

I oppose bill SB 2199.

WRITTEN TESTIMONY IN OPPOSITION
TO SB 2199

Senate Judiciary Committee on Senate Bill 2199

Date of Hearing: January 18, 2023

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

My name is Denise Ann Dykeman. I am a resident of North Dakota, a practicing attorney and a Lutheran. I am also a member of the bar of the Supreme Court of the United States of America. I have family members and close friends who are transgender, non-binary, and use preferred pronouns. This written testimony is presented in opposition to SB 2199, which plainly discriminates against the transgender and non-binary communities in North Dakota and is a violation of every North Dakotans' right to free speech. It also ignores the very existence of persons who are intersex, that is, persons whose biological sex is ambiguous. There are genetic, hormonal or anatomical variations that can make a person's sex ambiguous (e.g., Klinefelter Syndrome, Adrenal Hyperplasia). This bill is an overreach of government authority into the private matters of its citizens.

I write this testimony on January 16, 2023, Martin Luther King Jr. Day. King's Letter from a Birmingham Jail seems appropriate to quote here. "My friends, I must say to you that we have not made a single gain in civil rights without determined legal and nonviolent pressure. Lamentably, it is an historical fact that privileged groups seldom give up their privileges voluntarily. Individuals may see the moral light and voluntarily give up their unjust posture; but, as Reinhold Niebuhr has reminded us, groups tend to be more immoral than individuals. We know through painful experience that freedom is never voluntarily given by the oppressor; it must be demanded by the oppressed."

In this case, it is abundantly clear through this bill and others that the North Dakota Legislature seeks to oppress those in the LGBTQIA+ community. I demand freedom for our fellow citizens.

The current North Dakota Century Code § 1-01-34 is not controversial and was last visited by the Legislature in 1967, when it was simply reenacted in order to have uniform interpretation of legal terms.¹ This longstanding codification of legal terms should remain as is, with no amendment.

The North Dakota Constitution in Article I, Section 1 states: "*All individuals are by nature equally free and independent and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing and protecting property and reputation; pursuing and obtaining safety and happiness; and to keep and bear arms for the defense of their person, family, property, and the state, and for lawful hunting, recreational, and other lawful purposes, which shall not be infringed.*"

Both North Dakota law and federal law prohibit discrimination based upon sex. The North Dakota Human Rights Act prohibits discrimination based upon sex.² Title VII of the Civil Rights Act prohibits discrimination based upon sex as recently affirmed by the United States Supreme Court, and this includes gender identity.³ President Biden issued Executive Order 13988 on Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation which states "all persons should receive equal treatment under the law, no matter their gender identity or sexual orientation."⁴ SB 2199

¹ January 11, 1967 Judiciary Committee Minutes – 1967 SB 72 Legislative History from North Dakota Legislative Council.

² NDCC 14-02.4-01.

³ *Bostock v. Clayton Cty., Georgia*, 140 S. Ct. 1731, 207 L. Ed. 2d 218 (2020)

⁴ Executive Order on Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation | Executive Order 13988 The White House- <https://www.whitehouse.gov/briefing-room/presidential->

requires individuals to violate federal law.

Further, this bill violates several federal and state constitutional rights of its citizenry. The United States and the North Dakota State Constitutions take precedent over any legislative actions.

The right to free speech belongs to every citizen of the State of North Dakota. Our Constitution states: “Every man may freely write, speak and publish his opinions on all subjects, being responsible for the abuse of that privilege.”⁵ The First Amendment prohibits the abrogation of free speech. Everyone has the right to speak freely, without repercussions, absent the language falling under hate speech, obscenity, child pornography, defamation, or incitement to violence and true threats of violence. Any restriction of free speech must be reasonable, content-neutral, viewpoint-neutral, and narrowly tailored to satisfy a significant institutional interest.⁶

This bill, by penalizing a person employed by or affiliated with any entity receiving state funding for simply using “words referring to an individual, person, employer, employee, contestant, participant, member, student, or juvenile” in ways that do not match the person’s sex assigned at birth, is a clear violation of free speech. The bill is not narrowly tailored and it is hard to see how such a bill furthers the interests of the citizens of North Dakota. Presumably, even a teacher giving a presentation who refers to a co-ed group as “you guys” could be subject to a \$1500 penalty. Also, how is one supposed to know?

Determining a dispute about someone’s gender identity by conducting a test of the individual’s deoxyribonucleic acid is not only absurd but also invokes the United States’ Fourth Amendment and the North Dakota’s Constitution protecting the right for any individual to be free from unwarranted searches and seizures⁷ and the Fifth Amendment protections of remaining silent. Although this legislation falls short of declaring use of preferred pronouns as a crime, the penalty involved is penal and punitive. Transgender and non-binary individuals are not criminals and their medical information is private. I fail to see how any entity can force an individual to take a test to establish an individual’s deoxyribonucleic acid, absent a court order. Involvement of a court would be forcing an individual to undertake an unwanted and unnecessary medical procedure.

This proposal also violates the privileges and immunities clause. The ND Constitution, Article I, Section 21 states: No special privileges or immunities shall ever be granted which may not be altered, revoked or repealed by the legislative assembly; nor shall any citizen or class of citizens be granted privileges or immunities which upon the same terms shall not be granted to all citizens. This law allows privileges for straight and binary individuals, which transgender and nonbinary individuals are not allowed – participation in state funded facilities.

It also denies children their right to a free and appropriate education as it would make being mis-gendered a condition of their education, which is discriminatory, harmful, and intolerable.⁸ Article VII, Section 1 of the North Dakota Constitution declares that a free education is necessary for all children of the State of North Dakota and must be “free from sectarian control.”⁹

actions/2021/01/20/executive-order-preventing-and-combating-discrimination-on-basis-of-gender-identity-or-sexual-orientation/

⁵ Constitution of North Dakota, Article I Section 4

⁶ NDCC 15-10.4-01(1)

⁷ Constitution of North Dakota, Article I Section 8

⁸ Constitution of North Dakota, Article VIII Section 1

⁹ Constitution of North Dakota, Article VIII Section 1

There are already free speech laws on the books in North Dakota that would conflict with this proposed legislation.¹⁰ The State Board of Higher Education has a policy that allows students and faculty free speech.¹¹ Students cannot be sanctioned for speech unless “the speech or expression is unwelcome, targets the victim on a basis protected under federal, state, or local law, and is so severe, pervasive, and objectively offensive that a student effectively is denied equal access to educational opportunities or benefits provided by the institution.”¹² Higher education institutions are to promote “a welcoming, inclusive environment.”¹³ This legislation flies in the face of existing North Dakota legislation allowing students and faculty to have free speech at institutions of higher education, which of course receive state funding. It will require these institutions to potentially violate other state laws.

There is no clear purpose for this legislation, other than to harass and further terrorize the LGBTQIA+, transgender, and non-binary communities in North Dakota, communities that already suffer from higher rates of suicide and harassment. Affirming individual’s preferred pronouns lowers the risk of suicide and self-harming. This legislation will further marginalize transgender and nonbinary individuals, putting their mental health at risk. Moreover, this bill will discourage people from moving to or staying in North Dakota, and will further discourage businesses from wanting to invest in our state.

I believe all Americans should treat one another as they would want to be treated. As part of my Lutheran faith, I leaned about loving our neighbors, not discriminating against them. I understand not everyone holds the same religious beliefs that I do, however, I do know North Dakota is about building strong communities. Discrimination has no place in North Dakota. Transgender and non-binary individuals are beloved members of our community and need compassion and inclusion, not hatred and exclusion. All people within the State of North Dakota deserve dignity and respect and to have their constitutional rights intact.

Please oppose SB 2199.

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

¹⁰ NDCC 15-10.4, *et. seq.*

¹¹ NDCC 15-10.4-02

¹² NDCC 15-10.4-02(4)(a)(1)

¹³ NDCC 15-10.4-02(4)(c)

North Dakota Legislative Council Members,

The passing of SB2199 is going to threaten the lives of every single transgender and nonbinary person in North Dakota. As a young person in this state, my transgender and nonbinary family and friends have a hard enough time being treated with respect here, and this bill will only give people an excuse to hurt them and violate them. The statements about DNA testing in this bill are completely ignorant as they disregard people with intersex traits. I beg you to make decisions for all the people of this state, which absolutely include those that are transgender and nonbinary. People are people and I believe everyone deserves to be protected and respected by the law. This bill is going to help no one and cause so much turmoil and pain for others.

Sincerely,

Leah Dykeman

To whom it may concern,

I am writing in to express my strenuous opposition to SB 2199, this bill is not only a needless and pointless attack on the trans community but also a truly disgusting affront to the basic principles this nation was founded on. Ladies and gentlemen our founding fathers, the men who dragged this nation kicking and screaming into existence did so to defend one basic concept, that every man, every woman, every person and every child regardless of their station in life, regardless of where or when they were born can and should have the right and the privilege to speak freely at the very least and the rights to life, liberty and the pursuit of happiness in a more abstract sense. This bill is an affront to and an attack on those principles, this bill would strip people of those fundamental basic human rights.

Ladies and gentlemen I would like to state something for the record, I am transgender, I would prefer to be called holly, I know that in many cases this is difficult for people and by God I understand, but this is who I am , I have known this my whole life, I have tried every avenue in existence to make it go away, there are people in my life who would rather not hear me say this but for good bad or indifferent this is who I am and I would ask that anyone show me the common courtesy of calling me by my name. I say all of that to let you know that I have a dog in this fight so to speak, but ladies and gentlemen I'm not here just for that. I'm here because I believe that this bill is an attack on the very principles that make this country the greatest on earth, the right to free expression literally and the more philosophical rights to liberty and the pursuit of happiness that this nation was founded on. As much as people like to fearmonger about it there is no law in this country that demands you refer to people by their preferred pronouns, but to my knowledge this would be the first law to penalize someone for it, for expressing their right to free speech. I ask you , are those the ideas this great nation was founded on? No!

In closing ladies and gentlemen of this committee I would ask that you remember one thing and one thing only, when you took office you took an oath before your colleagues, before your family and supporters , before your friends, before your opposition and before God himself to uphold and defend the constitution of the United States. Ladies and gentlemen that is not a document you can pick and choose which parts to support and oppose, and our constitution has made it abundantly clear that the right to free speech shall not be abridged for any reason.

I can only ask that before you cast your ballot , before you vote on this bill that you remember the oath you took, remember why you entered public service in the first place, and vote with your heart and your conscience.

I thank you very much for your time and God bless the United States of America and God Bless the state of North Dakota.

This proposed law is a blatant abridgement of the freedom of speech, one of the fundamental freedoms of American democracy. I don't see how it can possibly be justified, or for that matter compatible with either the constitutions of the United States or that of North Dakota.

It's as simple as that.

This bill is utterly insane. It would require law enforcement to know every single person in the state's assigned sex/gender at birth, as well as require them to check it anytime a person called another person by a pronoun that *might* not match their appearance.

This bill would be nearly unable to be enforced, and people call other people by pronouns besides their agab all the time.

Keep in mind, that pronouns include the words you, I, me, us, she, her, he, him, they, them, it, its, and that's not even counting any neo pronouns or nonbinary pronouns.

Just normal every day words that people use.

North Dakota needs to be a state that is known for personal rights and freedoms. As a clinical psychologist, I recognize this bill to be both insulting and dangerous for a significant minority of our population and all those who love them. The most conservative population estimates would suggest that there are more than 23,000 transgender / gender diverse individuals currently living in North Dakota who would be negatively impacted by this bill. This does not even take into consideration the family and friends who would also be impacted.

Research shows that sex, gender identity, and gender expression are three different categories of a person's experience. Similarly to how we now know that a person's sex does not determine their sexual attraction to others, biological sex does not determine a person's internal sense of gender. We also know that for those who are experiencing gender dysphoria (incongruence between their biological sex and internal sense of self), honoring their name, pronouns, and gender expression leads to better overall health. When people are not afforded the right to live according to their internal identity, suicide rates increase significantly. When it comes to legislation such as this in other states, it has been especially correlated with increases in suicide rates in youth.

This bill would force a number of companies to go against their existing internal policies. This would be a significant disincentive for economic development in our state - encouraging businesses to take their business elsewhere.

I know so many people, personally and professionally, who will be hurt by this bill. In considering personal rights, human dignity, mental and physical health, and economic stability, I implore you to vote NO on SB 2199.

January 17, 2023

Dear North Dakota Senators,

I ask you to oppose SB 2199.

This bill impacting organizations receiving state funding, requiring misgendering transgender individuals without regard to legal status, and imposing a \$1,500 penalty for doing so is blatant discrimination towards a population that is less than 1 % of our North Dakota population.

At a time when North Dakotans are concerned about mental health, this bill would add to the already high suicidality in the transgender population.

We need to keep all of our citizens safe, provide them with services including mental health. Transgender populations deserve the same as all of our citizens.

Sincerely,

Karen Nitzkowski
4711 105th St N
Harwood, ND 58042
Cell: 701-371-9644
Email: knitzkowski@gmail.com

As a medical doctor, I understand the literature on human gender and sex and I know it to be true that some humans are transgender. That is, they are not intrinsically the gender that they were thought to be when they were newborn infants. I've worked with many transgender people as my patients and outside my work and I know that they know their own gender better than I or anyone else can.

I also know that research shows when doctors, family, friends, and other members of society do not respect someone's gender identity, there is a strikingly increased risk that the transgender person will commit suicide.

I am against this bill because it is disrespectful and dangerous for transgender people. I know that North Dakotans are kind-hearted and wouldn't want to harm transgender people, especially when transgender people are doing nothing to harm others. This bill puts transgender people at risk and benefits no one.

Please consider my professional experience when I tell you passing this bill is dangerous for my patients, for the transgender residents of North Dakota. There is nothing to gain from passing this piece of legislature.

Any law restricting care, identity , or personal growth of any Transgender person is hateful, ignorant and ungodly! These bills if passed, will have tremendous and lasting negative effects on youth and adults . I urge other adults — doctors, nurses, teachers, principals, counselors, therapists, and parents and even adolescents to educate others and speak out on the negative impacts that these acts will have on the health of adolescents who identify as transgender or have dysphoria. If these bills were to become law, we would eliminate any Transgender, NonBinary person from living a healthy and Authentic life setting them up to spend days and hours struggling to be comfortable in simple daily tasks. These would compromise the safety and well being of Transgender people.

Interactions where someone denies your chosen name or pronouns can be psychologically damaging . Having your identity disrespected by those around you might start as unpleasant, but over time it can build to become draining and truly damaging. Having to endure disrespect and discrimination regularly can lead to significant health consequences over a person's lifetime.

The Harvard Medical School and the Fenway Institute published a study showing that access to puberty blockers during adolescence is associated with lower odds of transgender young adults considering suicide. Despite fearmongering, these are safe medications that doctors have been using for decades for cisgender children who go through puberty too early. They also are reversible — if the medication is stopped, puberty will progress. Continuing HRT means that a person can continue to be who they are, reversing that care will spiral that person into unjust mental health risks and dysphoria that they have already adjusted from.

Deciding any law based on prejudice or ignorance is neglectful ,an error in judgement and a bad ethical practice. Voting against laws that have been researched to be beneficial to those who are represented in them draws to question the reasoning. The use of bathroom plans, Pronouns, Gender Affirming Care have been done so for each individual based on a team of people looking out for their best interest. Parents, doctors, counselors, family members, school staff and the individual have all already decided what is best for them, your refusal to see that is not their burden and should never be. You will not have to live with the damage you have caused they will and for some that may mean an early death.

Elia Jay Scott
2564 Arrowhead Road, Fargo, ND 58103 (district 46)
701-318-4873

Please stop the war on trans lives – SB 2199 opposition testimony.

“If the Jew did not exist, the anti-Semite would invent him.” Jean-Paul Sartre said that in 1944. Later, Nazis lost the war; and open hatred of Jews became unpopular. So, conservatives have had to invent Jew after Jew after Jew for us to hate instead. First it was Black civil rights agitators in the 1950s. Then gay people in the 1980s. Then Muslims in the 2000s. Then immigrants in the 2010s. Now, conservatives have selected **trans people** as their latest scapegoat minority.

All bigotry is and looks the same. Conservative talking heads tell us “transhumanist elites” are trying to overthrow “Western civilization” via trans people – echoing *The Protocols Of The Elders Of Zion*. They call trans people “groomers”, trying to “trans” our children – echoing Blood Libel and other accusations of child-predation used to justify Jewish mass-murders, Black lynchings, and gay-bashing. Today, right-wing rhetoric is causing a rising wave of **hate crimes** against LGBTIA people.

As the latest in their escalating war on trans existence, Republicans in the ND Legislature have introduced **SB 2199**, a bill to **mandate all state-funded employers** to misgender trans people – even those who have had surgeries and changed their legal sex – something known scientifically to increase trans suicidality. This is **mandated speech**, in violation of First Amendment, for sole purpose of **persecuting a minority**.

If you love your trans neighbor, I ask the committee please to vote **“Do not pass” on SB 2199**.

To the legislators introducing these hateful bills— You will meet the King of Love when you die.

†

North Dakota needs to be a state that is known for personal rights and freedoms. As a clinical psychologist, I recognize this bill to be both insulting and dangerous for a significant minority of our population and all those who love them. The most conservative population estimates would suggest that there are more than 23,000 transgender / gender diverse individuals currently living in North Dakota who would be negatively impacted by this bill. This does not even take into consideration the family and friends who would also be impacted.

Research shows that sex, gender identity, and gender expression are three different categories of a person's experience. Similarly to how we now know that a person's sex does not determine their sexual attraction to others, biological sex does not determine a person's internal sense of gender. We also know that for those who are experiencing gender dysphoria (incongruence between their biological sex and internal sense of self), honoring their name, pronouns, and gender expression leads to better overall health. When people are not afforded the right to live according to their internal identity, suicide rates increase significantly. When it comes to legislation such as this in other states, it has been especially correlated with increases in suicide rates in youth.

This bill would force a number of companies to go against their existing internal policies. This would be a significant disincentive for economic development in our state - encouraging businesses to take their business elsewhere.

I know so many people, personally and professionally, who will be hurt by this bill. In considering personal rights, human dignity, mental and physical health, and economic stability, I implore you to vote NO on SB 2199.

Testimony opposition SB 2199

I'm writing to ask that the legislature vote down proposed Senate Bill No. 2199. The reason for this is because it is both unenforceable and will create unnecessary hardships for implementation as well as deter out-of-state employees and students from coming to ND. It is also cruel, intolerant, and inaccurate, but I'm not sure those aspects of the bill are of interest to many of the voting legislators.

First, it strikes me as nearly impossible to police the use of language around gender, gender identity, or gender expression across the many institutions in the state, whether universities, public service offices, or schools. When there are so many more significant civic initiatives and efforts we could be attending to, it is hard to understand why the legislature would want to mandate this kind of punitive and fine-grained level of micromanagement on those already under-resourced offices. Is the legislature really proposing that DNA tests be conducted regularly around contested or penalized questions of gender? What a ridiculous waste of public resources.

Second, many efforts across universities and other state public service entities nationally are to move toward more inclusion and access, not less. Insisting that the state move in an opposite direction will only be harmful to the quality of life in the state. For example, [recent surveys](#) have shown that from [20-25% of young adults identify](#) as members of the LGBTQ+ community. If we are at all interested in supporting and attracting college students and workers to our state, this legislation is counterproductive and will chase away young adults from building their lives in our local communities.

Last, it is factually incorrect to suggest that there is no gender spectrum either biologically, genetically, or socially. Cross-culture understandings of gender vary, and there are a variety of genetic or biological circumstances that challenge the notion of binary gender (see the [Intersex Society of North America](#) and work by biology researchers on the range of [gender and sex chromosome variability](#)).

In other words, I encourage our legislature to invest time in efforts that will improve the civic, economic, and social quality of life in North Dakota rather than launching both non-feasible and mean-spirited efforts to control people's personal lives.

Holly Hassel

Fargo, ND

Dear Senators,

I am writing in opposition to SB 2199. I believe that human rights are being attacked. I have always been a proponent that at the end of the day all anyone wants is to unconditionally belong. This bill not only condemns our own humanity, but attempts to eliminate the existence of anyone who does not fit into a box. It is okay to not fit into a box, it is okay for us to be ourselves.

