

2009 HOUSE POLITICAL SUBDIVISIONS

HB 1553

2009 HOUSE STANDING COMMITTEE MINUTES

Bill No. HB 1553

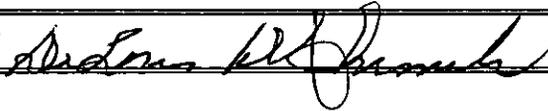
House Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: February 13, 2009

Recorder Job Number: 9477

Committee Clerk Signature



Minutes:

Chairman Wrangham opened the hearing on HB 1553.

Senator Hogue: I am introducing the bill with a proposed amendment (see attachment #1).

This amendment essentially would concur that the law applies though out the state whether

the city adopts an ordinance that regulates any of these entities. In other words the city

ordinances could be more restrictive so it would always insure that the city has the control. If

you throw in the definitions. Definition number 23 on page #4, line 14; that sexually orientated

business is a catch all for all of the previously defined entities. The adult bookstore, the adult

cabaret; those are all defined as a sexually oriented business. What my amendment says is

that if the city council or city government regulates these entities that are the governing law.

Nothing in this act applies to those establishments.

Rep. Klemin: Your amendment also takes out the repealed doesn't it on page 7, lines 9-11?

What are those two sections that would be repealed under those sections?

Senator Hogue: If you notice the title IV typically relates to municipalities. Title 11 to

counties. There are some general police powers in those entities regarding that issue.

Rep. Conrad: Would you be willing to add counties as well?

Senator Hogue: I considered counties and townships as well. I thought the city is primary place where these facilities are located and they would be handled by the cities to regulate. My issue in supporting this bill is that the entity could locate outside of the city limited and thereby evade the zoning jurisdiction of a particular political subdivision. It is my experience that the counties don't get involved in regulating business like this. They have a general zoning ordinance, but they are not equipped to regulate this.

Rep. Conrad: We have some rural counties where they would have a resolution and zoning, but if they are on the fringe wouldn't that be part of it?

Senator Hogue: I can't strongly disagree with you. It is my experience. We both come from Ward County where cities are more activity involved in these issues. I don't want to put counties and townships in the same category because of not having an interest in these types of things.

Rep. Kilichowski: I have to disagree with you on the counties then. In my county we have two bars that are little towns and our county has passed an ordinance against having this, but still think counties should be included somewhere because they have the right. I don't know of any in townships.

Rep. Zaiser: This deal would prohibit sexually orientated businesses and activities from a city unless that city had enabling regulations controlling those kinds of businesses. Otherwise they are forbidden. Is that correct?

Senator Hogue: I amendment tends to make this as they would follow the law. Meaning that if cities chose not regulate this for whatever reason that would apply with a city that chose to do so.

Rep. Zaiser: In other words forbidden.

Senator Hogue: It is not forbidden; it sets up zoning restrictions for the establishments.

Rep. Corey Mock: Is there a reason that it is 1500 feet? I don't know if I have ever heard of an ordinance zone that allowed 1500 feet?

Senator Hogue: Zoning ordinances that try to establish that certain types of businesses in certain zones always seem to have certain restrictions

Rep. Corey Mock: In those certain areas you also do walking trails. Now the definition is primary path for pedestrian also cited other activities. You also cited other things like you would not be able to have a sidewalk in those areas?

Senator Hogue: I noticed on that page that walking trails is defined and it is defined as a pedestrian trail or path primarily used for walking but also for cyclists. The idea is that most people regard these types of businesses; they don't want to have young people come to the businesses; certainly not inside and outside so that definition is meant to prohibit those establishments from coming near youth.

Rep. Hatlestad: If we have already given the city the authority to make the rules and regulations and we add the county; why do we need the state involved in the issue?

Senator Hogue: some counties and some cities chose not to regulate so where they chose not to this would be a gap to fill in where any entity of city or county chose not to regulate. As the bill was originally drafted it would apply across the state to all cities, all counties, and not give them any ability other than to make it more restrictive than what's in the bill.

Rep. Hatlestad: I still don't understand. If the city has made the decision on way or the other; why does the state step in and say, hey, can't do it? Isn't that a city issue?

Senator Hogue: You are correct. But this law across the state, for example, if you were wanting to abate city ordinances and locate several miles outside the city, this act would follow.

Rep. Hatlestad: If we added counties to this too; then we could eliminate the state so either the city did it or the county did it. The state certainly doesn't need to be involved.

Senator Hogue: that is true if all 53 counties adopted a zoning ordinance that specifically regulated these establishments.

Rep. Klemin: In regards to section 2 on location. What happens if sexually oriented businesses were there first and then someone wants to put in a residence or walking trail or whatever within 1500 feet what happens to that sexually oriented business?

Senator Hogue: I discussed that with Legislative Council and questioned the amendment and we both came to the conclusion that it is still up to the city. The ordinance says that the establishment cannot be deemed in violation once it is properly sited and an organization or new construction like a walking trail or a licensed outfit locates within the boundaries of that ordinance it is still up to that local ordinance.

Rep. Klemin: You don't have an ordinance here. This is either in a city that doesn't have an ordinance or is outside the city jurisdiction so we have a business that is located in an area where this law would apply. But then we have a subsequent use that come within 1500 feet of this business. What happens to that business?

Senator Hogue: I think under my understanding of county law is that a business cannot be deemed to be not in compliance with a zoning regulation if it is in compliance and because of public improvements or other building or another business locates within the prohibited businesses that is somehow prohibited. I think it would take an act of city council to do that. In other words a private act much like a child care facility could not prove its actions and put the business out of compliance with the zoning regulation.

Rep. Nancy Johnson: If some business already established in place doesn't have to be within a jurisdiction now; is that in place or what?

Senator Hogue: I considered a grandfather clause but decided on this one. I thought the better of it was to let the city decide what they wanted to do with every establishment within their city and to grandfather in is a decision that they could make better than the state of ND.

Rep. Koppelman: According to what I understand with your amendment a city or county could either by zoning regulations that currently have in place or by zoning regulations they would adopt after this act, could do their own thing. This would apply both to existing regulation as well as city adopting something down the road to preempt this, is that correct?

Senator Hogue: That is correct. It is not a static law that once the law is passed the city can't do anything. The cities are always going to have that flexibility to make the restrictions more or less restrictive.

Connie Sprynczynaty: League of Cities: We don't see conflicts with current ordinances, but we also think that the proposed amendment is a good one and makes it clear that the city has full regulations and it is my understanding that what this provision does invokes current city statues and for counties and makes the language more up to date of the definition of these kinds of facilities and it would give communities or other entities a back drop in the event that they don't have an ordinance in place. If you think they have these ordinances all over the state then you would be wrong. Last fall we got a request of any ordinances regulating establishments that smaller communities have and gotten the information for one of these businesses. Cities that have these ordinances in place typically should be given the opportunity for an appropriate place to locate this business. The business has the right to be somewhere. But the community has the right to say where it is appropriate. So I am going to use your Capital City ordinances as an example. They have been in place a long time and they say where it would be appropriate. The ordinances should say that your establishment would be in an industrial zone and there are all kinds of regulations of what can or can't be

closed. The zoning ordinance which could come into play would also make it inappropriate to establish shopping facility or residential; you don't put residential unit in or next to an industrially zoned area

Rep. Koppelman: I assume that the reason the city favors this is that there would be a statewide standard and then should they decided to do something different they would be allowed to do that. So if this were to pass it would be the statewide standard, which all of the cities could do if they chose or do something different.

Connie Sprynczynatky: Particularly the amendment that makes it clear that if the cities regulate it then the state they can continue to do so.

Rep. Conrad: If a small town decided it wanted to have this kind of an establishment in their community; could they just enact an ordinance to say this is OK?

Connie Sprynczynatky: I believe the answer is yes. We have never gotten a request for a city for a model ordinance that would give blanket authority to allow this in any way shape or form. The city of Mandan just dealt with this and they ended up finally getting the facility located downtown to what the city considered a more appropriate location.

Tom Freier: ND Family Alliance: (see testimony #2). Passed out Karle Raushenberger: testimony (3) not here due to weather.

Reed Sanderstrom: Attorney in Minot. I want to address Page 5, Section 2; location of sexually oriented businesses. In Minot we have two strip clubs. All of them within state law and they are regulated. We are looking for more direction. Why do we need this in the state of ND? It is because it is states like Arkansas and we will see it again when the oil picks up again. People coming in to the state. It is a big business and you will see interstate adult book stores shortly. This helps regulate that; not prohibit, but regulate. There is no grandfather clause in here, but we have some decision from the ND Supreme Court where our Supreme

Court says this is an industry that can expect to be regulated continually. It regulates alcohol and separates them and I think this is very necessary. Yesterday the Sixth Circuit in Nashville, Tennessee had a similar bill that they passed three years ago that finally wound its way up to the state circuit and this will pass mustard. This is the 1500 feet to a bar. Section 5 that is straight from the century code as it was.

Rep. Jerry Kelsh: On the second page I think you used the term strip bar in your testimony here; what effect would Subtitle 1 Section 3 have on that? You said strip bar, what would the affect be?

Reed Sanderstrom: We now have two businesses that allow strippers next to a middle school. During that same time period of 2007 we had three murders. Can you say it was because of the sexually orientated business no.

Rep. Headland: In the case a business decided to locate along a highway out of the cities jurisdiction in the county; do they have to be permitted before they can establish their business?

Reed Sanderstrom: I am not certain. Certainly alcohol is related and a license would be required. Book stores I am not sure about the application. Probably not. They have the right to freedom of expression. We have a right to regulate them.

Rep. Headland: If the political subdivision and the county understands the business is going to locate there and they approve that; will they not at that time set up the type of regulatory atmosphere that they believe those local people want. The point I am trying to make if this is really a local decision we should leave it to the locals and I don't see the need to establish it.

Reed Sanderstrom: We believe it certainly establishes a standard of some kind. You can go below it or above it and when someone wants to come in and put in a sexually orientated

business this gives us a template to work from. Think about the schools, parks and churches where people want to keep it away from.

Rep. Headland: That is all true and I don't either agree or disagree with what you are saying here. In an area, if we establish this statewide atmosphere of what this bill would do; would this prohibit a traveling show from out of state; a one night event like Chippendales. Is this bill going to prohibit that type of activity because the political subdivision has not decided how they want to regulate that?

Reed Sanderstrom: No it will not prohibit it; it will regulate it. As it exists now it will separate and regulate the alcohol from those things, but it wouldn't prohibit it.

Rep. Headland: To my knowledge, they are in an establishment that serves alcohol so are they going to bring a group in like this and not be able to serve alcohol?

Reed Sanderstrom: I would think there are ways around it. They can serve alcohol until 10:00PM and do whatever they want after that. A distance away from school; it only regulates it.

Rep. Jerry Kelsh: In your opinion, what would this do with a convenience store? I have seen adult books in these stores. Would they no longer be able to sell that kind of material? How far reaching is this?

Reed Sanderstrom: We are not talking about the Barnes and Nobles and book stores that sell newspapers, libraries and things of that nature. It doesn't regulate that at all. We need good old fashions North Dakota common sense. That does not regulate that at all.

Rep. Klemin: Just putting that on a bookstore or business in regard to Rep. Kelsh's concern that it has to be the principal business.

Rep. Conrad: It doesn't have to be a majority of the material that you have?

Reed Sanderstrom: An adult book store would be that they advertise you don't come in here under 21. It does not include the Barnes and Nobel, the grocery store or things of that nature.

Christopher Dodson, ND Catholic Conference: One way to look at this bill is that it is preempted. This is to avoid certain situations from arising. We look at the moral reasons and there is another moral issue; the desire of communities to avoid those conflicts. It is difficult to pass laws when it is already in your jurisdiction and having something in place when someone comes in they know the law or ordinance. That is really a contribution to the common good.

Questions that have been asked our Chippendales, they would probably have to have a permit under this bill. The bill doesn't prohibit any thing. It sets standards for those that are not already there.

Rep. Koppelman: Having been a municipal attorney, measures similar to this adopted by cities in ND have been litigated and even up to the supreme court and this type of regulation has been upheld. Am I correct in that?

Christopher Dodson: Yes. It is legitimate use of their powers of municipalities and counties.

Rep. Koppelman: In some convenience stores it may offer some things that fit the definitions here; they do a pretty good job of putting covers over them. I am looking at the language on page 1; line 13 that talked about one of its principal business purposes. I don't think that is their principal business purposes?

Christopher Dodson: What do you do if it is in plain site; and they would just talk to the business owner and they usually can work it out.

Reed Sanderstrom: We kept it that way because it was already in the code.

Rep. Klemin: How do you determine adult book stores? Maybe we need to put a percentage on the books.

Rep. Conrad: Where did you get the distance?

Reed Sanderstrom: It was arbitrary.

Rep. Koppelman: What does preponderance mean? That is a fair evidentially standard in the law though isn't it. Isn't there some legal understanding in the statute of what preponderance means? It generally means more than fifty percent of something.

Mark Frued : I am from Minot, ND: (see testimony #4).

Rep. Koppelman: To proximity to state highways. Is there anything in the bill that deals with that?

Mark Frued: Just residential.

Opposition:

Barry Pausch: Oasis Bar in Wahpeton: (see testimony #5).

Rep. Koppelman: Did you hear the discussion about the amendment that would allow the cities to regulate; if that were adopted this would not affect you at all would it?

Barry Pausch: Yes

Rep. Corey Mock: Since you have the only business of this nature in Wahpeton; do you have any problems inside your bar with alcohol?

Barry Pausch: No we don't. We have strict regulations when dancers are on stage. In 1996 we have had no problems.

Mrs. Kim Patterson: (see testimony #6).

Rep. Conrad: Where do you see yourself fitting?

Kim Patterson: The part where it describes what an adult store is and what an adult product is; it says lingerie and how can lingerie be anything besides adult?

Rep. Klemin: It we changed it to say it to predominately involve in that activity. Would that help you?

Kim Patterson: That would.

Kim Patterson: You mentioned that Fargo did not classify your business as an adult establishment. They must have regulations on the books in Fargo to define what those are.

Kim Patterson: Yes they do.

Rep. Koppelman: If we were to adopt that amendment did you hear that it says that the city regulates this, this still wouldn't apply. Would that solve your issue?

Kim Patterson: My opinion on that is, I thought it said it would. I did anything where it said we could have different rules and be not exempt.

Grace Delling: Williston, ND (see testimony #7, # 8 #9).

Rep. Koppelman: You said that before you opened you went to the City Commission and visited with them and came up with rules and the city commission adopted those so that means that Williston does have regulations on the books regarding this. With the amendment this would not apply. What about your petition it says the closing of ND strip clubs. After hearing the testimony do you still think that is what the bill intended?

Grace Delling: No not with the amendment.

Kerry Fernholz: Owners of the Northern in Fargo, ND (see testimony #10).

Mark Western: My law firm is representing Mr. Fernholz: I came here today just to respond too many of the issues that were raised. If a city has a regulation then it is OK. Or if a city is going to create a regulation which regulates the sexual orientated business then you are OK. That proves the point, of the lack of necessity of the bill. There are cities and counties who have regulated these businesses for a long time and I don't understand the necessity of the bill. If I look at the definition section, on page 5 looking at 27 with respect to walking trail and I would like to read that; walking trail means a pedestrian trail or path primarily used for walking, but also for cycling or other activities. It was said earlier it may include sidewalk or it may not.

I am not convinced after a review of this definition that sidewalks are excluded. That is a pretty

extensive definition of something to keep 1500 feet away from. I have a difficult time understanding the 1500 feet. This is an arbitrary number as was testified on earlier. Can the ND Legislature employ an arbitrary number for the purpose of regulating such businesses? There is authority that 1000 feet is OK; there is authority that 2500 is a bad thing. The question that should be asked is is it the right decision for the state of ND or is it appropriate for us to further regulate cities? Even if the bill does pass it asked the question, if the cities are going to regulate this, why is it the necessity of the state doing that same thing? Earlier I heard testimony that cities have difficulties enacting ordinances. I equate it to a bail out; perhaps some cities may have difficulty passing an ordinance and maybe they want the state to bail them out. They are the elected officials and I understand the nature of those decisions. I think it is something the cities should have the power to do.

Rep. Conrad: If a city has an ordinance on their adult book store; and doesn't have any of the others in here, will the state law apply?

Mark Western: I don't know the answer to that. The city of Fargo does have ordinances and I can provide them to the committee. It is under their land use planning zoning and the city of Fargo discusses adult bookstores, adult cinemas and adult entertainment facilities, I don't know. If city X has no prohibitions and they say they don't want to have any prohibitions on any type of adult facility; does that in and of itself mean that state statute would be rendered harmless. I don't know but I think it would be possible that it could be litigated.

Rep. Zaiser: what if under the definition of under the adult business were to locate in a community that did not have any ordinances that addressed this issue and the zoning ordinances and they would locate right across the street from a school, in a residential neighborhood, how would that apply?

Mark Western: I think this statute would take care of that; however, I would call that into account by my local city commissioner or county commissioner depending on the nature of the political subdivision. I understand that it is difficult for smaller cities to pass such local ordinances. This is an example right here so they could just take it from here. I think there is concern so that is why so many cities have gone and created such regulations.

Rep. Headland: Your testimony indicates that you think this is unnecessary because a political subdivision currently have the ability to regulate these businesses. A friend of mine in Jamestown said his pet peeve is that the state of ND passes laws just for feel good measure so his recommendation to me is if you are going to pass a law you should have to get rid of an existing law. My question to you is can you suggest one we get rid of if we pass this?

Mark Western: I would have to research this.

Rep. Corey Mock: You talked about the definitions quite a bit. In view of those findings are there any you could specifically see?

Mark Western: Simply I would be opposed to the bill in any form. Nothing has been discussed about the issue of the 6 foot barrier in section 6 or 7 or the alcohol. Should this be our decision to regulate or should it be a city or county decision. We are opposed to the state regulating a one size fit all scheme for regulation.

Rep. Jerry Kelsh: If someone came to you and asked you where should I locate my business, what would you tell them, if the city did not have an ordinance? Before this bill would you tell them to stay away from where children were?

Mark Western: I would encourage my clients to visit with the city and work together to solve this.

No neutral.

Hearing closed.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill No. HB 1553

House Political Subdivisions Committee

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Hearing Date: February 16, 2009

Recorder Job Number: 9595

Committee Clerk Signature



Minutes:

Chairman Wrangham reopened the hearing on HB 1553.