I imagine that you have come into contact with multiple transgender people and have not even known. Condemning a specific set of humans can not be the answer. Are we going to have to ask people for their birth certificate before we treat them with dignity?

Am I only defined by my biological makeup, which this bill explicitly outlines? While my DNA has made my body, my spirit better defines me, gives me hope, allows me to understand empathy. Such a narrow bill targeting how we define ourselves is unnecessary as no legislative body will ever have the ability to truly define what being a human is about.

I would like to end with the fine amount or even the idea of fining someone for their beliefs. The other parts of this bill demonstrate a pattern of distaste for those who do not identify as you do, but the fine illustrates the passion to remove those who think differently. As a secondary, but still considerate question, who is going to enforce this and how. I am sure that our law enforcement agencies have little time to enforce this bill; I would feel safer with the hard-working officers enforcing current century code.

Please re-consider this legislation,

Ryan Moser

Only recently have I been able to begin the process of simply acknowledging that I will never see my daughter again, a transgender young adult who took her own life partly because of bills like this and the understanding that the people that write such bills would force her to fight for her very existence as a human being for her entire life; to her it was hopeless. This bill, if passed, would confirm that. So, having to write a letter in defense of her existence because the North Dakota legislation wants to erase it is abhorrent. But, she can no longer speak for herself and I am her mother, so here I am. And I am angry.

I've spent the day struggling for the words that would protect my family from the cruelty this bill represents. I've considered defending their humanity, telling stories that would help you see them as people, and offering statistics on suicide in relation to pronouns amongst the transgender community. But all of that seems pointless, much like this bill is, and I can only assume this committee has been made well aware of those things, already. Pronouns are unimportant to the cis-gender (those whose gender identity matches that of the sex assigned at birth) population. Most didn't give them a second thought until the trans community began asserting their right to life, liberty, and the pursuit of happiness. It makes you wonder what inspired a bill that would only impact the transgender community and in a harmful way. Is it fear? It certainly seems like that is a motivator here. But laws written out of fear have a tendency to be discriminatory and restrict freedoms, such as self determination, of specific individuals. Is it personal /religious belief? Most definitely. But since when has it ever been acceptable to impose an obvious personal /religious belief so blatantly on an entire population via law? And what is the end goal? What good thing is this bill supposedly going to accomplish other than acknowledging that yes, pronouns are important? So incredibly important that republicans feel the need for a law dictating who a person is and who they are not allowed to be recognized as; so important that my trans daughter would descend into painful silence when misgendered and withdraw, sometimes for days; so important that trans individuals have sought to end their own lives when their pronouns are ridiculed and refused.

It's difficult to see this bill as anything other than the legalization of bullying and the promotion of cruelty. The only purpose for it being to enable trampling on already marginalized human beings and to make it illegal to do otherwise. I've watched the hopelessness this bill has inspired in the people it would affect, directly and indirectly, and I'm left with only this – why? What is there to gain by making it legal to purposefully hurt another? This bill isn't so much hateful as it is ignorance personified and shameful, and useless to all but the bully. And because it's only end result will be the harm of North Dakota citizens it should be a do not pass.

WRITTEN TESTIMONY IN OPPOSITION TO SB 2199

Senate Judiciary Committee on Senate Bill 2199

Date of Hearing: January 18, 2023

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

My name is Debra Hoffarth. I am a lifelong resident of North Dakota and an attorney. North Dakota Century Code § 1-01-34 is a basis for statutory construction and affects all sections of the North Dakota Century Code that mention gender. The current statute holds the definition that is used by lawyers to help define the term gender in the law generally and this change will significantly alter how laws, and legal documents, are interpreted. Revising this definition will create questions regarding basic legal definitions.

North Dakota Century Code § 1-01-34 should remain as is, with no changes.

Please oppose SB 2199.

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

January 17 2023

Dear ND legislators,

Reject SB2199. Cast it out and never consider such things again. I was born and raised in this amazing state and it saddens me to see us take such a massive step backwards. It invites hateful actions and future laws that suppress a person's humans rights (or if you so prefer god given rights.)

Let us for a moment pretend this targets any other group and look at what it does. It's is a violation of free speech, a removal of rights, and an attack against persons pursuit of life, liberty, and freedoms.

Many of you im sure have wives (or are). And they where not born with your last name yet in the pursuit of happiness they are allowed to take yours in marriage if the desire. Why too can't a person who is in the pursuit of happiness change the little F or M on their drivers license when they can change a full name?

Someone with a long name can get a nickname or do we now have to call you all by full name. I mean that's what your Birth certificate says so it stands to reason Nicknames should go too. But who likes hearing their full name? I don't cause you only ever hear that when you get in trouble by your parents.

Is it genetics that scares you? Cause nothing in genetics is binary not even gender. Some men are more manly then others. Some ladies more feminine. There is a percentage of the population that are genetically from birth that are classified as intersex. Some don't know it till much later in life. Heck there is even a chance one of you in this building are and don't even know it. Perhaps one day your doctor does a Check up and runs a test and then are forcefully called the opposite sex from what you identify as? Or God forbid your kids or grand kids?

Is it your incorrectly afraid that they are lying? Afraid that the girl your staring and fantasizing about at lunch was once a dude? Why even consider this blatant hate bill. I don't care what your face book time line lyingly says in your little echo chamber. They are not hurting anyone but you sure are hurting them...Citizens, neighbors, taxpayers, maybe even family.

So please. Again I ask. Don't seek to harm them, Protect them like you would your own family, because one day it just might be.



Senate Judiciary Committee

Sen. Diane Larson, Chair

Jan. 18, 2023

SB 2199

Chair Larson and members of the Senate Judiciary Committee, I am Neil Roesler, Executive Director for Legal Services at Sanford Health Fargo. My testimony is in opposition to Senate Bill 2199. Sanford Health ask that you give this bill a **Do Not Pass** recommendation.

Among other things, by virtue of relationships with Medicaid, North Dakota's universities, and various state grants and programs, this bill will apply to virtually every North Dakota healthcare facility.

We have a calling and an obligation to compassionately treat all patients with respect, dignity, and in line with their reasonable requests for accommodation. This bill would mandate that healthcare facilities ignore the sincerely-held desires of a subset of our patient population, starting them at a disadvantage in comparison to our other patients.

In order to properly fulfill our mission to treat all patients to the best of our ability, we oppose this bill.

Thank you for your consideration.

Neil Roesler, Executive Director
Legal Services
Sanford Health Fargo
Neil.Roesler@SanfordHealth.org
701-234-6904

January 17, 2023

Dear Members of the ND Senate Judiciary Committee,

My name is Tim Baumann. I live at 1308 35th Ave. SW and I am writing today to express my opposition to SB 2199. From my perspective as a business operator and employer, this bill would make it more difficult to attract workers to our state to fill the multitude of job openings that currently exist in North Dakota.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'Tim Baumann', with a long horizontal line extending to the right.

Tim Baumann



January 17th, 2023

Taylor Smart LAPC | Clinical Mental Health Counselor

Dear Honorable Members of the North Dakota Legislature,

This letter is to inform you that your plans to limit the definition of gender in North Dakota to biological sex will be inherently harmful and cause undue stress to thousands of North Dakotans. I work with North Dakota citizens every day as a mental health counselor that would be significantly impacted by this decision, and on behalf of my clients and fellow mental health providers, I want to urge you to reconsider this piece of legislation.

I am familiar with the professional, peer-reviewed literature concerning gender identity, and know that it would harm people who are already marginalized and treated poorly in our state. Not only would it harm individuals, but also organizations that will have to adopt rules and enforce fines that are against their ethics and philosophies.

Again, I urge you to consider the harm and damage that this will cause to North Dakota citizens, businesses and other organizations.

Sincerely,

A handwritten signature in black ink, appearing to read "Taylor Smart", with a long horizontal stroke extending to the right.

Taylor Smart LAPC
Clinical Mental Health Counselor

Dear ND Legislators,

My name is Ashley Limesand, LPC (MN), LAPC (ND), NCC and I work as a clinical mental health counselor serving ages 8+ in the state of North Dakota and Minnesota. I write this letter on behalf of myself, in an attempt to express how this bill would impact my work and my client's lives.

A vital and necessary piece of my work includes being able to discuss challenges people face in their lives in order to begin the work of normalizing individual differences that come with being a human so we can work to reduce barriers and cope with such challenges. Stated within the *American Counseling Association Code of Ethics* section A.1. "the primary responsibility of counselors is to respect the dignity and promote the welfare of clients." This includes honoring and respecting the diversity of clients as they are, and not letting my own values, attitudes and beliefs, impact services or the client in a negative way (A.4.b). This same ethical code also asks me to advocate for clients at "individual, group, institutional, and societal levels to address potential barriers and obstacles that inhibit access and/or the growth and development of clients (*ACA Code of Ethics*, Section A.7.a)."

This bill directly challenges my ability to do my job and directly challenges standards set out in the counseling code of ethics that guide counselors in the field nationally. It imposes personal beliefs, values, and attitudes on clients unethically, putting me and many other professionals in a position to cause harm by not being able to honor clients' expressed identities, and furthermore puts me in a position to have to choose between the law, the ethical code, my client's wellbeing, and my own wellbeing.

Furthermore, it puts citizens of your state who need to utilize state funded resources in order to access therapy in potential harm emotionally on several fronts. It creates fear about one's ability to express themselves, which in turn increases emotional distress, worsening one's overall mental health. This creates even more barriers to treating the underlying issues that bring a person to therapy. Let me be clear here, a person's gender, gender identity, and gender expression are not the therapeutic issue being treated. They are a part of the whole person, and fear related to expressing this creates barriers to treating the actual issues people are struggling with.

I can also safely assume subjecting people to DNA tests that are most definitely going to be unwanted, creates a significant potential for traumatic experiences. All of these consequences, and likely many more not addressed specifically in this letter, would create significant barriers and obstacles for clients, greatly inhibiting their ability to access services that support their growth and development as individuals and in relation to their mental health, and would limit my ability to do my job effectively putting me in direct conflict with my ethical code and the best interests of my clients.

Outside of all of these very valid professional reasons that do not support this bill, and outside of one's right to basic human rights to not be discriminated against and to have access to

equality both of which this bill would challenge--I also would like to ask the below questions as a human and lifelong resident of this state. What would be the financial impact of running the DNA tests? How would you go about making someone undergo a DNA test? How does this support the emotional well-being of this state's citizens, both those who need services and those who have dedicated their lives to helping and supporting the well-being of others? How will this criminalize people who need services and those who provide it? What would the cost of this be to the state and its citizens? If people continue to experience more and more barriers to getting treatment for their mental health, people's overall well-being and functioning will suffer, and we can assume people will need more help and services, and need more support from the state. What is the overall financial impact of this to the state? Of continuing to ignore the mental health needs of your residents, focusing on the wrong details, and instead imposing your values and beliefs on citizens without understanding the larger impact?

Thank you for reading this letter. I urge you to please do better for your citizens no matter their gender identity or expression.

Sincerely,

Ashley Limesand, LPC (MN), LAPC (ND), NCC

Emily Miller
Testimony, SB 2199

Good morning, my name is Emily Miller and I am submitting this written testimony in opposition to SB 2199. Not only is it an egregious bill that targets a minority population in our state, it is effectively non-enforceable. This bill also sets a worrying precedent for the erasure of First Amendment rights by penalizing speech.

It is a common claim by the right side of the aisle that bills like this are protecting children, but that is simply not the case. According to the North Dakota Youth Risk Behavior Survey, (YRBS) 3.7% of our high school population identifies as transgender, which amounts to about 4,318 kids statewide, not including the middle school populations, which may bring the total up to 20,000. In addition to the school population, from personal experience as a young adult that has been involved with YouthWorks, I have noticed a general increase of trans people in the homeless/at-risk of homelessness population. Nationwide, according to the Trevor Project, youth transgender women and men make up about 38% of their respective transgender populations. LGBT Native Americans also report higher homelessness rates, at 44%.

Additionally, this bill would likely make the lives of the transgender youth population much harder than it already is, but will also affect adults here too. People that effectively pass as the other gender may be outed as result of this bill, resulting in a higher likelihood of them being targeted for violence. Instead of vilifying and targeting this vulnerable minority population, we should be treating them with compassion and understanding.

Besides the reasons I've stated above, I genuinely believe that this bill would be unenforceable. Who would take the money? Where would the money go? Who would make sure that this bill is being enforced? We have no answers to any of these questions, and it seems as if this bill was created to vilify, as I have said earlier. Not only is the bill a waste of time to pass, it is effectively penalizing speech and forcing it. My tax dollars want to be spent on public services that'll benefit the population, not hurt them. For the sake of ALL North Dakotans, disregard this bill, and pass ones that actually help. Thank you.

To Whom It May Concern,

I am writing as a healthcare provider licensed and practicing in North Dakota. I am in strong opposition to Senate Bill 2199, relating to gender usage in the North Dakota Century Code. I have seen first hand the impact of misgendering trans and non-binary individuals by using the pronouns that correlate with their "sex" assigned at birth. If this law were to pass I would be forced to mis-gender my trans or non-binary patients. This may lead them to avoid getting needed medical care, creating risks to their own wellbeing as well as public health. The fear of being fined could well lead to medical providers or other public servants leaving the state, to the detriment of all North Dakota citizens.

In addition I would like to point out, as many others have already, that forcing someone to use the pronouns that associate with their "deoxyribonucleic acid" is extremely impractical and illogical. While we generally think of "females" as having two X chromosomes and "males" as having an X and a Y, there are many individuals who have other combinations. Some may have XXY. Some may have just one X. Some have some cells in their body that contain XX and others that contain XY. There are individuals who have the XY chromosome but a condition known as "androgen insensitivity" that causes them to develop physically "female" genitalia and features. Others people with any combination of DNA can be born with both ovarian and testicular tissue, or neither. According to the Cleveland Clinic approximately 1% of people fit one of these categories – meaning over 7,700 North Dakotan residents.

Lastly, this bill is in complete violation of the very basic ideals of freedom of speech and expression. All individuals have the right to determine how they want to be identified – anyone who has ever been given a name at birth that they didn't care for and chosen instead to go by a nickname understands this. At the end of the day pronouns are words – parts of speech, protected by the US constitution. There are languages on Earth that don't have separate pronouns for male and female – Armenian, Tagalog, Persian or Farsi, Turkish, Hungarian, Estonian, Finnish, spoken Mandarin, written Cantonese, Swahili and Yoruba for example. Many parts of our society have already learned that gendered language isn't ideal – for example we generally use the term "Police Officer" now instead of "Police Man" and "Police Woman," or "Flight Attendant" instead of "Steward" and "Stewardess."

I urge you all to vote "Do Not Pass" on this hateful, backwards, antiquated, illogical, idiotic, unconstitutional and un-enforceable piece of legislation. If passed this bill benefits absolutely no one and will harm many.

Regards,

Tanya Baity

Certified Nurse Midwife

Representative Diane Larson, Chairman
Representative Michael Dwyer, Vice Chairman
Senate Judiciary Committee
Zander L. Mueller
zanderm301@gmail.com
Wednesday, January 18th, 2023
I am writing against bill 2199

I strongly advise you to not go through with passing bill 2199.

When I was a child I was taught that if I didn't have anything nice to say, then to not say anything at all. I was taught that sometimes, people are going to say and do things that I don't agree with, but it was my job to tolerate and respect everyone. Bill 2199 is an extremely harmful bill that will put the lives of transgender youth at risk. Medical procedures and hormone replacement therapies to transgender youth and to the transgender community is profoundly important. Studies show that transgender people who started hormone replacement therapies in adolescence had fewer thoughts of suicide and were less likely to suffer from major mental disorders. Another study showed that medically transitioning increased the individual's quality of life and allowed them to finally feel free and happy with their body and mind. My question is why is the state of North Dakota so focused on taking away the rights of queer or transgender citizens?

Is it because of a religious belief? Because the Bible states that Matthew chapter 7 verse 12, "So whatever you wish that others would do to you, do also to them, for this is the Law and the Prophets." or in other words, treat others how you wish to be treated. In Philippians chapter 2 verse 3, "Do nothing from selfish ambition or conceit, but in humility count others more significant than yourselves." Respecting the dignity and worth of others is much more important than fueling the fire of our own egos. In order to love and respect others we need to think less about how we think of things and focus more on what others are thinking and feeling as that might help us see a different perspective. And also the establishment clause in the United States constitution separates the church from the state.

There can't be a scientific reason behind this bill. Discoveries within the brain of transgender people are being made all over the world. At a hospital in California it was discovered that the neurological wiring inside the brain of transgender identifying people corresponds more with the individual's gender opposed to the sex they were assigned at birth. Meaning, transgender people's brains are wired to think, act, and feel as the gender they correspond with. But, yes there are still factors that go with being transgender that science, doctors, or even anybody understands yet, but that can be said about everything in the world. How do the cells that makeup my heart know to be heart cells, or how did human life evolve from a bacteria to what it is now?

But let's be honest with ourselves. No matter how much scientifically proven evidence I show you or statistics of suicide amongst transgender people unable to medically transition or the evidence that is shown in the bible or even if I stand here and beg you to just open your eyes and look at the damage you will be doing if you do end up passing this bill, you won't listen. I don't think I will ever understand why

the government in this state is so against people who are just trying to live their best life. I can ask you all why you are fighting so hard to pass this bill but I won't get a straight answer because all of your reasons will include the words "I think," or "I believe," or simply "I". You will base your arguments on opinions and beliefs, and not off of facts or evidence.

When you all were sworn into this office you took an oath, an oath bounding you by law to defend the Constitution of the United States against all enemies, foreign and domestic. But passing this bill means that you are putting a target on all Transgender youth, risking their lives, and their rights as it was written in the constitution. The Ninth amendment to be exact, the amendment that states not to deny the rights of others retained by the people. So if this bill is to be passed, you are not only breaking your oath, but you are becoming what you swore to protect the constitution against; an enemy.

Written Testimony in Opposition to SB 2199

Senate Judiciary Committee on Senate Bill 2199

Date of Hearing: January 18, 2023

David Martin, Bismarck, ND

I submit this testimony opposing Senate Bill 2199.

First, the purpose of this amendment is to establish a penalty (“a fee of one thousand five hundred dollars”) for the use of “words referring to an individual” when those words are not used “in the context of that person’s sex as determined at birth.” ***The offense to the First Amendment’s guarantee of free speech is glaring and obvious***: this legislation creates a penalty for using an ordinary and unoffensive word like “he”, “wife”, or “daughter” if it is found to be used not in “in the context of that individual’s determined sex at birth”.

Second, an alleged offender can seldom be sure of another “individual’s determined sex at birth”, let alone anything about their “deoxyribonucleic acid”. Even a person who desperately wants to comply with this bill has little power over whether they can actually do so.

Third, in replacing Century Code § 1-01-34, this legislation may have enormous unintended consequences. The current § 1-01-34 is simply stated and reads as follows:

1-01-34. Gender - Definition.

Words of one gender include the other genders.

Thus, this current code section indicates that when the Code uses a word like “he” or “man”, it should not be construed to exclude women, children, or “other genders”. This is plainly the interpretation that must be used by the legislature in interpreting the State Constitution as well as the Code. For example, the State Constitution, Article I section 9 reads (highlighting added):

Section 9. All courts shall be open, and every **man** for any injury done him in his lands, goods, person or reputation shall have remedy by due process of law, and right and justice administered without sale, denial or delay. ...

Clearly, the courts are open to “other genders” as well, consistent with § 1-01-34 that SB 2199 seeks to eliminate.

Fourth, the animus in this bill towards trans and non-binary people is downright shocking. Please oppose SB 2199.

David Martin, Bismarck, ND

My name is Barb Stanton, PhD. I am a Licensed Professional Clinical Counselor in ND. I am currently employed at Ellie Mental Health located in Moorhead, MN. I do provide services to people in the state of North Dakota.

In my role as a mental health therapist, I have been working with transgender individuals for over 30 years. In that time, the medical and psychological research has shifted the understanding of transgender individuals and appropriate interventions. While we are still working to fully understand the definitive cause, we have learned that it is likely due to the structure of the brain and that is influenced by hormones and biological factors. We do understand that being transgender is not a choice. We know that gender is more about the brain than genitals. We do know that it is a medical condition. We do know that it is critical to follow evidence-based information.

The reason it becomes a mental health issue is due to psychological distress. Individual factors contributing to mental health crises in transgender persons include community attitudes, and societal acceptance.

Too many transgender people are lost to suicide and debilitating depression or anxiety. Forty percent of transgender persons endorse suicidality, and the rate of self-injurious behavior and suicide are markedly higher than in the general population. When there is acceptance and support, mental health improves.

This bill does not follow scientific literature and its passage will cause significant damage the mental health of transgender individuals and devastate families. I urge you to follow fact and reason rather than bias and misconceptions and vote DO NOT PASS on SB2099.



2023 Senate Bill no. 2199
Senate Judiciary Committee
Senator Diane Larson, Chairman
January 18, 2023

Chairman Larson and members of the Senate Judiciary Committee, I am Tim Blasl, President, of the North Dakota Hospital Association (NDHA). I testify in opposition to Senate Bill 2199 and ask that you give the bill a **Do Not Pass** recommendation.

The bill is so broadly written that it would apply to virtually all health care providers in North Dakota, because most receive state funding through the Medicaid program or by accepting state grants or contracts. The bill would require that words referring to a person must be used in the context of that person's sex as determined at birth. It would dictate how health care facilities must refer to a patient's gender no matter what the circumstances may be.

While sex at birth is primarily understood in terms of physical and biological features such as genitals and hormones, gender is a multidimensional concept that is influenced by several additional factors, including cultural and behavioral norms, and self-identity. Hospitals desire to treat all patients with empathy, equality, and dignity. Assignment of a biological sex at birth may or may not align with what is going on with a person's body, how they feel, or how they identify. However, when "male" or "female" is recorded on a birth certificate, it is recording an infant's biological sex that has been assessed by an inspection of their genitals. However, this does not mean that the assessment is always right, as there are certain intersex conditions not apparent at birth that may result in misclassification.

This bill would also mandate that a health care provider ignores a patient's own internal sense of gender identity, and it would dictate how a person's genitalia and health data must be described- both of which our society say are private matters. In the end, a legal mandate about how gender must be documented will not resolve the philosophical controversy regarding transgender identity or expression.

Dictating that a medical record may only describe gender as that assigned at birth could lead to interference with appropriate health care. Allowing only sex as assigned at birth could mean that certain services or treatment are not viewed as being necessary. For example, it is well documented that transgender individuals suffer from a higher prevalence of clinical depression and anxiety, report higher use of drugs and alcohol, and are at a significantly increased risk of suicide. If a provider cannot properly describe a patient in medical records, the patient may not receive appropriate screenings or treatment. Health care barriers are already magnified for transgender persons. An inaccurate medical record should not be an additional barrier to necessary health care.

We are also concerned with the \$1,500 fine that the bill requires for a violation. Is the fine per violation? Per provider? Who will determine if a fine is appropriate? Which government entity will enforce the fine?

For these reasons, we ask that you give the bill a **Do Not Pass** recommendation.

Respectfully Submitted,

Tim Blasl, President
North Dakota Hospital Association

I, Alison Grey am writing this as a resident of North Dakota that strongly opposes this bill (SB2199).

There are numerous studies available showing that being supportive to someone that's going through transition with gender affirming care, including using the pronouns that correspond with one's gender identity result in lower rates of suicide, and better mental health outcomes in general.

This is especially important in the workplace (see here https://www.thetrevorproject.org/wp-content/uploads/2021/07/LGBTQ-Youth-in-the-Workplace_-March-2021.pdf) particularly so in a day in age where people are already concerned about worker shortages.

Passing this bill will also serve to lead to more of that as well, as no trans person is going to want to work in a place that forcibly misgenders them.

Furthermore, attaching a fine like that ensures that it will gouge not only individuals and businesses, but also educational institutions and even the state itself.

I fear this will also only lead to further discrimination amongst transgender people in the workplace as well, trans individuals often experience stigma and discrimination, hostility from others, and pressure to manage their identities in social settings. For example, a 2015 comprehensive survey of 27,715 trans individuals residing in the United States showed that 77% of those who had held a job in the year prior took active steps to avoid mistreatment at work.

That number has most likely grown, given how laser focused on transgender people conservative media has been in the last year or so, focusing only on painting a harmful caricature of a group of people that are just trying to live their lives, and with how many bills like this and many others have been pushed recently in order to define transgender people out of the law.

I cannot stress enough how important it is for the younger crowd as well, who are already experiencing one of the toughest parts of their lives. There is no need to make it any more difficult for them, and that is the only thing you will accomplish by passing this bill. (see here <https://www.thetrevorproject.org/survey-2020/?section=Suicide-Mental-Health>)

In conclusion, this bill helps absolutely no one, and will only serve to punish and "other" an already marginalized community for no reason. Please do not pass this bill.

Dear Chair Larson and members of the Senate Judiciary Committee,

My testimony is in opposition to Senate Bill 2199. I ask that you give this bill a Do Not Pass.

I am a pastor and a parent. Life is difficult for people with a diagnosis of gender dysphoria, because there is widespread misinformation about this medical condition. I know people who have decided not to live, work, or attend school in North Dakota because they fear violence and discrimination, insighted by people who misunderstand their medical condition. I have sat with parents of teens who were diagnosed with gender dysphoria, who chose to complete suicide, instead of living in North Dakota. The pseudo-science presented in SB 2199 sets the state of North Dakota up as an agent in the violence done to people with diagnosed gender dysphoria.

If this bill were to pass, my parishioners will be faced with further emotional harm, sponsored by the state of North Dakota. My ability to provide pastoral care will be challenged. Just today I had conversations with parishioners who feel personally attacked by the existence of this bill. More of my parishioners will move out of North Dakota as a result of this bill.

The idea that there are only two definable genders and that those genders can be discerned by looking at a newborn's genitals is scientifically unsound. Using DNA to determine someone's gender is both costly and unreliable. If a student or public official declares their gender, asking for a sample of their DNA is asking to violate their privacy. Why would the government have a right to my DNA? Would you give your DNA?

Studies prove that using the preferred pronouns of a youth who is diagnosed with gender dysphoria greatly improves their chances of surviving to adulthood. No matter how you personally feel about this medical diagnosis, do not our states children have a right to live until adulthood? Forcing even the most compassionate teachers and public employees to use words that encourage self-harm goes against not just my sense of morality, but my faith.

I could go on. I am angry that this bill has been proposed. I am angry that it went past the hearing. I am angry that lawmakers think this is worth time and money and energy.

Thank you for your time, consideration, and service to our state

Best regards,

Rev. Michelle Webber

My name is Damian White Horse, and I'm a proud supporter of the LGBTQ+ community. This bill cannot be allowed to pass. It is nothing short of discrimination against the trans community. This bill completely infringes on their right to live their lives as they see fit. You are unjustly hurting them and prosecuting them for what can only be described as a bigoted witch hunt.

There is no precedent whatsoever for what you're doing here. It's just plain wrong. No one in the community is hurting anyone else by asking to be referred to by their preferred gender and pronouns. Gender dysphoria is a scientifically and medically recognized diagnosis with therapy and treatments that have helped thousands of transgender people. This bill attempts to deny that fact and would force people to suffer greater dysphoria, which will cause untold harm to the community. These individuals are simply trying to live their lives in the way that makes them the most comfortable, and for no reason you are trying to destroy that comfort. Not only that, but you're also imposing an outrageous fine on people whose lives already demand high costs like transitioning.

This fine is merely a tool to target the underprivileged that cannot afford it. This bill will do nothing but cause turmoil and possible deaths in the community, and the fact that no one seems to see that is nothing less than shocking. We must stop this now. If this bill is allowed to pass, what's to stop the government from imposing more baseless laws that infringe on people's ability to live their peaceful lives?

The fact that this bill is targeted towards a community that simply wants to be treated like regular members of society and left alone is proof enough of how horrifying this all is, and it must be stopped at all costs. This bill will only serve to further the discrimination against the trans community in public, such as in workplaces or just trying to use a public bathroom.

For these reasons listed I am adamantly opposed to SB 2199, the government has no right to control an individual's gender or gender expression, anymore than they have the right to govern what kind of shoes we wear, thank you for your time.

Dear Chair Larson and members of the Senate Judiciary Committee,

My testimony is in opposition to Senate Bill 2199. I ask that you give this bill a Do Not Pass.

The reason for this is that this bill would impose conditions that would be hostile to transgender citizens of North Dakota and their families, has the potential to increase suicidality, especially in ND youth, and would signal that our state suffers a lack of compassion, empathy, and opportunity to many people who might otherwise consider ND a good place to work, live, and raise a family.

Thank you for your time and consideration,

Merie Kirby

As a licensed Marriage and Family Therapist in North Dakota, I urge you to oppose SB 2199.

LGBTQ Youth are more than 4 times as likely to attempt suicide than their peers (Johns et al., 2019; Johns et al., 2020). This isn't a result of the label, it's a direct outcome of being marginalized and discriminated against. This bill, and others that seek to further limit the LGBTQ+ community directly contribute to the increased risk of suicide.

I've seen this firsthand in my office from youth and young adults who share things like, "I don't belong here," "It's clear I'm not wanted," and "it's stuff like this that makes me want to die." As a mental health provider, I cannot support a bill that contributes to a community where members do not feel entitled to live the lives they are born into. More than half of transgender and nonbinary youth seriously considered suicide in the last year (Trevor Project 2022 National Survey on Youth Mental Health). North Dakota cannot afford to pass legislation that contributes to this.

SB 2199 effectively erases the more than 23,000 transgender individuals from North Dakota, at least on paper. It also ignores the individuals who are born intersex, or with ambiguous genitalia. Intersex people are born at an estimated 1.7% of the population, more common than Down's Syndrome or other genetic differences. This bill does not account for those individuals as well.

This is not a bill that recognizes or appreciates a diverse population of North Dakotans and will result in loss of community members. It does not make North Dakota a desirable place to live and is not reflective of the values that most North Dakotans hold toward their friends, neighbors and family members.

I strongly urge you to oppose SB 2199.

I, Matthew Mullins, as a North Dakota resident hereby state my opposition towards Senate Bill 2199 (SB 2199). My reasoning is as follows:

Of the bills pushing anti-transgender legislation there are few that are so openly targetting towards an already struggling group as this one, and indeed fewer still that are as blatantly written to accomplish no other goal than making life more difficult for even those affected in the most tangential of ways.

Not only is this bill incapable of bettering the lives of anyone in North Dakota, the fine it intends to levy upon those who are found to be in violation of its mandates can and will prove detrimental to businesses and institutions across North Dakota.

The new systems of identity verification necessary in venues which do not innately require a birth certificate or that have access to methods of DNA testing (of which several were listed in the examples of organizations which would be held accountable by this bill) would be a staggering hurdle to overcome alone. Something which must be considered alongside the amount of clerical work required to re-enter the fallacious information the bill demands be updated.

A task I would envy absolutely no one considering the size of North Dakota's transgender population.

A survey conducted by the Williams Institute of UCLA projected 12,000 LGBTQ+ jobholders in North Dakota as of 2020 (<https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-ND-Protections-Update-Apr-2020.pdf>). The same study notes that there are approximately 20,000 LGBTQ+ individuals aged 13 and above. A number which only continues to rise as time passes and modern society gives people the chance to come to understand themselves in a fuller capacity without the restrictions enforced by systems built upon antiquated beliefs which have no place in the present day.

Bills like this will do absolutely nothing to stop this trend, instead only making life worse for those who already struggle to find a sense of stability in a world facing incredibly unstable times.

The law should never be used to uphold and enforce discrimination, and this bill serves to accomplish nothing other than that. I cannot state enough the fact of this bill being capable of imparting -no- positive effects for any person or for society as a whole in the short or long term.

If this bill, or any other like it is passed then the message it sends to the residents of North Dakota, the people of the United States, and the collective world at large is that those who govern it are unwilling to move forward alongside the rest of modern society. It shows that instead an active choice is being made to continue to propagate one of the many brands of hatred that has persisted as a plague on the cultural zeitgeist for generations.

The people of North Dakota neither deserve nor desire to live in a system which venerates and operates upon ideas of discrimination.

What we deserve more than anything is a governing body composed of individuals whose greatest intention is to determine the problems we are facing as a society and to address and solve said problems to the best of their capability.

This bill is a problem, I ask that you please prove you can solve it by putting forth your most fervant opposition to any further progress it could make.

Dear Chair Larson and members of the Senate Judiciary Committee,

My testimony is in opposition to Senate Bill 2199. I ask that you give this bill a Do Not Pass.

The reason for this is that:

Personal: As a laboratory technician, clinical research manager, and currently working in public health – the logistics of this bill is improbable. What structure will ND use to utilize DNA testing? DDC is already over sourced and understaffed. For individuals looking for DNA testing, the system is broken, at best. The structure and logistics required to enforce this bill do not exist. “It does not matter if you are right, if you are not effective”

Additionally, how does this align with the teachings of Christ? Luke 10:30-36 30 In reply Jesus said: “A man was going down from Jerusalem to Jericho, when he was attacked by robbers. They stripped him of his clothes, beat him and went away, leaving him half dead. 31 A priest happened to be going down the same road, and when he saw the man, he passed by on the other side. 32 So too, a Levite, when he came to the place and saw him, passed by on the other side. 33 But a Samaritan, as he traveled, came where the man was; and when he saw him, he took pity on him. 34 He went to him and bandaged his wounds, pouring on oil and wine. Then he put the man on his own donkey, brought him to an inn and took care of him. 35 The next day he took out two denarii[e] and gave them to the innkeeper. ‘Look after him,’ he said, ‘and when I return, I will reimburse you for any extra expense you may have.’

American Psychiatric Association and many other medical experts all agree that transgendered individuals are simply a victim of circumstance, much like the man traveling from Jerusalem to Jericho. I often wonder if this story was another one of Jesus parables meant to talk to our current society. If you believe the Bible is breathed by the Holy Spirit, you can not deny this considerable connection.

36 “Which of these three do you think was a neighbor to the man who fell into the hands of robbers?”

37 **The expert in the law replied, “The one who had mercy on him.”**

Jesus told him, **“Go and do likewise.”**

Conflict with Best Practices: North Dakota has always prided itself on relying on experts in its respective fields. This bill rejects those experts. This bill is a financial, logistical, and personal health conflict.

Organization Impact: This bill impacts every organization to help individuals in the healthcare field. I thought Republican principles focused on less governance, not more. I’m greatly confused why our Republican representatives feel these measures are a part of their mission.

Consequence to ND: Science exists on a spectrum. To say that there is good and bad, right or wrong, is intellectually lazy. Science proved that everything is on a spectrum, a parabola, and more. Pass this bill and ND will look like Alabama before suffrage. Pass this bill and ND will look like the days before women could vote. You don’t have to agree based on your religious values, but you can’t argue with science. This will put North Dakota on the bad side of history and science. This will impact ND’s national market, business prospects and invite future lawsuits.

Thank you for your time, consideration, and service to our state

Best regards,

Sarah Irizarry

As a North Dakota resident I urge you to oppose SB 2199.

This is a bill that criminalizes the transgender population of North Dakota and removes the possibility of transgender folks from the state population. Pretending transgender individuals don't exist is going to create significant problems. LGBT people already face increased rates of discrimination, threats and real violence, and social ostracization. Bills such as this empower those to wish to harm others and increase the rates of depression, self-harm and suicide for the LGBT population, which are already disproportionately high.

This bill is not representative of how North Dakota residents think or feel towards their friends and neighbors. There is no problem with having transgender individuals in our communities.

Additionally, this bill makes no mention of how it will be enforced or what happens to out of state agencies that receive North Dakota funds. It's a poorly written and an unnecessary bill by a group of individuals who preach small government while overreaching into people's personal private lives.

I strongly urge you to oppose SB 2199.

Dear Chair Larson and members of the Senate Judiciary Committee,

My testimony is in opposition to Senate Bill 2199. I ask that you give this bill a Do Not Pass.

As a suicide prevention advocate that specializes in LGBTQ+ populations, this bill gives me great concern for the impact it'll have on our state, our institutions, and our community. By redefining how language works within Title One of our century code, this bill impacts virtually every aspect of our law with numerous possible unintended repercussions.

The full impact of this, I'm not sure anyone can say at the moment. I believe that itself is worth an abundance of caution and consideration. However, the many individuals I've spoken to on policy and law have indicated to me that this could force misgendering transgender individuals at virtually all levels of state funded organizations regardless of a transgender person's legal sex. It could conflict with legal protections on the federal level and represents a logistical nightmare to organizations working across state lines.

Standard practice and ethics across healthcare, social work, and education is affirming transgender people within the gender they identify with to reduce suicidality, depression, and anxiety. We find that when kids or adults can be true to themselves, they thrive.

That said, I don't believe pronouns are magic words, but pronouns are indicators of safety to transgender and non-binary populations. And when a trans adult goes to a doctor, when a trans youth talks to a social worker after running away, or a non-binary student is trying to pay attention in class — if they are outed or misgendered they aren't going to feel safe.

When I think about bills like this and the consequence they will have, I think about accessibility, safety, and suicide prevention. I am not sure the benefit this bill is supposed to provide, but I can think of many ways this can hurt communities. I can think about how this makes North Dakota a less competitive state to work or live in. I can think of the many challenges this would pose to our sectors of health, human service, and education. Please give this a Do Not Pass.

Thank you for your time, consideration, and service to our state.

Best regards,

Faye Seidler

Fayeseidler@gmail.com

Dear Chair Larson and members of the Senate Judiciary Committee,

My testimony is in opposition to Senate Bill 2199. I ask that you give this bill a Do Not Pass.

The reason for this is that:

There is a lot that we do not know about the human body. There have been attempts to simplify this into a discussion of two genders. I may not be an expert on the science of chromosomes, genes, or genders. However, I am a mental health professional. Both my personal experience and the research that is available to those in my field indicate that attempting to dictate a person's gender based on limited physical characteristics is harmful.

In some cases, this kind of action can be deadly. In particular, we know that LGBTQ+ youth are already at a higher risk for suicidal ideation and attempts. We also know they experience anxiety and depression at higher rates. Research shows us that one supportive adult can reduce these risks by 40%. Specifically, this support from the adult is affirming the child's identity. The ND Youth Risk Behavior Survey does not paint an optimistic picture for many of our state's youth. The statistics among LGBTQ+ students are even more jarring. In a city (Grand Forks) that is already struggling to provide mental health care to children, this bill will increase the need significantly. There are no professional organizations supporting this action or this type of legislation. I understand people have concerns and questions. We have experts in our state who can help address these concerns. However, this legislation is not going to stop people from being transgender. It is only going to make their lives more difficult and make accessing needed care nearly impossible.

As a mental health professional, this bill would be asking me to practice against the standards of my profession. Conforming to this law could even put my licensure at risk. North Dakota is currently spending a large amount of money to attract professionals from all fields to our state. I fear that this bill sends a message that there are many smart, qualified, caring professionals who are not welcome. This is not limited only to transgender people. This will send a message to family, friends, and others who love someone who is trans. This bill is not good for our citizens, and it is not good for North Dakota.

Thank you for your time, consideration, and service to our state

Best regards,
Casey Berberich, LMSW, IBCLC

January 17, 2023

Regarding: Senate Bill 2199

Dear Chair Larson and members of the Senate Judiciary Committee.