Rep. Koppelman: I have an amendment I would like to propose. It is different than Rep. Hogue. I can tell you what it does. See amendment .0103; just add language in Section 8 I would like to add within that is regulated by the county or to a business that is located within. What that language will do according to Legislative Council is allow not only cities, but counties, if they regulate either way, more restrictive or less restrictive, any of these businesses. Then the state law could not apply to them. (see attachment #1).

Amendment .0101 plus vision as described. Motion Made By Rep. Koppelman;

Seconded by Rep. Klemin:

Rep. Headland: Can't the cities and counties do all that now? What is the need for the bill then?

Rep. Koppelman: I was on a city council years ago and we literally across the street from another city and we were a small town and that city had some of the pioneering work on trying to deal with issues like strip clubs and that sort of thing in a community. They drafted what been know as a cabaret ordinance and that ordinance has been used as a model throughout the cities around the state. The most compelling thing I heard is that smaller towns around the

state don't have things like that on the books, not because they don't care about them, but because it has not been an issue. It is a lot harder to deal with something after the fact than it is before the fact. So the affect of the law if you amend it with this, would be sort of a back stop. Sort of a default position of law in the state that any city or county could overrule with their own ordinance.

Rep. Conrad: There are things here that are not regulated. If a county doesn't have rules on those things does the state law go into effect? Does the county or city have to address everything in this state law to be exempt?

Rep. Koppelman: A city or county could adopt language in their ordinance saying as provided for in law; you are adopting an ordinance that addresses this and this in section so and so by doing that they could I suppose chose to be silent on that and not regulate it. If they did nothing then state law would apply.

Voice Vote Carried:

Motion Made By Rep. Klemin to adopt amend .0102. (see #2). Went over the proposed changes. This would help the situation where the convenience store has some adult books or a clothing store that has lingerie. It is not operated predominantly as a sexually orientated business then they are not subject to this bill. Seconded by Rep. Koppelman:

Rep. Koppelman: This would basically get rid of the concerns addressed about incidental things like a magazine on a shelf or something like that.

Rep. Conrad: What about sexually oriented devices?

Rep. Klemin: I did discuss this with the attorney's and this is sufficient.

Rep. Koppelman: Most or all of the opposition dealt with areas that were already regulated.

I specifically asked Kim Patterson about her business and she said the city of Fargo and she had worked with the police etc. and the City of Fargo does not classify my business as an adult book store. Do they have a definition of what an adult book store is and you don't fall into that definition and she said yes. *So they are a city that is regulating this activity so I think this law would not apply to them.*

Rep. Hatlestad: My understanding was that when Senator Hogue stood up he said if the city or county had an ordinance that was less than or more that would take residence. Now you are telling me if mine is less the state is going to step in and stab the rest of it.

Rep. Koppelman: No if that is what I said that was wrong. It is exactly like you said is right.

Chairman Wrangham: Is it less or more or is it point by point. Does the city have an ordinance with naming each specific incident or incidences?

Rep. Koppelman: this act does not apply to sexually orientated business that is located within a county and which is regulated by a county or a business that is located within city limits and which is regulated by ordinance.

Rep. Hatlestad: I am confused. You told Rep. Conrad that if it didn't specifically say it in the ordinance it would be covered by state law.

Rep. Koppelman: My understanding is if a city or county adopts and ordinance more or less restrictive; not a point by point ordinance that deals with every one of these points; any ordinance where they are regulating this kind of a business that that ordinance supersedes and this act does not apply.

There was a lot of discussion on the meaning of the bill and how it would apply.

Chairman Wrangham: I think there is enough here that we could do a do not pass and be done with it.

Voice vote carried on the two amendments.

Rep. Hatlestad Made A Motion Do Not Pass; Seconded by Rep. Headland:

Rep. Koppelman: Rep. Klemin please goes back and restates your question.

Rep. Klemin: If the city had an ordinance for an adult bookstore; does this law apply to an adult book store and your answer was the act applies to the adult book store.

Rep. Koppelman: I think what you asked was how are they regulated and I thought what you meant was by a city ordinance and my answer was no they are not regulated by the city ordinance. Or my understanding is they wouldn't be regulated by this either because I think the intent here is that if a city or county adopts any kind of regulations to anything named in this act that this act doesn't apply. I think that is what the attempt of the amendment of Senator Hogue's is.

Rep. Klemin: If the city has ordinance which regulates a fiscal agency, but does not regulate any of the other things included in a sexually owned business are all the other business subject to this act or not. Line 17 the optive word is for; that says a sexually orientated business that any one of the rules are applicable. If that city ordinance does not regulate adult books stores, then this act would apply. Because adult book stores are not regulated by ordinances.

Chairman Wrangham: I think that is an excellent point. I think this is a good start on some model legislation that the League of Cities could prepare and offer to the cities so they could handle this on a local level.

Vote: 6 Yes 7 No 0 Absent Failed

Do Pass As Amended Motion Made By Rep. Koppelman: Seconded By Rep. Nancy Johnson

Vote: 7 Yes 6 No 0 Absent Carrier: Rep. Koppelman

Hearing closed.

#1

90859.0101
Title.

Prepared by the Legislative Council staff for
Senator Hogue
January 28, 2009

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1553

Page 1, line 1, remove "to repeal"

Page 1, remove line 2

Page 1, line 3, remove "restrictions on adult establishments;"

Page 7, replace lines 9 through 11 with:

"SECTION 8. Application. This Act does not apply to a sexually oriented business that is located within city limits and which is regulated by ordinance."

Page 7, remove lines 25 and 26

Renumber accordingly

*a county
or a business*

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 1553

House Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number . 0101 + revised

Action Taken DO PASS DO NOT PASS AS AMENDED

Motion Made By Rep. Koppelman Seconded By Rep. Klemin

Representatives	Yes	No	Representatives	Yes	No
Rep. Dwight Wrangham, Chairman			Rep. Kari Conrad		
Rep. Craig Headland, Vice Chairman			Rep. Jerry Kelsh		
Rep. Patrick Hatlestad			Rep. Robert Kilichowski		
Rep. Nancy Johnson			Rep. Corey Mock		
Rep. Lawrence Klemin			Rep. Steve Zaiser		
Rep. Kim Koppelman					
Rep. William Kretschmar					
Rep. Vonnie Pietsch					

Total (Yes) _____ No _____

Absent _____

Carrier: _____

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

add Sec 8, a County or a business.

*Vote
 carried*

90859.0102
Title.

Prepared by the Legislative Council staff for
Representative Klemin
February 13, 2009

#2

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1553

Page 4, line 14, after "means" insert "a business that is operated predominately as"

Page 4, line 17, replace "study" with "studio"

Renumber accordingly

90859.0103
Title.

Prepared by the Legislative Council staff for
Representative Koppelman
February 16, 2009

1

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1553

Page 1, line 1, remove "to repeal"

Page 1, remove line 2

Page 1, line 3, remove "restrictions on adult establishments;"

Page 6, line 24, replace "7.92" with "1.83"

Page 7, replace lines 9 through 11 with:

"SECTION 8. Application. This Act does not apply to a sexually oriented business that is located within a county and which is regulated by the county or to a business that is located within city limits and which is regulated by ordinance."

Page 7, remove lines 25 and 26

Renumber accordingly

February 16, 2009

VR
2/16/09

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1553

Page 1, line 1, remove "to repeal"

Page 1, remove line 2

Page 1, line 3, remove "restrictions on adult establishments;"

Page 4, line 14, after "means" insert "a business that is operated predominately as"

Page 4, line 17, replace "study" with "studio"

Page 6, line 24, replace "7.92" with "1.83"

Page 7, line 6, replace "7.92" with "1.83"

Page 7, replace lines 9 through 11 with:

"SECTION 8. Application. This Act does not apply to a sexually oriented business that is located within a county and which is regulated by the county or to a business that is located within city limits and which is regulated by ordinance."