My testimony is in opposition to Senate Bill 2199. I ask that you give this bill a **DO NOT PASS**

The reasons for my opposition to this bill includes:

- 1) As a pediatric and adult endocrinologist, this bill will impact the care of my patients.
 - a. Disorders of sexual Development – I care for children born with hormones and genetic disorders that cause their external genitalia and internal organs to not match or be consistent with their DNA (intersex conditions). In some cases, their genetic gender may not be discovered until later childhood or even adolescence. Many of these kids may not even know that their genetic markers are not consistent with their external genitalia. Forcing misgendering of these children would cause trauma in ways that could be irreversible. This discussion or disclosure is had with these patients when they are older, able to understand the implications and in conjunction with behavioral health experts. Example of such conditions include:
 - i. Congenital Adrenal Hyperplasia
 - ii. Androgen insensitivity syndrome
 - iii. Persistent Mullerian Structure Syndrome
 - b. Gender dysphoria – Despite what some law makers and others might think about gender dysphoria, it is real, it is serious and when ignored can potentially lead to self-harm and suicide for those not supported. Even the simple act of using the desired pronouns can go a long way to help alleviate gender dysphoria in those experiencing it. Misgendering transgender persons with pronouns they do not deem appropriate can lead to mental anguish and exacerbation of the depression and dysphoria that can lead to self-harm actions. As a physician, my most important oath is to DO NOT HARM (Hippocratic Oath). Misgendering my transgender patients will directly conflict with my oath. I will not do harm to my patients, and I should not be penalized or criminalized for upholding my medical oath.
- 2) As a caring human, this bill will impact me personally.
 - a. Misgendering my patients, friends, family and colleagues who identify with a gender different than their genetic markers is hurtful and goes against my moral standards
- 3) As a physician (endocrinologist) in North Dakota who cares for hundreds of transgender adolescents and adults, this unethical bill will cause my patients to seek care out of state. This will personally impact my practice. I am one of the only two pediatric endocrinologists in the state of North Dakota. There is a national shortage of pediatric endocrinologist in the country who care for children with diabetes, thyroid disorders, endocrine tumors, growth, development and other endocrine condition in children. The state of North Dakota cannot afford to lose providers seeking practices in other states with laws that do not impact their ability to care for patients ethically and based on standards of care.

Thank you for your time, consideration and service to our state.

Sincerely,



Luis Casas
Pediatric Endocrinologist

As a mother of two children and a licensed professional counselor in North Dakota, I ask that you do not move forward with this bill. If the shared purpose for the State of North Dakota is to Empower People, Improve Lives and Inspire Success you should not promote or enact legislation that does the exact opposite. This bill does nothing to empower people, improve lives or inspire success for residents of North Dakota. On the contrary, it is harmful! Research shows that the acceptance of transgender youth's identities is associated with better outcomes, while misgendering and misnaming youth negatively impacts mental health and increases the risk of suicide.

1/17/2023

Dear Chair Larson and members of the Senate Judiciary Committee,

My name is Aeon Axiom, my pronouns are xey/xem/xeurs and I have worked in and been a member of the Fargo community in North Dakota since I moved to Moorhead 15 years ago. We see the doctor there, attend events at Fargo Parks, and use the Fargo Public Library. The comradery I have found in the unity across the river has led me to make Fargo/Moorhead my home. Therefore, I'm writing this testimony to communicate my strong opposition for SB 2199, a bill to amend and reenact section 1-01-34 of North Dakota Century Code, relating to gender usage in North Dakota Century Code; and to provide a penalty. This is important to me because pronouns have nothing to do with DNA. Gender is a social construct that is intangible and not testable. To test someone's DNA to determine their sex at birth completely ignores and erases the existence of intersex people. It is also invasive and violates our basic human rights. It sets a precedent for trying to find and test humans to determine if they are trans. This dehumanizes us and creates a social spectacle that makes us the target for hate and violence. I am an individual with X on my birth certificate. I belong and deserve to be treated with respect without having to submit to DNA testing. Please oppose bill SB 2199.

Thank you for allowing me the opportunity to testify today and feel free to reach out if you have any further questions.

Aeon Axiom Carlson (xey/xem/xeurs, they/them/theirs)

January 17, 2023

Dear Chair Larson and members of the Senate Judiciary Committee,

My testimony is in opposition to Senate Bill 2199. I ask that you give this bill a Do Not Pass.

This bill is poorly written, unethical, and unnecessarily punitive. It also will further erode the desire for young people to move to or remain in the state. Please give Senate Bill 2199 a Do Not Pass!

Thank you for your consideration.

Sincerely,

Christopher Gable

Grand Forks

Hello my name is Adam Miller, a citizen of Bismarck and I am here to offer testimony against Senate Bill 2199. I would like to start with a quote from one of our founding fathers, Thomas Jefferson.

“The legitimate powers of government extend to such acts only as injurious to others. But it does me no injury for my neighbor to say there are twenty gods, or no god. It neither picks my pocket nor breaks my leg.”

I'm here to ask what I feel is a fair question to our legislative assembly and that is do you even believe in freedom anymore or is that just lip service? I feel your constituents, the citizens of this state, deserve an answer to that. To me, the answer to that question appears to me a resounding 'no'.

In this session, this legislature has put forward bills of censorship, voter suppression, attacks on women and now this.

The first problem, the obvious one that there really is no way around, is that this is a direct affront to the first amendment. This bill is proposing I should be fined for speech, for simply calling someone as they wish to be called. Even if it gets passed, it's almost certain to get struck down in court based on its blatant affront to the first amendment. Is this really a good use of your eighty days?

But I have a nagging feeling, this bill really has nothing to do with speech. It has to do with hatred and fear, of which neither has ever led to good governance. Your job as legislators is to serve your constituents. You do this by providing services and protections back in exchange for our taxes paid. This bill does not provide service or protection to anyone. It only provides harm. Harm to your own constituents.

The trans community has never caused me harm. Yet the people that put this bill forth clearly intend to do harm unto them. I do not need protection from the trans community. My children do not need protection from the trans community. My family and I apparently only need protection from the people that have expressed desire to do harm and that is the people in this room, the people that put forth this bill.

I ask you to vote against Senate Bill 2199 for the sake of already written law and the sake of basic human decency.

As a mother of a transgender teen in North Dakota Public Schools, I strongly oppose this bill. To date, my son has had a positive experience with his public school using his preferred pronouns, and it has improved his mental health in the school environment. Prior to his transition, he struggled with mental health and frequently missed school. With the school's support of his transition, his mental health has improved greatly. He rarely misses school, is excelling academically with a 4.03, and is engaged in co-curriculars. To implement this bill and require the school to misgender him, would cause significant distress, increase symptoms of gender dysphoria, and make school an unsafe place for him to be. His anxiety and depression would deteriorate and all of the progress made over the past few years lost. In addition, the bill defines gender as someone's assigned sex at birth which is contrary to the American Medical Association, the American Academy of Pediatrics, and the American Psychological Association. Please do not support this legislation. It is not inclusive and discriminates against people who do not identify as the sex assigned to them at birth.

I'm writing to strongly oppose SB 2199 which is transphobic and essentially erases trans people from the century code in North Dakota. It also wrongly penalizes any organization that uses trans students' correct gender pronouns. We need to support trans people and their families not make their lives more difficult than they already are. Please choose compassion and love over hate and misinformation.

Dear Chair Larson and members of the Senate Judiciary Committee,

My testimony is in opposition to Senate Bill 2199. I ask that you give this bill a Do Not Pass. This bill should receive a Do Not Pass as it attempts to solve a problem that does not in reality exist. In fact, it will cause a number of problems for individuals, for faith communities, for school children and their families, and for employers in North Dakota.

I am the parent of a nonbinary person. They are an excellent parent to their 10-year-old. We live together and I have seen firsthand the impact of being their authentic self has on maintaining their mental health. As a young adult who has previously attempted self-harm, being legislated as a person who is not considered to exist could likely push them over the edge.

Additionally, as an ordained minister of the Gospel, our faith community has a particular call to minister to people where they are. We respect the gender that individuals identify with. We celebrate their families and the important moments in their lives. We sit with them in their pain when others seek to deny their very existence. It is the call upon our faith community to love and accept our transgender and nonbinary siblings, using their chosen names and their pronouns. I cannot imagine the harm done to an individual who is forced to state a gender different from T

This feels very much like we are being told that we cannot hold our firmly held beliefs that God has created each of us and that God has imparted an identity to each person. That identity does not always align with the gender a person was assigned at birth.

I fear that this legislation will prevent me to practice the very tenets of my faith as expressed in the United Church of Christ. As a pastor I have an obligation to minister to the person in front of me and respect them as they are. I must be able to baptize a person with their chosen name, referring to them according to their gender identity. No DNA test can make that determination. Only that individual can express who they are.

Transgender persons have been accepted for centuries among indigenous peoples and are considered people of great honor, often referred to as "Two-Spirit" persons. This indicates that they carry the best traits of the masculine and feminine persons.

Among the many people I personally know that are transgender and nonbinary, many have either left or are considering leaving the state of North Dakota. Spiritually we are worse off without them. Economically, businesses are worse off without them.

Please recommend Do Not Pass to this unnecessary legislation.

Thank you for your time, consideration, and service to our state

Best regards,

Rev. Grace M. Morton, People's United Church of Christ, Fargo

Dear elected legislators of North Dakota,

Today you are listening to testimony in order to vote with an informed and constitutionally-sound understanding for or against SB 2199.

You'll hear from many witnesses in favor of this amendment to the preexisting section 1-01-34 of the North Dakota Century Code. Those witnesses will more than likely be out-of-state professional naysayers, many with ulterior motives and prejudices, spouting debunked misinformation, and testifying with unqualified backgrounds or even revoked credentials. However, you will also hear from witnesses and constituents for whom this amendment directly effects, in their ability to participate fully in society as American citizens and residents of our country, worthy of both dignity and basic legal recognition.

This amendment pressures individual North Dakotans into the role of doctor, biologist, geneticist, and Recorder-County Clerk. Furthermore, it forces the government into cataloging, investigating, and spending civil officials' time and taxpayers' money on adjudicating and penalizing for something as fundamental and simple as using respectful language.

To the legislators who introduced this bill, Senators Clemens, Vedaa, and Weston as well as Representatives Anderson, Schauer, and Tveit, please turn your attention to more important matters than deoxyribonucleic acid. To the other North Dakota legislators, who have given the space and opportunity for witnesses to share their experiences and testify, please vote against SB 2199.

Thank you.

Lee Williamson

Dear Chair Larson and members of the Senate Judiciary Committee,

My testimony is in opposition to Senate Bill 2199.

This bill is unnecessarily restrictive and harmful to North Dakota citizens. It curtails human rights by imposing controversial and overreaching language to the century code. It will harm people I know and care about, and it will degrade the reputation of North Dakota as a state.

I ask that you give this bill a Do Not Pass.

Thank you for your consideration.

Best regards,
Shane Thielges

100 4th St S, Ste 608
Fargo, ND, 58103
701-264-5200 (p)
701-999-2779 (f)
info@canopymedicalclinic.com



Chair Larson and members of the Senate Judiciary Committee,

I am the Medical Director at Canopy Medical Clinic, located in Fargo. Our clinic specializes in the medical care of LGBTQ+ individuals. I am writing in opposition to SB 2199, and I ask that you give this bill a **Do Not Pass** recommendation. SB 2199 seems to target one of our most vulnerable populations, which are our neighbors and community members who identify as transgender and gender diverse.

As a medical clinic that receives state grants and takes state insurance, the wording of this bill would not only negatively affect the patients we see, but the bill isn't logical in any meaningful sense. The negative impacts of this bill would not only affect our clinic, but every medical facility within North Dakota.

Medically, referring to an individual by the pronouns associated with their DNA does not make logical sense, as gender, DNA, sex, and orientation are all different concepts. If someone comes to see me for depression, anxiety, high blood pressure, ect, I have no way of knowing what their DNA results are. More bluntly, there is no way to determine an individual's gender based on their DNA. As a medical provider, to comply with this bill, we would need DNA results for every single patient we saw in our clinic. Furthermore, we would then need a medical definition of how DNA relates to gender identity, and no such definition exists.

We know from a plethora of research that using an individual's correct pronouns is a means of affirmation towards their identity and sense of self-worth. Years of research has shown us that by using the pronouns that align with an individual's gender identity, we can reduce suicide attempts dramatically. I do not believe that North Dakota legislators would pass a bill that may increase suicide attempts to our neighbors and community members

Lastly, I have fiscal concerns regarding this bill. Is the state of ND going to cover the cost of genetic testing for all medical patients in the state of North Dakota? Will the government agency that is chosen to oversee the implementation of this bill start auditing the medical records of every North Dakota medical facility that receives any form of State funding? Who will financially pay for these audits?

For the reasons listed above, I again urge a **Do No Pass** recommendation for this bill.

Thank you for your consideration of my testimony.

Heidi Selzler-Echola, MSN, APRN, WHNP-BC
Medical Director
Canopy Medical Clinic
hechola@canopymedicalclinic.com
701-264-5200

Senate Judiciary Committee

Senate Bill 2199

Andrew Alexis Varvel

Written Testimony

Peace Garden Room

North Dakota State Capitol

January 18, 2023

10:15AM

Madame Chairman Larson and Members of the Committee:

My name is Andrew Alexis Varvel. I live in Bismarck, District 47. My sex is male. My grammatical gender in English is masculine. My grammatical gender in Lakota is animate. My pronouns are rock/paper/scissors.

First of all, I realize that some form of pronoun bill will probably pass during this session. I'm not going to get into any arguments with conservative women on whether men should be allowed to use women's toilets. That said, I question the appropriateness of putting this statute into Chapter 1-01.

The original Chapter 1-01 of our Century Code is called "General Principles and Definitions". Gender, in the context of section 1-01-34, refers to grammatical gender. It is intended to mean that any statute that uses the archaic practice of using one grammatical gender to refer to people in general will apply to both men and women.

So, there may be some unintended consequences from this deletion.

Down the road, I think our state ought to take a policy on grammatical gender which reflects the English language – and Germanic languages in general. He, she, and it. (Don't forget Cousin Itt!) So, it is appropriate for North Dakota to recognize de facto eunuchs and other people who have been sterilized to form a third gender separate from males and females.

As an aside, I am coming out during this session in favor of establishing a separate state prison for transgender, transspecies, nonbinary, and gender non-specific inmates. They would be kept away from both male and female populations so that all inmates in our state – male, female, and neuter – can be protected from the horrors of what has already happened in the New Jersey prison system with Demi Minor impregnating two female inmates.

I think a three-gender system can work. It can keep male impostors out of women's spaces. I realize that this is a major concern right now. It can also recognize a safe space for people who perceive themselves to be nonbinary.

For the most part, DNA is a good marker for whether a person is a man or a woman. In the very rare instances where a doctor makes a written diagnosis of someone with a genetic or developmental abnormality which outwardly expresses itself in a phenotype at variance with one's genotype, special allowance should be made to recognize customary phenotypic expression.

If some version of this bill gets passed by the Legislature, it will need a lot of work. Although no version of this bill will be popular with everybody, I do think that we need to find common ground where we can recognize the basic dignity of our nonbinary or neutered friends and neighbors, while also protecting children from predators who would sterilize children for profit.

Although I do oppose Senate Bill 2199 and although I would recommend a DO NOT PASS as presently written, I am filing this written testimony in the NEUTRAL category because I feel substantially differently about this legislation than most other opponents do. I hope you understand.

Thank you, and I am open for questions from the committee.

Andrew Alexis Varvel
2630 Commons Avenue
Bismarck, ND 58503
701-255-6639
mr.a.alexis.varvel@gmail.com

My name is Cindy Azucena Gomez-Schempp. I'm a Mexican-American radio station owner/broadcaster in Moorhead, MN on the border of North Dakota. Our station's reach and work extends into Fargo, ND and throughout the bi-state metropolitan area. My children attended Fargo Public Schools and my family conducts its business, shopping, banking, entertainment, engagement with public officials and institutions of government in North Dakota every single day. My child is an adult transgender man living with a disability who needs a highly supportive living environment to thrive. The process for getting a proper diagnosis for my child in a country newly discovering and understanding developmental disabilities such as autism, and ADHD, has been difficult. It took me 12 years even though I knew from birth that my child was different.

I am a paralegal with over 20 years of experience but my main area of focus has been Administrative Law, which was the main area of practice when I moved to North Dakota and worked at the Schneider Law Firm in Fargo. There I focused primarily on worker's compensation and Social Security Disability cases. I noticed a pattern of overlap between disability cases of neurodivergent people with disabling conditions ranging from autism spectrum disorder, attention deficit hyperactivity disorder (ADHD), Obsessive Compulsive Disorder, Bipolar, Turrets and epilepsy which **also** presented as queer, non-conforming or whom identified as transgender. The significance in correlation between those determined by the Social Security Administration as being totally disabled and in need of significant support from the SSA as well as protections under the Americans with Disabilities Act (ADA) and LGBTQIA individuals was almost absolute in my professional experience. I knew then, that my own child, who had been diagnosed with autism, would likely identify as queer, non-binary, or transgender at some later stage in their development. They did. And now here we are.

Amid the flurry of anti-trans bills being proposed around the country and in the State of North Dakota, which has a legislative history of upholding unconstitutional state laws, I find myself submitting this testimony in the defense of my child's right to exist, express themselves, and be free from the persecution, hate, and stochastic terrorism that laws like this will enact against him. I believe that it would behoove the legislature to do more scientific research and look into the correlation and overlap between the most vulnerable populations among us of the developmentally disabled and physically disabled who also share a trans identity. Because the numbers are very high. Attached, please find a number of sources which illustrate the correlation between permanently disabled individuals protected under the ADA, and trans identity.

Dattaro, L. (2022, August 16). *Largest study to date confirms overlap between autism and gender diversity*. Spectrum. Retrieved January 17, 2023, from <https://www.spectrumnews.org/news/largest-study-to-date-confirms-overlap-between-autism-and-gender-diversity/>

Cooper, K., Mandy, W., Butler, C., & Russell, A. (2022, May). *The lived experience of gender dysphoria in autistic adults: An interpretative phenomenological analysis*. Autism : the international journal of research and practice. Retrieved January 17, 2023, from <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9014767/>

University of Cambridge. (2020, August 7). *Transgender and gender-diverse individuals are more likely to be autistic and report higher autistic traits*. University of Cambridge. Retrieved January 17, 2023, from <https://www.cam.ac.uk/research/news/transgender-and-gender-diverse-individuals-are-more-likely-to-be-autistic-and-report-higher-autistic>

Warrier, V., Greenberg, D. M., Weir, E., Buckingham, C., Smith, P., Lai, M.-C., Allison, C., & Baron-Cohen, S. (2020, August 7). *Elevated rates of autism, other neurodevelopmental and psychiatric diagnoses, and autistic traits in transgender and gender-diverse individuals*. Nature News. Retrieved January 17, 2023, from <https://www.nature.com/articles/s41467-020-17794-1>

Novara Media. (2022, April 21). *Autistic people are more likely to be trans. so what?* Novara Media. Retrieved January 17, 2023, from <https://novaramedia.com/2022/04/21/autistic-people-are-more-likely-to-be-trans-so-what/>

White, B. (2016, November 20). *The link between autism and Trans Identity*. The Atlantic. Retrieved January 17, 2023, from <https://www.theatlantic.com/health/archive/2016/11/the-link-between-autism-and-trans-identity/507509/>

This next source is of particular interest because it highlights the disturbing practice of Applied behavior analysis (ABA) therapy (which has been used as the primary therapy for Autism Spectrum Disorder cases) as a form of torture and abuse that is now looked down by medical professionals addressing/providing medical care to people with autism. This ABA method and its founder have also been instrumental in the formation of gender-shaping behaviorism that led to conversion therapy for queer people; a practice which today is opposed by the American Psychiatric Association which now “reaffirms its recommendation that ethical practitioners refrain from attempts to change individuals sexual orientation and recommends that ethical practitioners respect the identities for those with diverse gender expressions encouraging psychotherapies which affirm individuals sexual orientations and gender identities and encourages legislation which would prohibit the practice of reparative or conversion therapies that are based on the priori assumption that diverse sexual orientations and gender identities are mentally ill.

Catalyst Journal - Renison University College, University of Waterloo . (n.d.). *View of disturbing behaviours: Ole Ivar Lovaas and the Queer History of Autism Science: Catalyst: Feminism, theory, technoscience*. Catalyst. Retrieved January 17, 2023, from <https://catalystjournal.org/index.php/catalyst/article/view/29579/23427>

As a mother and guardian to an disabled adult with autism (among other disabilities) with the intersectional identities of Mexican-American (indigenous, first American peoples) queer and transgender, I will continue to fight and advocate for my son’s right to exist and fight to uphold

his rights under the law. Currently, this bill is threatening to discriminate against my child's rights to accommodation and to be free from discrimination by federally funded state institutions and businesses under the ADA. Furthermore, my son's rights of expression and free speech are also being infringed upon. Finally, the frivolous and unscientific basis of this bill (DNA testing requirements) are a violation of privacy. Nobody has the right to demand a DNA test or encroach upon the privacy of disabled Americans just because. Parents like myself throughout the state will have no other recourse than to sue the state for violating the ADA if this bill were to become a law in North Dakota. I vehemently oppose it.

Thank you for allowing me the opportunity to testify today

Cindy Gomez-Schempp
Station Manager 88.1 FM, KPPP-LP radio

My name is Nemo Siqueiros, my pronouns are he/they and I currently live in Moorhead, MN on the border of North Dakota. I am disabled and on the autistic spectrum since birth. I'm Mexican-American and have been discriminated against in the Fargo Public School system, which I attended, for my skin color, my queer identity, and my disability. I spent my upbringing resisting and defending myself from the harmful effects of bigotry, ignorance and state sponsored terrorism and hatred against any one of the intersectional identities I possess. I am a transgender artist, queer rights activist, media educator/broadcaster, dog dad, brother and son.

I am submitting my testimony today in strong opposition to SB2199, a bill to amend and reenact section 1-01-34 of North Dakota Century Code; and to provide a penalty.

I've been a member of the Fargo community since I was in elementary school, and graduated high school at Fargo South High, moving afterwards to Moorhead, MN. Fargo is where I and my family and those who work with me on my health for my disability go to the doctor, and where getting medical care that is affirming for my transition is crucial to having the supportive environment I need to be myself. Should this bill pass, my quality of health will immediately decline as I quickly find out that I will have less medical access and fewer options for my path to my more authentic self. You cannot hide or erase transgender children or adults any more than you can separate me from my autistic experience, as the saying goes, we are born this way. To demand that I give you my DNA is against my right for privacy, and against my freedom of speech to express myself as I see myself, not like how others would *like* to see me. To test DNA for gender is also dangerously close to eugenics to target trans individuals and will reveal intersex individuals that do not fit the classic XX and XY binary that is also a spectrum of X, XX, XXY, XY, and XXXY. I'm not so sure many people are ready to find out that they are in fact, not strictly male or female, and I doubt the legislature has taken into account the parental decisions that were made on behalf of intersex individuals prior to their ability to consent which led to many of these adult individuals to have never been informed of their intersex diagnosis at birth. Up to now, those intersex individuals have been living their lives presenting in the gender identity chosen for them by their parents, many times without their knowledge or consent. This bill will expose those private decisions and those intersex people to discrimination and trauma. To shove people like me back in the closet is to force me to wear a mask. For autistic people, masking is a coping mechanism that we are forced by allistic society to wear for their comfort, but it is a painful and torturous continuation of conversion style therapies to make autistic people seem less so. I'm done wearing masks for others. And I'm done wearing these clothes that do not feel right or the mask that shows a face of the oppressed you're not ready to confront or hear from. I belong in public and government funded spaces without having to submit to invasive DNA testing. Please oppose bill SB 2199.

Thank you for allowing me the opportunity to testify today.

Nemo Siqueiros

he/they

Broadcaster of Finding Me at 88.1 FM KPPP-LP radio

Members of the Legislative Committee,

I write this letter as an ally of the LGBTQ community. I belong to an LGBTQ-affirming Christian faith community.

I am opposed to SB2199. It will only cause more hurt and pain to our transgender friends, neighbors, and families. This bill literally attempts to erase their chosen identity. But, you know what? You can't erase people!

It takes a great amount of courage for transgender people to be who they truly are inside. These decisions are often made with the guidance of psychiatrists, counselors, and medical doctors. I have many friends who are transgender. I fear for them living here in North Dakota with the growing anti-LGBTQ rhetoric.

Please vote "no" on this bill.

Naomi Franek
422 25th Ave N
Fargo, ND 58102

Dear Legislators of North Dakota,

To put it plainly, I oppose SB 2199. It is an attack on personal freedoms, puts my loved ones at risk, and sets a horrible precedent for other states.

Transgender and Non-binary individuals would not only explicitly be at risk because of harmful consequences should this law pass, but they would also suffer personally. When we as individuals are given the freedom to personal expression (regardless of gender identity), we are healthier people both physically and emotionally. When harmful laws like this are proposed, it gives space for more severe and strict laws to pass, but it makes a statement to residents of North Dakota and other states that our own elected officials find something inherently wrong with them as individuals. When people grow up in a place where they are hated for simply existing, it is detrimental to them as individuals. Bullying, suicide, and severe mental health conditions are exponentially higher amongst the LGBTQ+ community than their cisgender and heterosexual counterparts. This is largely due to harmful and public legislation that takes the stand that people are more or less valuable based on their gender or sexual identity.

I urge members of the North Dakota legislature to strike down this bill before it can move any further and instead work to pass protections for transgender and non-binary residents.

Dear Chair Larson and members
of the Senate Judiciary Committee,

My testimony is in opposition
to Senate Bill 2199. I ask that you give this bill a **Do Not Pass**.

- This bill impacts LGBT+ people, especially transgender children. People deserve the basic human right of having their pronouns used correctly.
- You would not want to be misgendered; treat others the way you want to be treated. Imagine if your child was being faced with teachers using the wrong pronouns daily.
- I work at a school if this bill passes, many children will be impacted. Their teachers would be forced to misgender them for fear of a fine. This is demeaning and inhuman.
- Trans kids are bullied and demeaned by their peers; why add another bully in the form of a teacher to the mix? Schools should be safe spaces for kids and if this is to pass, for many school will become a nightmare.

Please,
consider not passing this dangerous piece of legislation; our children are
counting on you.

Thank you for your time,
consideration, and service to our state

Best regards,

Becky Craigo

President of Beach Pride Family; House of Safe Spaces

Beach North Dakota

Dear Chair Larson and members of the Senate Judiciary Committee,

My name is Joseph Larson, and I serve as pastor of St. Mark's Lutheran Church in Fargo, ND. Today I speak in opposition to Senate Bill 2199 from a moral, spiritual and personal perspective as a Christian, faith leader, and family member.

I'd like to begin with a quote from my national Presiding Bishop Elizabeth Eaton, who is Bishop of The Evangelical Lutheran Church in America (ELCA), which is made up of three million baptized Lutherans with nearly 9,000 congregations, including 350 churches in North Dakota. Related to the issue of how the Church should treat transgender individuals, Bishop Eaton once made the following statement, which I believe is rooted in Lutheran theology:

"No human institution decides who is human, who is visible, who is valued. Human sexuality and gender identity is a beautiful mystery. Trans people, like all people, are beloved by God."

If Bishop Eaton were with us today, I believe that she would join me in saying that our Church has a place for everyone. The call of Christ's people today is to celebrate the diversity of God's creative work and embrace all people in the spirit of love, regardless of race or ethnicity, economic status, sexual orientation or gender identity; and to speak with a prophetic voice against all forms of hatred, bigotry and discrimination.

I grew up in Dassel, Minnesota, south of St. Cloud. So, I am at heart a small-town boy, and I know how people who live in Midwest rural areas look at issues like the one we are discussing today. And now as an openly gay pastor, I am one of a handful of LGBTQ clergy called by Lutheran churches in the state of North Dakota. I serve a Lutheran congregation that voted to become intentionally welcoming towards LGBTQ individuals and their families a little over 30 years ago. Which was a big deal back then. And still is true today.

But as a pastor and theologian, I believe that it is critical that we as Christians learn to not let our differences in religious beliefs and political opinions lead us away from human kindness and respect. For me, as a lifelong Christian and pastor, this runs completely contrary to the message of the Gospels. Where Jesus taught that his central message was love and grace. That we are here to help those in need, to lift up the injured stranger along the road, to care for the widow and orphan, to feel compassion for the oppressed and downtrodden. Not to push them farther down into the muck of this weary life.

Today, our Church is facing a crisis never seen before. Younger Americans are abandoning organized religion. One-third of Millennials say that the church's treatment of gay people is a main reason for that. They find it too difficult to participate in an organization or group of people that is supporting efforts that make life worse for their LGBTQ friends and family members.

Some may say that it's too difficult to change the Church. Yet ten years ago, the ELCA finally voted to allow the ordination of people like me, and also adopted a social statement on human sexuality that states:

"While Lutherans hold various convictions regarding lifelong, monogamous, same-gender relationships, this church is united on many critical issues. It opposes all forms of verbal or physical harassment and assault based on sexual orientation.... The ELCA recognizes that it has a pastoral responsibility to all children of God.... It understands itself as called to this mission through the vocations of its members, its own institutional practices, and its public policy positions.... It understands that all children and youth, both inside and outside the church, are deserving of this church's concern."

In addition to that national resolution, this summer, my Eastern North Dakota Synod passed a measure with almost a unanimous vote (!) which included two major recommendations:

- 1) that congregations are encouraged to seek out ways to become truly welcoming communities for all, especially those who have suffered alienation and harm because of their sexual orientation, gender identity, or gender expression, offering them hope and safe harbor in our world; and
- (2) that members of ... [our] congregations, look for opportunities to show their support and advocate for the care and protection of LGBTQIA+ people through members' vocations, our church's own institutional practices, and public policies in our communities and state.

Senate Bill 2199 which we have before us today is a bill that would sets up policies exactly contrary to both of those recommendations. This bill would subject our transgender youth to emotional harm, by refusing to allow others to address them with the names and pronouns that fit their identity—a simple courtesy that harms no one else and shows respect for human differences.

Today, it's time for those of us who call ourselves Christians to follow Christ's example of treating every person we meet with dignity and compassion. As the prophet Micah once said, "What does the LORD require of you, but to do justice, to love kindness, and to walk humbly with your God?" (Micah 6:8) I believe that is what God is calling you and me to do today.

I urge you to vote pass on this bill.

Pastor Joseph A. Larson
St. Mark's Lutheran Church, Fargo, ND

SB 2199
Senate Judiciary Committee
From Cheryl Biller, D11, Fargo
Writing in Opposition

Dear Chair Larson and members of the Senate Judiciary,

I am testifying in opposition to Senate Bill 2199. I ask that you give this bill a Do Not Pass.

I have trans friends who finally found a sense of peace and purpose when they transitioned to the person they were meant to be. Their lives before transition were filled with unease, fear, and often suicide attempts.

Our founders intent that we all be able to pursue Life, Liberty, and Happiness is blown apart by this bill. Trans people, who do absolutely no harm to anyone, may well lose their lives as you take away their liberty and happiness. The risk of suicide rises exponentially when threats like these are policy and law. This bill demonstrates the height of hypocrisy and reveals the place of fear from which the drafters come.

Ranking near the very bottom of the list of states deemed safe for people in the LGBTQ community, this bill only serves to make ND look less and less attractive to people looking for a place where they can be free to live their lives, and others who recognize that that is important to young people.

Why on earth would anyone want to move to ND when hate is enshrined in our law and policy? This bill will only negatively impact the workforce issues faced by businesses across the state.

Thank you for your time and consideration of this testimony,

Cheryl Biller

**SB 2199**

January 18, 2023

Seth Lumley, NDSU Student Government

seth.lumley@ndus.edu – (507) 481-5510

Chair Larson and Members of the Committee: My name is Seth Lumley, and I am the Executive Commissioner of Legislative Affairs for North Dakota State University's Student Government. I would like to provide testimony in opposition to SB 2199 and to present the perspective of NDSU students on SB 2199.

NDSU Student Government is an organization of students at NDSU elected and appointed to represent the interests of the NDSU student body both externally at places like the capitol and internally through our student senate. We are comprised of members from all academic colleges at North Dakota State University, ensuring students from all majors and backgrounds have a voice. Our mission is to leave the university better than we arrived through ensuring that student voices are heard both on campus and at the legislature.

On November 20th, 2022, the NDSU student senate unanimously approved a set of three legislative priorities for the 2023 legislative session. One of these priorities was the preservation and education in freedom of speech on campus. It is on behalf of this priority that I offer testimony today. We as an organization have concerns regarding the free speech implications that SB 2199 would have for the future of higher education in North Dakota.

Being able to refer to an individual with whatever name or words in reference to said individual's sex, gender, gender identity, or gender expression one feels are appropriate without fear of government reprisal is part of what makes speech truly free. In the same way that I would not want the government to penalize me for calling a male individual who identifies as a woman a man, so too would I be opposed to the government penalizing others for calling that same individual a woman. As a student myself, being confronted with different points of view on controversial topics such as this has led me to have a greater understanding of said topics. On more than one occasion, my opinion has changed when presented with additional information. But even in cases in which my opinion remained unchanged, conversations with those who held beliefs in conflict to my own have allowed me to better understand my own thoughts on the issues that matter most.

In short, I urge you to support freedom of speech and ensure college campuses like NDSU can remain the crossroads of ideas by opposing SB 2199. Thank you Chair Larson and Members of the Committee.

Dear Chair Larson and members of the Senate Judiciary Committee, my name is Denise Dodd. My testimony is in opposition to Senate Bill 2199. I ask that you give this bill a Do Not Pass. The reason for this is that:

This bill impacts the people I care about, because I have a lot of people in my life that don't follow traditional gender roles. They're wonderful friends, family and community members. These people are near and dear to my heart, and they live every day with grace despite growing voices saying horrible things about them. These people have been influential to furthering my worldview, simply by living authentically and being unapologetically themselves.

People who are just trying to live their lives outside of what's traditional aren't deserving of multiple bills targeting them. They don't need more roadblocks and difficulties on their journey to living a happy life. No one deserves this just because they're different. You made a pledge to serve this community and trans people are in this community. They live here, work here, and have families here, we need to treat them the same as every other North Dakotan who chooses this state to call home.

We can all put in effort to learn and grow to support people who experience the world differently. More laws against them isn't how we move forward together as a state.

Thank you for your time, consideration, and service to our state

Best regards,

Denise Dodd

Dear Senators, I am writing in opposition to SB 2199. This bill is a dangerous and harmful affront to the human rights of every North Dakotan. SB 2199 is discriminatory and while it is obviously targeted to discriminate against those who are transgender, I believe it will certainly be used against cisgender North Dakotans as well. Everyones presentation of their gender would be policed under SB 2199. Anyones gender identity or gender expression could be challenged. Gender is subjective to each person and what one considers a masculine expression versus feminine expression is varied. Additionally, an individuals DNA is not always an indication of their sex, determined sex at birth, gender, gender identity, or gender expression - biology is a vastly more complicated spectrum than what SB 2199 suggests. SB 2199 also fails to address North Dakotans who have intersex conditions - insisting that the only answer a DNA test would provide is male or female. As a lifelong resident of North Dakota, I urge you to defeat this bill and vote NO on SB 2199.

Christopher Coen
337 10th Ave S APT 9
Fargo ND 58103-2869
justchris63@hotmail.com
(701) 235-4019

January 17, 2023

Senate Judiciary Committee
State Capitol
600 East Boulevard Avenue
Bismarck, ND 58505

Subject: Senate Bill 2199

Dear Chair Larson and members of the Senate Judiciary Committee,

My testimony is in opposition to Senate Bill 2199. I ask that you give this bill a Do Not Pass.

The reason for this is that this bill conflicts with my ethical code of conduct because the bill attempts to erase trans individuals from society, pretending they don't exist, and giving them no rights to be who they are. There is a difference between sex and gender. Sex is biological, whereas gender is a social construct in which, while many of us find it to be in harmony with our sex, others find it's in opposition to their sex, or that a binary definition unnecessarily restricts expression of who they are.

I also think if this bill became law, it would lose business for our state.

Thank you for your time, consideration, and service to our state.

Cordially yours,
Christopher Coen

To whom it may concern,

Trans Rights Are Human Rights.

I am writing in opposition to SB2199.

It's fascinating to me how much gender identity bothers you. Rather than letting people be who they feel they are, you seem very intent on forcing them to be who you want them to be. Why? What is the impact on your life that is so great, you are willing to strip away a person's identity? This bill being introduced is nothing short of a bullying tactic. Something posing no harm or ill will towards you is seen as some sort of joke that you can't just let be. North Dakota "nice" is dead and gone if this bill passes. Please vote no and just move on. Let people be.

Jan 17, 2023

I stand firmly AGAINST SB 2199. I am embarrassed that anyone representing North Dakota would propose legislation that only promotes unwarranted discrimination and hate. We have much more important, positive, and uplifting priorities to focus on here in North Dakota. Why are you wasting our tax dollars and time on this non-issue?

Exclusion and intentional misgendering can cause increased depression, debilitating anxiety, and self-harm. When respected and included, people will not only thrive, but lead productive lives that contribute to the overall success of our communities. I have witnessed this first hand as a mother and friend.

This regulation promotes invasive practices that violate personal freedoms. It threatens penalties for supporting marginalized people who are our friends, family, colleagues. People who just want to live authentically and enjoy the same opportunities as their peers.

Live and let live. If not, good luck retaining and attracting people to live and work here.

Respectfully submitted,
Tara Jensen
Fargo, ND 58102

January 17, 2023

RE: SB 2199

Dear Chair Larson and Senate Judiciary Committee members,

My name is Kara Gloe. I am a mental health therapist licensed in both North Dakota and Minnesota. I work at Canopy Medical Clinic in Fargo, ND. Among the primary populations of people I serve are folks living with HIV/AIDS and the lesbian, gay, bisexual, transgender, queer, intersex, asexual, aromantic, and Two Spirit (LGBTQIA2S+) folks in North Dakota. I am writing today to request a Do Not Pass on SB 2199. It is not hyperbolic to say this bill puts children's lives in danger, would create a host of logistical nightmares, and will drive professionals and businesses out of the state.

First, the data on the lethality of being a young trans person in the State of North Dakota is concrete. For trans high schoolers in North Dakota we know:

- More than half seriously considered suicide in the last year
- That rate is 3.3 times higher than their straight cisgender counter parts
- 30.4% attempted suicide in the past 12 months
- That is five times higher than their straight cisgender counter parts.

This data, which focuses solely on youth in North Dakota, is easily accessible as part of the 2021 Youth Risk Behavior Survey. These are the stats before the 2023 North Dakota legislature introduced 16 bills, to date, which will either directly target or will severely disrupt the lives of our transgender friends, family, and neighbors. We also know being transgender is not a mental health disorder. The American Association of Psychologists removed it as such in 2012. It is now recognized by every major healthcare organization – mental and physical, as a health disorder, specifically a sex disorder. Meaning, the 50% of trans youth in North Dakota who have seriously considered suicide in the last year have not done so *because* they are trans. Rather, the increase in suicidality is due to minority stress, discrimination, and ostracization. This bill and every other like it is already doing damage and would be devastating if passed.

Second, the language of this bill is so broad and vague, it leaves me with several serious logistical questions. How does the State of North Dakota intend handle the inconsistency this bill will cause between federal and state requirements? For example, I work at a medical clinic which provides services to people living with HIV/AIDS in North Dakota through the Ryan White Program. This is money that comes from the federal government, moves through the state health department, and is distributed to organizations providing care. Federal reporting forms for this program require pronouns and chosen names. This is *one* example of *one* program in *one* area of government. There must be hundreds more. Will the State of North Dakota stop receiving federal funding if inconsistencies exist? Can we afford to have less resources at a time when there is teacher shortage and healthcare – mental and physical, is already difficult to access in many rural areas of the state? Will I be required to misgender and deadname all my clients, or only the ones with North Dakota Medicaid? What is the funding mechanism for this bill? Where does the State of North Dakota plan to come up with the money to perform DNA tests on all its citizens and every baby born here? Can we really say this is best use of tax payer dollars?

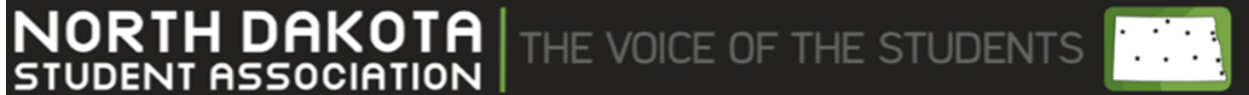
Lastly, how does the State of North Dakota plan to deal with the potential mass exodus of businesses and professionals this bill will likely initiate? For instance, this bill is in direct conflict with the National Association of Social Workers' (NASW) code of ethics. As such, if it went into effect, I would be forced to leave the state to practice ethically. Even if it were not a violation under the NASW, it would be harmful for me to provide clinical therapy under these limiting conditions. I have heard about teachers who have already left the state and I am sure doctors and nurses are right behind. We do not have to search hard to see how laws like this have panned out in other states. Florida's teacher shortage is so dire, they are putting people with no teaching education or experience in classrooms. The collapse of a state's education system is a fast train to the bottom. Is that where we want to be? While I am not saying every social worker, therapist, teacher, professor, doctor, and nurse, etc. will leave should this bill pass, can we afford to lose any?