Page 7, remove lines 25 and 26

Renumber accordingly

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 1553

House Political Subdivisions Committee

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Legislative Council Amendment Number .0102

Action Taken DO PASS DO NOT PASS AS AMENDED

Motion Made By Rep. Klemin Seconded By Rep. Koppelman

Representatives	Yes	No	Representatives	Yes	No
Rep. Dwight Wrangham, Chairman			Rep. Kari Conrad		
Rep. Craig Headland, Vice Chairman			Rep. Jerry Kelsh		
Rep. Patrick Hatlestad			Rep. Robert Kilichowski		
Rep. Nancy Johnson			Rep. Corey Mock		
Rep. Lawrence Klemin			Rep. Steve Zaiser		
Rep. Kim Koppelman					
Rep. William Kretschmar					
Rep. Vonnie Pietsch					

Total (Yes) _____ No _____

Absent _____

Carrier: _____

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

Vote carried

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 1553

House Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS DO NOT PASS AS AMENDED

Motion Made By Rep. Hatlestad Seconded By Rep. Headland

Representatives	Yes	No	Representatives	Yes	No
Rep. Dwight Wrangham, Chairman	✓		Rep. Kari Conrad	✓	
Rep. Craig Headland, Vice Chairman	✓		Rep. Jerry Kelsh		✓
Rep. Patrick Hatlestad	✓		Rep. Robert Kilichowski	✓	
Rep. Nancy Johnson		✓	Rep. Corey Mock	✓	
Rep. Lawrence Klemin		✓	Rep. Steve Zaiser		✓
Rep. Kim Koppelman		✓			
Rep. William Kretschmar		✓			
Rep. Vonnie Pietsch		✓			

Total (Yes) 6 No 7

Absent _____

Carrier: _____

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

Failed

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1553

House Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS DO NOT PASS AS AMENDED

Motion Made By Rep. Koppelman Seconded By Rep. Johnson

Representatives	Yes	No	Representatives	Yes	No
Rep. Dwight Wrangham, Chairman		✓	Rep. Kari Conrad		✓
Rep. Craig Headland, Vice Chairman		✓	Rep. Jerry Kelsh	✓	
Rep. Patrick Hatlestad		✓	Rep. Robert Kilichowski		✓
Rep. Nancy Johnson	✓		Rep. Corey Mock		✓
Rep. Lawrence Klemin	✓		Rep. Steve Zaiser	✓	
Rep. Kim Koppelman	✓				
Rep. William Kretschmar	✓				
Rep. Vonnie Pietsch	✓				

Total (Yes) 7 No 6

Absent 0

Carrier: Rep. Koppelman

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

REPORT OF STANDING COMMITTEE

HB 1553: Political Subdivisions Committee (Rep. Wrangham, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING). HB 1553 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "to repeal"

Page 1, remove line 2

Page 1, line 3, remove "restrictions on adult establishments;"

Page 4, line 14, after "means" insert "a business that is operated predominately as"

Page 4, line 17, replace "study" with "studio"

Page 6, line 24, replace "7.92" with "1.83"

Page 7, line 6, replace "7.92" with "1.83"

Page 7, replace lines 9 through 11 with:

"SECTION 8. Application. This Act does not apply to a sexually oriented business that is located within a county and which is regulated by the county or to a business that is located within city limits and which is regulated by ordinance."

Page 7, remove lines 25 and 26

Renumber accordingly

2009 TESTIMONY

HB 1553



North Dakota
**FAMILY
ALLIANCE**

DEDICATED TO STRENGTHENING FAMILIES

A Trusted Voice

#2
Tom D Freier
EXECUTIVE DIRECTOR

**House Political Subdivisions Committee
February 13, 2009
HB 1553**

Mr. Chairman, and members of the House Political Subdivisions Committee, I am Tom Freier with the North Dakota Family Alliance, and am here to support HB 1553.

This bill would put in century code provisions, primarily setting hours of service and location of sexually oriented businesses (SOB). The intent of the bill is to provide for regulation, if the political subdivision has none in place. Most cities and counties have no ordinance in place. And in most instances, it is after the business has located there, the matter of an ordinance is initiated. HB 1553 would put something in place ahead of time.

For those who wish to, this bill would allow political subdivisions to pass local ordinances which would supersede state statute. For those who have existing ordinances, they would be grandfathered in.

While many may have their personal preferences in regard to sexually oriented businesses offering adult entertainment, the basis of this bill and any other regulatory ordinance is supported by what are called 'adverse secondary effects'. Litigation and ensuing case law has upheld constitutionally the introduction and use of 'adverse secondary effects' in the regulation of these sexually oriented businesses. These secondary effects support provisions regulating the hours of service and location.

Today you will hear from those who worked on this issue in their local community. You will be able to get a sense of their passion for the issue, understand the effort required to resolve these issues, and better understand why we feel a statewide law would be beneficial for the resident of North Dakota.

Please give HB 1553 a Do Pass with the suggested amendments proposed by Rep. Klein.

Mr. Chairman, Members of the Committee:

Good morning! My name is Karlee Rauschenberger and I am a resident of Minot.

I can still remember how I felt the morning I opened up the newspaper and read that there was an adult oriented business opening on Minot's Main Street. I literally felt sick, like someone had kicked me in the gut.

At the time the new club opened my parents were living across the street in a loft they were renovating. My father witnessed men leaving the club harassing a female downtown resident trying to get into her apartment. Because of this, I felt fear when going downtown to visit my parents in the evening when the club was open.

Adult entertainment businesses bring with them fear into the areas they establish themselves – and why not...studies show again and again the link between adult entertainment/pornography and violent crime. In a 1989 interview with Dr. James Dobson, Ted Bundy talked about how he started out reading soft-core pornography; this fueled an addiction that led to more aggressive material until he reached a jumping off point where he began to wonder if actually doing it would give him what was just beyond looking at it. Alcohol broke the restraints and reduced his inhibitions for him to commit his first murder.

HB 1533 is a proactive bill that establishes statewide guidelines for the location of sexually oriented businesses. It will provide SOB owners with specific criteria to follow when locating their businesses, protect the safety and welfare of the general public, and allow citizens to go about their daily lives without exposure to these businesses in family friendly areas such as schools, churches, and daycare facilities.

In an article in the Minot Daily News, Bob Buckhorn, a former city councilman in Tampa, FL lamented that the adult entertainment industry is "Like cockroaches. If you don't stay on top of it, it will infect and run you over."

Many of my friends from high school are moving back to ND to raise their families due to the safety and strong values of our state. It is the perfect time to pass HB 1533 and protect what many North Dakotans' hold dear.

#A

February 13, 2009

Hello, my name is Mark Frueh. I am speaking out to you today to urge you to pass HB1553, new legislation patterned after the Mandan and West Fargo city ordinances to better regulate sexually oriented businesses in the state of North Dakota. I have lived in the Minot community most of my 50 plus years and have always enjoyed the relative peace and safety that our community offers its residents. I've made it a point to mind my own business and pursue life, liberty, and happiness. When news broke that a new strip club downtown wanted to be called "Sin, take a break from being good", I could no longer sit back and pretend that what goes on in our city is none of my business. I started looking at how we regulate these kinds of businesses and what kind of effects they have on every one of us who live here. What I saw and read startled me. I could no longer sit back and say nothing. We can limit some of the negative effects of these businesses on our cities and the citizens who live there by enacting the strongest legislation possible. So, I am urging you today to put into place HB1553 to protect our communities statewide that do not already have strong legislation in place regulating sexually oriented businesses.

Pat Trueman is a special prosecutor and litigator with the Alliance Defense Fund and former Chief of the Child Exploitation and Obscenity Section, Criminal Division, U. S. Department of Justice, Washington, D.C. from 1988 to 1993. While there, he supervised the prosecution of child sex crimes, child pornography, and obscenity. He managed an office of twenty prosecutors and support staff and worked with the nation's ninety-three United States Attorneys to initiate and coordinate federal prosecutions. He shares these facts in matters regarding *sexually oriented businesses*:

"Sexually oriented businesses, commonly referred to as SOBs, are rapidly proliferating throughout America... But, there is one predominant reason for the proliferation. It is the green light given SOBs by counties and communities throughout America. That green light is the lack of proper zoning and licensing requirements for such businesses.

SOBs are popping up in small and large towns, rural areas, poor neighborhoods and upper-class neighborhoods, in communities near interstate highways as well as seemingly out of the way areas. They are indiscriminate. With them comes a raft of problems.

...In nude dancing establishments, patrons and dancers often engage in public sexual contact. Private dances are opportunities for acts of prostitution. With the arrival of SOBs, HIV-AIDs and other sexually transmitted diseases soon flourish within the communities. Sexual assault, rape, and even child prostitution spread. Illicit drug sellers find a home in and near such businesses. In short, SOBs are health hazards and crime magnets. They can overwhelm local law enforcement agencies. In addition,

the neighborhoods or business districts surrounding sex businesses become blighted and suffer declines in property values.

The problems associated with sexually oriented businesses, both inside and outside the establishments, are universal. They are referred to as the "negative secondary effects" of SOBs. Yet, all SOB owners/promoters claim that their business will "be different" and that they will run a "clean business" when seeking new locations. They promise an increase to the tax base, increased employment and many other benefits. However, the facts are against them. Numerous communities have conducted impact studies of SOBs. They demonstrate that SOBs deplete, not increase, community resources. They attract troublesome clients and problem employees. They are bad for nearby businesses, churches, schools and residences."

Considering these nationwide facts, isn't it time that we take a good hard look at the negative secondary effects sexually oriented businesses have in our own communities? What is the cost to business owners and citizens who have invested millions of dollars over the years to revitalize their communities only to have the intended result hamstrung by these negative secondary effects of these businesses? Do their customers want to continue to patronize them when they feel uncomfortable or even unsafe while they are shopping there? Isn't it our responsibility, as empowered citizens who represent our communities, to do everything legally possible to protect our citizens who live, work, and shop here in North Dakota from those negative secondary effects?

With those things being said, the First Amendment gives these sexually oriented businesses a right to do business. That isn't what is in question here today. One of the biggest reasons new legislation is needed is to lessen their negative impact and protect our citizens. If we don't act to protect them then who will? We need and should do everything we can to draft legislation that addresses these concerns. I hope that we will do everything in our power to see to it that the laws of our State are the strongest legally possible regarding these issues and are at the least, up to par with other major cities in North Dakota. HB1553 is modeled after excellent legislation regarding sexually oriented businesses in Mandan and West Fargo.

Thank you for the time you invest for the good of the citizens of North Dakota and for your careful consideration regarding these matters.