Lastly, I have difficulty seeing how this bill, and so many others proposed by this legislative session, will withstand the constitutional challenges that are sure to follow. Prohibiting people's ability to interact with others in the way they see fit is certainly an affront to a person's First Amendment right to free speech. Is defending these clearly unconstitutional laws where our time, energy, and resources are most needed?

If this bill passes and is allowed to go into effect, it will only increase suffering in this state. We will lose children needlessly, mental health issues will increase in frequency and severity, healthcare costs will skyrocket, the educational system will suffer, and it will become incredibly difficult to retain professionals and business, let alone recruit them. This bill and the 15 others like it are a recipe for disaster for North Dakota.

Please vote Do Not Pass on SB 2199.

Sincerely,
Kara Gloe, LMSW
Canopy Medical Clinic



SB 2199

January 17, 2023

Adelyn Emter, North Dakota Student Association

(701)260-6246 | adelyn.emter@ndus.edu

Chairman Larson and members of the Judiciary Committee: My name is Adelyn Emter, and I am the Chief of Staff of the North Dakota Student Association. I am writing today on behalf of our organization and students within the North Dakota University System in opposition of SB 2199.

The North Dakota Student Association is a student organization established in 1969 dedicated to ensuring that students have a voice at the table in policy that affects Higher Education. We consist of delegates from each of the 11 public institutions meeting monthly to engage students in ND Higher Education policy. Our mission is to empower students, create collaboration between the student bodies of the North Dakota public universities, and to give a student perspective on higher education policy!

The purpose of NDSA is to represent all students enrolled in the North Dakota University System (NDUS) and advocate on issues of higher education in support of access, affordability, quality, and the student experience. On Saturday, November 5th, 2022, the North Dakota Student Association passed [NDSA-09-2223](#): A Resolution in Support of the NDSA's Legislative Priorities for the 23-25 Biennium. This resolution establishes our legislative priorities, including our support of policies protecting the rights of NDUS LGBTQIA2S+ students, and SB-2199 directly conflicts with this stance. SB-2199 fails to acknowledge the existence of intersex individuals whose biological markers are not consistent with the faulty assumption of a gender binary. Native people represent 6.4% of the North Dakota population, and this bill blatantly ignores and disrespects the cultural existence of certain native individuals who identify as two-spirit.

The NDSA has also passed several resolutions in support of promoting student mental health initiatives, including [NDSA-09-2223](#) and [NDSA-12-2122](#). This bill would likely have severe detrimental effects stemming from the emotional stress caused by referring to individuals with improper pronouns. According to the Trevor Project, more than half of all transgender youth seriously considered suicide in the past year, and nearly 20% attempted suicide. The mental health risks posed by this legislation are severe and pervasive, placing students across the NDUS at risk. Further, [NDSA-16-1819](#): A Resolution in Support of Free Speech established that the NDSA fully supports the right of students and faculty to practice free speech, a stance that has



been consistently upheld. SB-2199 infringes on student free speech and academic freedoms by restricting terminology used in correspondence.

[NDSA-11-1819](#) was passed in January of 2019 in support of prohibiting discrimination in North Dakota housing and workplaces based on sexual orientation and gender identity. All 11 public institutions of higher education in North Dakota prohibit discrimination based on sexual orientation and gender identity. The NDSA believes that the state should be encouraging all types of people, no matter their gender identity, to work and live in the state, a value threatened by SB-2199.

Finally, the NDSA supports gender inclusive policies on North Dakota University System campuses. [NDSA-10-2122](#) was passed in February of 2022 establishing support of policy protecting individuals on the basis of gender identity and expression. The NDSA has a long history of advocating for the protection, right to equal access, and equal treatment of students. Every member of the NDUS should be free from discrimination and harassment based on their gender identity and/or gender expression. Further, the NDSA recognizes the right of all individuals to be addressed in a manner consistent with their gender identity and expression, as requested or indicated by the individual, including, but not limited to, the ensured use of preferred names and pronouns, access to gender appropriate housing, and protection of educational and extracurricular opportunities. Under federal law, gender identity is considered a protected class, which would be violated by this legislation. It is the responsibility and obligation of the NDUS and its institutions to take any reasonable action that will ensure the health and safety of its students, and this bill explicitly discriminates against transgender student population within the North Dakota University System.

Hello there, my name is Ashelin Rose Harbinger and I am writing in opposition to SB 2199.

I believe that in America, one of our most important rights is our first amendment right.

No person in this country should live in fear of their government for exercising that right.

What words people use to describe their own gender falls under this umbrella and are therefore

protected under the first amendment. To oppose this, and seek to place a fine on Americans

for not speaking the way you wish them to, would be to overturn an amendment first enacted in 1791. Doing so would be equal parts un-American and unconstitutional.

Please reconsider your position and keep this country a free one.

I, Rain A Larson, 26 of Fargo, am in opposition of SB 2199. I oppose this bill, as it is very clear the writers know nothing about gender identity, sex or how it is determined. There are countless flaws in this bill. To truly determine sex, one would need a full chromosomal work-up. (Who is responsible for funding the tests?)

If the writers of this bill looked into biology, they would realize there are many more options IN HUMANS than XX or XY chromosomes. This bill would not only FORCE misgendering of Trans individuals, but it would also completely ignore the existence of intersex individuals. It is clear that SB 2199 is not based off facts or beliefs, but off fear mongering and lies spread through right-wing media.

Furthermore, it does not harm anyone to request they use specific pronouns. The passing of SB 2199 is discriminatory and would be harmful to Trans and intersex individuals, especially youth. It would also harm people who make a simple mistake or use gender neutral pronouns if they are uncertain about the sex of the person they refer to.

Because there are currently no laws punishing anyone for refusing to use preferred pronouns, there is absolutely NO REASON to punish those who do respect an individual's preferred pronouns.

Dear Chair Larson and members of the Senate Judiciary Committee,

My testimony is in opposition to Senate Bill 2199. I ask that you give this bill a Do Not Pass.

This bill impacts the people I care about, because you are trying to remove their very existence from our public forum. My friends are entitled to their own identities, not an identity that is forced upon them by an intrusive government.

This bill also seriously impacts North Dakota's standing in eyes of the world. I am North Dakota born and raised and I am also retired from the U.S. Foreign Service. Not only did I represent my country in several U.S. embassies and a multi-lateral diplomatic mission overseas. But I was often the only person from North Dakota my colleagues had ever met and I represented my home state proudly. Today, that would not be the case. I would be embarrassed by the small-minded, backward vision endorsed by this bill. The independent-thinking, forward-facing state that I grew up in doesn't seem to exist anymore.

Our state is currently in the process of recruitment because we have thousands of jobs that we cannot fill. We can't afford to alienate those who would bring new technology and skills by discriminating against the very identities of those who could contribute to our prosperity.

Trans and LGBTQ individuals are human beings and deserve to be treated with dignity and respect. Allowing them to live their lives hurts no one and the fact that this bill is an attempt to legislate them out of existence is abhorrent.

Best regards,

Cheryl Schaeffe

1/18/2023

Dear Chair Larson and members of the Senate Judiciary Committee,

My testimony is in opposition to Senate Bill 2199. I ask that you give this bill a Do Not Pass. The reason for this is that this bill impacts the people I care about and myself, because it is pretty much erasing our existence. As someone who is a part of transgender and non-confirming community, I makes me feel not welcome in a state that I was born and raised in. I used to be proud to say I am from Grand Forks, North Dakota, but not anymore due to the fact I feel like my life and safety is in danger.

Furthermore, it is showing the youth that are still trying figure out who they are that they shouldn't exist. That being who they are and want to be will cause them to be fined. I fear that this will put a lot more stress and do more damage on the population that it is trying to protect. I only imagine how stressful and worried they are if this bill is causing unease.

Additionally, there is a bit of an issue with the wording in this bill. According to lines 7-9 part of this bill, it quotes, "Words used to reference an individual's sex, gender, gender identity, or gender expression, mean the individual's determined sex at birth, male or female". The issue that can be brought up is the fact there is more that it excludes those who are intersex. Not only that, in lines 13 and 14, it states, "If sex, gender, gender identity, or gender expression is contested, determination is established by the individual's deoxyribonucleic acid". Meaning medical tests will have to be done. Who is going to pay for those? Those who brought forth this bill did not include that in there. In sentences 19 and 20, "Any person that violates this section must be assessed a fee of one thousand five hundred dollars", it brings up the question how will be assessed. Will the person in question be charged every time their gender or sex is questioned? Or will once a month? There seems to be inconsistent with the penalty in mind.

Sadly, not only does this bill seem inconsistent, but it conflicts with my ethical code of conduct of someone who is studying social work at the University of North Dakota. Personally, I follow the National Association of Social Workers Code of Ethics since I hope one day to be a social worker here in North Dakota soon. I feel this bill goes against one of the main core values of the Code of ethic. That is core value is the dignity and worth of the person. As I said before if this bill passes, it is stating in North Dakota Century Code that anyone who is part of the transgender and non-confirming community does not exist and will have to pay \$1,500 dollars. It's inhumane to treat people like this.

Currently, that is all I have to say. I hope you considered being in opposition to Senate Bill 2199, and the damage it might cause for the future. Thank you for your time, consideration, and service to our state.

Best regards,

A large, stylized handwritten signature in black ink that reads "Charles J Vondal". The signature is written in a cursive, flowing style with a prominent loop at the end.

Charles J Vondal

CJV

Olivia Data
Testimony on SB 2199
January 18, 2023

RE: Testimony in Opposition to SB 2199

Greetings, Chairwoman Larson and members of the committee. My name is Olivia Data, I'm a North Dakota resident and a freshman at Harvard College, and I ask you to vote "Do Not Pass" on SB 2199.

I am a cisgender woman. I am biologically female, and I identify as a woman. Still, my sex and my gender are two different things. Sex is biological and can be determined by DNA. Gender, on the other hand, is a social construct based on the characteristics a culture associates with men or women¹.

For me, the words I use to describe my gender just so happen to align with the sex I was assigned at birth. Yet, there are many people whose gender differs from their determined sex. By requiring that all gender-related words in the North Dakota Century Code refer to an individual's determined sex at birth, these people will be further marginalized.

As a woman, I am confident enough in my identity that I don't believe that another person's choice to describe themselves with words that make them feel comfortable in their own skin poses a threat to my or anyone else's wellbeing. I do, however, know that if we refuse to allow people to express their identities or use the pronouns they identify with, we will be causing them harm.

¹ "Gender and health." *World Health Organization (WHO)*, https://www.who.int/health-topics/gender#tab=tab_1. Accessed 18 January 2023.

Olivia Data
Testimony on SB 2199
January 18, 2023

This is especially true for younger generations. Among LGBTQ+ youth, those whose pronouns are not respected by most of the people in their lives attempt suicide at almost twice the rate of those whose pronouns are respected².

I understand that there are many perspectives on transgender youth and the use of gender-inclusive language. Though I strongly believe in respecting others' identities and though I abhor the thought of further ostracizing an already vulnerable community, I do not wish to make this a debate about LGBTQ+ rights. Rather, I wish to say that allowing people to use words to describe their gender that may differ from their determined sex does no harm to anyone. Acknowledging a potential difference between gender and sex is not only harmless but scientifically correct. On the other hand, refusing to acknowledge this difference and requiring that words to describe gender must refer to a person's assigned sex as mandated in SB 2199 could cost lives.

Throughout my life, several of my friends and classmates have used pronouns other than he/him or she/her and have identified with a gender different than their sex determined at birth. Almost all of these people do not feel safe or respected in North Dakota. I was born and raised in this state. It is my home, and I love it. But I do not want to spend my life in a place that ostracizes the people I care about.

² "Pronouns Usage Among LGBTQ Youth." *The Trevor Project*, 29 July 2020, <https://www.thetrevorproject.org/research-briefs/pronouns-usage-among-lgbtq-youth/>. Accessed 18 January 2023.

Olivia Data
Testimony on SB 2199
January 18, 2023

Many people have grown disillusioned with North Dakota for this very reason. Rather than doubling down on the divisions between us, we ought to be striving to unite our state's communities. Please, for the sake of North Dakota's youth, for the future of this state, vote "Do Not Pass" on SB 2199.

Thank you for your time.

Olivia Data
District 35
Bismarck, ND

Hello, my name is Reed Eliot Rahrlich. I grew up in North Dakota and lived there until I was 25. I have friends and family there, people and places that still, despite the best efforts of the sponsors of this bill, make me homesick. I truly wish I could join you all at the Capitol this morning, but I was unable to get the time away from work.

I left North Dakota in 2016 after a series of escalating brushes with anti-LGBTQ violence. I was followed into a restroom by a drunk man questioning which facilities I was using, screaming at me until I hid in the stall, standing on the toilet so he wouldn't find me. My tires were slashed a few weeks after I came out, and I never found out who did it or why. I was refused service multiple times at bars because I looked like a man but my driver's license wasn't updated to reflect my new name and gender marker. I became suicidal until I sought hormone replacement therapy and finally left the state for somewhere I could start over.

I am a guy with a beard, chest hair, and a beer belly. I've had a mastectomy and a hysterectomy. My voice is deep. Strangers pretty much all assume I'm a man, if a little short. If this bill passed, every state funded employee in North Dakota would have to refer to me using the pronouns "she" and "her." If I, heaven forbid, needed medical care in North Dakota, my doctors would have to refer to me as a woman. I've wondered for ages what people who sponsor these types of bills think they are accomplishing, which closet they assume we will all slink back into. The cat is out of the bag. I guarantee folks will be more confused if the government starts enforcing mandatory hate speech. Most people in North Dakota understood me, or at least left well enough alone. It was only the truly committed bigots that forced me out.

I left North Dakota because it became apparent to me that the politicians and the narrow-minded in my home state didn't want me. Unfortunately, this represented enough of a threat to my liberty and happiness that I had to move somewhere where my rights would be respected. Now Minnesota gets my tax money, my labor, and my future.

When I moved here, I joined a chain migration. I've brought my parents, my brother, sister in law, and their three kids, several friends, and their family members here. There is a thriving community of former North Dakotans living in Minnesota, able to love and celebrate their queer family members in ways they never could back home. When I tell people here what I experienced back in North Dakota, they look at me with pity. I hate my home state being seen like that. I could wax poetic about the rolling prairie, or how much I miss the enormity of the sky. I could tell you how I still haven't found a donut shop here as good as Sandy's, or how impossible it is to find fleischkuechle in Minneapolis. I could get as folksy as you please, but what I can't do is compel you to see me as a human being.

This bill is a poorly thought out affront to human rights, both of transgender people and also the rights of every state funded employee. The thought that conservatives in North Dakota would willingly champion a bill this authoritarian proves to me that you all have utterly forgotten your own values in pursuit of a vapid culture war. Not only will this bill stain your reputation, but this kind of censorship tends to open the door for much more government repression down the road.

I strongly recommend a **Do Not Pass** vote. I won't pander to you and I won't pretend to like you. We both know that folks like the sponsors of this bill are more than happy to remove every person like me from the state of North Dakota. They'll do whatever it takes to force the assimilation or relocation of every transgender person in this state, with this bill and all the other bills targeting trans people this session. The suicide rate in this state is going to rise if you pass this and the other anti trans bills. Ask yourself if that is the kind of legacy you're comfortable leaving.

Thank you for your time,
Reed Eliot Rahrlich

My name is Brittany Hagen, most of my family resides in North Dakota but I reside in Iowa. Even though I don't live in the state this is an issue that is close to home for me and people I love that do live in ND. The biggest way this affects me is that my baby sister lives in ND, and you're telling me you want to force my sister to identify as male after reflecting for years on her identity and finally learning to be comfortable expressing who she truly is. When you tell someone that a core part of who they are is wrong or delusional then force them to change it, that's dangerous. It can lead to lasting depression, substance abuse, self-hatred and even suicide. Now imagine that someone to be someone you love or care about like my sister or other family in ND. Luckily I hope my sister sees how much love and support she has around her but there are some in the community who don't have that same support.

Did you know that 82% of the transgender community have considered committing suicide? How about that 40% of the community has attempted to commit suicide? Suicide is the fourth largest cause of death in teenagers globally each year. This suicide risk may be increased by discrimination trauma including but not limited to being fired or denied a job, facing harassment and bullying at school, becoming homeless or live in extreme poverty, be evicted or denied housing or access to a shelter, be denied access to critical medical care, be incarcerated or targeted by law enforcement, and finally face abuse and violence. Dr. Ian Colman, professor in the Faculty of Medicine School of Epidemiology and Public Health and the Norwegian Institute of Public Health in Oslo, Norway stated in MedicalNewsToday "While [ages 15-17] can be an exciting time, it is also very stressful, as adolescents experience a lot of peer pressure and can feel very isolated. This is especially true for those who express gender and sexuality in a nonconforming way."

I could go on and on with studies like in '21 the 57+ fatal attacks against the transgender community, 37+ fatalities in '20, 25+ in '19, 22+ in '18, 21+ in '16, 21+ in '15, 13+ in '14, and 19+ in '13. However the Human Rights Campaign has already provided these numbers to you I'm sure. What I want pointed out is the + or when studies say at least because what about the fatalities that we don't know, the John/Jane Does. How about the suicides caused by discrimination trauma? I personally will hold ND accountable if anything happens to my baby sister. You have the opportunity to protect her rights and her future. Please do the right thing.

Re: Opposition to SB 2199

Madam Chair Larson, esteemed committee members,

This bill is way ahead of our times. We're not there yet.

The bill's sponsors envision a state where **mind concepts like gender identity** can be distinctly spelled out somewhere along the almost 20,000 genes in the human genome. This concrete idea: we have a simple test for a complex issue – has been at the crux of many famous discrimination tragedies of humankind: the Arian nation in Nazi Germany, the "healthy Greeks" in ancient Athens and Sparta and, more recently, in numerous states' eugenics policies: Indiana 1907, etc.



Figure 1 Human Genome

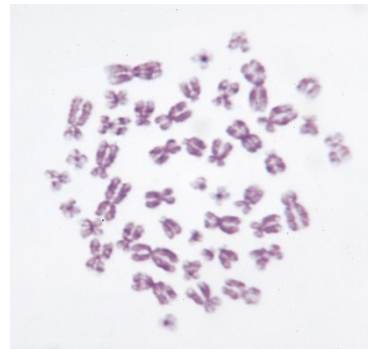


Figure 2 Human chromosomes

There is a federal law to prevent exactly this type of **discrimination based on genetics**: The Genetics Information Nondiscrimination Act of 2008 signed by President Bush¹(GINA 2008)

We've been there before: the behavior of institutions, private citizens, state, will change depending on the results of this genetic testing. The very definition of **eugenics**. And this is the basis of GINA 2008:

¹. Office of the Federal Register, National Archives and Records Administration. (2009, January 2). 122 Stat. 881 - Genetic Information Nondiscrimination Act of 2008. [Government]. U.S. Government Publishing Office. <https://www.govinfo.gov/app/details/STATUTE-122/STATUTE-122-Pg881>

"The early science of genetics became the basis of State laws that provided for the sterilization of persons having presumed genetic "defects" such as mental retardation, mental disease, epilepsy, blindness, and hearing loss, among other conditions. The first sterilization law was enacted in the State of Indiana in 1907. By 1981, a majority of States adopted sterilization laws to "correct" apparent genetic traits or tendencies. Many of these State laws have since been repealed, and many have been modified to include essential constitutional requirements of due process and equal protection. However, the current explosion in the science of genetics, and the history of sterilization laws by the States based on early genetic science, compels Congressional action in this are Congress has collected substantial evidence that the American public and the medical community find the existing patchwork of State and Federal laws to be confusing and inadequate to protect them from discrimination. Therefore Federal legislation establishing a national and uniform basic standard is necessary to fully protect the public from discrimination and allay their

concerns about the potential for discrimination, thereby allowing individuals to take advantage of genetic testing, technologies, research, and new therapies.”

And how do we get the testing done? Besides profiling and by violating federal laws like those pertaining to HIPAA – the Health Information and Portability Act – since “**genetic testing is health information**”² which³, furthermore, cannot be undertaken without court order:

Once the hypothetical scenario goes through, say, the legal hoops of obtaining it, we face the fact that we have NO FDA APPROVED GENETIC TESTING⁴

- 2 HIPAA privacy regulation (as defined in subsection (b)) so it is consistent with the following: “(1) Genetic information shall be treated as health information described in section 171(4)(B).
- 3 GENETIC TESTING.—“(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A group health plan, and a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request or require an individual or a family member of such individual to undergo a genetic test.
- 4 “ Part of the FDA's mission is to protect public health by ensuring the safety, efficacy, and security of drugs, biological products, and medical devices. The agency considers genetic tests to be a special type of medical device, and therefore these diagnostic tools fall within FDA's regulatory purview. Until recent years, FDA chose to apply "enforcement discretion" to the vast majority of genetic tests. The FDA can use "enforcement discretion" when it has the authority to regulate tests but chooses not to. In the current regulatory landscape, whether FDA regulates a test is determined by how it comes to market. A test may be marketed as a commercial test "kit," a group of reagents used in the processing of genetic samples that are packaged together and sold to multiple labs. Test kit manufacturers must receive approval from FDA before selling their products on the market. More commonly, a test comes to market as a laboratory-developed test (LDT), where the test is developed and performed by a single laboratory, and where specimen samples are sent to that laboratory to be tested. To date, FDA has practiced enforcement discretion for LDTs. This means that LDTs are being used in the clinic without the FDA's assessment of their analytical and clinical validity.

FDA initially applied enforcement discretion on LDTs because clinical genetic testing was not very widespread in the past - however, due to the rapid advances in next-generation sequencing (NGS) technology, the pervasiveness of clinical genetic testing today, the growth of direct-to-consumer (DTC) genomic testing, and FDA's mounting concern that **unregulated tests pose a public health threat**, FDA is modifying its approach. To this end, FDA has drafted new guidance to describe how it intends to regulate NGS genetic tests and verify their analytical and clinical validity. The agency has also drafted guidance proposing a new regulatory framework for LDTs. FDA "guidance" is different from laws and regulation in that it only represents the FDA's "current thinking" on a topic and is not legally binding for FDA or the parties it regulates. In practice, however, adhering to FDA guidance is beneficial because it can streamline the regulatory process. The draft guidances are listed below. Since they are in draft form, they are not currently being implemented.

Let's say we go through the hoops of genetic testing false positive and false negative consequences. Then we face the real genetic possibility of quagmires like **intersex conditions**: in this author's math, it comes to close to 200 persons in ND:

The issue of intersex

Quiz: is a **Klinefelter** syndrome condition patient person a boy or a girl? The bill's sponsors may want to pay attention to this issue, since statistically affects about 140 persons in ND: 0.2% prevalence⁵. At a 2005 international consensus conference on intersex management, intersex conditions were subsumed under a new standard medical term, "Disorders of Sex Development" (DSD), defined as "congenital conditions in which development of chromosomal, gonadal, or anatomical sex is atypical"

The prevalence of intersex conditions depends on the definition used. Obvious genital atypicality ("ambiguous genitalia") occurs with an estimated frequency ranging from approximately 1:2000— 1:4500 people (Hughes et al., 2007). The most inclusive definitions of DSD estimate a prevalence of up to 1.7% (Blackless et al., 2000).

For instance, androgen insensitivity syndrome (AIS) occurs in approximately 1 in 100,000 46,XY births (Mendoza & Motos, 2013), and classic congenital adrenal hyperplasia (CAH) in approximately 1 in 15,000 46,XX births (Therrell, 2001). Prevalence figures for individual syndromes may vary dramatically between countries and ethnic groups.

Quiz: You have an XY chromosome makeup child who looks like female – testing concludes Androgen Insensitivity Syndrome – is the child female or male⁶?

5 The term Klinefelter syndrome (KS) describes a group of chromosomal disorder in which there is at least one extra X chromosome to a normal male karyotype, 46,XY. XXY aneuploidy is the most common disorder of sex chromosomes in humans, with prevalence of one in 500 males. Other sex chromosomal aneuploidies have also been described, although they are much less frequent, with 48,XXYY and 48,XXXYY being present in 1 per 17,000 to 1 per 50,000 male births. The incidence of 49,XXXXY is 1 per 85,000 to 100,000 male births. In addition, 46,XX males also exist and it is caused by translocation of Y material including sex determining region (SRY) to the X chromosome during paternal meiosis

6 Androgen insensitivity syndrome

Androgen insensitivity syndrome (AIS) is when a person who is genetically male (who has one X and one Y chromosome) is resistant to male hormones (called androgens). As a result, the person has some of the physical traits of a woman, but the genetic makeup of a man.

Causes

AIS is caused by genetic defects on the X chromosome. These defects make the body unable to respond to the hormones that produce a male appearance.

The syndrome is divided into two main categories:

- Complete AIS
- Partial AIS

In complete AIS, the penis and other male body parts fail to develop. At birth, the child looks like a girl. The complete form of the syndrome occurs in as many as 1 in 20,000 live births.

In partial AIS, people have different numbers of male traits.

Partial AIS can include other disorders, such as:

- Failure of one or both testes to descend into the scrotum after birth

- [Hypospadias](#), a condition in which the opening of the urethra is on the underside of the penis, instead of at the tip
- Reifenstein syndrome (also known as Gilbert-Dreyfus syndrome or Lubs syndrome)
 Infertile male syndrome is also considered to be part of partial AIS.
 Complete androgen insensitivity syndrome affects 2 to 5 per 100,000 people who are genetically male.
 Partial androgen insensitivity is thought to be at least as common as complete androgen insensitivity.
 Mild androgen insensitivity is much less common.
 Cca 40 persons in ND

IN a small state like ours, careless laws will affect people in communities we know. The science about transphobia and its deleterious effects on the mental health and suicide rates of transgender folk is well documented, by our own state's data⁷. We will see lives lost, communities torn, alienation felt by the very targets of our efforts: children/adolescents, who feel invalidated, see their peers invalidated, see their state profiling itself as a righteous, intolerant community where one either blends in or is cast aside with lethal consequences.

A century's worth of legal soul searching has already happened, why repeat history at the scale of our state, why harm our own children?

In sum: Our great nation has been putting efforts into solving these very issues we face today. We can subscribe to its efforts and think through the well- documented consequences or ignore our own data that aligns with the national stats and go through the documented dire circumstances – to prove what concepts exactly?!

Thank you for your time,

Gabriela Balf

January 17, 2023

Dear Chair Larson and members of the Senate Judiciary Committee,

My testimony is in opposition to Senate Bill 2199. I ask that you give this bill a Do Not Pass.

As a lifelong resident of North Dakota, the continued efforts such as these to discriminate against an already marginalized group damage our state's reputation and appeal for current citizens to stay here as well as attract others to move here. My own family members and friends would be negatively affected should this bill pass and I fear for their well-being.

Thank you for your time, consideration, and service to our state


Sincerely,
Shannon Krueger

If you plan to vote in favor of this, I implore you to reconsider. The genitalia that a person is born with does not define them. I am embarrassed that North Dakota would introduce this legislation in this day and age when medical professionals, mental, physical and otherwise, from many other states and countries have recognized the importance of gender identity and the negative ramifications that occur when the ability to express one's self is denied, not only denied, but penalized. The mental health and well-being of our population is at stake. I am vehemently against Senate Bill No. 2199.

January 17, 2023

Dear Chair Larson and members of the Senate Judiciary Committee,

I have known people who have lived here their entire lives, they have faced immense hate but also immense love because of who they are. They have overcome extreme adversity because of their identity and found a community that supports them despite vocal hatred from politicians and neighbors. SB2199 makes a very public statement of hate and would normalize this hatred even more. My purpose in writing this testimony is to voice and correct personal pronouns can lead to a 29% decrease in suicidal ideation and as high as a 56% decrease in suicidal *behavior* — that is, actual attempts at suicide (see [Russell, Pollitt, and Grossman 2018](#); [Stanley Vance, 2018](#)). Because one's pronouns are in effect extensions of their name, using the correct pronouns to refer to trans and gender nonconforming people has similar benefits: To use someone's correct personal pronouns is to validate and reaffirm their identity; to misgender them (that is, to refer to them with pronouns other than their chosen pronouns) is to communicate, excruciatingly clearly, that their identity and lived experiences do not matter and that they, as individuals, do not deserve to be treated as the real, whole human beings that they are. If this bill passes, it will codify into law not only overt discrimination towards transgender individuals, but also the covert communication that the trans community in North Dakota, our stories and our lives, do not matter, that we do not deserve the same basic courtesy and autonomy you extend to cisgender people every day. Therefore, I urge you to give this bill a do not pass for the sake of trans lives, because to codify this bill into law is to not only condone but promote the active extermination of the transgender community in our state.



Chairperson Larson and Members of the Senate Judiciary Committee,

My name is Kristin Rubbelke, and I am the Executive Director of the National Association of Social Workers, North Dakota Chapter (NASW-ND). On behalf of NASW-ND, we ask that you oppose SB 2199 regarding gender usage in the North Dakota Century Code.

Practices that ignore sexual orientation, gender identity, and gender expression stand in direct conflict with the NASW's professional code of ethics and best practices, representing a significant risk of harm to individuals. Social workers have an ethical and professional duty to provide evidence-based care including but not limited to care provided on the basis of gender identity and expression, sexual orientation, and sex characteristics. This language would make it nearly impossible for social workers to work with trans or non-gender conforming individuals without causing harm.

NASW is acutely aware of the ways people who are LGBTQ+ experience discrimination when accessing housing, health care, employment, education, public assistance, and other social services. NASW asserts that discrimination and prejudice directed against individuals based on gender identity or gender expression, whether actual or perceived, are damaging to the social, emotional, psychological, physical, and economic well-being of the affected individuals, as well as society as a whole.

Williams Institute identifies that 20% people who identify as transgender are of youths ages 13-17, meaning this bill will significantly affect North Dakota children. Although most people's gender identity is congruent with their biological sex, some experience their gender identity to be discordant. All research illuminates how critical it is to affirm and support an individual's identified gender.

Notwithstanding the social discrimination suffered, LGBTQ+ individuals also experience a severe lack of competent health providers, including mental health and primary care. Positive experiences of social gender affirmation are critical to a person's health and well-being. Greater social gender affirmation is associated with improved mental health and well-being among diverse groups of transgender and gender-diverse individuals.

Despite increased public awareness, no individual or community faces more social judgment, stigma, verbal harassment, and physical violence than trans and gender expansive individuals. This often occurs in tandem with racial and ethnic discrimination, with data indicating that 82% of trans individuals have contemplated suicide and 40% have attempted suicide, with suicidality highest among trans youth. Additionally, one in five transgender people in the United States has experienced discrimination when seeking a home, and more than one in 10 have been evicted from their homes because of their gender identity.

The increased vulnerability to violence and harassment, loss of social support, and mounting despair suggests that policies like SB 2199 present severe barriers to health and well-being to individuals who are transgender or non-gender conforming as well as social workers who work with LGBTQ+ clients.

On behalf of NASW-ND, I urge you to oppose SB 2199 regarding gender usage in the ND Century Code.

Sincerely,

Kristin Rubbelke, LSW, MSW, MASJ
Executive Director
NASW-ND

Kristie Miller

SB #2199

My name is Kristie Miller and I am a native North Dakotan and I am also a mother of a transgender person. I stand before you today to oppose SB #2199.

SB 2199 impacts the lives of transgender people, like my daughter, in North Dakota. They strive to live a life as authentic to themselves, just as we CIS people get to live without barriers, and enjoy life. SB 2199 will force my daughter to use a name that she was given at birth. The problem is that at birth, no one could know at that time that she is transgender.

SB 2199 would force those who want to have their life whole and feel complete. Forcing someone to use a name that they never were given a chance to pick and now doesn't even match who they identify themselves to be is cruel. It's an unnecessary barrier and unjust punishment. SB 2199 would mean my daughter would have to use a male name which doesn't go with who she is now. How is that fair and just? On all her paperwork she would be forced to see and be called, to use a name which she has put behind her and has now chosen a name for herself that she does identify with and uses very happily. My daughter didn't ask to be born transgender.

SB 2199 is unfair and discriminates against transgender people for the simple fact CIS people, that is people who identify with the sex they were born as, can change their names whenever they like. By singling out transgender people and forcing these people to identify with the name or even sex they were born it discriminates because this bill neglects to look at all the science which makes up the transgender person. SB 2199 mentions using an individual's deoxyribonucleic acid as a reason as to why their sex or gender should be used as such but this neglects to look at the human and how it was formed in utero. The body is formed first, then the brain is formed. Under MRI imaging, the human brain can be identified as female or male since the two are physically formed differently. My daughter didn't ask to have her body and brain not be in synch. No one could know that at the time of her birth, her body, in utero, formed male while her brain formed female. This was told to me over a decade later, after she was born and she and I were sitting in a team of doctors at Mayo Clinic in Rochester, Minnesota.

The stress and undo harm SB 2199 will do to North Dakotans who are transgender is inhumane. Where is the empathy and compassion for these people who have to go through life every day facing people who spew hate and act ugly, even violently towards them just because these people want to live their life whole. How unfair is it that we CIS people get to go through life without these kinds of worries hanging over our heads. As a parent I worry every day that my daughter will come to harm and she has had ugly things said to her and treated very unfairly in school by peers, faculty and school administration all because of ignorance and hate. SB 2199 will cause people to go into deep depression and self-harm, move or potentially kill themselves. Are those the outcomes you're willing to live with? Passing SB 2199 and later learning that a transgender person couldn't take living a life you forced them to live by using a name and sex they had or have been trying to be behind them in order to be whole so they killed themselves?

Transgender isn't a phase, or a way to have an edge. It isn't a way to erase women in sports and it also isn't a threat to women. Transgender people have been on this earth since the beginning of time if you would like back in history. How many of you would dress as the opposite sex for the rest of your life just to make others comfortable? I like wearing female clothing so I can tell you I wouldn't like wearing male clothing for the rest of my life. How many of you would like to use a name of a different sex that you don't identify with all just in order to make strangers, people who don't know you, happy and secure? None of you would like it, I wouldn't like it either.

Transgender people just want to be treated equally and fairly just like CIS people. No one should be forced to live a life that is not true and authentic to themselves. No one is asking you to do that so please, do not mandate others to do that. Look at the science, ask the doctors questions and even talk to a transgender person or a parent of a transgender person before passing such a bill that impacts a person's life here in North Dakota drastically if not irrevocably. If you were standing in my place now you would be asking for the same empathy I seek now for my child. I'm speaking to you parent to parent.

Thank you for your time.

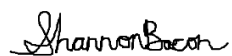
Kristie Miller

Dear Chair Larson and members of the Senate Judiciary Committee,

My testimony is in opposition to Senate Bill 2199. I ask that you give this bill a Do Not Pass.

I have several reasons for opposing this bill. First, this bill is a government overreach into people's personal lives, and it directly impacts people who I care about, including friends of mine, and members of my church. There is also a broader consequence to North Dakota as a state. This bill will lose business and make ND less competitive in the national market because it is extremist, harmful, and completely unnecessary.

Sincerely,

A handwritten signature in black ink that reads "Shannon Bacon". The signature is written in a cursive style with a large initial 'S'.

Shannon Bacon

Fargo, ND

January 18, 2023

Dear Chair Larson and Members of the Senate Judiciary Committee:

My name is Rev. Karen Van Fossan. I am an ordained minister and licensed professional counselor, serving as a pastoral counselor in the state of North Dakota. I am here today to testify in opposition to Senate Bill 2199. **I ask that you give this bill a Do Not Pass recommendation.**

A few years ago, I was adopted by a young mother and her beautiful transgender child. Having been rejected by their family of origin, they asked me to become their mom and grandma. Due to a fundamental misunderstanding about what it means to be transgender, their family had become unable to love them. As painful as this breach has been for my chosen daughter and grandchild, I believe the real losers in this scenario are the family members who don't get to experience the Halloween costumes, the spontaneous dances, and the joyful utterances (like "I love you, Grandma!") that I now enjoy as a matter of course. I do indeed love my transgender grandchild from the deepest place in my soul.

Still, my grandbaby is just one of the reasons I strongly oppose SB 2199.

This bill would significantly impact my ability as a helping professional to serve transgender people. According to the Code of Ethics of the American Counseling Association (ACA), the fundamental principles of ethical counseling include autonomy (fostering the right to control the direction of one's life), nonmaleficence (avoiding actions that cause harm), beneficence (working for the good of the individual), and justice (fostering fairness and equality).

In fact, according to a recent position statement, the ACA says this about gender identity and ethical counselor conduct:

"Gender is the product of a complicated interaction of chromosomes, anatomy, hormones, and culture that begins before birth. Most people's gender identity is consistent with the gender they were labeled at birth. Individuals who identify as transgender have a persistent and consistent experience of their gender being different from their sex assigned at birth. The stress brought on by stigma and the pressure to be gender-conforming with an individual's assigned sex is known to cause minority stress and significantly affect health and wellbeing, even in the face of the resiliency and the strengths of transgender individuals. Counselors know and understand the critical importance of living consistently with one's gender identity, which may or may not include physical or social gender transition."

I would like to repeat a portion of that last statement: "Counselors know and understand the critical importance of living consistently with one's gender identity."

In other words, **the expectations of this bill are in direct conflict with the expectations of my professional code of conduct.**

If a transgender person were to approach me for pastoral counseling services, and if they participated in a publicly-funded Employee Assistance Program, this bill would bar me – fine me, in fact – for providing exactly the kind of care that my professional standards require me to provide.

What's more, this bill would force counselors out of practice in North Dakota, widening the

already significant gap between our state's behavioral health care needs and the numbers of service providers available to meet those needs.

In short, **this bill would bar me from doing my job or – because of the \$1,500 fine per incident – would entirely run me out of business.** If I were to go out of business, I'd have a much harder time affording Halloween treats and the like for my beloved transgender grandchild.

For all of these reasons, I urge you to vote Do Not Pass on SB 2199. Thank you for your time and consideration. I would be glad to respond to any questions.

Sincerely,
Rev. Karen Van Fossan, M.Div., LPC

Dear Chair Larson and members of the Senate Judiciary Committee,

My testimony is in opposition to Senate Bill 2199. I ask that you give this bill a Do Not Pass.

The reason for this is that:

Personal: As a laboratory technician, clinical research manager, and currently working in public health – the logistics of this bill is improbable. What structure will ND use to utilize DNA testing? DDC is already over sourced and understaffed. For individuals looking for DNA testing, the system is broken, at best. The structure and logistics required to enforce this bill do not exist. “It does not matter if you are right, if you are not effective”

Additionally, how does this align with the teachings of Christ? Luke 10:30-36 30 In reply Jesus said: “A man was going down from Jerusalem to Jericho, when he was attacked by robbers. They stripped him of his clothes, beat him and went away, leaving him half dead. 31 A priest happened to be going down the same road, and when he saw the man, he passed by on the other side. 32 So too, a Levite, when he came to the place and saw him, passed by on the other side. 33 But a Samaritan, as he traveled, came where the man was; and when he saw him, he took pity on him. 34 He went to him and bandaged his wounds, pouring on oil and wine. Then he put the man on his own donkey, brought him to an inn and took care of him. 35 The next day he took out two denarii[e] and gave them to the innkeeper. ‘Look after him,’ he said, ‘and when I return, I will reimburse you for any extra expense you may have.’

American Psychiatric Association and many other medical experts all agree that transgendered individuals are simply a victim of circumstance, much like the man traveling from Jerusalem to Jericho. I often wonder if this story was another one of Jesus parables meant to talk to our current society. If you believe the Bible is breathed by the Holy Spirit, you can not deny this considerable connection.

36 “Which of these three do you think was a neighbor to the man who fell into the hands of robbers?”

37 **The expert in the law replied, “The one who had mercy on him.”**

Jesus told him, **“Go and do likewise.”**

Conflict with Best Practices: North Dakota has always prided itself on relying on experts in its respective fields. This bill rejects those experts. This bill is a financial, logistical, and personal health conflict.