Sincerely,

Mark Frueh

5

Good Morning Mr or Mrs Chairman and Committe Members

My name is Barry Pausch and I am the owner of the Oasis Bar in Wahpeton and my business features topless dancing. I would like to give a short history of my business.

The Oasis Bar started topless dancing in 1967. My father purchased the bar in 1976 and in 1994 I purchased it from him, my son Matt is now the mananger of my business and is hoping to be the 3rd generation to own this business.

My bar has been in the same location from the start back in the early 60's and since then there is a small church that just started across the street, a day care in the back of the parking lot, a liberary down the block, there is a Kids connection were parents exchange visitation with their children that moved in less than 2 years ago. If the Adult Entertainment is such a big deal then why do these business choose to start up next door to me?

The Oasis has been in business over 40 years (30 of these years I have been the manager or owner) and in all of these years we have not had any issues with our topless entertainmnet until 1996 when a group of citizens tried to shut us down. At that time I requested a vote to the citizens of Wahpeton and the City of Wahpeton granted this vote. A special election was done to keep or stop the Topless dancers in town. We won this vote to keep our Adult entertainment and to this date we contintue featuring our dancers without any complaints or problem with the City or any citizens in town.

We are regulated by the City and after this vote the City established the Cabaret license and set forth the rules that I have to operate by. Our stage in behind the bar about 4-5 feet back, a very strict no touch policy is enforced. Our staff is our security and controls what is going on each night. We have also security video that can be reviewd by the city at any time.

I appricate your time to let me speak on the behalf of my buisness, by passing this bill would shut my family business down and with the ecomony today one more empty builiding in a small town is devistating to our city and to my families income and my staffs income. Please do not pass this bill.

At This Time, I will answer any questions -

#6

**Testimony of Mrs. Kim Patterson
February 13, 2009
Before the House Political Subdivisions Committee
of the North Dakota House of Representatives**

My name is Kim Patterson; I own a lingerie store in Fargo. My store is 2,000 sq. ft. of lingerie that is open to all ages. I have a back room, which you must be over 18 to enter, with bachelor and bachelorette party supplies and adult products.

House bill 1553 most likely would make me an adult store causing me the expense of relocating my business. I'm apposed to this bill because it violates my customer's right to choose what is appropriate for them. It will take the responsibility away from parents concerning the protection of their children, and it will also increase unemployment and cause a loss of revenue in North Dakota.

I have chosen to have many items behind doors even though they are not adult, we do have customers bring young children into the store and have chosen not to expose them to this other product. Many of these same items can be found at Spencer Gifts in malls in plain sight. I'm also a mother and know how important it is to protect our children from adult themes that can rob them of their innocence.

This is my job as a parent; I don't expect others to do it for me. I resent that the State of North Dakota doesn't think I know what is and what is not suitable for my children. From the outside my business looks like Victoria's Secret, having children in the neighborhood by my store will not harm them. This Bill will not protect children in any way.

The city of Fargo doesn't classify my business as an adult bookstore. My business is located on 25th Street south and there is a trailer park across the street therefore I would be forced to move under the new rules. I feel the speed of the traffic on 25th Street is more of a threat than my store.

The "adult" products are a small part of my business. This includes products for E.D. and Kegel exercisers that doctors recommend to their patients and send them to us to purchase. We are a safe store where women can come in alone, day or night, and not have to worry about other customers or walking back to their cars. Our customer base is largely females and couples. A lot of these women would not be comfortable shopping in a typical adult store. If I close my doors where will these women find a safe environment to purchase these products?

The language, regarding adult products and if a store is considered adult, is so vague that drug stores, newsstands, bookstores, video stores, and the lingerie department at stores such as JC Penny's could fall into this category. The city of Fargo has done a good job of handling these issues and I think other cities are probably doing the same things. This should be a local government issue. I feel that this Bill will do more harm than good. The changes that businesses will have to make will cause financial hardships to small businesses, possibly

causing some to close. If this happens it will mean a loss of jobs. This Bill will not stop anyone from buying these items; it will stop people from buying them in North Dakota. Customers will just go on-line and order them, sending dollars out of state.

We the public have elected you to lead and serve us not to parent and discipline us. Let us not move back to the Stone Age. Together we can keep North Dakota moving forward. Thank you for your time and please vote against this Bill.

#7

TESTIMONY OF MS. GRACE DELLING
FEBRUARY 13, 2009
BEFORE THE HOUSE POLITICAL SUBDIVISIONS COMMITTEE
OF THE NORTH DAKOTA HOUSE OF REPRESENTATIVES

Mr. Chairman and members of the Political Subdivisions Committee. My name is Grace Delling from Williston, North Dakota. I am here representing myself. I am the owner of Whispers Inc in Williston and we offer adult entertainment.

I oppose House Bill 1553 for a number of reasons. I have 14 employees not including my dancers that are relying on me to pay them so they can pay their bills and that is not including Williston State College Gaming employees (a non-profit organization), my accountant, my attorney or the beer and liquor distributors who would also be losing business if this bill passes. Our country is already going through a recession; oil prices are dropping and people are already leaving North Dakota because of this. Why would the State want to promote more people to leave ? I would like to think that we are in favor of people staying here.

In regards to being an adult entertainment establishment, this is true, I am; however, I am not located near any schools, churches, child day cares or residential areas. There is a park located across the street from my club but it is not used for any reason and there is no playground equipment on it to generate people using on a regular basis so other than twice a year when we have a parade is this park utilized. When this happens, my club is not open at that time. It should be a people's choice if they want to patronize my club. I don't advertise in any local newspapers or on TV. I keep a low profile and have never caused any problems with the state, city or law enforcement.

The clubs that would be affected by the passing of the bill have been in the same area for many years. The dancers when they come into our club, stay in our local hotels, eat in our restaurants and shop in our stores. This, in turn, generates money to both the city and state. I believe this should be a city/county decision rather than state since it will only affect a few districts within the state. The State of ND drinking age is 21 and I believe at age 21, you are an adult and should be able to decide if you want to enter an adult entertainment club or adult bookstore.

When I opened my club 10 years ago, the city attorney (at that time) Kent Reiersen and I sat down and derived a list of rules that my dancers would have to follow to be able to work in my club and we presented it to the Williston City Commission. The City Commission approved these rules and my business opened.

My alcohol license states that I have a general on-sale beer license and a general on-sale liquor license. No where on this license does it state that I am predominately a sexually oriented club. My clientele primarily enters my club for alcohol. If I was forced to close my club, the state and local entities would be affected. I pay a fair amount of taxes every quarter to both and believe it would hurt to eliminate those monies.

This country was founded with a purpose and intent. To live in a land where we could choose ...choose our job, choose our religion and choose our belief system. Our State wants to take away these rights and these choices. I urge you to vote "No" on House Bill 1553. We cannot afford to lose any more people from ND.

I would like to thank Chairman Wrangham and members of the committee for the opportunity to testify on my behalf. If anyone has any questions, I will try to answer them.

WHISPERS

#8

POLICIES AND DANCER CONTRACT

1. Dance Hours are from 5:10pm to 12:30am . Be in Bar by 4:30pm and do not leave until her last set.
2. Dancers will wear a G-String & Pasties or another form of nipple cover. Keep back of G-string up at all times. You must keep your chest covered when walking around in the bar, unless you are on stage.
3. Dancers will pay full price for drinks. (1st. drink is free.) Excessive drinking will not be tolerated.
 - a. Bartender or Barmaid will stop serving you if they feel you have had to much to drink.
4. Dancers sets are 20 minutes long, if four girls 15 minutes. Sets start at 5:15 sharp. You do not have to wait for the next dancer to start their set, when your set is done leave, but leave music going.
5. Dancers will have their music selected before their set and start their set on time. If dance room curtain is down do not change music until song is finished.
6. **ABSOLUTELY NO DRUGS ON PREMISES.**
7. **NO SOLICITATION OF ANY KIND.**
8. Turn in your Ones to the bartender or waitstaff every set or nightly.
9. Tip bartender , Waitstaff and Bouncer \$10.00 each every night. Pay \$5.00 ASCAP at end of week.
10. **NO LAP OR TABLE DANCES** on the floor. Do not sit on patrons laps.
11. Bouncer will be present during all private dances. Only one dancer allowed in room before 8:00 PM.
12. No lewd or obscene behavior.(No flashing, Do not let customers touch you.)
13. Pick up dressing room every night.
14. Keep one foot on floor at all times. (No sitting on the tables or going under the tables.)
15. No boyfriends or husbands allowed in the bar during work hours.
16. Dancers and bar employees only in dressing room. No personal calls or cell phones on stage.
17. Treat female customers the same as male customers. Do not lift their shirts up.
18. Dancers will be paid at closing Saturday night. In order to get paid you must work all week. (Monday - Saturday). If you leave early, you will break this contract and will not be paid.
19. Maintain professional conduct at all times. **Arguing with Patrons/Employees or other dancers will not be tolerated.**
20. **PRIVATE DANCES.** You must give the bar \$20.00 before your first dance. Do your dances ASAP. No flashing. You can touch them but they cannot touch you. Do not touch their genital area with your hands.
21. Your tickets are your responsibility. If you lose them you won't get paid. Make sure you collect your tickets when you finish your lap dance.
22. Dancers are not allowed to play Blackjack or Jars when they are on duty.
23. Pay will be \$ _____ per week.