Organization Impact: This bill impacts every organization to help individuals in the healthcare field. I thought Republican principles focused on less governance, not more. I’m greatly confused why our Republican representatives feel these measures are a part of their mission.

Consequence to ND: Science exists on a spectrum. To say that there is good and bad, right or wrong, is intellectually lazy. Science proved that everything is on a spectrum, a parabola, and more. Pass this bill and ND will look like Alabama before suffrage. Pass this bill and ND will look like the days before women could vote. You don’t have to agree based on your religious values, but you can’t argue with science. This will put North Dakota on the bad side of history and science. This will impact ND’s national market, business prospects and invite future lawsuits.

Thank you for your time, consideration, and service to our state

Best regards,

Sarah Irizarry

Dear Chair Larson and members of the Senate Judiciary Committee,

My testimony is in opposition to Senate Bill 2199. I ask that you give this bill a Do Not Pass.

This bill impacts people I care about and conflicts with my ethical code of conduct.

Thank you for your time, consideration, and service to our state

Best regards,
Mary Stromme

What would Jesus do? Definitely, not live in North Dakota.

Surely, Jesus would not ask to see a child's genitals to confirm their sex. Human beings who don't have gender dysphoria will be unaffected if the bill passes or fails. Which one of the Senators Clemens, Vedaa, or Weston will sleep better at night after children who don't receive gender affirming care commit suicide or live lives with PTSD. Surely, the Senators are experts in gender and sexuality if they feel so inclined to punish others for seeking out professional medical and mental health practitioners regarding their gender and sexuality.

Not only do the Senators want to know if what is in one's pants matches their view of social norms, they also want to test one's DNA? North Dakotans value freedom and liberty and testing the DNA of people because they can't imagine someone living a life different to theirs.

When will North Dakotan Republicans quit obsessing over their constituents genitals and start obsessing over on how to bring young adults back to ND.

Jesus definitely would not want to see if I had a penis or vagina. Jesus was created without either of them.

Chair Larson and members of the Senate Judiciary Committee,

I am a clinical psychologist in the State of North Dakota. I am in opposition of Bill SB2199 for both professional and personal reasons. As a clinical psychologist, I specialize in the care of individuals of all walks of life, many who identify as transgender. Population estimates would suggest that there are over 20,000 transgender/gender diverse individuals living in the North Dakota who would be detrimentally impacted by this bill. There is no way to estimate the number of family and friends, and businessnes, who would also be impacted.

Research shows that individuals experience sex, gender identity, and gender expression in a multitude of ways. There is no binary in many aspects of the human experience. We also know that transgender and gender diverse individuals are at an increased risk of suicide due to various stressors. We can only assume that passing of such a bill, that appears to erase their existence, liberties, and freedoms, would increase suicide rates significantly. This has been seen in other states who have passed legislation such as this.

In addition, as a mother of a transgender child, I see the fear and the hurt in my child's eyes each time his rights are threatened, or he is targeted with hatred. He does not understand why others care so deeply about his identity and how he expresses himself. These conversations are getting increasingly more difficult and heartbreaking and will continue to do so if bills such as SB2199 are passed.

In considering human rights, dignity, mental and physical health, and the overall wellness of a group of people, I urge you to vote NO on SB2199. Thank you for your support and feel free to contact me with any questions.

Sincerely,

Dena M. Wanner-Perry, PsyD, LP

Licensed Psychologist

Fargo, ND

Senate Judiciary Committee
SB2199
 January 18, 2023

Chair Larson, Vice Chair Paulson and members of the Committee:

The ACLU champions transgender people's right to be themselves. We're fighting discrimination in employment, housing, and public places, including restrooms. We're working to make sure trans people get the health care they need and we're challenging obstacles to changing the gender marker on identification documents and obtaining legal name changes. We're fighting to protect the rights and safety of transgender people in prison, jail, and detention facilities as well as the right of trans and gender nonconforming students to be treated with respect at school. And, we're working to secure the rights of transgender parents.

For these reasons the ACLU of North Dakota opposes SB2199.

By replacing eight words with 130 words changing the definition of gender in North Dakota Century Code, this bill serves no other purpose but to attempt to remove transgender citizens from existence through state sanctioned discrimination.

Article I, Section 1 of the North Dakota Constitution states that, "All individuals are by nature equally free and independent and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing and protecting property and reputation; pursuing and obtaining safety and happiness..."

Transgender North Dakotans possess these rights enshrined in our state constitution. No citizen should be subject to government defining who they are as citizens and human beings.

Furthermore, citizens should not be subject to one understanding of gender in a society that values the free exchange of ideas and the expansion of understanding of the human experience. In our history, women, African Americans, and Native Americans were all at one time thought to be mentally, emotionally, and biologically inferior to white men and that was often reflected in law. Those judgements have changed with advances in biology, psychology, and sociology and laws have progressed to reflect that. This bill is a regression to enshrine a past status quo and put into law one definition in the midst of a time of growing and advancing understanding of gender.

In addition to entrenching discrimination across North Dakota Century Code, this would be unenforceable law. Gender identity is not something that can always be seen by outward appearance. The only way to enforce this law would be for every individual citizen to be subject to a DNA test and mandated to wearing a patch, insignia, or readily visible tattoo to confirm gender as permitted by law. In human history, this has been put into practice with shameful results.

This bill is vague, discriminatory, unenforceable and seeks to expunge transgender North Dakotans through legislation. SB 2199 cannot become law.

Cody J. Schuler
 Advocacy Manager
 ACLU of North Dakota
 cschuler@aclu.org

ACLU

AMERICAN CIVIL LIBERTIES UNION

North Dakota

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Heartview Foundation

"The provider of choice for quality treatment and education of substance use disorders"



Nationally Accredited

Testimony of Kurt Snyder
Heartview Foundation
In Opposition of SB 2199
Senate Judiciary Committee
Jan. 18, 2023

Chair Larson and members of the Senate Judiciary Committee:

My name is Kurt Snyder and I am the executive director of the Heartview Foundation. I would like to express Heartview Foundation's opposition to SB 2199. Established in 1964, the Heartview Foundation is a 501(c)3 nonprofit substance use treatment facility with facilities in Bismarck-Mandan and Cando. We currently have over 130 employees and serve around 500 clients at any given time.

Clients come to Heartview Foundation when they are at their lowest. In addition to dealing with major addictions, they often have untreated mental illnesses, sometimes even suicidal ideations. Heartview staff meet patients where they are at in order to provide the best care possible. Requiring counselors to use pronouns associated with the sex transgender individuals were assigned at birth could be extremely detrimental to our patients' health. Heartview serves a population that are sometimes very broken, and it is our calling to treat these individuals with respect and build them back up so they can recover. An estimated 30% of LGBTQ+ individuals have some form of addiction, compared to 9% of the general population. Transgender individuals are extremely high risk, with a recent study showing 81.7% of transgender people report they have seriously thought about suicide. According to a study published in the Journal of Adolescent Health, using preferred names and pronouns is associated with better mental health outcomes, including reduced depression and suicide risk.

Heartview Foundation does treat transgender individuals using their preferred pronouns without complaints from staff or other patients. This bill is attempting to solve a problem which does not exist. In order to continue to respectfully treat the extremely vulnerable population we work with, Heartview Foundation opposes this bill.

JANUARY 18, 2023

SENATE JUDICIARY COMMITTEE

SB 2199

SUBMITTED BY:

SEN CLEMENS

I AM HERE TO INTRODUCE SB 2199.

SB 2199 IS STATING THAT THERE ARE ONLY TWO SEXES; MALE AND FEMALE. THE PHYSICAL BIOLOGICAL SEX OF A PERSON IS MALE AND FEMALE AND IS EASILY DETERMINED BY DEOXYRIBONUCLEIC ACID (DNA).

THE DIFFERENTIATION BETWEEN GENDER AND SEX DID NOT ARISE UNTIL THE LATE 1970'S WHEN RESEARCHERS BEGAN USING "GENDER" AND "SEX" AS TWO SEPARATE TERMS, WITH "GENDER" REFERRING TO ONE'S SELF-IDENTITY AND "SEX" REFERRING TO ONE'S CHROMOSOMAL MAKEUP AND SEX ORGANS. GENDER REFERS TO THE SOCIALLY CONSTRUCTED ROLES, BEHAVIOURS, EXPRESSIONS AND IDENTITIES OF GIRLS, WOMEN, BOYS, MEN, AND GENDER DIVERSE PEOPLE.

THIS BILL DOES NOT PUBLICLY OUTLAW AN INDIVIDUALS PERSONAL EXPRESSION, BUT IT DOES OUTLAW THE USE OF PUBLIC FUNDS TO PROMOTE OR SUPPORT ANYTHING THAT IS CONTRARY TO A PERSON'S BIOLOGICAL SEX AT BIRTH.

WE HAVE AN OBLIGATION, AS LEGISLATORS, TO UPHOLD TRUTH. WE ARE DECEIVING OUR STATE IF WE DO OTHERWISE. TRUTH IS TO BE RESPECTED. OUR CHILDREN DESERVE TRUTH.

I HEREBY CONCLUDE MY INTRODUCTION OF SB 2199 AND ASK FOR YOUR SUPPORT.

RESPECTIVELY SUBMITTED,

SEN CLEMENS

Testimony in opposition to SB 2199
Senate Judiciary Committee
Christina Sambor, North Dakota Human Rights Coalition
January 18, 2023

Chairwoman Larson and Members of the Committee:

I come before you today on behalf of the North Dakota Human Rights Coalition to oppose SB 2199. First and foremost, trans and non-binary people exist, are precious, and deserve human rights. SB 2199 seeks to deny these basic truths. It is an unenforceable and indefensible law. In essence, the bill requires an imprecise and indiscernible group of people and entities to engage in unclear conduct based on unknowable characteristics. If these people fail to engage in the proscribed conduct, they are to face a financial penalty that is not clearly civil or criminal in nature, is not clearly part of any civil or criminal agency's jurisdiction, and not clearly payable to anyone. Respectfully, I see no way that this law would pass any sort of legal challenge based on basic legal construction principles. It is vague, fails to advance any legitimate state interest, and not only would cause impermissible gender-based discrimination, its very purpose is gender-based discrimination.

When preparing my testimony on the bill, I struggled to put together a coherent response. Once you spend any time trying to conceptualize what the bill is actually doing, you must engage in mental gymnastics to understand how it would even work. Some examples to illustrate my point – 1) a person with the name of “Chris” writes a letter to a school board. The school responds in writing. How does the school board determine the person's gender to ensure it is complying with this bill? 2) That same person shows up at a school board meeting, doesn't have hair or breasts due to cancer treatment. They are dressed in loose clothing, and are not wearing makeup. Again – how does the school board determine their biological sex so as to “properly” refer to this person? 3)

The child on whose behalf they are advocating is pre-pubescent and named Morgan. They attend the meeting and are dressed in a green shirt with mid length hair. How does the school board determine that individual's sex to as to comply with this law? The screamingly obvious question from these examples presents itself – why on earth would their sex matter in these scenarios? What legitimate interest does North Dakota have in knowing everyone's biological sex? Furthermore, how many times a day, in what number of communities across the state are people who work for entities that receive state funding interacting with individuals in ways that would require them to comply with this proposed statute? What kind of relationships and community dynamics would this policy create?

It may sound hyperbolic, but the only way this law would be enforceable is the require every person in North Dakota, not just citizens but all people physically present in the state, to wear some sort of external indicator of their “biological sex.” We need not delve too far into history to see that when we have toyed with or implemented policies that reduce people down to a single physical or racial characteristic and require certain treatment of those people based on that characteristic - which is objectionable in the eyes of a socially dominant group - the result is a tragic and shameful chapter in human history.

Getting down to the heart of the matter, this committee must stop in its tracks bills such as this one. I could give reasons and examples to you for hours about why this bill as drafted is not an enforceable or constitutional law. Bills can sometimes be amended to cure those deficiencies. This bill must be killed because its very goal and intent is impermissible and cruel discrimination without any legitimate goal. That cannot be cured through wordsmithing and amendments.

This bill is aimed at very real and very wonderful human beings in our state who deserve to live their lives without their gender and their identity being questioned and then disregarded.

The North Dakota Human Rights Coalition joins in and lifts up the many testimonies given today that illustrate in painful detail the harm caused to trans and non-binary people by efforts such as this bill. Send a message **today**. Kill this bill and let all North Dakotans know that our State does not stand for dehumanizing our fellow citizens. Send a message that this committee will not recommend legislation that targets trans and non-binary individuals by telling them it is against the law to recognize them. What can be more cruel than to tell another human being they do not exist?



SB2199

Senate Judiciary Committee

January 18, 2023

Lisa A. Johnson, Vice Chancellor of Academic & Student Affairs, NDUS
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Chair Larson and members of the Senate Judiciary Committee, my name is Lisa Johnson, and I serve as the Vice Chancellor of Academic and Student Affairs for the North Dakota University System. I am here today on behalf of the North Dakota University System and its eleven institutions to provide opposing testimony to SB2199.

The colleges and universities of the North Dakota University System process over 7,500 applications for new freshmen alone each year from individuals not only from North Dakota, but throughout the U.S., Canada, and many international countries. The NDUS serves an additional 14,400 individuals through its TrainND, non-degree, customized training with courses that can range from hours to days or weeks in length. These figures don't even begin to include the applicants to graduate school, summer campus for kids, continuing education, senior courses/workshops and other registered events throughout the year.

The proposed language in SB2199, particularly in Section 1, subsections 2 and 4 generated the following questions:

- Would colleges and universities be permitted to accept the self-reported sex of an applicant?
- What is the process to challenge the sex of an individual and to what state office or agency is it referred?
- If "sex" is not permitted as directory information, how does the campus respond?
- Who is pays for a deoxyriboneucleic acid test?
 - Can individuals submit the results of an at-home DNA kit or must it be under the supervision of a medical professional?
 - Is a fiscal note necessary for this bill?
 - Does an individual have a right to refuse submission to a DNA test based on deeply held or religious beliefs?
- If it is illegal to target individuals solely on the basis of sex, must all applicants supply a copy of their birth certificate to be admitted to a college or university?
- It is unclear whether the penalty (or fee) in Subsection 4 is intended to be applicable to the staff member or employee who enters self-reported data that is later deemed to be inconsistent with DNA results or whether the fee is intended to be assessed to the individual applicant whose self-reported sex is being challenged?
- If an allegation challenging one's sex is found to be false, will the individual have rights under proposed HB1256?

- And perhaps most concerning is how will campuses comply with the constitutional rights of employees and students while complying with this proposed bill? Our employees and students have 1st Amendment rights. Academic freedom and the right to the freedom of expression in higher education are embedded in 1st Amendment Constitutional protections. How would the NDUS comply with SB 2199 and honor those rights? Students and employees have the right to Equal Protection under the 14th Amendment. The 14th Amendment has been held to include certain specific rights to allow individuals to define and express their identity. In addition, Title IX and the Department of Education's current directives instruct our campuses to ensure all students have equal access to education without discrimination based upon sexual orientation or gender. How would campuses comply with the 14th Amendment and Title IX while following the proposed parameters of SB 2199?

The colleges and universities of the North Dakota University System feel strongly that the potential additional requirements erect barriers to admission and access to education that limits our ability to compete in an already highly competitive environment to attract and retain students in North Dakota to fulfill workforce needs.

This concludes my testimony related to SB2199. I respectfully request a "Do Not Pass" on SB2199 and stand for questions from members of the Committee.

Testimony
Senate Bill No. 2199
Senate Judiciary Committee
Senator Diane Larson, Chairwoman
January 18, 2023

Good afternoon, Chairman Larson, and members of the Committee. My name is Dan Cramer. I am a psychologist and Clinical Director of the behavioral health clinics (regional human service centers) with the Department of Health and Human Services (Department). I am here today to testify in opposition to Senate Bill 2199.

The Department's first concern is about the ethical implications of this bill in the provision of behavioral health care treatment. There are five core Principles within the American Psychological Association's (APA) Ethics Code and Conduct. The first of these (Principle A), is Beneficence and Nonmaleficence. Stated more simply, we are asked as mental health practitioners to always strive to do good and to do no harm. It is my strong belief that attempting to apply Senate Bill 2199 in the practice of behavioral health care, would require us to violate this most basic Ethical Principle.

Transgender individuals have higher rates of mental illness, including depression, suicide, anxiety, posttraumatic stress disorder, and substance use. Specifically with suicide risk, transgender teens have been identified to have 5 times greater likelihood to have thought about suicide and 7.6 times greater likelihood to have attempted suicide than their peers who do not identify as transgender. By choosing to call people by a gender or name they do not endorse, we risk traumatizing them. Additionally, we create a space that is not trauma informed and does not feel safe to

them. This is a barrier to providing effective care to individuals already at high risk and there is greater likelihood they will disengage from treatment increasing the risk of depression, suicide, anxiety, posttraumatic stress disorder, and substance use. Given the risk factors, the potential that we could then be creating unnecessary barriers to service is simply not acceptable.

It is for these reasons identified, as well as likely others, that the American Psychological Association released a Guidelines for the Psychological Practice with Transgender and Gender Nonconforming (TGNC) People. This document was created to serve as guidance to psychologists and includes a series of principles including just a few that are highlighted here:

- Guideline 1: A person's gender identity may not align with sex identified at birth.
- Guideline 11. Psychologists recognize that TGNC people are more likely to experience positive life outcomes when they receive social support or trans-affirmative care.

In addition to the issues of ethical and best practice treatment, it is important to recognize that this bill creates significant problems for the Human Service Centers in meeting accreditation and funding requirements. Per North Dakota Century Code 50-06-05.2, the Regional Human Service Centers were required to become accredited by a nationally recognized accrediting body. To that end, all eight Regional Human Service Centers achieved a four-year accreditation through the Council on Accreditation (COA) in 2020. This is worth noting as COA has multiple accreditation standards that require the human service centers, as accredited entities, to operate in a way contrary to this bill. This

includes, per Mental Health and Substance Use standard 3.02 (Assessments), to assess for factors that include sexual orientation and gender identity. Additionally, under Client Rights and Responsibilities Standard PA-CR 1.03, clients have the right to fair and equitable treatment and among those categories that must be protected from discrimination are race and ethnicity, military status, age, sexual orientation, gender identity, and developmental level. By adhering to the requirements of this bill, we become in jeopardy of not meeting basic standard requirements of our accrediting body.

As this committee may be aware, Senate Bill 2128 was presented before the Senate Human Services Committee on January 11th. This bill would require that all regional human service centers become Certified Community Behavioral Health Clinics. The Department testified in support of Senate Bill 2128. It is important to note that CCBHC's require that all behavioral health care is provided with cultural competence. Towards this end, CCBHC requirements specifically identify that staff receive training on issues of race, ethnicity, age, sexual orientation, and gender identity. This requirement could not be fulfilled based on requirements of this bill, which specifically does not allow training on gender identity that recognizes gender identity as something potentially distinct from sex identified at birth.

It is important to recognize that this bill would also place the Department at risk of losing Federal funding. Federal funding requires grantees report on certain process and outcome data. Among these data points includes requirement that we report on count of individuals served based on gender identity. In other words, we must assess and document in record the individuals gender identity to be compliant with federal funding requirements.

Finally, there are some very practical implications of this bill that must be considered. Say, for example, that an individual's gender is not easily identifiable based on appearance. According to this bill, a provider would not be able to presume that what a person was identifying as their gender was accurate. Instead, to avoid a violation and fine, the provider would be required to require a person to obtain a DNA test to confirm that their identified gender was accurate. How would this be operationalized and who would be responsible for obtaining and paying for this test?

Another scenario, if an employer who is receiving state funding, has learned that a staff member may not have been born the gender they are currently identifying as, would this require the business owner to force a staff member to receive a DNA test?

As noted throughout this testimony, the Department is in opposition to Senate Bill 2199 due to ethical concerns of practice, potential harm that may be caused to a high-risk group of people, risk it places to our accreditation standing and federal funding, and finally because of the practical application that will create untenable situations to manage as an employer. If this bill is to move forward, it is the Department's recommendation an amendment be included to identify that it does not apply to the department of health and human services or any entity receiving funding from the department of health and human services.

This concludes my testimony. I would be happy to try to answer any questions the committee may have. Thank you.