I have read this contract and agree to follow the rules and policies of WHISPERS at all times. Breaking any of these rules will result in a fine and/or termination.

DANCER SIGNATURE _____ **DATE** _____

ADDRESS _____

HOME PHONE _____ **CELL-** _____

EMPLOYEE SIGNATURE _____ **DATE** _____

Against House Bill # 1553 (Closing of ND strip clubs)

Name	address	phone #
1 Bob Thompson	5505 134th Ave, N.D Williston	701-572-102
2 Doug Walker	1608 26th St W Apt 207 Williston	701-770-218
3 James PFEPPSEN	816 4th St W, Williston	701-572-0073
4 James Dolheim	5480-133 AVE NW, Williston	701-774-8302
5 P. P. Hansen	Po Box 7 Zakk ND Williston	701-694-4770
6 Kelly Henderson	12205 81st St NW Alliance ND	701-539-5363
7 Steven Delling	1510 Bison Dr #317 Williston	701-770-2801
8 Brent Straw	1510 Bison Dr #317 Williston	701-770-7874
9 Jan Vallrich	6881 131st Ave NW Williston	701-826-3541
10 Len Hutt	1714 4th Ave West Williston	701-570-9726
11 Melanda Spears	1711 S. 92nd St. West Mills, WI	(414) 736-1000
12 Sarah Short	8066 SE 7th Ave, Portland, OR	97202 (503) 442-1071
13 Courtney Pittges-Gerard	1303 10th St W Williston ND	701-770-2906
14 Kyle Hauge	PO Box 2272 Minot	58702 701-240-958
15 Bryce Hauge	PO Box 2272 Minot	58702 701-240-958
16 Judy Dietz	1303 10th St W Williston	58801 701-770-958
17 Travis Jensen	615 6th Ave W Williston ND	58801 701-770-504
18 Tim Nelson	7 South Main #2 Williston ND	58801 701-570-41
19 Paul Fromm	3115 147th Ave NW Williston ND	58801
20 Jane & King	15201 Roca Rd Bennet NE	6883, 770-0922
21 Aaron Gunn	618 Main St Williston ND	58801 770-357-41
22 Lisa Ertson	1311 N. 18th St #2 Superior WI	54780
23 Kelt Hentze	2601 18th Court W Williston ND	58801

Against House Bill #1553
(Closing of ND strip clubs)

	Name	address	phone #
24	Jeff Paulson	1317 9 th Ave W Williston ND 58801	770-2619
25	Jan Odum	107 6 th Ave E Dickinson, ND 58601	
26	Burke Gardner	107 6 th Ave E Dickinson, ND 58601	
27	Kain Bergstrom	1819 7 th Ave E Williston ND 58801	
28	Debra Beauce	506 12 th Ave W Williston ND 58801	
29	Chad Lander	35260 Coy Rd 129 Sidney MT 59270	
30	Curt Brown	PO Box 173 Sidney MT 59270	
31	Walt H. J.	PO Box 378 Sidney, MT 59270	
32	J. O. R.	PO Box 4961 Tempe AZ	
33	Dane Aune	1510 9 th Ave NW #701 Williston ND 58801	
34	Rob Andelin	201 2 nd Ave West 58801	
35	Sybil Gray	516 8 th Ave W 770-9652	
36	Rick Beardsley	510 8 th Ave W 770-9652	
37	Kevin Callaway	1008 5 th Ave W 774-3715	
38	Mark Myrtle	6435 145 Ave N West 826456	
39	Gregory Larson	PO Box 61 Ray ND 568-3487	
40	Holly McHattie	Watford City ND 509-590-7463	
41	Jeff Jam	Williston ND 8264301	
42	Kegan Pederson	Minnesota 805-901-3967	
43	Dean Moe	PO Box 16 White Earth 701 793-393	
44	Craig Wilcox	1201 6 th Ave W 701 339-800	
45	Daryl Sundt	508 2 nd Ave W #2 Williston 701-572-2882	

AGAINST HOUSE BILL 1553
 (closing ND strip clubs)
 must have add & phone

NAME	ADDRESS	PHONE
137 BRANDON	2410 10 th Ave.	701-770-3741
138 Sarah	13142 41st St.	701-770-8373
139 Fred Lam	14521 8 th ST NW Bismarck ND	721-694-6690
140 He Willist	713 14 th Ave, W,	701-213-1665
141 Mike	4734 119 th RD NW Lot 309	701-240-2335
142 Nick	4734 119 th RD NW Lot 309	701-570-5746
143 Jared	18 E. Broadway	701-570-0487
144 Bob Treider	2600 University	701-770-0911
145 Tara Treider	2600 University	701-770-0911
146 Rob Gen Bank	R.O. Box 121 Williston	406-489-0220
147 Mark		
148 Josh Konef	PO Box 38 Trenton	701-721-3973
149 Jeremiah Komer	PO Box 38 Trenton	701-570-4578
150 Jerone Billings	2600 University Ave Lot 89	701-570-1379
151 Josh Klidson	312 4 th St E	701-570-2487
152 Kade Olson	411 4 th Ave W 58801	910-551/46
153 Devon Olson	411 4 th Ave West	701-572-8024
154 Ryan W. Olson	411 4 th Ave. W, Williston	701-770-3707
155 Mark Hubbard	Box 452 New Town ND	701-627-2969
156 Kenna Waters	104 Sand Flats RD Dugmont MT	406-483-5296
157 Chue L Schute	161 Flaxville MT	406-779-3510
158 Jim	Williston, ND	541-992-2683
159 Jeremy Frost	Berthold ND	701-721-2412
160 Craig Hoskins	Williston ND 1510 BISON AVE. APT. 34	701-770-4042
161 Nichole Williams	1510 BISON Ave Apt. 32	not nu-8970
162 Steve King	Williston	

Against House Bill #1553
(closing of ND stripclubs)

	Name	address	phone #
67	Huck Ellis	8 8th St W Apt 5	701-770-9827
68	Codi Barkie	1608 Maun St Williston, ND	701-572-419
69	Delvin W. [unclear]	PO Box 3022 Bonners Ferry ID	208-597-600
70	Buck Williams	Missoula, MT	(406) 788 2547
71	Monty Pederson	PO Box 130 Watford City ND	701 842 436
72	Cruz Broady	1373/19th St NW Arroyo ND	701-526-3571
73	LYNN B. PETERSON	2822 3RD ST. NW	SIDNEY MT 406-294
74	Dion Blacet	Thunder-Box #125- Williston, N.D.	701-570-990
75	Ben Fiesler	209 4th Ave. W. Williston, ND	58801
76	Joe [unclear]	212 Mendenhall Rd. Wolf Point, MT	59201 906-5253
77	Casey Baker	416 26th St W Williston ND	58801 701-770-811
78	IZANK Bergsb.	Williston ND 407 av. [unclear]	580-042
79	Chase Herman	2112 Pheasant Run Parkway Williston ND	58801 701-570-767
80	[unclear]		
81	Russell Jagovich	2871 15th Ave E. Williston ND	58801
82	Trey Fromell	712 18th St. Williston ND	58801
83	Joe Kirby	2491 Fountain Greens Grand Junction CO	81505
84	Ryan Rockow	221 29 1/2 Rd G.J. CO	81501
85	Stacy Halstad	1509 Bismarck Williston ND	(701) 572-9426
86	[unclear]	602 3rd Ave E Williston ND	770-597
87	[unclear]	PO Box 1987 Williston	5721099
88	[unclear]	519 12th St W Williston	5721099

Against House Bill # 1553
(Closing of ND stripclubs)

Name	address	phone #
46 Mark Unger	821 1st 1st AVE E	701 770 4348
47 Rhonda Kobb	521 3rd AVE E	701 770 1670
48 Selena Cross	602 2nd AVE E	701 770-4677
49 Jeremiah Thorsted	PO Box 2571	701 770 2176
50 Lou Gayness	PO Box 942	701 570 8466
51 WADE GAFKJEN	Box 487 A/9 mo, N.D 58830	701-826-3191
52 Clu Picard	1118 university	701-770-4182
53 Cresta Allison	PO Box 2515 Williston	701-770-7422
54 John Thorpe	418 11 ave W Williston	701-570-3137
55 Rod Ming	2900 W. HOLLY ST 1275 5th St SW SIDNEY	406-489 0096
56 HARRY Sorensen	602 6th St. Sidney	406-478-0324
57 Kenna Sorensen	Playwood, N Paradise	406-765-2111
58 Jeff Thorpe	1256 87th NW	701-539-2380
59 Melissa Slapnicka	1010 6th Ave NW	(701) 770-1091
60 Elizabeth	840 3rd Ave West Dickinson, ND	701-770-5588
61 Buck Allard	709 E 22nd St E	701-570-0878
62 Joseph Paul	709 16th St W	701-870-0778
63 Jeffrey E. White	1813 28th St West	701 774-0479
64 Joe	619 J. Swell	406-951-2141
65 Jesse Paulson	416 13th St SE	701-651-0057
66 Curt St	13745 67th St Williston	701-770-0203

Against House Bill #1553 (closing of ND strip clubs)

	Name	address	phone #
89	Richard Leuberg	508 2nd Ave.	(701)-570-6998
90	El E Fall	1216 24th St W.	(701) 651-0818
91	William Oswald	1831 Crest St.	(701) 770-6850
92	Melton Williams	304 2nd St E.	(701) 770-1644
93	Tommy Anderson	304 2nd St E.	701-770-1644
94	Nothing	2031 Parkway Dr.	201 770 7028
95	Andrew		
96	Syler Delp	616 14th Ave W	701 770 4913
97	Mike Bloms	3100 11th Ave SE 657	701-888-1171
98	Cameron Liepke	1311 Main St.	701-770-5034
99	Nick Gess	1511 12th Ave W	701-770-2254
100	John Arnett	1545 22nd St E	951-625-5234
101	Ryan Foster		
102	Cody Ulrich	1718 37th St W	701-770-2371
103	Sarah Rennie	1510 Bison Dr Apt 306	701-570-8749
104	Jared Schultz	1718 37th St W	701 471-1712
105	Mike Rtn		701-400-4724
106	Tommy Kirchoff	Aregard	701-586-3045
107	Ben Feister	404 W Broadway	701-570-9995
108	Levi Liepke	1423 18th St. W	701-580-2063
109	Kris Liepke	1423 18th St. W	701-590-2485
110	Krissy Olson	616 15th Ave W	701-570-4885

AGAINST HOUSE BILL 1553
 (closing of ND Strip clubs)
 have to have add. # phone#

	<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE</u>
111	Lee Hallgrin	1826 32 nd St W	570-0666
112	Shanda Hadnesfield	1826 32 nd St W	570-1099
113	Steven James	918 1 st Broadway	570-4764
114	John Marc	VEGAS	921-9870
115	John Anness	513 1 st Ave E	701-570-1663
116	Joe Zatto see Botke	502 9 th St E	701-641-9595
117	Mike Knudsen	513 1 st Ave E	701-339-8700
118	Jimmy Hoppe	308 4 th Ave East	770-9232
119	TIMOTHY JONES	1016 NW APT 2	1701-7749804
120	Rodney Frey Jr	1012 Linda Ln	701-509-0983
121	John	1132 5 th Ave W	701-240-5852
122	John Dwyer	5012 183 rd Ave NW lot 29	701-570-2301
123	Tashena Falcon	5042 133 rd Ave NW lot 209	406-951-2290
124	Shalii Wana	4234 9 th Ave W #34 Fargo ND 58103	701-511-7443
125	DERRYAL HALFACE	428 10 th Ave W Wliston ND 5861	701-570-4321
126	JAMES MOORE	313 6 th Ave E	701-570-9899
127	Kyle Buckle	2711 Pheasant Run	701-770-8004
128	Scott Beckels	5042 133 rd A. NW	701-572-9239
129	Charles Inman	812 Beacon St	701-240-4896
130	RANDY MEYER	501 2 nd AVE. E.	701-770-757
131	CD Michel	820 6 th St W	701-572-2982
132	Jacques M. [unclear]	820 6 th St W	701-580-2845
133	Marian Olson	1811 10 th Ave E	701-570-5368
134	Kelsey Miliken	1311 10 th Ave E	701-570-9213
135	Scott Pavet	514 28 th St W	701-412-7402
136	Tim GANSEN	990 High St	941 2285707

Against House Bill 1553
 (Closing of ND Strip Clubs)
 have to have addy & phone #'s

	<u>NAME</u>	<u>Address</u>	<u>Phone</u>
163	Lacey Ralph	1524 30th St W. 58801	770-5703
164	Bryn Ralph	1424 30th St W. 58801	770-8449
165	April K. Baum	1402 Main St #2 Williston ND 58801	619-507-1357
166	Steven Rodriguez	124 Hawthorne Rd. Montgomery, IL 60528	630-361-5546
167	TROY THORSON	521 Reclamation Dr Apt 4 58801	701-770-135
168	Richard E. Salmeron	306 Margara St Pearl, IL 60262	406
169	DELTON McFEIFFER	520 WYTON ST Wolf Point MT 653-36	
170	Mad Wells	1115 7th Ave E Williston	770-6963
171	Chad Anderson	1124 5th Ave W Williston	570-5943
172	Shane Anderson	910 University Ave Williston ND	770-4089
173	Kyle Hering	1909 13th Ave W. Williston, ND	406-690-6577
174	Molly Seder	1909 13th Ave W. Williston, ND	406-855-7579
175	Eric Gilbert	1820 16th Ct W. Williston ND	701-570-296
176	Chris Sondreal	1820 16th Ct W Williston ND	701-570-2272
177	Jude Belman	1423 18th St W. #222 Williston	701-570-4852
178	Benny Belman	1423 18th St W. #222	701-570-0977
179	Mad	2014 20th Ave W	701-570-5098
180	Hiram	2014 20th Ave W	701 570 5495
181	Mark Custer	4111 14th Ave NW	701-770-6351
182	Eric Hinebaugh	1402 9th Ave W	406 690 6699
183	Mike Zosman	1303 1st Ave west Williston	701-770-4135
184	Karen Schley	2213 N Main St.	701-570-4569
185	Mandy Marquardt	312 18th Ave W	701-208-2188
186	Sherry Vass	W Broadway	701-770-4770
187	MARK ILLSON	WATFORD CITY	701-570-5015
188	Chad Stupnicka	1010 6th ave NW	701-770-6449

Against House Bill 1553
 (Closing of ND Strip Clubs)
 Have to have Address & Phone #'s

	Name	Address	Phone
189	Robert M. KINS	Box 55 Flexville Mt.	None
190	Samy Benson	8215 Hwy 28 Carpio ND	
191	Garret	_____	
192	_____	_____	
193	_____	_____	
194	Stan Hill	1062 5th Ave West Williston ND	
195	Garret Swensrud	P.O. BOX 941 Ustard City	
196	Michelle Bender	501 4th Ave E Williston ND	
197	James Ryan Jr.	701-570-4425	ND
198	Jessie Beth	701-770-2607	ND
199	Ginger McLean	4185th AVE. W., ND	701-774-1182
200	Vernon Alfred Lingus II	PO Box 147 58802 ND Williston (701) 651-0435	
201	Rich Trotter	Evil PussY Hunter	
202	Redya Dugdale		
203	_____	Vegan Skyler Bony 2/5/02	
204	ZACH GORBERG	VEGANS 1722 14th AVE W WILLISTON ND	
205	John _____	VF # 776 - 0584	
206	Laszlo Dendickson	1011 5th Ave W	
207	Jon Black	Williston ND P.O. #06	
208	Mary Beth Unger	60 66 St E, Williston	
209	Dennis Bendickson	826 3rd Ave W	
210	Catherine Jenkins	522 7th St. West	
211	Jessica Pennell	_____	Bozeman MT
212	Andrew J. Delap	2802 Mth Ave W #306 Williston, ND	
213	Paul _____	1315 1st Ave N Williston ND	
214	Lucas Owen	O'Neil 701-770-07	

Completed house Bill 1553
(Closing of ND Strip Clubs)

Please to have address & phone #'s

Name	Address	Phone
215 David Venn	712 1/2 Main St.	701-570-2954
216 Eric Jensen	512 40th Ave South	701-795-4925
217 Jared Fystad	1527 Hwy 2 North	406-212-1966
218 Brandon Melindan	1425 14th St W Dickinson ND	701 260 1616
219 Lindsey Lemtz	1425 14th St W Dickinson ND	701 590 2613
220 Mike Johnson	318 Reclamation #315 Williston	701-770-816
221 Camelo Davis	2600 University lot #87	720-7865
222 Lana Davis	837 22nd St E	770-0904
223 Dan Davis	" "	" "
224 Amy	fe box 984	770-5628
225 Mike Davis	2600 University Ave #87	721-2322
226 Jen Rhodessa	2600 Univ Ave #87	570-0503
227 Rena Greaves	1501 Bison Dr #609	570-4842
228 Cathy Jenkins	1501 Bison Dr #609	510 4842
229 Jess Penelle	1501 Bison Dr #609	570-4842
230 Joel VanZee	2001 Phocasant Run Williston 701 770 2264	701
231 Scott Johnson	#1710 16th Ave W	570-4640
232 Cory Smith	122 EAST Lime Springs IA	507 259 3502
233 Lance Solberg	2117 Pkwy Dr Williston	218-686-3135
234 Tim Linghor	5606 15th L Ave W Williston	701-770-4679
235 Aaron Cristofall	2643 P Kandy Dr	701 651 0812
236 Dani Haugen	2311 7th Ave E	510-2745
237 James Douglas Dixon	2614 N Colorado Dr.	701-681-0259
238 Makayla Nune	1813 23rd St W	701-240-2967
239 Paul B Selby	418 Holiday Park Village	701-741-3507
240 Grace DeLing	922 2nd Ave W	774-1090

Against House Bill 1553
 (Closing of ND Strip Clubs)
 must have address & phone #

	NAME	ADDRESS	PHONE
241	Bob Gundersen	1018 28 th Street West Williston	701-572-1868
242	Lisa Gundersen	1018 28 th Street West Williston	701-572-1868
243	at	3912 19 th AVE NW	507-251-6355
244	Ray E. W.	512 42 nd ST W	770-450)
245	John L. W.	3912 19 th Ave	770-6699
246	Neukon Engberg	1015 1 st AVE E	774-1245
247	Jeff Hochman	PO Box 2742	570-9070
248	Tian Norberg	1911 Sioux ST	570-9934
249	Travis Norberg	1911 Sioux ST	260-5870
250	Tom Deering	922 2 nd AVE W.	774-1090
251	Papa Joe	Williston	471-7344
252	Phil Zare	Williston	261-6548
253	R. Brater	Williston	770-0068
254	Brian Raines	110 Greentree Belgrade MT	530-8476
255	AS John	BELGRADE	579-1112
256	John	MT	579-1113
257	Jeff Benson	402 8 th St. W.	572-0094
258	Kevin Green	Williston	572-7723
259	Floyd Zondy	Poplar, MT	(406) 480-2118
260	Ray Runk	Cat Bank, MT	(406) 878-5005
261	Melissa Floyd	SLC, UT	701-828-3157
262	Clark Jenner	5042 133 Ave Williston	701 570 3297
263	Keith Hill	1002 5 th St W	701-572-0081
264	Kevin Benzel	28505 CR 71 ^{CROOK} COLORADO 80726	1-970-520-7427
265	Jacob George	Casper WY	307-267-8224
266	Ethan S.	Sidney, MT	406-488-7005

Against House Bill 1553
 (Closing of ND 8th D Clubs)
 must have address & phone #

	NAME	ADDRESS	PHONE
267	CURT M. Frimick	2019 8 th Ave East	570-2632
268	Jeff Watts	1224 6 th St West	572-7080
269	Lynette Watts	1224 6 th St W - Williston ND.	572-7080
270	Rene Viree	1414 1 st Ave W	748-7640
271	Dennis Helberg	1723 3 rd St SW	770-8905
272	Julie Helberg	1723 30 th St W	770-1317
273	Craig Probst	5289 139 th NW Williston	774-8463
274	Jo Child	909 Main Williston	none
275	Josh Brosten	1930 E Capitol Ave #202 Bismarck ND 58501	(701)-269-00
276	Travis Bosch	1700 25 th Ave S Apt 104	701-392-0023
277	James Alexander	1710 16 th Ave NW Apt 809	701-337-6276
278	Willie Rodenb. War	2809 21 st NW #320 Grand Forks	701 737 8256
279	Scott Vollrath	1700 25 th Ave S Apt 104	701-214-9450
280	James Heilman	1700 25 th Ave S Apt 104	701-540-7129
281	Steve Lynd	13251 B Hwy 1804 Williston	701 572 9331
282	Dusty Smith	1138 E Ridge Ct Williston ND	701-580 0303
283	Richard Isom	1138 E Ridge Ct Williston ND	701 570 5904
284	Moric Gustafson	1138 E Ridge Ct Williston ND	701 770 2017
285	Ryan Riveland	919 5 th Ave W	701 651-0420
286	Chubby White	805 EAST BROADWAY	701-522-3466
287	Chubby Cyp	1314 10 th St W #8	701-572-3463
288	Eddie Rodriguez	1314 10 th St W #7	701-572-3462
289	Chad Kurbowski	2220 29 th West #201	307-674-7808
290	Angela McKay	1007 W. Broadway	701-770-6987
291	Mike	4495 14 th NW Williston ND	701-770-2896
	CMK	1007 W. Brady Williston ND	701-770-9111

Against House Bill 1553
(Closing of ND strip clubs)

Name Address Phone

- 293 Joseph Rindin P.O. Box 37, Minot N.D. 701. 216-0317
- 294 ~~Ray~~ 4401 125th ST SE Minot ND 701-720-9218
- 295 Elton Heller 701 3rd Ave W Williston 701-574-01
- 296 ~~Perm~~ 422 9/99 AOL 6717 E Minot ND
- 297 Eric Smuss 9146th Ave E 701-770-888
- 298 Mark Gray 601 1/2 W. Broad. 570-2520
- 299 ~~Justin~~ 870 Twilight Ave (701) 720-9218
- 300 ~~Eric~~ Dickerson, ND (701) 720-9218
- 301 ~~Eric~~ 1608 26th St W 701 852-2310
- 302 ~~Eric~~ 2608 17th Ave W 701 774-1234
- 303 ~~Eric~~ 805 28th St W 701-720-2744
- 304 Doran Crest P.O. 337 701-570-9367
- 305 TR. ANGERON 1602 26th St W 701-279-6802
- 306 Ricardo TORRES Idaho 208-28199
- 307 Curt Frael Harvey ND 893-6350
- 308 DESMOYD Johnson 1706 32nd ST West 701-570-2201
- 309 Mitch Jensen Minot 852-3576
- 310 Vern DesRocher Minot 833-5073
- 311 ~~Mark~~ Minot 240-6855
- 312 Richard Behannon Williston 701-572-1468
- 313 Jade Behanne Williston 701-572-1468
- 314 Robert Berntson 520 W 21st Williston N.D. 701-571-3402
- 315 Rick Schroeder Williston ND 701 770 2513
- 316 Bill O'Neil Williston
- 317 ~~Chris~~ U.S.A.
- 318 Cyndi Kness Minot 1101 6th St SW 721-7754
- 319 Lisa Martinez Minot 1101 6th St SW 721-4613

4/10

**TESTIMONY OF MR. KERRY FERNHOLZ
FEBRUARY 13, 2009
BEFORE THE HOUSE POLITICAL SUBDIVISIONS COMMITTEE
OF THE NORTH DAKOTA HOUSE OF REPRESENTATIVES**

Members of the Political Subdivisions Committee and Mr. Chairman:

My name is Kerry Fernholz and I am the owner and proprietor of The Northern, a gentlemen's club located in Fargo, North Dakota. I am here to testify against House Bill 1553 for several reasons, the most important of which is that the passage of House Bill 1553 will cause my business' doors to close, or be subject to criminal prosecution. In a time where our national economy is in freefall and unemployment is rising, the last thing the legislature should do is spend time enacting legislation that shuts down businesses and causes people to un-necessarily lose their livelihoods and well being. My business employs approximately 45 people on a full or part time basis and has a monthly payroll of more than \$40,000.00. Passage of this bill will cause many people to lose their jobs and destroy their ability to support themselves and their families.

I am also against House Bill 1553 because I believe that it causes the State of North Dakota to inappropriately encroach on what has thus far been a city, a county, or a local decision. Regulation of adult establishments is best left to be considered by city councils, city commissions, or county commissions. House Bill 1553 simply mandates a "one size fits all" approach to an issue that has been regulated by local government units appropriately and without much fanfare for decades.

What may work in Fargo may not work in Stanley or Rugby. What may be best for Mandan may not be best in Grand Forks, or in Williston.

Local city and county leaders are the best people to determine the needs of their communities. It is true that adult establishments have been prohibited in many North

Dakota cities, but it should be a city's decision how to regulate gentlemen's clubs and other adult businesses. This bill attempts to "fix" a problem that doesn't exist. You know what they say; "if it ain't broke, don't fix it." Mr. Chairman and members of the committee, this bill is a solution in search of a problem.

The logic employed by the Senate in voting down Senate Bill 2170, which was defeated last month by the full Senate 45-1, should also guide this committee in its determination of this Bill. Senate Bill 2170 provided for the registration of nude entertainers by the State Tax Department. The Senate defeated the bill overwhelmingly because they considered it a local issue. If a city or county wants to require registration, the onus should be on that political subdivision. As with Senate Bill 2170, this is an issue that should be handled at the local level.

The City of Fargo spent a significant amount of time dealing with this issue in the late 1990s and was able to work out an arrangement that has been successful for the last dozen years. By trampling over city ordinances that have required considerable effort by city and local government units, the State would be essentially telling cities that their efforts on the issue have been wasted or unnecessary, the State knows best.

North Dakota is the safest state in the union. Was this bill introduced because it could help reduce crime? I doubt it. I cannot find empirical evidence that suggests that there have been any more arrests or greater criminal activity at adult establishments **in the State of North Dakota** as opposed to nightclubs, bars, lounges, or casinos. The proponents of this legislation may have studies that suggest one conclusion or another, but I am not aware of any evidence that ties this conclusively to the State of North Dakota.

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North Dakota does not need another law to supposedly protect us from ourselves. If citizens want to visit and patronize adult establishments, they should be able make that choice for themselves. If people do not wish to patronize because of moral reasons or any other reason, I respect their decision. Unfortunately, it appears that they do not respect other people's right to make choices for themselves.

The proponents of this bill will characterize their actions as only "regulating" this industry. However, make no mistake, I believe it is their goal to shut down every business that is contrary to moral beliefs. Such a view represents intolerance and is narrow minded. North Dakota is not an intolerant place, or at least it should not be. North Dakota is not a narrow minded state, or at least it should not be.

I suspect that the authors and sponsors of House Bill 1553 believe that they are protecting the public from something, though I am not sure who they are protecting. However, by introducing this bill under the guise of "protecting" us, this bill would essentially say that North Dakota residents are unable to make decisions for themselves. Instead, members of the legislature are more knowledgeable and better equipped to make decisions about where citizens should spend their time and with whom they should be permitted to associate. North Dakota doesn't need to take a leap into the 1950s, or some other place and time.

This Bill is bad for business, it is bad for cities and local control, and it is bad for North Dakotans who desire the opportunity to make choices for themselves, and I would urge members of this committee to recommend the bill do not pass by the whole House.

Members of this committee, please recommend House Bill 1553 Do Not Pass before the full House. I yield, Mr. Chairman.